

**IN DISTRICT COURT, COUNTY OF CASS, STATE OF NORTH DAKOTA  
TO THE ND SUPREME COURT**

**APPEALLANT'S BREIF,  
PLAINTIFF'S MOTION FOR A NEW TRIAL  
AND JUDGEMENT AS A MATTER OF LAW**

\_\_\_\_\_)  
 )  
**APPEALANT,** )  
**Plaintiff,** )  
 )  
**Beth Neva** )  
 )  
 vs. )  
 )  
**RESPONDANT** )  
**Defendant,** )  
 )  
**Stephanie Fennell** )  
 )  
 \_\_\_\_\_)

**Civil no: 09-06-C-02601**

Presiding Judge was: Honorable Cynthia Rothe-Seeger

Final order denying Mss Beth A. Neva a Motion for A New Trial Order signed May 28<sup>th</sup> 2008.

Verdict of Judgment of \$960.18 on December 31<sup>st</sup> 2007, from 1-23-01 accident.

Pursuant to Rule 59 and all other applicable North Dakota Civil procedures, Plaintiff moves the Supreme Court for order in granting a new trial in the above entitled matter on the following grounds:

1. Irregularities in the proceedings of the court; jury and adverse parties which prevented Plaintiff from obtaining a fair and unbiased trial including trial hearings attached to this trial.
2. Insufficient evidence to Justify the verdict
3. Errors in law, which occurred at trial and trial hearings.

### Specifications of Error and Issues to Address:

#### FACTS:

1. Records in limine were decided the date the trial started May 8<sup>th</sup> 2007, this is an error on Both the Plaintiff's Attorney and Mr. Bart Cahill the Attorney for the Defendant Stephanie Fennell. Totally inappropriate time for the Plaintiff for fairness. The records in Lemony were not decided on in a timely matter the Plaintiff's attorney filed a brief on this matter dated 4-06-07.

This matter should have been decided at least 1 month before trial began.

2. During the Trial the Judge Cynthia Rothe- Seeger seemed to overrule several of Kim Brust objections with very little consideration.

3. During Jury selection Brian Ward, I, Beth Neva's believes Ward, told the Judge Cynthia Rothe- Seeger and all that were present that he was on leave from work because his son was very ill. I do believe that the Judge should have dismissed this man from off the jury for his son was very sick and he did stress that to everyone. I do believe that in fact that Brian wanted to be home with his child could in fact make the Jury hurry and influence the jury's decision. By memory I do believe that this man happened to be either Forman or co-Forman for this swift and fact verdict 2 and ½ days of testimony verdict within 2 hours or shorter.

4. Court allowed, Mr. Bart Cahill the defense attorney for Stephanie Fennell the Defendant. Mr. Cahill created his own theory as to Beth Neva's accident events and also that Mr. Bart Cahill did not have Dr. Martinesons Chiropractic records but alluded to the fact that he knew more of what happened in a past accident from over 10 years ago and conveyed it to the Jury on The Courtroom Erase Board. Again, Mr. Cahill did not have Ms. Neva s Records from Dr. Martinson Chiropractic and admitted that in court with a letter that stated that the current owner of Martinson Chiropractic could not find her past records. Insufficient evidence to back Mr. Cahill was allowed into testimony with error. Cahills own expert witness Dr. Bruce Norback backed up the fact of Beth Neva's injury extent of pain and suffering . Bart Cahill also mixed up Beth Neva's employers confusing the jurors alluding to a mean-spirited boss that I never had at the time of the accident. Even in one of the trial hearing briefs, Mr. Cahill has me working at Mid-States Wireless a company I was self -employed for over 10 years ago.

Specifications of Error and Issues to Address : Continued:

5. Judge Cynthia Rothe- Seeger allowed testimony in on the Dr. Norback's fees when they were completely misleading the Jury, Dr. Norback said in his Video taped deposition that his fees were about \$1000.00 contrary to the fact of the bill \$3850.00 Depositions taken from Plaintiffs attorney Mr. Kim Brust of Conmy Feste Law Firm. This was objected to and a special hearing was heard about this objection on the excessiveness of Dr. Norbacks Fees in the amount of \$3850.00 on November 7<sup>th</sup> 2007 (Rule 54). Rule 68 On November 7<sup>th</sup> 2007 The judge was making financial decisions concerning Dr. Norbacks fees and I, Beth Neva knew that we had never given the Judge an amount, and the Judge brought that up in for filing to Mr. Cahill in Court. See transcript Dated Novemner 7<sup>th</sup> 2008 Page 5 Question 5and 6 Answer 7.8.9.10.11.12.13., Question 14.15.16.17 Answer 18. Question 19. 20. Answer. 21. Sec: Case: **Braunberger v. Interstate v. Engineering**

6. Also on this day of November 7<sup>th</sup> 2007 deciding arguments were heard before Honorable Cynthia Rothe-Seeger on deciding whether or not to grant to have the plaintiff pay Dr.Norback's his requested fees, per their objections to this matter. Stephanie Steel substitute for Beth Neva's attorney for Kim Brust; Mr. Bart Cahill was not present when the Judge came to the bench at 9:30 am and then Judge Cynthia Rothe- Seeger said that she was going to call Mr. Cahill to see why he was not present. Small talk presided to stall the hearing to delay the arguments and on her way into the Judges chambers to contact Mr. Bart Cahill, Mr. Cahill walked in. **This is biased and an inappropriate action and does not constitute fairness or impartial behavior. Favor-ness to Mr. Cahill was displayed by Honorable Ms. Cynthia Rothe-Seeger's actions.**

7. Upon starting the hearing after 9:37 am on November 7<sup>th</sup> Kim Brusts assistant Stephanie Stiel had told Judge Rothe- Seeger that she, Stephanie, did not receive proper notice to have the Doctors records I believe for the hearing November 7<sup>th</sup> 2007, the Judge did not address Stephanie Stiels concerns properly. To anyone in General that would seem biased in nature. See Transcripts Dated November 7<sup>th</sup> 2008, pages 4 starting the Second Paragraph untimely notice to receiving Dr. Norbacks costs the Day which would be November 6<sup>th</sup> 2008, the day before the Hearing of November 7<sup>th</sup> 2008. as you can see this was addressed but the Judge did nothing to commett. Due process of the law was not followed

Specifications of Error and Issues to Address:

8. Also the fact remains that Judge Cynthia Rothe -Seeger stated that Mr. Cahill did not file the pre trial – settlement offer to or through the courts on or before this November 7<sup>th</sup> 2007 hearing. Again, Judge Cynthia Rothe-Seeger was ruling on that time on Dr. Norbacks fees and did not know the amount of the pre-trial offer, however on this day the Judge then asked Stephanie Steel substitute for Beth Neva's attorney for Kim Brust my attorney and I if the amount was under the Judgment amount and we replied yes. The Judge Rothe-Seeger only knew this fact then at that time. Proper rule 68 standard procedure filings were not followed by Cahill Law Office representing the defendant Stephanie Fennell, Although Judge Rothe-Seeger did question Mr. Cahill about this fact nothing was done about it, except asking Stephanie and I the question of a informal pre-trial settlement talk. **Page 12 November 7<sup>th</sup> 2007., Due Process of the Law is not being followed when we are receiving information we need for proper defense to argue our position, the day before the Hearing.**
  
9. Also immediately after that hearing on November 7<sup>th</sup> 2007, Mr. Bart Cahill exchanged words with Judge Cynthia Rothe- Seeger because of one of Mr. Cahill's friends was in the Judges Chambers area, Mr. Cahill wanted to go through the court room to see the person he knew and I (Beth Neva looked again baffled on this and then Bart and Judge Rothe-Seeger said that they would not discuss the hearing that just occurred). The court reporter got up from her seat and told Bart not to enter the chambers this way. Stephanie and I left the Court House and did not see Bart Cahill. **Canon Law 1,3 and 4 Rules of Professional Conduct.**
  
10. On November 7<sup>th</sup> 2007 On My concerns about actions displayed from Judge Cynthia Rothe -Seeger, this answer was not addressed and answered correctly from Mr. Cahill. The issue I had as the Plaintiff is that after many minutes of small talk with this group Judge Rothe-Seeger, court reporter, Stephanie Steil and I, Bart Cahill was not present and late and Judge Rothe- Seeger got up to call Bart Cahill to get him into court. That was my concern as a Plaintiff this action I feel is biased and favors the defendant. This happenend at the courts clock time of 9:37 am. If I Beth Neva or my counsel had not been present at this preliminary hearing would the Judge presiding over this case have called me on my cell phone or my counsels cell phone? The exchange that the Mr. Cahill and the Judge had immediacy after the hearings yes it made me feel uncomfortable, possible prejudice against me. **Canon Law 1,3 and 4 Rules of Professional Conduct.**

Specifications of Error and Issues to Address:

11. Date Error in the Order there was no court hearing on November 11<sup>th</sup> 2008 which is stated in the Judge Cynthia Rothsay order dated May 28<sup>th</sup> 2008. Paragraph IIX Attorney in Chambers. Judge, Incorrectly signing wrong date of Order.

12. Under title 42 U.S. Code 1983, I the Plaintiff (Beth Neva) is protected from any biased nature of the Court overseeing this trial and the trial proceedings, the facts of my case are stated in the 1-13 points of argument are outlined and addressed.

13. Judgment of \$960.18 on December 31<sup>st</sup> 2007, from 1-23-01 accident, the evidence in my trial including the defendant's expert witness does not justify this verdict. This verdict failed to compensate Ms. Neva for hardly any damages or pain and suffering incurred. See Dr. Bruce Norback's Deposition dated 4-24-07 pages 4-30. See Ref; Crestwell v Guerard ND 1969; Citation 164NW2nd 902 1969 S Also for the Record Mr. Cahill asked my past Attorney Kim Brust at the time of to return the \$960.18 check to him that his party had issued to us for compensation, after I, Beth Neva filed a Motion for a New Trial

14. See transcripts for revelant facts; Dated April 10<sup>th</sup> 2008 Motion for a New Trial Pages 3 through 22;

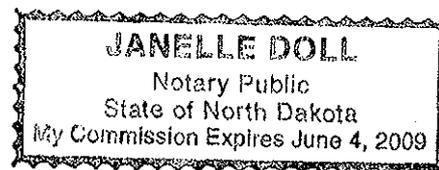
I am asking for prayer of Relief, for the Supreme Court of ND to intercede in this matter. DeVovo. For a new common Law trial.

Motions are made upon the file and in the some transcripts of the records of the court have been ordered and received. It is my understanding that the Supreme Court of North Dakota, received a copy of all the transcripts I ordered for this Appeal process after they were completed and should be on file in Bismarck.

Dated this 12<sup>th</sup> of December 12, 2008

Beth A. Neva  
Pro-see  
Beth Neva, Plaintiff  
PO Box 7112  
Fargo, ND 58106

Notary Janelle Doll  
Commission Expires on: 6-04-09 5



**NORTH DAKOTA SUPREME COURT**

**Case number; 200801189:**

Beth Neva

Vs

Stephanie Fennell

ADDITION TO BREIF FILED ON 12-12-08

STATEMENT OF THE CASE:

This case was brought before Judge Cynthia Rothe-Seeger on May 10, 2007

On January 23, 2001, Stephanie Fennell was ticketed by the police for not yielding to traffic and made a left hand turn into a busy street ignoring oncoming traffic and common traffic laws.

My medical bills were well into the thousands of dollars over \$15,000.00

Judgment of \$960.18 the Jury awarded to me, Beth Neva. This judgment does not justify what happened in this accident at all nor the pain and suffering of the medical treatment. The evidence is in the Appealed information under the facts and Documents.

The judge is asking the Jury to estimate Damages under the Jury Rules and Denies the Jurors even a simple calculator.

STATEMENT OF FACTS; LABELED FACTS

Are all included in the original Brief filed of 12-12-08 and with the Appendix and table of contents provides all Documents providing clarification to these facts and concerns along with the full transcripts and Documented records on file.

JURISDICTION STATEMENT:

Under Article 6 in the North Dakota Constitution the Supreme Court of North Dakota has jurisdiction over this case filed in Cass County See Sections 1,2,3,5 and 6 under Article 6 in the North Dakota Constitution.

The ARGUMENT:

In facts; there are several just causes for an Appeal to the NORTH DAKOTA SUPREME COURT overseeing this case. The facts are proven in the documents provided.

I Beth Neva, did not cause this accident nor did I get ticketed.

Sincerely,

*B. Neva*  
Beth A. Neva

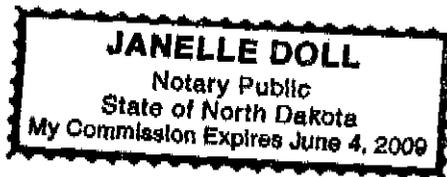
*Beth A. Neva*

---

Dated this 2/6/09

Notary: *Janelle Doll*

My Commission Expires on: *June 04, 2009*



**IN DISTRICT COURT, COUNTY OF CASS, STATE OF NORTH DAKOTA**

**TO THE ND SUPREME COURT**

**Affidavit Notice of Service by Fax:**

**APPELLANT,  
PLAINTIFF'S BREIF, FOR MOTION FOR A NEW TRIAL  
AND JUDGEMENT AS A MATTER OF LAW**

\_\_\_\_\_  
)  
)  
**APPEALANT,** )  
**Plaintiff,** )  
)  
**Beth Neva** )  
**VS.** )  
)  
**RESPONDANT** )  
**Defendant,** )  
)  
**Stephanie Fennell** )  
\_\_\_\_\_ )

**Civil no: 09-06-C-02601**

**BREIF:**

Presiding Judge was: Honorable Cynthia Rothe-Seeger  
Final order denying miss Beth A. Neva a Motion for A New Trial Order signed May 28<sup>th</sup> 2008.

Judgment of \$960.18 on December 31<sup>st</sup> 2007, from 1-23-01 accident.  
Appealing: Denying a Motion for a New Trial and Appealing the Order signed on May 28th 2008.

Please take NOTICE THAT THE UNDERSIGNERD WILL BRING THE ATTACHED Appellant, Plaintiffs s objections: in this Notice of motion for a New trial Brief to the Defendants and before the Supreme Court for a motion for a New Trial and Trial Order Error Dated December 12-12-2008.

Served to via fax and mail: Colette Bruggeman, Chief Dupty of the Supreme Court and Penny Miller of the North Dakota Supreme Court, 600 East Boulvanrd, 180 Bismarck, ND 58505. 701-328-4480.

Served to via fax and mail : Mr. Bart Cahill; Attorney for the defendant: - Stephanie Fennell By Fax and mail; Cahill and Marquart PA 403 Center Ave. Ste. 200 , Moorhead MN 56560 Phone: 218-236-4909

Dated this 12/12/08



Pro-see  
Beth Neva, Plaintiff  
PO Box 7112  
Fargo, ND 58106

2602 14<sup>th</sup> Street South #18  
Fargo, ND 58103

Notary: \_\_\_\_\_

Commission Expires on: \_\_\_\_\_