

~~XXXXXXXXXXXXXXXXXXXX~~  
WILLIAM H. HARVEY, JR., MINOR  
(427 S. Smallwood Street) BY  
WILLIAM H. HARVEY (427 S. Small-  
wood Street) his father and next  
friend.

VS.

WILLIAM J. SLACUM, also known as  
John W. Slacum (2523 Ashton Street)  
and Alva Slacum, his wife (2523  
Ashton Street).

\*  
\*  
\* IN THE  
\*  
\* BALTIMORE CITY  
\*  
\* COURT.  
\*

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DECLARATION

William H. Harvey, Jr., a minor by William H. Harvey,  
his father and his next friend, sues William J. Slacum, also  
known as John W. Slacum, and Alva Slacum, his wife, for that:

On or about November 22, 1940, while William H. Harvey,  
Jr., was riding on his bicycle south on Millington Lane, south  
of St. Benedict Street, both public highways in the City of  
Baltimore, Paul F. Gauger, being then and there the agent and  
employee of the Defendants and then and there acting within the  
scope of his agency and employment, in that he was operating an  
automobile truck, then and there the property of the Defendants,  
in on and about the business of the Defendants, negligently and  
recklessly drove and operated said automobile truck, in that he  
failed to give due heed to the position of William H. Harvey, Jr.,  
in that he was not looking where he was driving the said truck  
and in that he drove the said truck to his left of the center  
of Millington Lane, whereby, by reason of such negligence, the  
said automobile truck was caused to collide with the bicycle of  
William H. Harvey, Jr., causing William H. Harvey, Jr. to sustain  
serious, painful, and permanent injuries about the body and limbs,  
and mental anguish, and otherwise injuring the said William H.  
Harvey, Jr., all of which was solely due to the recklessness and  
negligence of the defendants, through said agent and employee,  
without any negligence on the part of the Plaintiff or the bene-  
ficial Plaintiff contributing thereto.

WHEREFORE THIS SUIT IS BROUGHT:

And the Plaintiff claims \$10,000.00 damages

William H. Harvey  
Father and next friend of  
William H. Harvey, Jr.

Harley B. Cox

Attorney for Plaintiff.

TO THE DEFENDANTS: WILLIAM J. SLACUM, also known as John W. Slacum, and ALVA SLACUM, HIS WIFE.

TAKE NOTICE:

That on filing of the foregoing Declaration a rule will be laid requiring you to plead thereto as by Statute provided.

Harley B. Cox

Attorney for Plaintiff.

DECLARATION

1/2  
1/2

1/2  
1/2

WILLIAM H. HARVEY, JR., MINOR  
(427 S. Smallwood Street) BY  
WILLIAM H. HARVEY (427 S. Small-  
wood Street) his father and next  
friend.

VS.

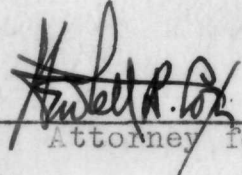
WILLIAM J. SLACUM, also known as  
John W. Slacum (2523 Ashton Street)  
and ALVA SLACUM, his wife (2523  
Ashton Street).

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\*

IN THE  
BALTIMORE CITY  
COURT

\*\*\*\*\*

And the Plaintiff elects to have this case tried  
before a jury.

  
\_\_\_\_\_  
Attorney for Plaintiff.

Filed 25 June 1941

BALTIMORE CITY IN THE

\* \* \* \* \*

WILLIAM J. SHACUM, also known as

vs.

friend.  
wood Street) his father and next  
WILLIAM H. HARVEY (427 S. Small-  
(427 S. Smallwood Street) BY  
WILLIAM H. HARVEY, JR., MINOR

DECLARATION

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WILLIAM H. HARVEY, JR., MINOR  
by WILLIAM H. HARVEY, his father  
and next friend,

VS.

WILLIAM J. SLACUM, also known as  
JOHN W. SLACUM, and ALVA SLACUM,  
HIS WIFE.

IN THE  
BALTIMORE CITY COURT.

\* \* \* \* \*

The plaintiff, in response to the interrogatories propounded by the defendants, says:-

1.- In response to interrogatories numbers one and two, the plaintiff says that the following is the list of the names and addresses of all persons known by the plaintiff, or his attorneys, other than the parties to this case, to have been witnesses to the accident on November 20, 1940, or who have information or knowledge with reference to the said accident:

Wilbur Birgel,  
4604 College Avenue,  
Baltimore, Maryland,

Mrs. William H. Harvey,  
3713 Colborne Avenue,  
Baltimore, Maryland,

Howard Arnold,  
2113 Frederick Avenue,  
Baltimore, Maryland,

Miss Elizabeth Harvey,  
3713 Coleborne Avenue,  
Baltimore, Maryland,

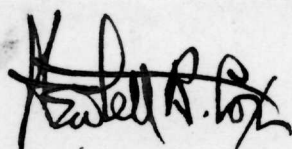
Paul Arnold,  
2118 Ashton Street,  
Baltimore, Maryland,

Paul F. Ganger,  
448 South Furrow Street,  
Baltimore, Maryland.

Pearl J. Bullinger,  
505 Millington Lane,  
Baltimore, Maryland.

2.- In response to the third interrogatory, the plaintiff says that the following bills were incurred for medical and hospital treatment to the plaintiff:


St. Agnes Hospital-	\$ 264.00
Dr. Lewis B. Whiting-	600.00
Dr. Austin H. Wood-	25.00

  
Michael J. Mansley  
Attorneys for Plaintiff.

STATE OF MARYLAND, CITY OF BALTIMORE, TO WIT:-

I hereby certify that on this -- 8<sup>th</sup> day of  
September, 1943, before me, the subscriber, a Notary Public, of the  
State of Maryland, duly commissioned and qualified in and for the  
City of Baltimore aforesaid, personally appeared Michael J. Manley,  
one of the attorneys for the plaintiff in the above-entitled case,  
and made oath in due form of law that the matters and facts con-  
tained in the foregoing answer are true and bona fide to the best  
of his knowledge, information and belief.

As witness my hand and notarial seal.



*Julius A. Vichowski*

---

Notary Public.

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76

IN THE  
BALTIMORE CITY COURT.

WILLIAM H. HARVEY, JR.,  
MINOR by WILLIAM H. HARVEY,  
his father and next friend,

VS.

WILLIAM J. SLACUM, also  
known as JOHN W. SLACUM,  
and ALVA SLACUM, HIS WIFE.

\* \* \*

PLAINTIFF'S ANSWER TO  
DEFENDANTS' INTERROGATORIES.

\* \* \*

Mr. Clerk:-

Please file.

~~Robert B. Cox~~  
*Michael J. Manley*  
Attorneys for Plaintiff.

Service of copy admitted  
this 9<sup>th</sup> day of  
September, 1943.

*Josta H. Janseen*  
Attorney for Defendant.

HARLEY, WHELTLE & MANLEY  
ATTORNEYS-AT-LAW  
BALTIMORE, MD.

P.  
#7

SEPTEMBER TERM, 1943.

Beginning Monday, November 15th, 1943

Judge Eli Frank

BALTIMORE CITY COURT

William H. Harvey, Jr.  
a minor, by William H. Harvey, Sr.,  
his father and next friend,

vs.

William J. Slacum, also known  
as John H. Slacum, and  
also ~~Slacum~~ Slacum, his wife.

Jury Sworn.....1943

1. - Orin K. Ragland, Jr. Foreman

2. J. FREDERICK LUCKER, Pressman, 2258 Cecil Ave.  
Waverly Press, Inc., Mt. Royal and Guilford  
Aves.

3. - CARL W. ISSBRUCKER, Engineer, 2731 E. Chase St.  
The Derby Steel Co., Harford Ave. and B. & O.  
R. R.

ORIN K. RAGLAND, JR. Foreman, 1905 E. Lanvale St.  
General Baking Co., 1300 E. North Ave.

WILLIAM A. JONES, Chief Equipment Man, 3119 North  
way Dr.  
American Telephone & Telegraph Co., 5 Light  
St.

4. HARRY E. THOMPSON, Superintendent, 3225 Glenmore  
Ave.  
Gulf Oil Corp., 1155 O'Sullivan Bldg.

JOSEPH BERGER, Florist, 5001 Gunther Ave.  
Self, 5001 Gunther Ave.

WILLIAM E. MILLS (C.), Butler, 1821 Laurretta Ave.  
Mrs. Robert W. Smith, 100 W. University  
Pkwy.

5. GUSTAF A. SWANSON, Salesman, 622 Wyanoke Ave.  
American Agricultural Chemical Co., 2272 S.  
Clinton St.

LEVI B. MILLER, SR. (C.), Clergyman, 1533 Edmondson  
Ave.  
Unity Christian Church, 1533 Edmondson Ave.

C. EDWARD JONES, JR., Treasurer, 4628 Rokeby Rd.  
Western Maryland Dairy, 1125 Linden Ave.

6. GEORGE W. PARLETT, Salesman, 3403 Gwynns Falls  
Pkwy.  
Hutzler Bros. Co., Howard and Lexington Sts.

JOHN R. FORSYTHE, Architect, 4222 Penhurst Ave.  
Self, 16 E. Lexington St.

7. THOMAS W. MEUSHAW, Draftsman, 748 McKewin Ave.  
Western Maryland Railway Co., Hillen Station.

8. BENJAMIN KIRKHAM, Guard, 133 N. Decker Ave.  
Western Electric Co., 2500 Broening Hgwy.

9. HARRY R. MEEK, Railroad Brakeman, 400 Edgewood St.

JOHN E. LECHTHALER, Partner, 1509 E. 33rd St.  
Superior Steam Iron Co., 616 W. Fayette St.

10. JAMES M. McCRUDEN, Equipment Attendant, 4636 Pall  
Mall Rd.  
American Telephone & Telegraph Co., 5 Light  
St.

WILLIAM J. CROGHAN, Clerk, 10 N. Glover St.  
Railway Express Agency, 208 E. Franklin St.

11. HIRAM G. KLAIR, Merchant, Retired, 421 E. North Ave.

LIPMAN RENBAUM, Partner, 3309 Pinkney Rd.  
Samuel Mervis Co., 1501 Eastern Ave.

RUSSELL B. DICK, Printer, 3707 Beech Ave.  
A. S. Abell Co., Charles and Baltimore Sts.

ARNER L. HAYNIE, Tavern Operator, 856 W. Baltimore  
St.  
Self, 856 W. Baltimore St.

12. WOLSEY J. MASSEY, JR., Re-checker, 631 Radnor Ave.  
American Sugar Refining Co., Key Hgwy., East.

EDWARD J. OSWALD, Manager, 1922 E. 28th St.  
Martin J. Barry, 1700 N. Charles St.

NORTON R. BECHTEL, Janitor, 2031 Kennedy Ave.  
Munsey Building Co., Calvert and Fayette Sts.



# 7

Pltff.

Jury

Panel

Pltff.

SEPTEMBER TERM, 1943.

Beginning Monday, November 15th, 1943

Judge Eli Frank

## BALTIMORE CITY COURT

*William H. Kearney*  
*a minor, by William H. Kearney, Sr.*  
*his father & next friend*

vs.

*William J. Slacum, also known as*  
*John W. Slacum, and*  
*Abner Slacum, his wife*

Jury Sworn.....1943

1 - *Orin T. Ragland* Foreman

2 - J. FREDERICK LUCKER, Pressman, 2258 Cecil Ave.  
 Waverly Press, Inc., Mt. Royal and Guilford  
 Aves.

3 - CARL W. ISSBRUCKER, Engineer, 2731 E. Chase St.  
 The Derby Steel Co., Harford Ave. and B. & O.  
 R. R.

ORIN K. RAGLAND, JR., Foreman, 1905 E. Lanvale St.  
 General Baking Co., 1300 E. North Ave.

~~WILLIAM A. JONES, Chief Equipment Man, 3119 North-  
 way Dr.  
 American Telephone & Telegraph Co., 5 Light  
 St.~~

4 - HARRY E. THOMPSON, Superintendent, 3225 Glenmore  
 Ave.  
 Gulf Oil Corp., 1155 O'Sullivan Bldg.

~~JOSEPH BERGER, Florist, 5001 Gunther Ave.  
 Self, 5001 Gunther Ave.~~

~~WILLIAM E. MILLS (C.), Butler, 1821 Lauretta Ave.  
 Mrs. Robert W. Smith, 100 W. University  
 Pkwy.~~

5 - GUSTAF A. SWANSON, Salesman, 622 Wyanoke Ave.  
 American Agricultural Chemical Co., 2272 S.  
 Clinton St.

~~LEVI B. MILLER, SR. (C.), Clergyman, 1533 Edmondson  
 Ave.  
 Unity Christian Church, 1533 Edmondson Ave.~~

~~C. EDWARD JONES, JR., Treasurer, 4628 Rokeby Rd.  
 Western Maryland Dairy, 1125 Linden Ave.~~

6 - GEORGE W. PARLETT, Salesman, 3403 Gwynns Falls  
 Pkwy.

~~JOHN R. EORSYTHE, Architect, 4222 Penhurst Ave.  
 Self, 16 E. Lexington St.~~

7 - THOMAS W. MEUSHAW, Draftsman, 748 McKewin Ave.  
 Western Maryland Railway Co., Hillen Station.

8 - BENJAMIN KIRKHAM, Guard, 133 N. Decker Ave.  
 Western Electric Co., 2500 Broening Hgwy.

9 - HARRY R. MEEK, Railroad Brakeman, 400 Edgewood St.

~~JOHN E. LECHTHALER, Partner, 1500 E. 33rd St.  
 Superior Steam Iron Co., 616 W. Fayette St.~~

10 - JAMES M. McCRUDEN, Equipment Attendant, 4636 Pall  
 Mall Rd.  
 American Telephone & Telegraph Co., 5 Light  
 St.

~~WILLIAM J. CROGHAN, Clerk, 10 N. Glover St.  
 Railway Express Agency, 208 E. Franklin St.~~

11 - HIRAM G. KLAIR, Merchant, Retired, 421 E. North Ave.

~~LIPMAN RENBAUM, Partner, 3300 Pinkney Rd.  
 Samuel Mervis Co., 1501 Eastern Ave.~~

~~RUSSELL B. DICK, Printer, 3707 Beech Ave.  
 A. S. Abell Co., Charles and Baltimore Sts.~~

~~ABNER L. HAYNIE, Tavern Operator, 856 W. Baltimore  
 St.  
 Self, 856 W. Baltimore St.~~

12 - WOLSEY J. MASSEY, JR., Re-checker, 631 Radnor Ave.  
 American Sugar Refining Co., Key Hgwy., East.

~~EDWARD J. OSWALD, Manager, 1922 E. 28th St.  
 Martin J. Barry, 1700 N. Charles St.~~

~~NORTON R. BECHTEL, Janitor, 2031 Kennedy Ave.  
 Munsey Building Co., Calvert and Fayette Sts.~~

#

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Sept 2

Jury

Panel

PLAINTIFF'S PRAYER NO. 1.

The plaintiff prays the Court to instruct the jury that if they shall find from the evidence that the plaintiff was struck by an automobile truck being operated by the defendant's chauffeur, and was injured; and if the jury shall further find that such injuries to the plaintiff were caused by the want of ordinary care and prudence of the defendant's chauffeur and not from the want of ordinary care and prudence on the part of the plaintiff directly contributing thereto; then, the verdict of the jury must be in favor of the plaintiff; and that by ordinary care and prudence on the part of the plaintiff is meant such care and prudence as ought under all the circumstances have been reasonably expected from one of his age and intelligence.

PLAINTIFF'S PRAYER NO. 1.

The plaintiff prays the Court to instruct the jury that if they shall find from the evidence that the plaintiff was struck by an automobile truck being operated by the defendant's chauffeur, and was injured; and if the jury shall further find that such injuries to the plaintiff were caused by the want of ordinary care and prudence of the defendant's chauffeur and not from the want of ordinary care and prudence on the part of the plaintiff directly contributing thereto; then, the verdict of the jury must be in favor of the plaintiff; and that by ordinary care and prudence on the part of the plaintiff is meant such care and prudence as ought under all the circumstances have been reasonably expected from one of his age and intelligence.

PLAINTIFF'S PRAYER NO. 2

The plaintiff prays the Court to instruct the jury that the plaintiff will not be prevented from recovering in consequence of any negligence on his part if the jury shall find from the evidence that the defendant's chauffeur by the exercise of ordinary care and caution might have seen the plaintiff riding his bicycle in an easterly direction on St. Benedict Street in time to have stopped the automobile truck he was driving and thereby to have avoided the accident.

PLAINTIFF'S PRAYER NO. 3.

The plaintiff prays the Court to instruct the jury that the provisions of the Motor Vehicle Law of the State of Maryland do not apply to bicycles operated by muscular power and that the provisions of the Motor Vehicle Law are a local municipal ordinance designating certain streets as one-way streets do not apply to bicycles operated by muscular power.

DEFENDANTS' 2 PRAYER

The Court instructs the jury that if they shall believe from the evidence in this case that the infant plaintiff contributed in any manner to the happening of the accident and injury complained of, then their verdict must be for the defendant.



DEFENDANTS' A PRAYER

The Court instructs the jury that the plaintiff has produced no evidence legally sufficient to entitle him to a recovery in this case and the verdict of the jury must, therefore, be for the defendants.

DEFENDANTS' B PRAYER

The Court instructs the jury that from the uncontradicted evidence in this case, the infant plaintiff was guilty of negligence directly contributing to the happening of the accident complained of and the verdict of the jury must, therefore, be for the defendants.

DEFENDANTS' C PRAYER

The Court instructs the jury that if they shall believe from the evidence in this case that the infant plaintiff was operating a bicycle east on St. Benedict Street, and if they shall further believe from the evidence that at the time of the accident referred to, St. Benedict Street was designated as a one way street for westbound traffic only and that the proximate cause of the accident was the failure of the infant plaintiff to observe traffic regulations, then the verdict of the jury must be for the defendants.

WILLIAM H. HARVEY, JR. MINOR :  
by WILLIAM H. HARVEY, his father :  
and next friend :

IN THE

vs. :

WILLIAM J. SLACUM, also known as :  
JOHN W. SLACUM, and ALVA SLACUM :  
his wife. :

BALTIMORE CITY COURT

: : : : : : :

The defendants, in accordance with Discovery Rule 2 of the General Rules of Practice and Procedure adopted by the Court of Appeals of Maryland, hereby requests that the plaintiff reply under oath to the following interrogatories:

1. What are the names and addresses of all persons known by the plaintiff, or his attorneys, to have been witnesses to the accident on November 20, 1940, in which William H. Harvey, Jr., was alleged to have been injured?

2. What are the names and addresses of any persons who have information or knowledge with reference to the said accident on November 20, 1940, known by the plaintiff or his attorneys?

3. What amount has been paid for medical and hospital bills for treatment to the said William H. Harvey, Jr.

Foster H. Janseen  
Attorney for Defendant.

Service of copy admitted this 14<sup>th</sup> day of May, 1943.

Michael J. Manley  
Attorney for Plaintiff

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IN THE BALTIMORE CITY COURT

WILLIAM H. HARVEY, JR., MINOR  
by WILLIAM H. HARVEY, his father  
and next friend..

vs.

WILLIAM J. SLACUM, also known as  
JOHN W. SLACUM, and ALVA SLACUM  
his wife

INTERROGATORIES

Mr. Clerk:

Please file.

*Foster H. Fansen*

Attorney for Defendants

FILED MAY 14 1943

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ROOM 134 BALTIMORE CITY COURT  
MR. SHERIFF: Please Summon  
following witnesses.  
JOHN O. RUTHERFORD, Clerk

WILLIAM H. HARVEY, JR., MINOR, \*  
ET AL., \*  
VS. \* IN THE  
\* BALTIMORE CITY COURT.  
WILLIAM J. SLACUM. \*  
\* \* \* \* \*

Mr. Clerk:-

Please issue summons for the following witnesses to  
testify for the plaintiff in the above-entitled case and make the  
writ returnable at ten o'clock A.M. on Thursday, December 2, 1943:

*Handwritten notes in left margin:*  
Harvey  
Slacum

- 16 Howard Arnold,  
2113 Frederick Avenue *sd*
- 16 Paul Henry Arnold,  
2118 Ashton Avenue, *sd*
- 23 Wilbur Birgel,  
4604 College Avenue *M. E.*
- 10 Dr. Lewis B. Whiting,  
Medical Arts Building, *sd*
- 12 Dr. Norbert C. Nitsch,  
2151 Wilkens Avenue. *sd*

*Michael J. Manley*  
Attorney for Plaintiff.

Carvey Inc  
vs  
Glacum

Dr. J. B. Whiting,

53 Wilbur Birge,  
4604 Colfax Avenue

16 218 Ashcon Avenue,  
1601 Henry Arnold,

16 213 Frederick Avenue  
Howard Arnold,

writ returnable at ten o'clock A.M. on Thursday, December 2, 1943:  
testify for the plaintiff in the above-entitled case and make the  
Please issue summons for the following witnesses to

Mr. Clerk:-

ROOM 134 BALTIMORE CITY COURT  
MR. SHERIFF: Please Summon  
following witnesses.  
JOHN O. RUTHERFORD, Clerk

22

WILLIAM H. HARVEY, JR.,  
MINOR, ET AL.,

\*

VS.

\*

IN THE

\*

BALTIMORE CITY COURT.

WILLIAM J. SLACUM, ET AL.

\*

\* \* \* \* \*

Mr. Clerk:-

Please issue summons for R. Lee Elgin, Commissioner of Motor Vehicles, Guilford Avenue and Twenty-first St., with subpoena duces tecum for original report of Paul F. Gauger, 448 South Furrow Street, of accident on November 22, 1940, at Millington Lane and St. Benedict Street, in which William H. Harvey, Jr., 427 South Smallwood Street, was injured, to be used as evidence for the plaintiff in the above-entitled case, and make the writ returnable at ten o'clock A.M., on Thursday, December 2, 1943.

*SA*

22  
*Handwritten notes and scribbles on the left margin.*

*Michael J. Madley*  
Attorney for Plaintiff

Harvey Jr vs  
vs  
Blacum vs

Mr. Clerk:-

returnable at ten o'clock A.M. on Thursday, December 2, 1943.  
for the plaintiff in the above-entitled case, and make the writ  
427 South Mallwood Street, was injured, to be used as evidence  
Lane and St. Benedict Street, in which William H. Harvey, 134  
Furrow Street, of accident on November 22, 1940, at Millington  
duces return for original report of Earl W. Genger, 448 South  
Motor Vehicles, Guilford Avenue and Twenty-First St., with response  
Please issue summons for R. Lee Blain, Commissioner of

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ROOM 134 BALTIMORE CITY COURT  
MR. SHERIFF: Please Summon  
following witnesses.  
JOHN O. RUTHERFORD, Clerk

WILLIAM H. HARVEY, JR.

:

IN THE

vs.

:

WILLIAM J. SLACUM and

:

BALTIMORE CITY COURT

ALVA SLACUM

:

:

: : : : : :

Mr. Clerk:

Please issue summons for the following witnesses making same returnable in the Baltimore City Court before Hon. Judge Eli Frank at 10:00 A. M., on Friday, December 3, 1943:

*16* Mrs. Pearl Bullinger *sd*  
505 Millington Lane,

*16* Meyer Smith *sd.*  
2573 Frederick Ave.

*Just H. Jansen*  
Attorney for Defendant.



Harvey vs  
vs  
Blacum vs

Mr. Clerk:

Present at 10:00 A. M., on Friday, December 3, 1943:  
some returnable in the Baltimore City Court before Hon. Judge Ell  
Please issue summons for the following witnesses making

1/4 202 WILMINGTON Lane,  
Mrs. Pearl Billinger  
W

.....

ROOM 134 BALTIMORE CITY COURT  
MR. SHERIFF: Please Summon  
following witnesses.  
JOHN O. RUTHERFORD, Clerk

WILLIAM H. HARVEY, JR.,  
MINOR, ET AL.,

VS.

WILLIAM J. SLACUM, ET AL.

\*  
\*  
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\*

IN THE  
BALTIMORE CITY COURT.

\* \* \* \* \*

Mr. Clerk:-

Please issue summons for Hamilton R. Atkinson, Police Commissioner of Baltimore City, Central Police Station, with subpoena duces tecum for original traffic accident report of accident which occurred on November 22, 1940, at Millington Lane and St. Benedict Street, in which William Harvey, Jr., 427 South Smallwood Street, was injured by a truck belonging to Alva Slacum and being operated by Paul F. Gauger, to be used as evidence for the plaintiff in the above-entitled case and make the writ returnable ~~at ten o'clock A.M., Friday, December 3, 1943,~~ *immediately.*

*3*

*Hamilton R. Atkinson*

*Alva Slacum*

*Paul F. Gauger*

*Michael Manley*  
Attorney for Plaintiff.

Harvey Jr &c

25

Glacum &c

APPROVED FOR THE  
MAY 20 1875  
Wm. G. Wood

ROOM 134 BALTIMORE CITY COURT  
MR. SHERIFF: Please Summon  
following witnesses.

JOHN O. RUTHERFORD, Clerk

**Baltimore City Court**

JOHN O. RUTHERFORD, Clerk

*Sept.*

Term 19*43*

No. \_\_\_\_\_ Trials \_\_\_\_\_

*Harvey*

vs.

*Slacum*

MR. CLERK:

Please issue summons for the following witnesses:

*12* Officer Walter Heiderman  
Southwestern District *S4*

*1* Paul Gauger  
(GAUGER) *JP*

Badge no. L 238  
Bethlehem Steel Co. - Key Highway  
Entrance

to testify for the *Defendant*

Returnable *Immediately* the *2* day of *December*

19*43* at 10 o'clock A. M.

*Foster H. Janssen*

Attorney for *Defendant*

Harvey Jr &c  
vs

Glacum &c

MR. CLERK:

Please find annexed for the following signatures:

*[Faint, illegible handwritten signatures and text, possibly including names like "Glacum" and "Harvey"]*

ROOM 134 BALTIMORE CITY COURT

MR. SHERIFF: Please Summon following witnesses.

WILLIAM H. HARVEY, JR. : JOHN O. RUTHERFORD, Clerk  
 vs. :  
 WILLIAM J. SLACUM and : BALTIMORE CITY COURT  
 ALVA SLACUM :  
 : : : :

Mr. Clerk:

Please issue summons for the following witnesses making same returnable in the Baltimore City Court Before Hon. Judge Eli Frank at 10:00 A. M. on Thursday, December 2, 1943:

16 William J. Slacum *Sd.*  
2523 Ashton St.,

16 Alva Slacum *Sd.*  
2523 Ashton St.,

16 Clyde Slacum *Sd.*  
7 N. Tremont Rd.,

16 Paul Gauger, *N.E.*  
540 Brunswick St.,

16 Mrs. Pearl Bullinger *Sd.*  
505 Millington Lane,

16 Meyer Smith *Sd.*  
2573 Frederick Ave.,

23 Wm. Birgel *M. E.*  
4604 College Ave.,

16 Howard Arnold *Sd.*  
2113 Frederick Ave.,

16 Paul Arpold, *Sd.*  
2118 Ashton St.,

16 Miss Anna Treakle, c/o Mrs. Merkle *NE*  
3504 Frederick Ave.,

22 Commissioner of Motor Vehicles *Sd.*  
21st St. & Guilford Ave., with subpoena duces tecum to send into this Court copy of report, if any, filed by Paul F. Gauger, formerly 448 S. Furrow St., relative to an accident that occurred on Nov. 22, 1940 at Millington Lane and St. Benedict St., when Wm.H.Harvey, Jr., was alleged to have been injured when struck by a truck operated by the said Paul F. Gauger.

ROOM 134 BALTIMORE CITY COURT  
MR. SHERIFF: Please Summon following witnesses.  
JOHN O. RUTHERFORD, Clerk

*Foster H. Fanser*  
Attorney for Defendant.

Harvey Jr &  
2/3

Blacum &

Mr. Clerk:

10:00 A. M. on Thursday, December 5, 1913:  
returnable in the Baltimore City Court before Hon. Judge Eli Frank at

Please issue summons for the following witnesses making same

1/6 Clyde Blacum  
7 N. Tremont Rd.

1/6 Alva Blacum  
2223 Ashton St.

1/6 William L. Blacum  
2223 Ashton St.

THE CITY COURT  
BALTIMORE, MARYLAND

ROOM 134 BALTIMORE CITY COURT  
MR. SHERIFF: Please Summon  
Following witnesses.

JOHN O. RUTHERFORD, Clerk

WILLIAM H. HARVEY, JR.,  
MINOR, ET AL.,

VS.

WILLIAM J. SLACUM, ET AL.

\*  
\*  
\*  
\*

IN THE

BALTIMORE CITY COURT.

\* \* \* \* \*

Mr. Clerk:-

Please issue summons for the Superintendent of St. Agnes Hospital, Wilkens Avenue, with subpoena duces tecum for the records of St. Agnes Hospital showing treatment of William H. Harvey, Jr., who was admitted to St. Agnes Hospital for treatment as the result of an automobile accident on November 22, 1940, including X-ray, and all other hospital records, to be used as evidence for the plaintiff in the above-entitled case and make the writ returnable at ten o'clock A.M., on Thursday, December 2, 1943.

*Michael J. Manley*  
Attorney for Plaintiff.

*Handwritten notes:*  
by [unclear]  
[unclear]  
[unclear]  
[unclear]  
[unclear]



Harvey Jr &  
vs

Blacum &

at ten o'clock A.M. 3000th Street, December 2, 1943.  
plaintiff in the above-entitled case and make the writ returnable  
and all other hospital records, to be used as evidence for the  
of an automobile accident on November 22, 1940, including X-ray  
who was admitted to St. Agnes Hospital for treatment as the result  
of St. Agnes Hospital showing treatment of William H. Harvey, et.,  
Hospital, Wilkens Avenue, with subpoena duces tecum for the records  
Please issue summons for the Superintendent of St. Agnes

WILLIAM H. HARVEY, JR., minor,  
by WILLIAM H. HARVEY, SR., his  
father and next friend,

Plaintiff,

VS.

WILLIAM J. SLACUM, also known as  
JOHN W. SLACUM, and  
ALVA SLACUM, HIS WIFE,

Defendants.

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\* \* \* \* \*

IN THE

BALTIMORE CITY COURT.

TO THE HONORABLE JUDGE OF SAID COURT:-

THE PETITION OF WILLIAM H. HARVEY, JR., MINOR, BY  
WILLIAM H. HARVEY, SR., HIS FATHER AND NEXT FRIEND, THE PLAINTIFF  
IN THE ABOVE-ENTITLED CASE, BY HEWLETT B. COX AND MICHAEL J.  
MANLEY, HIS ATTORNEYS, RESPECTFULLY REPRESENTS:-

1.- That your petitioner desires that testimony for the  
purposes permitted by the General Rules of Practice and Procedure  
adopted by the Court of Appeals of Maryland on January 30, 1941,  
be taken by depositions upon oral examination of Alva Slacum, one  
of the defendants, and Clyde Slacum.

2.- That in order to take such despositions, it will be  
necessary that one of the witnesses, Alva Slacum, produce at the  
time and place of said depositions, the original automobile  
liability insurance policy issued to her by the Seaboard Mutual  
Casualty Insurance Company, Philadelphia, Pennsylvania, on the  
automobile truck mentioned in the plaintiff's declaration, which  
was in force and effect on November 22, 1940.

3.- That the said depositions will be taken on January  
16, 1943, at 10:30 o'clock A.M., at the law offices of Harley,  
Whelple & Manley, 309 Title Building, Baltimore, Maryland; and  
that proper notice in writing has been given to the defendants;  
and that there will be present at that time T. Edward McDonald, a  
Notary Public, or some other duly authorized Notary Public, to  
stenographically take all of said testimony.

4.- That your petitioner desires that testimony be  
taken at this time and place by depositions upon oral examination

of the following witnesses:

(a) Alva Slacum, one of the defendants.

(b) Clyde Slacum, her son.

Wherefore your petitioner prays that this Honorable Court pass an order directing and authorizing the Clerk of this Honorable Court to issue a subpoena duces tecum to the witness, Alva Slacum, 2523 Ashton Street, Baltimore, Maryland, to be and appear in person at the time and place hereinabove stated and to produce at that time the automobile liability insurance policy hereinabove mentioned; and that the Clerk of said Court also issue a subpoena to Clyde Slacum, 7 North Tremont Road, Baltimore, Maryland, to be present at the same time and place for oral examination.

And as in duty bound, etc.

Hewlett B. Cox,

Michael J. Manley.  
Attorneys for Plaintiff.

WILLIAM H. HARVEY, JR., minor,  
by WILLIAM H. HARVEY, SR., his  
father and next friend,

Plaintiff,

VS.

WILLIAM J. SLACUM, also known as  
JOHN W. SLACUM, and  
ALVA SLACUM, HIS WIFE,

Defendants.

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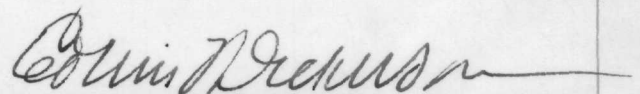
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\* \* \* \* \*

O R D E R

Upon the foregoing petition, it is ORDERED by the  
Baltimore City Court this <sup>9<sup>th</sup></sup> day of January, 1943,  
that a subpoena duces tecum be issued by the Clerk of this Court  
commanding the Sheriff of Baltimore City to summon Alva Slacum,  
2523 Ashton Street, Baltimore, Maryland, to be present on January 16,  
1943, at 10:30 A.M., at the law offices of Harley, Whelple &  
Manley, 309 Title Building, Baltimore, Maryland, so that testimony  
may be taken by the plaintiff in the above-entitled cause by  
oral examination, and that the said Alva Slacum at this time also  
produce the automobile liability policy issued to her by the  
Seaboard Mutual Casualty Insurance Company, Philadelphia, Penn-  
sylvania, which was in force on November 22, 1940, on the auto-  
mobile truck mentioned in the declaration filed in the above-  
entitled case.

It is further ordered that subpoena be issued to Clyde  
Slacum, 7 North Tremont Road, Baltimore, Maryland, so that his  
testimony may be taken by deposition upon oral examination on the  
same date, time and place hereinabove mentioned.



Judge.

156  
76  
156  
76  
IN THE

BALTIMORE CITY COURT.

WILLIAM H. HARVEY, JR., minor  
by WILLIAM H. HARVEY, SR.,  
his father and next friend,  
Plaintiff,

VS.

WILLIAM J. SLACUM, also  
known as JOHN W. SLACUM, and  
ALVA SLACUM, HIS WIFE,  
Defendants.

\* \* \* \*

PETITION AND ORDER OF  
COURT FOR SUBPOENA FOR  
WITNESSES.

\* \* \* \*

Mr. Clerk:-

Please file.

*Hewlett B. Cox,*  
*Michael J. Manley.*  
Attorneys for Plaintiff.

HARLEY, WHELTLE & MANLEY

ATTORNEYS-AT-LAW

BALTIMORE, MD.

FILED JAN 9 1943

WILLIAM H. HARVEY, JR., minor, :  
by WILLIAM H. HARVEY, SR., his :  
father and next friend :

IN THE

vs. :

BALTIMORE CITY COURT

WILLIAM J. SLACUM, also known as :  
JOHN W. SLACUM and :  
ALVA SLACUM, his wife :

: : : :

To: Michael J. Manley, Esq.,  
Title Building,  
Baltimore, 2, Md.

Attorney for William H. Harvey, Jr.

Notice is hereby given under the rules of practice and procedure as adopted by the Maryland Court of Appeals that a pretrial deposition will be taken of the following witness at the office of Foster H. Fansen, 461 Calvert Building, Baltimore, Md., before a Notary Public, at 4:00 P. M. on Friday, November 5, 1943:

William H. Harvey, Jr.,  
427 South Smallwood Street,

*Foster H. Fansen*  
Attorney for Defendants.

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IN THE BALTIMORE CITY COURT

WILLIAM H. HARVEY, JR.,  
minor, by WILLIAM H. HARVEY,  
SR., his father and next  
friend

vs.

WILLIAM J. SLACUM, also  
known as JOHN W. SLACUM  
and ALVA SLACUM, his wife

NOTICE TO TAKE PRETRIAL  
DEPOSITION

Mr. Clerk:

Please file.

*Foster H. Fansen*  
Attorney for Defendants.

FOSTER H. FANSEEN  
ATTORNEY AT LAW  
461 CALVERT BUILDING  
BALTIMORE, MD.

FILED 30" Oct 1943

156  
76

TRANSCRIPT OF TESTIMONY  
IN THE MATTER OF

WILLIAM H. HARVEY, JR.,  
&c

IN THE

vs.

WILLIAM J. SLACUM et. al

BALTIMORE CITY COURT

Deposition of  
William H. Harvey, Jr.

FILED NOV 18 1943



SIDNEY SALZMAN  
OFFICIAL COURT REPORTER  
(Stenotypist)  
COURT HOUSE  
BALTIMORE, MARYLAND



WILLIAM H. HARVEY, Jr.,  
minor, by WILLIAM H.  
HARVEY, Sr., his father  
and next friend,

vs.

WILLIAM J. SLACUM, also  
known as JOHN W. SLACUM,  
and ALVA SLACUM, his wife.

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: IN THE  
:  
: BALTIMORE CITY COURT.  
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Baltimore, Maryland,  
November 10, 1943.

Deposition taken before me, Sidney Salzman,  
a Notary Public of the State of Maryland and City of  
Baltimore, duly commissioned and qualified, 4.00 o'clock  
P. M. Wednesday, November 10, 1943, at room 461 Calvert  
Building, Baltimore, Maryland.

PRESENT:

Michael J. Manley, Esquire, on behalf of  
the Plaintiff.

Foster H. Fansen, Esquire, on behalf of the  
Defendants.

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FILED NOV 18 1943

STIPULATION.

It was stipulated by and between counsel for the parties hereto that all irregularities in the form of this deposition, and as to notice thereof, were waived.

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Thereupon - - -

WILLIAM H. HARVEY, JR.,

a witness of lawful age, after being duly sworn in accordance with law, as hereinafter certified by me, was examined and deposed as follows:

DIRECT EXAMINATION.

By Mr. Fansen:

- Q State your name?  
A William H. Harvey, Jr.  
Q Your address?  
A 3713 Colebourne Road.  
Q How old are you?  
A Sixteen.  
Q Do you go to school?  
A Yes, sir.

Q What school do you go to?

A Gwynns Falls Junior High School.

Q Were you involved in an accident on November 22nd, 1940?

A That is right.

Q What were you doing at that time?

A Riding on a bicycle.

Q Where had you been?

A To a lady's house to deliver buns.

Q Was there anyone with you at the time?

A Four other boys.

Q Who were the other boys? You give their names, William?

A Paul Arnold, William Dowell, Wilbur Burgell, and I don't know the other one, his name is Arnold, but he is Paul's cousin.

Q After you delivered the buns where did you go?

A I was going to go home, but I was going south -- wait a minute -- I came down Saint Benedict's Street going east.

Q You were going east on Saint Benedict's?

A And turned down Millington Lane, going south.

Q About how wide would you say Saint Benedict street is, average width or is it narrower?

A About fifty-five feet or sixty feet.

Q Do those two streets cross each other or not?

A No. Saint Benedict street ends there at the corner.

Q Saint Benedict street runs which way, east or west?

A Runs east.

Q East and west?

A East and west.

Q And it runs only east from Millington Lane, or does it run west from Millington Lane down?

A It runs east -- no, west.

MR. MANLEY: It runs west.

Q Saint Benedict street begins at Millington Lane and runs west?

A That is right.

Q Then you were going east on Saint Benedict

street?

A That is right.

Q When you started over on your bicycle how far were you from Millington Lane about, son?

A Oh, about a hundred feet -- no, about one hundred and fifty feet.

Q Where were you when this accident happened?

A On Millington Lane.

Q Did you make a left turn or right turn?

A Right.

Q You made a right turn. Well, did the accident happen at Millington Lane?

A Oh, Millington Lane.

Q It happened just where Saint Benedict street comes into Millington Lane?

A No.

Q Where did it happen in reference to Saint Benedict street?

A About twenty-five feet.

Q North or south?

A South.

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Q Now, you made a lefthand turn?

A No, right.

Q West to the left and east is to the right.

I am confused here the way I have got this drawn up.  
You made a righthand turn?

A That is right.

Q And this accident happened how far do you say  
from Saint Benedict street?

A Between twenty or thirty feet.

Q Will you tell me in your own way how this  
accident happened, Son?

A Well, I turned on Millington -- out of Saint  
Benedict street, I turned into Millington Lane on a bicycle  
and the truck was pulling out from the curb.

Q Which curb, from the east --

A From the east going towards the west curb.

Q Headed which way, north or south.

A North. And as I came down Millington Lane going  
south he came out and wedged me into the curb. He hit me with  
the front of his car, the front fender, which was the left  
fender. I was about three feet from the curb.

Q Was it the front or rear fender that hit you?

A Front.

Q Front fender?

A Front left fender.

Q Did you see the truck leaving the curb?

A Yes, sir.

Q You saw it pull away?

A Yes, sir. It was pulling away when I went to turn the curb, turn the corner.

Q Did you see the truck coming toward you?

A Yes, sir.

Q Well, what effort did you make, if any, Son, to get out of the way of the truck?

A I started to go towards the curb.

Q How fast would you say the truck was going when the accident happened?

A About twenty miles an hour.

Q About twenty miles an hour?

A He was coming out from the curb, so it would be about twenty.

Q How far had he driven about from the curb before the accident happened?

A Just as the accident happened.

Q Now, how far did he go from the curb until he squeezed you against the curb?

A Well, he was more towards the left on the east side.

Q Did he go just across the street?

A He was on an angle passing a bakery truck.

Q Were any of the other boys with you?

A They were in back of me.

Q Did you fall off your bicycle or did the truck knock you off of it?

A The truck knocked me off.

Q Who picked you up?

A I wouldn't know. It was a man, but I couldn't tell you who.

Q Now, William, do you remember giving a statement, signing a statement on December 4th, 1940, that was witnessed by Miss Anna Treakle, who was a graduate nurse at Saint Agnes Hospital where you were?



A No.

Q I show you, Son, is that your signature on there right where my thumb is?

A No.

Q William H. Harvey, Jr., look at it?

A That is not mine.

Q Not your signature?

A No.

MR. MANLEY: Look at that now, and see?

A I looked at it. What was it about.

Q Is that your signature?

A No.

Q It is not?

A I can't remember anybody coming --

Q You are sure it is not your signature?

A No.

Q Well, do you remember giving your name --

"My name is William Harvey, I live at 427 South Smallwood street," Did you live there at that time?

A Yes.

Q "Baltimore, Maryland. I am thirteen years old".

Is that right?

A Yes, I was thirteen then.

Q "I will be fourteen on November 3rd, 1941."

A Yes.

Q "I go to school, and am in the seventh grade."

A Yes, I was in the seventh grade.

Q "On the afternoon of November 22nd, 1940, I was out riding on my bicycle with boys who were all friends of mine."

A That is right. They are friends of mine.

Q "We all went up Saint Benedict street with some buns for a lady," is that right?

A Yes.

Q "I don't travel up on Saint Benedict street very often?" Is that right?

A Well, go up there right smart.

Q "It is a short street." Is that right?

A What do you mean by short?

Q "It is a short street," do you remember that?

A No, I don't remember any of that.

Q "After one of the other boys dropped the buns over at the lady's house" -- whose house was it, Mrs. Ber-

man's house?

A I don't know the lady. It was Paul's -- some relation to Paul.

Q "We all rode away", is that right?

A That is right.

Q "We rode on our bicycles east on Saint Benedict street", is that right?

A Yes.

Q "When I reached the corner of Saint Benedict street and Millington Lane, I saw a truck leaving the curb and pulling away", is that right?

A Yes.

Q "This truck was headed north", is that right?

A Yes, the truck was headed north.

Q "One of the boys with me on his bicycle went ahead of me, and he turned the corner, and went south on Millington Lane", is that right?

A Yes, that is right.

Q "I was about to turn the corner. The truck was coming, and he tried to pass another truck that was parked on Millington Lane." Is that right?

A Yes, he was trying to do that.

Q "When this truck was opposite Saint Benedict street, I tried to pass this truck on the side." Is that right?

A No.

Q That isn't right. "And I fell off my wheel", is that right?

A I fell off when the truck hit me.

Q "Near the back of the truck." You fell off when it hit you?

A When the truck hit me.

Q You say it was the front?

A Yes.

Q "I got run over by the back wheel of the truck." Is that right?

A I don't know which -- I think they picked me off at the back. I can't remember that.

Q "The driver picked me up and put me in the truck," is that right?

A Yes.

Q "Then they took me out and put me in a passenger

FILED NOV 18 1943

car, and took me to the hospital." Is that right?

A I can't remember them taking me out in the car, but I remember when I got to the hospital I was in the car.

Q "I have had the abovetwo pages read to me, and they are both true and correct -- signed William Harvey, Jr." and you say this is not your signature?

A No.

Q Underneath that "I have witnessed the taking of this statement, and I have read the statement to William Harvey, who sigged it as being correct. At the time when this statement was taken and signed, this boy was not under the influence of any drugs or opiates, and was rational." Signed, Miss Anna Treakle, Graduate, on Saint Anne's Ward.

MR. MANLEY: What is the date of that?

MR. FANSEEN: December 4th, 1940.

Do you remember that, William?

A No.

Q Don't remember anything about it?

A No.

Q You are sure that the left front of the truck hit you?

A Yes.

Q How far did the truck go after the accident?

A After it hit me?

Q Yes.

A I couldn't tell you.

Q You don't know whether it stopped right away or not?

A Well, my clothes showed that I had been dragged like, grease and burned marks on my clothes.

Q What part of your body did the truck pass over, if any?

A My stomach I think it was. My pelvis bone was broken.

Q How are you feeling now, William?

A I still have trouble with my stomach.

Q When did you last see a doctor for your stomach? Have you had any medical attention in the last few months or year?

A Well, not for my stomach, but I have been sick a lot because of it.

Q What doctor did you see?

A Doctor Nitsch. That is my family physician.

Q How do you spell his name?

A Nitsch.

Q When did you last see Doctor Nitsch?

A I guess about four weeks ago.

Q How long before that did you see him?

A I was going to him two weeks straight there, three weeks straight it was.

Q Are you going to school regularly now?

A No, I missed a lot of time.

Q How much school did you miss?

A I missed the first three weeks of school. Then I have been off and on, last week I missed two days.

Q You missed --

A I guess about a month I missed altogether.

Q What school were you going to -- in the seventh grade at the time this happened?

A Same school, Gwynns Falls Junior High school.

Q Now, then, do I understand that first of all you say this is not your signature?

A No, I don't know anything about that.

Q In the statement I read to you, "I tried to pass

this truck on the side, and I fell off my wheel near the back of the truck, and got run over by the back wheel of the truck." That is not correct?

A No. Why would I fall off unless the truck hit me?

Q Now, in addition to these boys you have mentioned, William, did you see anyone else around there?

A No.

Q How close to the curb, to the west curb, was the left side of the truck at the time of the accident would you say, if you know?

A I wouldn't know when it hit me, but I was about three feet coming down Millington Lane from the curb. That would be -- about three feet.

Q You were three feet away from the curb?

A That is right.

Q After you turned the corner?

A That is right.

Q How fast about were you riding on your bicycle?  
I know that is only an estimate?

A Going slow, about fifteen miles I guess.

Q Did you make any effort to pull to the right, to



get away from the truck?

A Yes.

Q But you were still three feet from the curb?

A Uh huh.

Q You saw the truck when it pulled out from the curb, didn't you?

A Yes.

Q And you saw it try to pass this truck that was parked on the east side, isn't that right?

A Yes, it was passing it when I came.

Q You mean when you turned the corner or when you were some distance below Saint Benedict street?

A What do you mean?

Q You saw the truck pull out as you made the turn, do you remember?

A Yes, it started to pull out when I made the turn.

Q Started to pull out then?

A Yes, sir.

Q You knew a truck was parked directly ahead of it?

A Yes, it was a bakery truck.

Q Well, now, is the street level there or was there a grade -- was there any grade on Millington Lane?

A What do you mean by grade?

Q Was the street level or did it slope one way or the other?

A Millington Lane I think slopes a little, but I am not sure.

Q Towards the north or south?

A Towards the south I think, I am not sure.

Q What about Saint Benedict street, where that comes into Millington Lane, is that level or does that slope down or up?

A Sloped down some, not much.

Q In other words, you were going down grade to come into Millington Lane?

A Yes.

Q None of the other boys were struck by the truck were they?

A No.

MR. FANSEEN: That is all.

(Testimony of the deponent concluded.)

FILED NOV 18 1943

*Defd's Costs*  
*\$13.30*

STIPULATION.

It was further stipulated between counsel for the parties hereto, and the deponent individually, that the signing, sealing and certification of the foregoing deposition by the said deponent, were waived.

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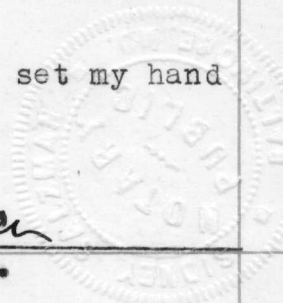
CERTIFICATE OF NOTARY PUBLIC.

STATE OF MARYLAND,  
CITY OF BALTIMORE:

I hereby certify that on the 10th day of November, 1943, before me, Sidney Salzman, a Notary Public of the State of Maryland and City of Baltimore aforesaid, personally appeared William H. Harvey, Jr., who was duly sworn by me according to law, that the deposition of the said William H. Harvey, Jr., as above set forth, was reduced to writing by me, Sidney Salzman, Official Court Stenographer, and that said deposition is a true record of the testimony given by the said deponent.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 18 day of November, 1943.

*Sidney Salzman*  
Notary Public.



TRANSCRIPT OF TESTIMONY  
IN THE MATTER OF

}



SIDNEY SALZMAN  
OFFICIAL COURT REPORTER  
(*Stenotypist*)  
COURT HOUSE  
BALTIMORE, MARYLAND

FILED NOV 18 1943

STENOGRAPHIC TRANSCRIPT

IN THE CASE OF

130x2143  
WILLIAM H. HARVEY, JR., minor,  
by William H. Harvey, Sr., his  
Father and next Friend,  
Plaintiff

vs.

WILLIAM J. SLACUM, also known as  
JOHN W. SLACUM and  
ALVA SLACUM, his wife,  
Defendants.

IN THE

BALTIMORE CITY COURT

---

Baltimore, Maryland

January 22, 1943

----

FILED JAN 23 1943

OFFICE PHONE:  
SARATOGA 1490

LAFAYETTE P. TEMPLE, INC.  
COURT AND GENERAL REPORTERS  
EQUITABLE BUILDING  
BALTIMORE, MD.

WILLIAM H. HARVEY, JR., minor,  
by WILLIAM H. HARVEY, SR., his  
father and next friend,

Plaintiff,

VS.

WILLIAM J. SLACUM, also known as  
JOHN W. SLACUM, and  
ALVA SLACUM, HIS WIFE,

Defendants.

IN THE  
BALTIMORE CITY COURT.

\* \* \* \* \*

Notice is hereby given under "Deposition Rule #5" of the Rules of Practice and Procedure adopted by the Court of Appeals of Maryland on January 30th, 1941, pursuant to the 18th Section of Article 4 of the Constitution of the State of Maryland, and Chapter 719 of the Acts of the General Assembly of 1939, that the deposition of the witnesses hereinafter named will be taken by the Plaintiff in the above-entitled cause before T. Edward McDonald, Notary Public, or any other authorized Notary Public, at the Law Office of Harley, Whelple & Manley, 309 Title Building, Baltimore, Maryland, on Saturday, January 16, 1943, at 10:30 O'clock A.M., to be used in the above-entitled cause.

- (1) Alva Slacum, 2523 Ashton Street, Baltimore, Md.,
- (2) Clyde Slacum, 7 North Tremont Road, Baltimore, Maryland.

*Hewlett B. Cox.*

*Michael J. Manley*  
Attorneys for Plaintiff.

Copy left and service of the above notice admitted this  
9<sup>th</sup> day of January, 1943.

*Walter H. Franzen*

Attorney for Defendants.

INDEX

Witness

Direct.

Clyde Slacum	-----	2
Alva R. Slacum	-----	11

EXHIBIT

Plaintiff's Exhibit No. 1 for Ident ----- 5  
Policy and riders

--- oOo ---

FILED JAN 23 1943

IN THE BALTIMORE CITY COURT

-----

WILLIAM H. HARVEY, JR., minor,	)
by WILLIAM H. HARVEY, SR., his	)
Father and next Friend,	)
	)
Plaintiff,	)
	)
vs.	)
	)
WILLIAM J. SLACUM, also known as	)
JOHN W. SLACUM, and	)
ALVA SLACUM, his Wife,	)
	)
Defendants	)

-----

Baltimore, Maryland,

January 22, 1943, 5:30 O'clock P.M.

Depositions upon oral examination of Alva Slacum and Clyde Slacum, on behalf of the plaintiff, taken before Theodore A. Rettaliata, a Notary Public, at the offices of Messrs. Harley, Whelple & Manley, 309 Title Building, Baltimore, Maryland, January 22, 1943, at 5:30 o'clock p.m., pursuant to the attached Notice.

APPEARANCES:

Michael J. Manley, Esq., for the plaintiff.

Foster H. Fansen, Esq., for the defendants.



(Depositions are taken in pursuance of the attached Notice, and were continued from Saturday, January 16, 1943, at 10:30 o'clock a.m., to January 22, 1943, at 5:30 o'clock p.m., by agreement of counsel.)

It is stipulated by and between counsel for the respective parties that the signing, sealing and certification of this deposition is waived, and that all formalities in the taking of the deposition shall be waived.

-----

Thereupon---

CLYDE SLACUM,

called on behalf of the plaintiff upon oral examination, having been duly sworn by the Notary, testified as follows:

DIRECT EXAMINATION

By Mr. Manley:

Q Mr. Slacum, do you recall that on November 22, 1940, a Chevrolet automobile truck, which is titled in the name of Alva Slacum, was involved in an accident in which a boy by the name of William H. Harvey, Jr., was injured and the accident occurred at Millington Lane near St. Benedict Street?

A I remember the accident, but I was not sure of the date until I checked it up today.

Q Who was operating the truck at the time of the accident?

A A chauffeur who worked for me by the name of Paul Grange, or something like that.

Q It is Paul ---

A G-r-a-n-g-e-r. I did not check up on that because I thought I could remember it.

Q At the time of the accident for what purpose was the truck being used?

A For hauling furniture.

Q In whose hauling business?

A Slacum's Transfer.

Q Well, who operates and owns Slacum's Transfer?

A Well, it was a partnership business.

Q Who were the partners?

A My father, my step-mother and myself.

Q What is your father's name?

A William J. Slacum.

Q What is your step-mother's name?

A Alva Slacum.

Q Where is their address?

A 2523 Ashton Street.

Q In whose name was the truck titled, this particular truck titled?

A I think, if I am not mistaken, the truck was titled in the name of Alva Slacum. I do not know whether it was titled "Alva Slacum, trading as Slacum's Transfer," or "Alva and William J. Slacum, trading as Slacum's Transfer."

Q Did you have insurance on the truck?

A At that time, yes.

Q Do you have the insurance policy with you?

A Yes.

MR. MANLEY: May I see it?

MR. FANSEEN: We object to this.

{Paper handed to Mr. Manley.}

MR. MANLEY: I want to find out the license number.

A The license number would not appear on the policy. The only thing that would appear would be the

motor number, the serial number, and the year and model. It is a 1937 Chevrolet and motor number and serial number are the only things that appear on the policy, because the policy may be taken out in the middle of the year and may run through the following year, and you would have a different license plate, so no license number appears on any policy. Here is your motor number, and serial number, and you should have it on your police report, if you have the police report.

MR. MANLEY: They do not put all that on the police report. But this is the policy we are concerned with?

A That is the true policy, yes.

MR. MANLEY: We would like to offer this in evidence for identification, together with the riders in connection therewith.

(Policy and riders marked "Plaintiff's Exhibit 1 for Identification.")

MR. MANLEY: The policy is No. AL0547. Keystone Mutual Casualty Company. Name of assured: Alva Slacum t/a Slacum's Transfer, 2523 Ashton Street, Baltimore, Mary-

land, and states that the occupation of the named insured is that of furniture mover, with an endorsement attached stating that the named assured "Alva Slacum, trading as Slacum's Transfer", is now changed and amended to read, "Alva Slacum and/or William J. Slacum, as their interests may appear, trading as Slacum's Transfer."

The policy is dated May 2, 1940, and expires May 3, 1941.

Q Did you receive any papers, Mr. Slacum, in connection with this suit of William H. Harvey, Jr.?

A When?

Q At any time after June 25, 1941.

A After when?

Q June 25, 1941.

A The only papers I received was from you peoples' office and at the time this other commotion started, whatever it was I don't remember.

Q When this suit was filed were any papers turned over to you by your mother and father, or either of them?

A No one received any papers that I know of. I never received any and they never received any until this

investigation.

Q Where did you store the truck?

A 2523 Ashton Street.

Q That is in the rear of your mother's and father's home?

A In the yard.

Q I mean your step-mother and father's home?

A My mother and father is all right.

MR. MANLEY: That is all.

Q (By Mr. Fansen) You do not know how the accident happened?

A Only by information of my driver and the information of the witnesses.

Q What did you find out about it, yourself?

MR. MANLEY: Objected to.

MR. FANSEEN: Go ahead and tell us.

MR. MANLEY: I object to what he found out about it.

THE WITNESS: What do you mean by what I found out?

Q (By Mr. Fansen) When did you first know an

*Should this be X Exam?*

accident had happened?

A About three or four minutes after it happened, as I was sitting at the house there waiting for the trucks to come back in because they all reported to me after they had their lunch, and I gave them further instructions what to do in the afternoon.

Q Where had Mr. Granger been just before the accident?

A He had been delivering living room suites for the Monroe Upholstering Company, 229 North Franklinton Road, sir.

Q And then he stopped for lunch some place?

A Well, he stopped for lunch at his home.

MR. MANLEY: I object to that because you do not know that.

A I only know what he told me. I did not know he had an accident only by what he told me.

MR. MANLEY: I object to that.

Q (By Mr. Fanseen) What did you find out about the accident?

MR. MANLEY: I object to that.

A He came back and told me he had an accident and I went around and taken the boy to the hospital.

Q Did you talk to the boy on the way to the hospital?

MR. MANLEY: We object.

Q (By Mr. Fanseen) The boy who was hurt.

A If my mind serves me right, I did, yes.

Q Did he tell you what happened?

A He told me he could not make the turn in the street into Millington Lane and he told me at that time it was not the driver's fault, that he ran into the truck.

MR. MANLEY: Of course, we have an objection to this.

Q (By Mr. Fanseen) The boy that was hurt told you that?

A Yes.

MR. MANLEY: Put a motion in there to strike that out.

Q (By Mr. Fanseen) And the boy was riding a bicycle?



MR. MANLEY: I want to put a motion in there to strike out the testimony that the boy said it was not the driver of the truck's fault.

Q (By Mr. Fanseen) Did he tell you what part of the automobile he ran into?

A He said he ran into the side of the truck.

Q The front or rear?

A Into the right rear wheel. Then I came back and began to inquire around the neighborhood if any one saw it and I met this lady -- do you know her name? -- I can find her name out -- three doors from the scene of the accident, who said, ---

MR. MANLEY: I note an objection to this.

THE WITNESS: --- who said she was at her window and saw these boys coming down the street, about seven or eight of them on bicycles and she thought that three or four of them were going to run into the side of the truck, and she noticed this one boy in particular, he was going so fast he could not make the turn and she saw him when he ran into the truck, but she could not see what happened by the fact that she was up high and this

happened down low on the opposite side from her, and she gave out a scream and the truck had no sooner hit the boy than it stopped.

Q (By Mr. Fanseen) Now, of course, you did everything you could, you took the boy to the hospital?

A Yes, and notified his parents and notified my insurance company, and notified the Police Department, and filed a report with the Motor Vehicles Commissioner.

Q You did everything that was required?

A Yes, and told how the accident happened.

MR. FANSEEN: That is all.

MR. MANLEY: That is all.

(Examination of the witness concluded.)

(Signature of the witness waived by agreement of counsel.)

Thereupon ---

ALVA R. SLACUM,  
called upon oral examination on behalf of the plaintiff,  
having been duly sworn by the Notary, testified as follows:

DIRECT EXAMINATION

By Mr. Manley:

Q Mrs. Slacum, where do you live?

A 2523 Ashton Street.

Q And your husband is William J. Slacum?

A That is right.

Q And you are the step-mother of Mr. Clyde Slacum?

A Yes.

Q This gentleman here (indicating)?

A That is right.

Q Were you in the hauling business on November 22,  
1940?

A Yes.

Q What was the name of the business?

A The Slacum Transfer.

Q And who operated the Slacum Transfer?

A Clyde.

Q You mean he attended to the business?

A Yes, he taken care of the business.

Q But who owned the business as partners, who  
were the partners?

A I guess all of us did, all three of us did.

Q Mention the three of you who were partners.

A My husband, John William Slacum and myself and Clyde.

Q You stated "John William Slacum", is that the same as William J. Slacum?

A William John, yes. I said John William.

Q John William Slacum and William J. Slacum are the same?

A Yes.

Q This partnership owned the Chevrolet automobile truck that was involved in this accident with the Harvey boy?

A Who owned it?

Q The Slacum Transfer?

A Yes, the Slacum's Transfer owned it.

Q In whose name was it titled?

A I do not remember myself that much about it.

Did not Clyde say he thought I was on the title?

Q Yes.

A I am not sure myself.

MR. CLYDE SLACUM: She never saw the titles.

THE WITNESS: I really could not tell you. I

have never seen the title.

MR. CLYDE SLACUM: She does not know what trucks now are titled in her name.

THE WITNESS: I really do not.

MR. CLYDE SLACUM: She could not tell you the motor numbers, but this particular truck was titled in her name.

THE WITNESS: Yes.

Q (By Mr. Manley) You three were partners, though, in the conduct of the business?

A Yes.

Q What other work does your husband do other than this transfer business?

A He is at Bartlett-Hayward's.

Q And what work does he do there?

A He is a rigger, a yard foreman.

MR. CLYDE SLACUM: She does not know his occupation. She does not take that much interest in it.

THE WITNESS: I know he works for Bartlett-Hayward, the Koppers Company.

Q (By Mr. Manley) You know he works at the Bartlett-

Hayward Division of the Koppers Company?

A Yes.

MR. MANLEY: That is all.

(Examination of the witness concluded.)

(Signature of the witness waived by agreement  
of counsel.)

(Thereupon, at six o'clock p.m., the taking  
of this deposition was concluded.)

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FILED JAN 23 1943

FILED JAN 23 1943

WILLIAM H. HARVEY, JR., A  
MINOR, BY WILLIAM H. HAR-  
VEY, HIS FATHER AND NEXT  
FRIEND,

VS.

WILLIAM J. SLACUM, ALSO  
KNOWN AS JOHN W. SLACUM  
AND ALVA SLACUM, HIS  
WIFE.

HEWLETT B. COX,  
MICHAEL J. MANLEY,  
For Appellant.

FOSTER H. FANSEEN,  
For Appellee.

IN THE  
**Court of Appeals**

OF MARYLAND.

APPEAL FROM  
THE  
BALTIMORE CITY  
COURT.

APPEAL TO THE  
OCTOBER TERM, 1942,  
OF THE  
COURT OF APPEALS  
OF MARYLAND.

Filed May 8th, 1942.



**TRANSCRIPT OF RECORD**

**FROM THE**

**BALTIMORE CITY COURT**

**IN THE CASE OF**

**WILLIAM H. HARVEY, JR., A MINOR, BY WILLIAM  
H. HARVEY, HIS FATHER AND  
NEXT FRIEND, APPELLANT,**

**VS.**

**WILLIAM J. SLACUM, ALSO KNOWN AS JOHN W.  
SLACUM AND ALVA SLACUM, HIS WIFE,  
APPELLEES,**

**TO THE**

**COURT OF APPEALS OF MARYLAND.**

---

**HEWLETT B. COX,**

**MICHAEL J. MANLEY,**

**For Appellant.**

**FOSTER H. FANSEEN,**

**For Appellee.**

IN THE COURT OF APPEALS OF MARYLAND.

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APPEAL FROM THE BALTIMORE CITY COURT.

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Action commenced in the Baltimore City Court on the 25th day of June, in the year 1941, by the filing by the Plaintiff of a Declaration, Notice to the Defendants to plead and an Election for Jury Trial.

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DECLARATION, etc.

(Filed 25th day of June, 1941.)

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*In the Baltimore City Court.*

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*William H. Harvey, Jr., Minor (427 S. Smallwood Street)  
by William H. Harvey (427 S. Smallwood Street)  
his father and next friend,*

*vs.*

*William J. Slacum, also known as John W. Slacum (2523  
Ashton Street) and Alva Slacum, his wife  
(2523 Ashton Street).*

---

DECLARATION.

William H. Harvey, Jr., a minor by William H. Harvey, his father and his next friend, sues William J. Slacum, also known as John W. Slacum, and Alva Slacum, his wife, for that:

On or about November 22, 1940, while William H. Harvey, Jr., was riding on his bicycle south on Milling-

ton Lane, south of St. Benedict Street, both public highways in the City of Baltimore, Paul F. Gauger, being then and there the agent and employee of the Defendants and then and there acting within the scope of his agency and employment, in that he was operating an automobile truck, then and there the property of the Defendants, in on and about the business of the Defendants, negligently and recklessly drove and operated said automobile truck, in that he failed to give due heed to the position of William H. Harvey, Jr., in that he was not looking where he was driving the said truck, and in that he drove the said truck to his left of the center of Millington Lane, whereby, by reason of such negligence, the said automobile truck was caused to collide with the bicycle of William H. Harvey, Jr., causing William H. Harvey, Jr., to sustain serious, painful, and permanent injuries about the body and limbs, and mental anguish, and otherwise injuring the said William H. Harvey, Jr., all of which was solely due to the recklessness and negligence of the Defendants, through said agent and employee, without any negligence on the part of the Plaintiff or the beneficial Plaintiff contributing thereto.

**WHEREFORE THIS SUIT IS BROUGHT:**

And the Plaintiff claims \$10,000.00 damages

**HEWLETT B. COX,**

Attorney for Plaintiff.

**WILLIAM H. HARVEY,**

Father and next friend of  
William H. Harvey, Jr.

---

To The Defendants: William J. Slacum, also known as John W. Slacum, and Alva Slacum, his wife.

Take Notice:

That on filing of the foregoing Declaration a rule will be laid requiring you to plead thereto as by Statute provided.

**HEWLETT B. COX,**

Attorney for Plaintiff.

And the Plaintiff elects to have this case tried before a jury.

HEWLETT B. COX,

Attorney for Plaintiff.

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WRIT OF SUMMONS AND SHERIFF'S RETURN  
THEREON.

WRIT OF SUMMONS

(Seal)

State of Maryland, Baltimore City, to wit:

To the Sheriff of Baltimore City, Greeting:

You are commanded to summon William J. Slacum, also known as John W. Slacum, and Alva Slacum, his wife, of Baltimore City, to appear before the Baltimore City Court, to be held at the Court House in the same City, on the second Monday of July next, to answer an action at the suit of William H. Harvey, Jr., a minor by William H. Harvey, his father and next friend, and have you then and there this writ.

Witness the Honorable Samuel K. Dennis, Chief Judge of the Supreme Bench of Baltimore City, the 12th day of May, 1941. Issued the 25th day of June in the year 1941.

JOHN O. RUTHERFORD,

Clerk.

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Summoned Ambo and a Copy of Nar and Notice to plead left with each Defendant.

JOSEPH C. DEEGAN,

Sheriff.

6/25/41 Wm. Bayer.

Fees \$1.90.

## DOCKET ENTRIES.

13th August, 1941—Plaintiff's Motion for a Judgment by Default for want of a Plea, filed.

13th August, 1941—Judgment by Default, Order of Court, filed.

24th September, 1941—Jury Sworn, etc.

24th September, 1941—Inquisition in favor of the Plaintiff for \$10,000.00.

24th September, 1941—Judgment on Inquisition Nisi.

26th September, 1941—Judgment on Inquisition Absolute in favor of the Plaintiff for the sum of \$10,000.00, the amount found by the Jury, with interest from 24th September, 1941 and costs.

28th January, 1942—Appearance of Foster H. Fanseen for Defendants for Motion only.

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MOTION BY DEFENDANTS TO STRIKE OUT  
JUDGMENT.

(Filed 28th day of January, 1942.)

Now come the defendants, by Foster H. Fanseen, their attorney, appearing specially for the purpose of this motion and for no other purpose whatsoever, and moves that the judgment heretofore entered on the 24th day of September, 1941, in the above entitled case, be stricken out, vacated, and declared null and void for the following reasons:

(1) That the Court was without jurisdiction in the premises.

(2) That the defendants were never summoned by the Sheriff for Baltimore City in this cause.

(3) That no summons to appear and defend this suit was ever served upon the defendants, nor did they have any legal notice of the suit.

And other reasons to be assigned at the hearing hereof.

FOSTER H. FANSEEN,  
Attorney for Defendants,  
Appearing specially.

WILLIAM J. SLACUM,  
ALVA SLACUM.

---

State of Maryland, Baltimore City, to wit:

I hereby certify that on this the 27th day of January, 1942 personally appeared before me a Notary Public of the State of Maryland, the defendants William J. Slacum and Alva Slacum, his wife and made oath in due form of law that the facts stated in the foregoing motion are true and they further make oath that they, nor either of them, ever received a summons, nor was any writ of process of any kind whatsoever ever served upon them, or either of them, by the Sheriff of Baltimore City, nor any of his Deputies, in the above entitled cause; nor did they, or either of them, have any notice whatsoever of the pendency of this action.

In Testimony whereof I hereto set my hand and affix my Notarial Seal the date and year above written.

(Seal) MINNA D. GROLMAN,

Notary Public.

Service admitted.

## ORDER OF COURT.

(Filed 17th day of February, 1942.)

Ulman, J.

The Motion of defendants to strike out the judgment entered on September 24, 1941 coming on to be heard, testimony having been taken and counsel for the respective parties having been heard, it is by the Baltimore City Court this 17th day of February, 1942 Adjudged and Ordered that in so far as said motion may be treated as a motion to quash the Writ of Summons in this case it is hereby overruled.

It Is Further Ordered (by the Court of its own motion) that said judgment of August 13, 1941 (being a judgment by default) and the Inquisition thereon of September 24, 1941 be and they are hereby stricken out, the lien of said judgment and Inquisition however being retained pending the conclusion of this case.

It Is Further Ordered that the defendants are hereby granted leave to plead to the merits only within ten (10) days from the date hereof.

JOSEPH N. ULMAN,

February 17, 1942.

---

GENERAL ISSUE PLEA ON BEHALF OF  
DEFENDANTS.

(Filed 24th day of February, 1942.)

Now come the defendants in the above entitled cause, by Foster H. Fanseen, their attorney, and for a plea to the declaration, say:

That they did not commit the wrongs alleged.

FOSTER H. FANSEEN,

Attorney for Defendants.

PLAINTIFF'S APPEAL TO THE COURT OF APPEALS  
AND AFFIDAVIT.

(Filed 19th day of March, 1942.)

Mr. Clerk:

Enter an appeal to the Court of Appeals on behalf of the Plaintiff from the Order of this Court of February 17th, 1942, striking out the judgment by default and inquisition in this case.

HEWLETT B. COX,  
Attorney for Plaintiff.

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State of Maryland, Baltimore City, to wit:

On this 18th day of March 1942, personally appeared before the subscriber, a Notary Public of the State of Maryland, residing in Baltimore City, the Plaintiff, and made oath in due form of law that the appeal to the Court of Appeals in the above entitled case is not taken for the purpose of delay.

ANNIE A. DUKES,  
Notary Public.

(Seal).

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DOCKET ENTRIES.

6th April, 1942—Appearance of Michael J. Manley,  
for Plaintiff. Order filed.



PLAINTIFF'S BILL OF EXCEPTIONS.

(Filed 30th day of April, 1942.)

*In the Baltimore City Court.*

---

*William H. Harvey, Jr., minor, by William H. Harvey, Sr., His Father and Next Friend, Plaintiff,*

*vs.*

*William J. Slacum, also known as John W. Slacum, and Alva Slacum, His Wife, Defendants.*

---

PLAINTIFF'S BILL OF EXCEPTIONS.

In support of the motion to strike out the judgment recovered against the defendants in the above-entitled case, the defendants offered the following testimony:

**WILLIAM J. SLACUM,**

one of the defendants, produced on his own behalf, after having been duly sworn, stated that his address is 2523 Ashton Street, and that he is employed as a Rigger at the Koppers Company, Bartlett-Hayward Division, testified as follows:

Q. You have filed a Petition alleging that no summons was served on you in connection with a suit of William H. Harvey, Jr., by William H. Harvey, Sr., growing out of an automobile accident that happened some time ago. You look at Judge Ulman and tell him whether you were served with any papers or not? A. No, sir.

Q. When did you first know about a law suit? A. I got a letter from some lawyer.

Q. Lawyer Cox? A. Yes, sir, that's it, that there was a suit entered against me. So I gets the letter and forwards it to the boy at once.

Q. What boy, Clyde? A. Clyde.

Q. That is your son? A. Yes, sir.

Q. Who is home at your place? A. Well, the madam is home generally all day long.

Q. What kind of work do you do? A. Rigger work at the Koppers Company, Bartlett Hayward Company.

Q. What are your hours of working there? A. From eight until whenever we get done. The working hours is four-thirty.

Q. This suit was filed on June 25th, 1941. The return shows that you were served, summoned ambo and copy of Narr, notice to plead left with the defendant on June 25th, 1941. Was the copy of a Declaration in the case that I just read to you left with you in this suit that I just read to you? A. Well, I didn't get any.

Q. You didn't get any? A. No, sir, Mr. Fanseen.

#### CROSS-EXAMINATION.

Q. Besides this other work that you are talking about you are also in the trucking business, are you not? A. no, sir.

Q. You have some trucks titled to you, don't you? A. No, sir.

Q. No trucks titled to you? A. No, sir.

Q. You have an automobile sedan, titled to you? A. Yes, sir.

Q. And there are some trucks titled to your wife? A. Yes, sir.

Q. Those trucks are used in the automobile trucking business, hauling, is that right? A. Hauling, yes, sir.

Q. And that business is conducted from in back of your home on Ashton Street? A. No, sir.

Q. Those trucks are frequently parked there? A. The trucks sits in my yard, yes, sir.

Q. And these trucks are titled to your wife? A. Two of them is, yes, sir.

Q. What about the third one? A. I guess they are titled to him or his wife, I don't know which.

- Q. Who is he? A. Clyde Slacum.
- Q. Your son? A. Yes, sir.
- Q. These trucks that are titled to your wife and the other trucks are parked in the yard of your house? A. Yes, sir.
- Q. Is your wife in this business? A. No, sir.
- Q. But the trucks are titled to her? A. Yes.
- Q. The truck that was involved in this accident is titled to your wife? A. As far as I know.
- Q. Do you remember getting some letters from me? You got more than one letter from me? A. I got two. Is your name Cox?
- Q. Yes? A. I got two.
- Q. As a matter of fact, you got four? A. No, I only received two.
- Q. Suppose a letter came there addressed to you and your wife, do you know whether you would see it or not? A. No, I don't remember but one coming to me and one coming to me and my wife.
- Q. Here is a letter dated June 4th, 1941, last June. Do you remember seeing the original of that letter? (Paper handed witness). A. No, sir.
- Q. Here is a letter dated June 21st. Is this one of the letters you received? (Paper handed witness). A. No, I don't remember receiving any letters from anybody prior to the two that you sent me.
- Q. This is from me. You didn't get either one of these on my stationery? A. No.
- Q. Did you get that letter dated January 13th, 1942? (Paper handed witness). A. Yes.
- Q. You got that one? A. Yes.
- Q. And here is another one dated January 22nd, 1942. Did you get that one? A. Yes, I got that one.
- Q. You got both of those? A. I got both of those. They are the only two I know anything about getting.

Q. After you got this letter of January 13th, 1942, did you do anything about it? A. Yes, I notified my son, yes, sir.

Q. And after you got the letter of January 22nd? A. I notified him, the same thing.

(The Court) Let me see those, please, not the ones he said he didn't get.

(Mr. Cox) Here are the two that he said he got (handing same to the Court).

Q. (By Mr. Cox) After you notified your son what happened next? A. I don't know what he did about it.

Q. How did you get in touch with Mr. Fansen? A. By my son.

Q. Your son took you down there? A. Yes, sir.

Q. You knew about this accident that happened in which this boy was hurt? A. Yes.

Q. You knew all about it? A. No, no.

Q. But you knew about it? A. I knew about it, yes.

Q. You know Mr. Baer, the gentleman sitting over there? You have seen him? A. I don't remember. It seems to me like I have seen him. I wouldn't say positively.

Q. This truck that caused the accident, or was in this accident, was insured, was it not? A. As far as I know, yes, sir.

Q. Do you know by what insurance company? A. No, that I couldn't tell you, because—

Q. Who handled all that stuff? A. I didn't have anything to do with it at all whatever.

(The Court) Am I concerned about this?

(Mr. Cox) No, sir, except as to motive or what he would do under the circumstances.

**ALVA SLACUM,**

a witness of lawful age, one of the defendants, produced on her own behalf, after having first been duly sworn, testified as follows:

Q. State your name and address? A. Mrs. Alva Slacum, 2523 Ashton Street.

Q. You were made one of the defendants in the suit of William R. Harvey by his father in connection with an injury growing out of an accident on November 22nd, 1940, and a judgment was rendered against you and your husband for \$10,000.00 September 24th, 1941. On or about June 25th, 1941, were you served with any papers by the sheriff of Baltimore City showing that suit had been filed against you? A. No, sir.

Q. You are sure of that? A. Yes, sir.

Q. When did you first know that a judgment had been rendered against you? A. Just hearing my husband and step-son speak about it.

Q. That is sometime this year? A. Yes.

**CROSS-EXAMINATION.**

Q. Do you remember a telephone conversation with me in which I gave you my name, Mr. Cox, last summer, in regard to this matter? A. Do I remember it?

Q. Yes? A. I can't say I do.

Q. Do you remember my calling you on the telephone and asking for your husband and he was out and I talked to you about this accident? A. I don't remember it.

Q. Do you remember your telling me to get in touch with your insurance agent, Mr. Leo Wallace, do you remember giving me his name? A. I remember always telling people that, but I don't remember the name, who called me.

Q. Do you remember telling some one that who called you in regard to this accident? A. I can't remember.

Q. Do you remember telling me on the telephone or some one who called about this accident that the business was owned by you and your husband and your stepson? A. I don't think I ever told anyone that.

Q. Do you remember giving the person who called you the name of Clyde Slacum as one of the stepsons? A. I always do, if they call me on business matters.

Q. Do you remember saying that you had notified the insurance company about this accident and they were taking care of it?

(Objected to; overruled; exception noted.)

A. I cannot remember telling anyone that.

Q. You don't remember that? A. No.

Q. You don't remember whether you said that or not, is that it? A. No, I don't.

Q. You knew about this accident between the truck and the bicycle? A. Yes, I knew about that when it happened.

Q. Did you notify the insurance company about it? A. I don't have anything to do with that business.

Q. Did you notify anybody about it? A. I did not, no.

Q. Do you know whether your husband did? A. My stepson did. He takes care of all the business, I don't bother at all about that, I just answer the phone calls.

Q. Do you know this gentleman sitting over here, Mr. Baer? Did you ever see him before? A. I don't say that I do. I very seldom meet anyone at the door on business matters.

Q. Do you say that you did not see or never saw him before? A. I can't say I did.

Q. You can't say whether you did or did not? A. No, I can't say I did.

Q. Do you remember getting some papers folded up this way (indicating) that looked like those in question? A. Not in June. They never served any papers on me.

Q. When did you get them? A. I didn't get any summons. I said I didn't receive any papers.

Q. Did you ever see this paper folded up like that, that looked like that? A. No, I never saw it.

Q. This truck that was in this collision is titled in your name? A. Yes.

Q. Some of these other trucks are also titled in your name? A. One more.

Q. Now, I show you some letters. Do you remember getting some letters from me? A. I never read the letters.

Q. Do you remember some letters coming to you? A. Oh, yes, I remember my stepson and my husband speaking about it, but I never read their mail.

Q. Suppose it is addressed to you and your husband? A. Oh, well, I give it to him.

Q. You don't read them? A. Very seldom.

Q. Can you say whether or not you read these letters before? A. I couldn't see, I haven't got my glasses, I couldn't read them anyway.

Q. You can't read? A. I can. I haven't got any glasses. I can't see without glasses.

Q. You haven't got them with you? A. No, but I very seldom read any of the mail. I couldn't tell you right off whether I read it or not.

Q. Do you remember some letters coming to your house in my envelope? A. Oh, yes, I remember that.

Q. And you turned those letters over to your husband? A. Husband or stepson.

Q. And they were addressed to your husband. Do you remember that? A. Yes, I remember that.

**WILLIAM G. BAYER,**

a witness of lawful age, produced on behalf of the plaintiff, after having been first duly sworn, testified as follows:

**DIRECT EXAMINATION.**

Q. State your name and address. A. William G. Bayer, 520 Loudon Avenue.

Q. You live not far from where these Slacums live, is that right? A. Oh, I guess about a half a mile or a little more.

Q. You are a Deputy Sheriff of Baltimore? A. Yes, sir.

Q. How many years have you been a deputy? A. Eighteen years of service.

Q. Did you ever see this man and this woman who have just testified? A. Now, I am under oath, and I want to say this, that when I went to this home, I don't know whether it was, I imagine it was about eight or nine months ago, it might have been a little longer, I have an awful lot of work to serve on the outside and it is a hard matter for me to recognize everybody, but I do know this, that I took the summonses there and I think I spoke to Mr. Slacum himself and I think there was something mentioned in regard to a boy riding a bicycle going out of St. Benedict Street that run into their truck.

(The Court) Said by whom?

(The Witness) Mr. Slacum.

(The Court) Can you point him out?

(The Witness) That would be the elderly gentleman there. With all the people that I summons a year, I can't—I have took summonses there before, I never had any trouble, I believe I had one for Mr. Clyde, if I am not mistaken, if I can remember the name well.

Q. (By Mr. Cox) Do you remember talking to this lady and this man who just testified? A. I can't remem-



ber the lady—I believe the lady opened the door for me, if I am not mistaken, and let me in. I generally go into the homes and I try to be very nice to them all.

Q. Did you know what kind of a case it was or what was in the papers? A. No, I never read the papers, because I did mention the fact to this gentleman that I gave the papers to that I have had similar accidents up there, that is, I never was sued for them, by boys on bicycles and scooters, and boys on roller skates, and I made a remark, I said, It's a shame to think the way the mothers and fathers leave the children run around just in a careless way, that the motorist, he is supposed to be responsible for all this stuff. I could mention the names of the different ones, because two boys I took home, but they didn't do anything in the matter.

Q. Mr. Slacum who was just on the stand, is he the one that started the conversation? A. It's hard to recognize—I had been there a couple of times before—I won't say positive, but I think that Mr. Slacum, I believe he is the gentleman I was talking to, because that was the conversation.

Q. Did you ask him if he was William J. Slacum? A. Well, whatever was on that paper I must have asked him, because I have been there eighteen years in that office, and the only case that I have had of this nature was a lady, which was about seven years ago, Mrs. Chambers was up here, and I recognized that lady.

Q. That is the only other time? A. That was the only time and it was before his Honor, the judge here, I think her name was Firor, lived on Baltimore Street.

Q. You knew nothing about what was in this paper, that it was a bicycle case until Mr. Slacum told you? A. No, I never read any papers. A try to be nice to them all and courteous.

Q. Was Mrs. Slacum there when that conversation was going on about the bicycle? A. I won't say positive, I can't remember all that.

Q. Did you serve a paper on her too? A. Well, I ain't going to say positive.

Q. Did you give him the paper? A. Positive.

Q. Did you give her the other paper? A. I won't say positive. I have saw Mrs. Slacum at the door, I believe she opened the door on one or two occasions for me, and I know the young man there too, I think he is Mr. Clyde, I am not sure—is that right?

Q. Your return shows that you served these papers on both parties. When did you make this return? A. Well, whatever is on there is correct because it is a noted fact with the lawyers and everybody that I have to service and the sheriff has very little non-ests at the end of the month on anything, and he has never had a complaint since I have been there in the office for eighteen years, and I work in the court and I don't think there has ever been a complaint made against me anywhere.

Q. This says, "Summoned ambo and a notice to plead left with each defendant, dated June 25th, 1941". Is that your handwriting? A. That is my handwriting.

Q. When would you have written that in the usual course? A. Always just as soon as I come in off of the job, sometimes home at evening I will write that on there and then bring it in in the morning.

Q. Is the date you put on here the date that you wrote it on there? A. Yes, sir.

Q. That was also the date in this case that you served the papers? A. That was the date.

Q. You said that you left it with each defendant. That was made the same day, that entry, is that right? A. That entry was made the same date, sir.

Q. If that entry was made the same date, that would be correct? A. This all comes—

(Mr. Fansen) Objected to.

(The Court) I sustain the objection to that. The witness has testified that he definitely remembers having a conversation with the male defendant, William J. Slacum. He says he doesn't know whether the lady was there or not. The return under his hand says that he

served it on both, but he has not said that he remembers that at all.

Q. (By Mr. Cox) Do you remember any conversation with Mrs. Slacum? A. No, sir.

Q. Was she there during the conversation between you and him? A. I can't say that now positive, I can't remember that.

Q. Did you say anything to her about why you came? A. No.

Q. Did you say it to him? A. I think Mrs. Slacum opened the door for me when I went in. I always go in the homes and talk nice to people.

Q. Did she stay in the room or go out of the room? A. I just can't remember whether she did or not. You see, I haven't only got that, since the sheriff has been in there, I have the Grand Jury work every morning. I have been doing that for the last sixteen years. There is a whole lot of things come up there, I draw the jury and panel the juries.

Q. Do you remember saying anything to these people about what they should do? A. If I am not mistaken I believe I told Mr. Slacum to turn them over to the insurance company, because I think I took stuff there before for him. I think they had a little trouble once before and I also had one, I believe, for a gentleman by the name of Mr. Slacum up on Bremen Road, and I believe I had him to go down to Mr. Slacum to see him. I believe he came there in the morning. That is all around the part that I have got to do with. My district runs from Pulaski Street to Catonsville and from Edmondson Avenue to Wilkens Avenue.

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The Court thereupon overruled the motion of the defendants insofar as said motion may be treated as a motion to quash the writ of summons; and the Court (of its own motion) ordered that the judgment by default of

August 13, 1941, and the inquisition thereon of September 24, 1941, be stricken out, retaining the lien of said judgment and inquisition pending the conclusion of this case, and granted leave to the defendants to plead to the merits only within ten days; to which ruling of the Court striking out the judgment by default of August 13, 1941, and the inquisition thereon of September 24, 1941, the plaintiff then and there excepted, and prays the Court to sign this his bill of exceptions, which is accordingly done this 30 day of April, 1942.

JOSEPH N. ULMAN,

Judge.

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The foregoing bill of exceptions is approved as to form.

HEWLETT B. COX,

MICHAEL J. MANLEY,

Attorneys for Plaintiff.

FOSTER H. FANSEEN,

Attorney for Defendants.

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APPEAL TO THE COURT OF APPEALS OF  
MARYLAND.

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*In the Baltimore City Court.*

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*William H. Harvey, Jr., a minor, by William H. Harvey,  
Sr., His Father and Next Friend, Plaintiff,*

*vs.*

*William J. Slacum, also known as John W. Slacum, and  
Alva Slacum, his wife, Defendants.*

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We, the undersigned attorneys for the Appellant and Appellee in the above entitled case, have examined the

Record as prepared by the Clerk of the Baltimore City Court and certify that it is correct and satisfactory to us.

HEWLETT B. COX,

MICHAEL J. MANLEY,

Attorneys for Appellant.

FOSTER H. FANSEEN,

Attorney for Appellee.

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State of Maryland, City of Baltimore, Sct:

I, JOHN O. RUTHERFORD, Clerk of the Baltimore City Court, DO HEREBY CERTIFY, that the aforesaid is a true Transcript, taken from the Record and Proceedings of the said Court in the therein entitled cause.

(Seal.) IN TESTIMONY WHEREOF, I hereunto set my hand and affix the seal of the Baltimore City Court aforesaid on this 7th day of May, Nineteen hundred and forty-two.

JOHN O. RUTHERFORD,

Clerk of the Baltimore City Court.

# COURT OF APPEALS OF MARYLAND

No. 3, October Term 1942

William H. Harvey, Jr., a minor,  
by William H. Harvey, his father  
and next friend

VS.

William J. Slacum, also known as  
John W. Slacum, and Alva Slacum,  
his wife.

Appeal from the Baltimore  
City Court.

Filed: May 8th, 1942.

December 7th, 1942, Order striking out  
judgment by default and inquisition  
affirmed in part, and reversed in part,  
and case remanded for modification of  
the Order in conformity with the views  
expressed in this opinion, the costs  
to be paid by the appellant.

Opinion Filed. Op.- Delaplaine, J.  
January 8th, 1943, Decree filed.

### Appellant's Cost in the Court of Appeals of Maryland,

Record . . . . .	\$ 39.00	
Brief . . . . .	\$ 19.00	
Appearance Fee . . . . .	\$ 10.00	
Clerk's Costs . . . . .	<u>\$ 2.00</u>	\$70.00

### Appellee's Cost in the Court of Appeals of Maryland,

Brief . . . . .	\$ 30.00	
Appearance Fee . . . . .	\$ 10.00	
Clerk's Costs . . . . .	<u>\$ .75¢</u>	<u>\$40.75</u> <u>\$110.75</u>

### STATE OF MARYLAND, Sct:

I, ~~James A. Xxxxx~~ <sup>Maurice Ogle</sup> Clerk of the Court of Appeals of Maryland, do hereby certify that the foregoing is truly taken from the record and proceedings of the said Court of Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Appeals, this -----eighth----- day of ---January----- A. D. 1943.

*Maurice Ogle*,  
Clerk  
of the Court of Appeals of Maryland.



William H. Harvey, Jr., a minor,  
by William H. Harvey, his father  
and next friend.

vs.

William J. Slacum, et al.

In The

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#  
# Court of Appeals of Maryland,  
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#  
# October Term, 1942, No. 3.

The appeal in the above entitled case standing ready for hearing, was argued by counsel for the respective parties and the proceedings have since been considered by the court.

It is thereupon, on this 7th day of January, 1942, by the Court of Appeals of Maryland, and by the authority thereof, adjudged and ordered that the order of the Baltimore City Court, dated the 17th day of February, 1942, striking out judgment by default and inquisition, be and the same is hereby affirmed in part and reversed in part, and case remanded for the modification of the order in conformity with the views expressed in this opinion, the costs to be paid by the appellant.

D. LINDLEY SLOAN  
Acting Chief Judge,  
For the Court.

Filed: January 8th, 1943.

Court of Appeals of Maryland

October Term 1942

No. 3.

William H. Harvey, Jr., a minor, by  
William H. Harvey, his father and  
next friend,

v.

William J. Slacum, also known as John  
W. Slacum, and Alva Slacum, his wife.

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Judge DeZaplaine delivered the Opinion of the Court.

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This suit was brought by William H. Harvey, Jr., in the Baltimore City Court on June 25, 1941, alleging that while riding on his bicycle on a public highway he was struck and injured by an automobile truck owned by William J. Slacum and Alva Slacum, his wife, the defendants, and negligently operated by their agent and employee. The plaintiff claimed \$10,000 damages. On August 13 judgment by default was entered against the defendants for failure to appear and plead. On September 24 a jury of inquisition assessed the damages sustained by the plaintiff at \$10,000. On September 26 judgment was extended for that amount, with interest and costs.

On January 28, 1942, the defendants moved that the judgment be stricken out for the reason that they had never been summoned to appear in this case. At the hearing on the motion, the defendants swore that the truck was used by their son, Clyde Slacum, in the trucking business, and they denied that they had any interest in the business, or that the driver was their agent or employee. The Court,



while overruling the motion in so far as it sought to quash the return of the summons, nevertheless struck out the judgment by default and the inquisition thereon, but retained the lien of the judgment pending the conclusion of the case, with leave to the defendants to plead to the merits. The plaintiff is appealing from that order.

It is held at common law that the Courts retain absolute control over their judgments during the term at which they are entered, and during that time have inherent power to strike them out. When a defendant moves to strike out a judgment during the term at which it is entered, the application is within the sound discretion of the Court, and if the Court strikes out the judgment no appeal will lie. *Townshend v. Chew*, 31 Md. 247; *State v. Butler*, 72 Md. 98, 18 A. 1105; *Malone v. Topfer*, 125 Md. 157, 163, 93 A. 397. In lieu of the ordinary term within which a judgment at common law remains under the control of the court, the period of 30 days has been substituted in the law courts of Baltimore City by local law enacted by the Legislature; consequently a judgment by default entered in one of those courts becomes enrolled at the end of 30 days after the entry of the judgment by default. Acts of 1886, ch. 184; Charter of Baltimore City, 1938 Ed., sec. 412; *Preston v. McCann*, 77 Md. 30, 25 A. 687; *Wagner v. Scurlock*, 166 Md. 284, 170 A. 539.

After the term at which a judgment is entered (or after the period of 30 days in Baltimore City), the judgment is enrolled and it should not be disturbed except after the most careful consideration of the facts and circumstances of the case. For obvious reasons the law presumes that a judgment is the final settlement of all matters in dispute in a particular case. It is thus held in this State that the Court should not set aside an enrolled judgment except where it has been shown by clear and convincing proof that the judgment was obtained by fraud, surprise,

mistake or irregularity. "To hold otherwise," as Judge Alvey said in upholding this rule, "would go far to destroy all stability of the judgments of the courts." *Loney v. Bailey*, 43 Md. 10, 16. In passing upon such a motion, the trial Court considers the equities and determines whether the motion is supported by evidence of circumstances which require that the judgment be set aside in order that the ends of justice would be subserved. *Abell v. Simon*, 49 Md. 318; *Foran v. Johnson*, 58 Md. 144; *Girard Fire & Marine Insurance Co. v. Bankard*, 107 Md. 538, 542, 69 A. 415; *Wisner v. Reeside*, 139 Md. 221, 114 A. 911; *Denton National Bank v. Lynch*, 155 Md. 333, 142 A. 103.

When a motion is made to vacate an enrolled judgment, even if obtained by default, the Court considers all the facts with great circumspection, and if it is found that the defendant was regularly summoned, the Court should not vacate the judgment unless it clearly appears that the defendant has acted with ordinary diligence, and has a meritorious and substantial defense, and has not acquiesced in the judgment or  $\frac{1}{2}$  unreasonably delayed the filing of the motion. *Anderson v. Graff*, 41 Md. 601, 608; *Craig v. Wroth*, 47 Md. 281; *Waters v. Engle*, 53 Md. 179; *Murray v. Hurst*, 163 Md. 481, 163 A. 183, 85 A.L.R. 442; *Dixon v. Baltimore American Insurance Co. of New York*, 171 Md. 695, 188 A. 215; 2 *Poe, Pleading and Practice*, secs. 388-396. For example, in *Pumpian v. E.L.Rice & Co.*, 135 Md. 364, 109 A. 71, where a judgment by default was recovered, the Court properly refused to set it aside after it had become enrolled, because the defendant did not show that he had not been summoned or that he had any meritorious defense.

In the present case, however, both defendants swore positively that they had never been summoned, and did not know until January, 1942, that  $\frac{1}{2}$  judgment had been recovered against them. It is an elementary principle that

No valid proceeding can be had against a person until he has been notified of the proceeding by proper summons, unless he voluntarily waives such constitutional right. In this case Deputy Sheriff William G. Bayer made the following return of the writ of summons: "Summoned Ambo and a Copy of Narr and Notice to plead left with each Defendant." The rule is well established that the official return of service of process is prima facie evidence of its truth, and the burden of proof is on the defendant assailing the return to show by clear and satisfactory evidence that he was not duly summoned. *Parker v. Berryman*, 174 Md. 356, 198 A. 708; *Weisman V. Davitz*, 174 Md. 447, 199 A. 476. The statute law of the State of Maryland does not prescribe exactly the manner in which the Sheriff shall serve the writ of summons upon a defendant. Code, art. 75, sec. 153. However, the service must be a personal one, and while the officer is not expressly required by the statute to read the writ to the defendant, it is proper for him to read it or explain its nature. It is also customary to leave a copy of the writ with the defendant. *Boggs v. Inter-American Mining & Smelting Co.*, 105 Md. 371, 385, 66 A. 259; *Adkins v. Selbyville Mfg. Co.*, 134 Md. 497, 107 A. 181. It is provided by local law that in any action filed in Baltimore City the service of a copy of the declaration is a condition precedent to a judgment by default. Charter of Baltimore City, 1938 Ed., sec. 400. If the officer fails to deliver a copy of the declaration to the defendant, judgment by default is improvidently entered. *Murray v. Hurst*, 163 Md. 481, 487, 163 A. 183, 85 A.L.R. 442.

According to the record in this case, the Deputy Sheriff was not certain whether he had notified William J. Slacum or his son, Clyde Slacum. He admitted that he did not know "what kind of a case it was or what was in the papers." When asked whether the man whom he saw was the man who had just testified on the witness stand, he answered

with uncertainty: "It's hard to recognize \* \* \* I won't say positive." When asked whether he had summoned Mrs. Slacum, he said: "I can't remember the lady. I believe the lady opened the door for me, if I am not mistaken, and let me in." When asked whether he had served a summons upon her, he said: "Well, I ain't going to say positive." When asked whether he had served a copy of the declaration upon her, he said: "I won't say positive." Finally he admitted that he did not say anything at all to her about why he had come to the house.

In view of the emphatic denials of the defendants that they had ever been summoned, and the unsatisfactory testimony of the Deputy Sheriff, we conclude that the writ of summons should have been quashed. However, the defendants subsequently filed a general issue plea and are therefore in court, and accordingly no further action is necessary in reference to the writ of summons. We also hold that the judgment by default and the final judgment should be stricken out without retaining the lien.

Order striking out judgment by default and inquisition affirmed in part, and reversed in part, and case remanded for modification of the Order in conformity with the views expressed in this opinion, the costs to be paid by the appellant.

Filed December 7th, 1942.

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Harvey  
" "  
Slacum

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Box 2143

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Filed 9: Jan. 1943