

**CIVIL CASE INFORMATION STATEMENT
CIVIL CASES
(Other than Domestic Relations)**

In the Circuit Court of Tucker County, West Virginia

145

I. CASE STYLE:

Plaintiff(s):

Susan Haywood
P.O. Box 147
Davis, WV 26260

Case No. 05-C-34

Judge: Jordan

05 JUL 13 PM 1:54
ADMITTED TO RECORD
dk

vs.

Defendant(s):

USA Cycling, Inc.
1 Olympic Plaza
Colorado Springs, CO 80909

Days to Answer

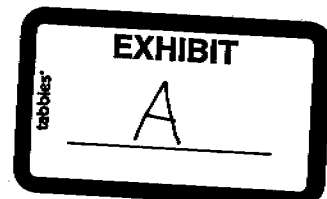
Type of Service

30

Secretary of State

Original and two copies of petition furnished herewith.

CA-C100.2 / 1 of 2



PLAINTIFF(S): Susan Haywood
DEFENDANT(S): USA Cycling, Inc.

CASE NUMBER:
05-C-34

II. TYPE OF CASE:

- General Civil
- Mass Litigation
(As defined in T.C.R. Rule XIX (c))
 - Asbestos
 - Carpal Tunnel Syndrome
 - Diet Drugs
 - Environmental
 - Industrial Hearing Loss
 - Silicone Implants
 - Other: _____
- Adoption
- Administrative Agency Appeal
- Civil Appeal from Magistrate Court
- Miscellaneous Civil Petition
- Mental Hygiene
- Guardianship
- Medical Malpractice
- Habeas Corpus/Other Extraordinary Writ
- Other: _____

III. JURY DEMAND: YES NO

CASE WILL BE READY FOR TRIAL BY (MONTH/YEAR) July 2006

IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE?

YES NO

IF YES, PLEASE SPECIFY:

- Wheelchair accessible hearing room and other facilities
- Interpreter or other auxiliary aid for the hearing impaired
- Reader or other auxiliary aid for the visually impaired
- Spokesperson or other auxiliary aid for the speech impaired
- Other: _____

Attorney Name: John W. Cooper, Esq.
W. Va. Bar ID #822

Representing:

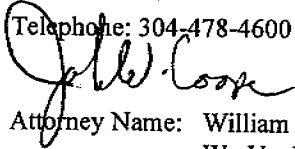
Firm: Cooper, Preston & Douglas, PLLC

Plaintiff Defendant

Address: P.O. Box 365, Parsons, WV 26287

Cross-Complaint Cross-Defendant

Telephone: 304-478-4600



Attorney Name: William D. Wilmoth, Esq.
W. Va. Bar ID #4075

Firm: Steptoe & Johnson, PLLC

Address: P.O. Box 751, Wheeling, WV 26003-0751

Telephone: 304-231-0456

Dated: July 12, 2005

John W. Coope
Signature

Proceeding Without an Attorney
SCA-C100.02 / 2 of 2

A TRUE COPY:

ATTEST: S/DONNA JEAN BAVA, CLERK
CIRCUIT COURT OF TUCKER COUNTY, WV

BY: Donna Helms DEPUTY

IN THE CIRCUIT COURT OF TUCKER COUNTY, WEST VIRGINIA

**SUSAN HAYWOOD,
PLAINTIFF,**

vs.

Civil Action No. 05-C-34

**USA CYCLING, INC., a
non-resident corporation,
DEFENDANT.**

FILED TO RECORD
05 JUL 13 PM 1:54
CLERK OF COURT
TUCKER COUNTY, WEST VIRGINIA

COMPLAINT

For her Complaint, Susan Haywood avers and says as follows:

1. Susan Haywood is a 33 year old resident of Davis, Tucker County, West Virginia. For a number of years prior to July, 2004, she trained and competed as an athlete in women's mountain bike competition within and without the State of West Virginia, and elsewhere within and without the United States. Her purpose and ultimate goal in such training and competition was to become an Olympian representing the United States of America at the 2004 Olympics held in Athens, Greece beginning in August, 2004.
2. The Defendant, USA Cycling, Inc., is the official cycling organization in the United States of American recognized by the United States Olympic Committee (USOC), and the Defendant is responsible for identifying, training and selecting cyclists to represent the United States in international competitions, including the Olympics which are held every four years. USA Cycling, doing business as the United States Cycling Federation (USCF), National Off-Road Bicycle Association (NORBA), and United States Professional Racing Organization

(USPRO), controls nearly two dozen major events each year and issues permits for up to 3,000 more. The principal place of business of said corporation is One Olympic Plaza, Colorado Springs, CO 80909-5775.

3. Defendant holds itself out to the public and mountain bike competitors as one of a family of organizations that promote and govern different disciplines of the sport, and that work as one to build the sport of bicycle racing, assist with athlete development and sustain international competitive excellence.

4. USA Cycling, Inc., reports that it was first organized in 1920 as the Amateur Bicycle League of America and was incorporated in New York in 1921. In 1975, the name was changed to the United States Cycling Federation. In 1995, a new organization, USA Cycling, was incorporated in Colorado, and on July 1, 1995, the two corporations merged, with USA Cycling, Inc., being the umbrella corporation.

5. In the Amended and Restated Articles of Incorporation of USA Cycling, Inc., which were made effective January 1, 2002, the following language is found in Article II, Sections 2 and 3:

“Section 2.

The supreme purpose of the Corporation shall be the preservation, development, and administration of the sport of bicycle racing with the United States of America.

Section 3.

The Corporation, principally through the activities of its Associations, shall:

- Part 1. Conduct, coordinate, and seek the advancement of competitive bicycle racing.
- Part 2. Establish rules governing the conduct of bicycle races to ensure fair competitions and to prevent frauds.
- Part 3. Conduct or participate in programs to assist riders in the development of their competitive skills and to ensure safe competition.
- Part 4. Conduct National Championships and select or recommend teams to represent the United States of America in International and Olympic competition.
- Part 5. Represent the sport of bicycle racing in the United States of America to other national, international, and Olympic sports organizations.

- Part 6. Act as the repository for all certified and approved records pertaining to the sport.
- Part 7. Seek to uphold the rights and interests of cyclists and to communicate these interests to governmental authorities and to the general public.
- Part 8. Be organized to provide fair representation, directly or by affiliation, for all individuals and organizations that participate in the sport.”

6. Plaintiff participated in a number of mountain bike races from July, 2003, through July, 2004, in order to qualify herself to be the female representative of the United States Olympic Team in the Olympics to be held in Athens, Greece, commencing in August, 2004. To that end she entered a number of regional, national, and international events which were sponsored or sanctioned by USA Cycling, Inc., the results of which were to be obtained and maintained by it in its repository of records, and then, for it to submit the same to the International Cycling Union (UCI) in Aigle, Switzerland.

7. Defendant had a duty to Susan Haywood and to all other competitors in its sponsored and sanctioned mountain bike racing competitions to secure the results from each event, file and maintain the same in its repository of records and information, and to submit the results to UCI, the international sanctioning and ranking governing authority and race results repository.

8. In order for Susan Haywood and other United States Olympic hopeful competitors, the results of all races entered in the calendar year 2003, were required to be filed and submitted by USA Cycling, Inc., with UCI on or before December 31, 2003.

9. USA Cycling, Inc., negligently and carelessly failed to obtain, secure, file, and record the finish of Susan Haywood at a sanctioned race at Sand Point, Idaho, held in July, 2003. Her finish at that race entitled her to 15 points in the points totals which were used to determine the female athlete who would be selected to represent the United States of America in the aforesaid 2004 Olympic competition. Moreover, USA Cycling, Inc., negligently and carelessly failed to file and

submit the Sand Point race results to the UCI prior to December 31, 2003.

10. USA Cycling, Inc., also negligently and carelessly failed in the calendar year 2004 to alert or advise Susan Haywood that the Sand Point race results could not be used in determining the selection of the Olympic candidacy and, instead, advised her that her points would be submitted and considered. Consequently, Susan did not enter additional competitions that would have yielded her additional points.

11. On July 16, 2004, USA Cycling, Inc., announced to Susan Haywood and to the world that she had been selected and nominated by it to represent the United States of America in the 2004 Olympic Games in Athens, Greece, as the female competitor in mountain bike racing. USA Cycling, Inc., announced that Susan Haywood had accumulated 1489 points to the 1488 points accumulated by her nearest competitor, Mary McConneloug. The 15 Sand Point race points were included in that total.

12. Thereafter, Mary McConneloug challenged the nomination in an arbitration proceeding filed against USA Cycling, Inc., (to which Plaintiff was not a direct party, but in which she was permitted to participate and offer evidence) and the arbitrator reversed the nomination and ordered that it be given to Mary McConneloug. In his decision, the arbitrator made the following finding of fact:

“32. It is unfortunate that Ms. Haywood has to bear the burden of USACycling’s errors. She legitimately earned the 15 points at the Sandpoint race, and she apparently expected that those 15 points would always be added to her totals in the UCI rankings. However, both she and Ms. McConneloug were operating in an atmosphere of some uncertainty created by USA Cycling’s actions, and there is no way to know what actions either of them might have taken, and what the final points totals would have been, if USA Cycling had clearly and unambiguously notified them and the other riders of its intentions to correct the UCI rankings. While Ms. Haywood sadly bears the brunt of this decision, she

and all other athletes will benefit if this decision leads to USA Cycling and other national governing bodies issuing clearer, more transparent procedures that allow athletes to compete on a level and open playing field.”

13. Defendant negligently and carelessly failed to disclose clear and unambiguous procedures and directives to Susan Haywood which would have permitted her to protect her ranking status both before and after December 31, 2003.

14. Defendant negligently and carelessly violated its own stated purposes found in Parts 1, 2, 4, 5, 6, and 7 of Section 3 of Article 2 of its Amended and Restated Articles of Incorporation of USA Cycling, Inc., which were made effective January 1, 2002, and which separately and in combination (1) impacted the race results data collection, storage, and submission to UCI; (2) impacted the rankings of female mountain bike riders and competitors in the United States including Susan Haywood; (3) impacted the eligibility and selection process of female mountain bike riders and competitors in the United States including Susan Haywood to qualify as the United States nominee to the 2004 Olympics held in Athens, Greece; and denied Susan Haywood fair representation and a fair opportunity to be selected as the valid Olympic nominee for the said Olympic Games.

14. As a direct and proximate result of the negligence and carelessness of Defendant, Susan Haywood has suffered severe embarrassment, humiliation, and mental anguish after first being nominated to represent the United States of America in the 2004 Olympic Games and then shortly thereafter being deprived of the right to participate. These general damages have not been calculated as the amount thereof will be determined by a jury of Plaintiff's peers.

15. As a further direct and proximate result of the negligence and carelessness of USA Cycling, Inc., Susan Haywood has suffered actual out-of-pocket special damages in a variety of

venues and competitions directly related to her quest to qualify as an Olympian in amounts not fully calculated, and has incurred expenses for counsel fees and expenses related to the arbitration proceedings and subsequent court challenge in 2004. Those out-of-pocket special damages total a sum in excess of \$25,000.00. Moreover, by competing in events that could be counted for UCI and Olympic ranking and eligibility purposes, she declined entry in other races which were not counted in UCI rankings but which would have netted for her prize money in amounts not presently determined. Hence, she suffered additional damages as a consequence of the negligence and carelessness of Defendant.

16. As a further direct and proximate result of the negligence and carelessness of USA Cycling, Inc., Susan Haywood has suffered loss of earning capacity and prestige, as well as a loss of financial and personal emoluments and endorsements which accompany selection as an Olympian all to her damage in amounts not yet calculated.

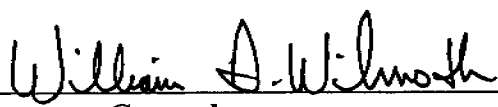
17 USA Cycling, Inc., on repeated occasions (both prior to, and during the period of time which is the subject of this lawsuit) (1) has engaged in the business of promoting, advertising, and sanctioning competitive bicycling races within the State of West Virginia; (2) has received license applications from racers at competitive races held within the State of West Virginia; (3) has issued licenses to bicycling racers who are residents of West Virginia, including the Plaintiff; and (4) has established the rules for sanctioned competitive bicycling races held within the State of West Virginia. Defendant has derived substantial income from the foregoing.

Wherefore, Plaintiff demands judgment against USA Cycling, Inc., in such amounts as a jury finds will fully and fairly compensate her for the injuries and damages she has suffered as described generally herein and for her costs in this proceeding, together with such pre-judgment and post-judgment interest as is permitted by West Virginia law. Plaintiff demands a trial by jury.

SUSAN HAYWOOD

BY: 
Counsel

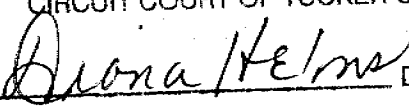
John W. Cooper
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Parsons, West Virginia 26287
304-478-4600
jcooper@mountain.net

BY: 
Counsel

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Steptoe & Johnson, PLLC
P.O. Box 751
Wheeling, WV 26003-0751
304-231-0456
wilmotw@steptoe-johnson.com

A TRUE COPY:

ATTEST: S/DONNA JEAN BAVA, CLERK
CIRCUIT COURT OF TUCKER COUNTY, WV

BY:  DEPUTY

OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA



Betty Ireland
Secretary of State

ADMITTED TO RECORD
05 SEP 19 AM 10:25

FILED
DONNA JEAN BAVA, CLERK
CIRCUIT COURT OF TUCKER COUNTY, WV
10/7/05

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, West Virginia 25305
Telephone: 304-558-6000
Toll Free: 866-SOS-VOTE
www.wvsos.com

LEGAL NOTICE

Donna Jean Bava, Circuit Clerk
Tucker County Courthouse
215 First Street, Suite 2
Parsons, WV 26287-0267

September 15, 2005

Civil Action: 05-C-34

I am enclosing:

- | | |
|--|--|
| <input type="checkbox"/> summons | <input checked="" type="checkbox"/> original |
| <input type="checkbox"/> notice | <input type="checkbox"/> affidavit |
| <input type="checkbox"/> order | <input type="checkbox"/> answer |
| <input type="checkbox"/> petition | <input type="checkbox"/> cross-claim |
| <input type="checkbox"/> motion | <input type="checkbox"/> counterclaim |
| <input type="checkbox"/> interrogatories | <input type="checkbox"/> request |
| <input type="checkbox"/> suggestions | <input type="checkbox"/> demand |
| <input type="checkbox"/> subpoena duces tecum | <input type="checkbox"/> default judgement |
| <input type="checkbox"/> summons and complaint | <input type="checkbox"/> complaint |
| <input type="checkbox"/> 3rd party summons and complaint | <input type="checkbox"/> notice of mechanic's lien |
| <input type="checkbox"/> summons returned from post office | <input type="checkbox"/> suggestee execution |
| <input checked="" type="checkbox"/> certified return receipt | <input type="checkbox"/> summons and amended complaint |

which was served on the Secretary at the State Capitol in her capacity as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of USA Cycling Inc..

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about these documents directly to the court or to the plaintiff's attorney, shown in the enclosed paper. Please do not call the Secretary of State's office.

Sincerely,

Vicki Haught
Manager

A TRUE COPY:

ATTEST: S/DONNA JEAN BAVA, CLERK
CIRCUIT COURT OF TUCKER COUNTY, WV

BY Deborah Helms DEPUTY

SUMMONS

CIRCUIT COURT OF TUCKER COUNTY, WV

WV Secretary of State

Receipt #: 522615
Station ID: #01

List Of Services

sp s USA Cycling \$20.00
Total: \$20.00

Payment Details:

Donna Jean Bava
k 6870 \$20.00

Original Transaction Date: 09/08/2005

Thank You For Your Business!

Susan Haywood

Plaintiff

USA Cycling, Inc.

Defendant

To the above named Defendant:

IN THE NAME OF THE STATE OF WEST VIRGINIA:

You are hereby summoned and required to serve upon John W. Coope
address is P.O. Box 365, Parsons, WV 26287 an answer, including any related
counterclaim or defense you may have, to the complaint filed against you in the above styled civil action, a true
copy of which is herewith delivered to you. You are required to serve your answer within 30 days after
service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will
be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in
another action any claim you may have which must be asserted by counterclaim in the above styled civil action.

Dated 9/7/2005

Donna Jean Bava
CLERK OF THE COURT *By S. Moats, Deputy*


A TRUE COPY:

ATTEST: S/DONNA JEAN BAVA, CLERK
CIRCUIT COURT OF TUCKER COUNTY, WV

BY *Ariona Helms* DEPUTY

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) _____ B. Date of Delivery _____

C. Signature  Agent Addressed Yes No

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

7160 3907 9846 9215 2762

3. Service Type **CERTIFIED MAIL** Yes No

4. Restricted Delivery? (Extra Fee) Yes No

1. Article Addressed to:
USA Cycling Inc.
1 Olympic Plaza
Colorado Springs, CO 80909

PS Form 3811, July 2001 Domestic Return Receipt

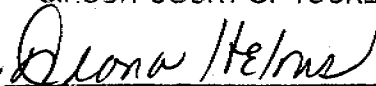
SECRETARY OF STATE
STATE OF WEST VIRGINIA

2005 SEP - 8 AM 11:35

ACCEPTED FOR
SERVICE OF PROCESS

A TRUE COPY:

ATTEST: S/DONNA JEAN BAVA, CLERK
CIRCUIT COURT OF TUCKER COUNTY, WV

BY  DEPUTY

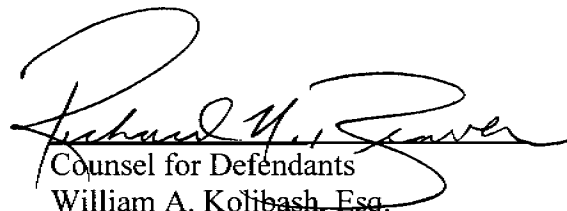
CERTIFICATE OF SERVICE

I hereby certify that the foregoing DEFENDANT'S NOTICE OF REMOVAL was served upon Plaintiff's counsel by placing a copy of the same in the U.S. Mail, postage prepaid, on the 7th day of October, 2005, to the following:

John W. Cooper, Esq.
Cooper, Preston & Douglas, PLLC
P.O. Box 365
Parsons, WV 26287

and

William D. Wilmoth, Esq.
Steptoe & Johnson, PLLC
P.O. Box 751
Wheeling, WV 26003-0751



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