

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FILED

SEP 14 2011

Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

KATHY LEWIS-SHEPHARD  
9206 Sherwood Drive  
Upper Marlboro, MD 20772

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Plaintiff

v.

PHILIP H. BURCH, JR.  
933 Woodmill Drive  
East Windsor, NJ 08512

Case: 1:11-cv-01659  
Assigned To : Kollar-Kotelly, C. Lee  
Assign. Date : 9/14/2011  
Description: PI/Malpractice

JULY  
ACTION

and

AGNES DALLEY  
3 Bethpage Drive  
Skillman, NJ 08558

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Defendants

COMPLAINT

Kathy Lewis-Shephard, Plaintiff, by Wilson & Parlett, Robert Earl Wilson and Ted J. Williams, her attorneys, brings this Complaint against Philip H. Burch, Jr. and Agnes Dalley, Defendants, and, for cause, says:

COMMON FACTS

1. That this Court has jurisdiction pursuant to Title 28 U.S.C. Section 1332 in that there is diversity of citizenship between the Plaintiff and the Defendants and the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

2. Plaintiff, Kathy Lewis-Shephard, is an adult resident of the State of Maryland.

3. Defendant, Philip H. Burch, Jr., is an adult resident of

the State of New Jersey.

4. Defendant, Agnes Dalley, is an adult resident of the State of New Jersey.

5. On or about September 19, 2008 at approximately 2:00 p.m., Plaintiff, Kathy Lewis-Shephard, was a pedestrian walking eastbound in the crosswalk with the right-of-way crossing 12<sup>th</sup> Street N.W. at I Street N.W. in the District of Columbia.

6. Defendant, Philip H. Burch, Jr., was traveling westbound on I Street NW and was turning right to go northbound on 12<sup>th</sup> Street N.W.

7. Defendant, Philip H. Burch, Jr., failed to yield the right of way to the Plaintiff, a pedestrian in a crosswalk, and his vehicle struck her.

**COUNT I**  
**(Negligence - Kathy Lewis-Shephard v. Philip H. Burch, Jr.)**

In this, the First Count of the Complaint, Plaintiff, Kathy Lewis-Shephard, sues Defendant, Philip H. Burch, Jr., for negligence and says:

8. Plaintiff incorporates the allegations contained in Paragraphs 1 through 6 (Common Facts) in this Count.

9. Defendant, Philip H. Burch, Jr., owed a duty to the Plaintiff and to others on the public roadways to operate his motor vehicle in a careful, cautious and lawful manner.

10. Defendant, Philip H. Burch, Jr., was negligent in that he failed to yield the right of way to a pedestrian in a crosswalk, failed to operate his motor vehicle in a careful, cautious and

lawful manner, and was otherwise negligent.

11. That all of Plaintiff's damages, past, present and future were, are and will be due to and by reason of the negligence of Defendant, Philip H. Burch, Jr., without any negligence or want of due care of the Plaintiff contributing thereto.

WHEREFORE, Plaintiff, Kathy Lewis-Shephard, claims damages in the amount of One Million Dollars (\$1,000,000.00), and the costs of this action against Defendant, Philip H. Burch, Jr.

**COUNT II**

**(Respondeat Superior - Kathy Lewis-Shephard v. Agnes Dalley )**

In this, the Second Count of the Complaint, Plaintiff, Kathy Lewis-Shephard, sues Defendant, Agnes Dalley, for her Respondeat Superior Liability to Plaintiff and says:

12. Plaintiff incorporates the allegations contained in Paragraphs 1 through 6 (Common Facts) and Paragraphs 8 through 10 of Count I in this Count.

13. Defendant, Agnes Dalley, was the owner of the motor vehicle being operated by Defendant, Philip H. Burch, Jr.

14. Defendant, Philip H. Burch, Jr., was operating Defendant's motor vehicle with the permission of Defendant, Agnes Dalley.

15. Pursuant to DC Code §50-1301.08, Defendant, Philip H. Burch, Jr., was the agent of Defendant, Agnes Dalley, and

Defendant, Agnes Dalley, is liable for his acts and for the automobile collision that forms the basis of this Complaint.

16. In addition to or concurrent with Defendant's, Agnes Dalley, liability pursuant to DC Code §50-1301.08, Defendant, Philip H. Burch, Jr., was the agent, servant or employee of Defendant, Agnes Dalley, and Defendant, Agnes Dalley, is liable for his acts or omissions and for the automobile collision that forms the basis of this Complaint.


17. Defendant, Philip H. Burch, Jr., was the agent, servant and/or employee of Defendant, Agnes Dalley, and was acting within the scope of his agency or employment on behalf of Defendant, Agnes Dalley, at the time of the accident.

18. That all of Plaintiff's damages, past, present and future were, are and will be due to and by reason of the negligence of Defendant, Philip H. Burch, Jr., and the Respondeat Superior liability of the Defendant, Agnes Dalley, therefore without any negligence or want of due care on the part of Plaintiff contributing thereto.

WHEREFORE, Plaintiff, Kathy Lewis-Shephard, claims damages in the amount of One Million Dollars (\$1,000,000.00) and the costs of this action against Defendant, Agnes Dalley.

Respectfully submitted,

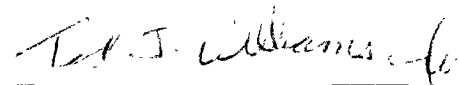
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and



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Kathy Lewis-Shephard