

00-96-CD
LINDA E. HOFFMAN -vs- TONI M. CHERRY et al

Date: 08/11/2004

Clearfield County Court of Common Pleas

User: ASELFRIIDGE

Time: 09:51 AM

ROA Report

Page 2 of 2

Case: 2000-00096-CD

Current Judge: J. Michael Williamson

Linda E. Hoffman vs. Toni M. Cherry, Gleason, Cherry and Cherry, LLP

Civil Other

Date	Judge
03/22/2004	J. Michael Williamson
X ORDER, NOW, this 18th day of March, 2004, a conference/argument on all outstanding motions shall be held before the undersigned on Thursday, May 6, 2004, at 1:30 p.m., in Court Room No. 1 of the Clinton County Courthouse, Lock Haven, Pennsylvania. by the Court, s/J. Michael Williamson, Judge (Copies distributed per letter)	
04/05/2004	J. Michael Williamson
X Verification Of Service Of Plaintiff's First Set Of Interrogatories And Second Request For Production Of Documents To Defendant. filed by, s/Jay N. Silberblatt, Esquire no cc	
05/04/2004	J. Michael Williamson
X ORDER, AND NOW, this 3rd day of May, 2004, re: Conference/Argument on all Outstanding Motions RESCHEDULED from May 6, 2004 to Tuesday, May 18, 2004 at 1:30 p.m. by the Court, s/FJA, P.J. 5 cc to C/A for service	
05/07/2004	J. Michael Williamson
X ORDER, AND NOW, this 7th day of May, 2004 re: Conference/Argument on all Outstanding Motions RESCHEDULED from May 6, 2004 to Tuesday, May 18, 2004, at 1:30 p.m. before the Honorable J. Michael Williamson, Specially Presiding. by the Court, s/FJA, P.J. 5 cc C/A for service	
05/27/2004	J. Michael Williamson
X ORDER, NOW, this 21st day of May, 2004, re: Jury selection shall be held Aug. 26, 2004, counsel shall advise Judge Williamson if either has objection to President Judge Ammerman or Judge Cherry picking the jury. Trial shall be held Aug. 31, 2004, adn continuing thereafter. Counsel shall, by July 15, 2004, at 5:00 p.m. submit directly to the undersigned Trial Briefs addressing all issues raised during Oral Argument on May 18, 2004, and in particular the allocation of responsibility between the jury and trial judge to resolve disputed issues. by the Court, s/J. Michael Williamson, Judge. no cc Copies previously distributed (per letter)	
06/23/2004	J. Michael Williamson
X Order, filed (Orders distributed by Judge) NOW, 21, 2004, Order RE: Jury selection to be held on Aug. 26, 2004.	
07/15/2004	J. Michael Williamson
X Notice to Attend, filed by s/Jay N. Silberblatt No CC	
X Plaintiff's Request for Admissions to Defendants, filed by s/James E. Mahood and s/Jay N. Silberblatt No CC	
X Motion for Bifurcation of Issues of Liability and Damages, filed by s/Dennis J. Roman, Esq. No CC	
07/16/2004	J. Michael Williamson
X Verification of Service of Plaintiff's Answers to Defendants' Second Set of Interrogatories and Request for production of Documents, on Dennis J Roman, Esq. by first class mail, prepaid postage. Filed by: s/Jay N Silbertblatt. No cc	
07/28/2004	J. Michael Williamson
X Plaintiff's Second Request for Admissions, filed by s/James E. Mahood and s/Jay N. Silberblatt, Esq. No CC	
X Order, NOW, this 26th day of July, 2004, a further conference/argument with respect to all outstanding issues shall be held before the undersigned on Thursday, August 12, 2004, at 1:30 pm, in courtroom No 1 of the Clinton County Courthouse, Lock Haven, Pennsylvania. By the Court, J. Michael Williamson, Judge, Specially Presiding. All copies previously distributed per letter.	

8/17/04 X Order, now, this 12th day

FEB. 04, 1999, PLAINTIFFS' ANSWER TO MOTION OF RICHARD J. CORMAN AND R.J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC. FOR PROTECTIVE ORDER UNDER Pa. R.E.P. 4012(a), filed by s/MICHAEL E. SCULLIN, ESQ. ONE (1) CERT TO ATTY SUCHRUE s/JOHN SUCHRUE, ESQ.

FEB. 16, 1999, CERTIFICATE OF SERVICE, SET II INTERROGATORIES DIRECTED TO FRANK J. LAIRD, PLAINTIFF, AS FILED ON BEHALF OF, R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC. AND RICHARD J. CORMAN, UPON ATTORNEYS OF RECORD, s/DWIGHT L. KOERBER, JR., ESQ. ONE (1) CERT TO ATTY KOERBER

FEB. 22, 1999, PLAINTIFFS' REPLY TO NEW MATTER and COUNTERCLAIM OF R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC., filed by s/MICHAEL E. SCULLIN, ESQ. ONE (1) CERT COPY TO ATTY SUCHRUE
VERIFICATION, s/VERNON C. KEESEY, JR.
CERTIFICATE OF SERVICE, s/MICHAEL E. SCULLIN, ESQ.

FEB. 22, 1999, PLAINTIFFS' REPLY TO NEW MATTER IN THE ANSWER OF THE CLEARFIELD & MAHONING RAILROAD COMPANY TO THE AMENDED COMPLAINT, filed by s/MICHAEL E. SCULLIN, ESQ. ONE (1) CERT COPY TO ATTY SUCHRUE
VERIFICATION, s/VERNON C. KEESEY, JR.
CERTIFICATE OF SERVICE, s/MICHAEL E. SCULLIN, ESQ.

FEB. 22, 1999, PLAINTIFFS' REPLY TO NEW MATTER IN THE ANSWER OF R. J. CORMAN, DEFENDANT, TO PLAINTIFFS' AMENDED COMPLAINT, filed by s/MICHAEL E. SCULLIN, ESQ. ONE (1) CERT COPY TO ATTY SUCHRUE
VERIFICATION, s/VERNON C. KEESEY, JR.
CERTIFICATE OF SERVICE, s/MICHAEL E. SCULLIN, ESQ.

FEB. 24, 1999, CERTIFICATE OF SERVICE, NOTICE OF DEPOSITION OF FRANK J. LAIRD, UPON ALL PARTIES OF RECORD, filed by s/DWIGHT L. KOERBER, JR., ESQ. NO CERT COPIES

FEB. 24, 1999, CERTIFICATE OF SERVICE, NOTICE OF DEPOSITION OF VERNON C. KEESEY, JR., UPON ALL PARTIES OF RECORD, filed by s/DWIGHT L. KOERBER, JR., ESQ. NO CERT COPIES

MAR. 29, 1999, REPLY TO COUNTERCLAIM "COMPLAINT FOR DECLARATORY JUDGMENT" OF R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC., filed by s/JOHN T. PION, ESQUIRE. NO CERT COPIES
VERIFICATION, s/MARK W. HARTINGS
CERTIFICATE OF SERVICE, filed.

APR. 05, 1999, PETITION FOR PARTIAL VACATION OR MODIFICATION OR ORDER OF SEPTEMBER 2, 1998, filed by s/KIM C. KESNER, ESQ. TWO (2) CERT TO ATTY KESNER
VERIFICATION, s/DAVID R. IRVIN
CERTIFICATE OF SERVICE, s/KIM C. KESNER, ESQ.

APR. 07, 1999, ORDER, filed. ONE (1) CERT TO ATTY KESNER
AND NOW, this 6th day of April, 1999, upon consideration of the Defendant, The Clearfield & Mahoning Railroad Company's Petition for Partial Vacation or Modification of this Court's Order of Sept. 3, 1998, a Rule is hereby issued upon Plaintiffs, Defendants', to appear and show cause why the Petition should not be granted.
Rule Returnable the 19th day of April, 1999, at 1:30 p.m. in Courtroom No. 1.
s/JOHN K. REILLY, JR., PRESIDENT JUDGE

APR. 13, 1999, REPLY and NEW MATTER OF R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC. and RICHARD J. CORMAN to PETITION FOR PARTIAL VACATION or MODIFICATION OF ORDER of SEPTEMBER 2, 1998, filed by s/DWIGHT L. KOERBER, JR., ESQUIRE TEN (10) CERT TO ATTY KOERBER
CERTIFICATE OF SERVICE, filed.

APR. 19, 1999, CERTIFICATE OF SERVICE, RULE to PETITION FOR PARTIAL VACATION OR MODIFICATION OF ORDER OF SEPTEMBER 2, 1998, filed. ONE (1) CERT TO ATTY

APR. 19, 1999, PLAINTIFFS' ANSWER TO PETITION FOR PARTIAL VACATION OR MODIFICATION OF ORDER OF SEPTEMBER 2, 1998, filed by s/MICHAEL E. SCULLIN, ESQ. ONE (1) CERT TO ATTY SCULLIN
VERIFICATION, s/MICHAEL E. SCULLIN, ESQ.
CERTIFICATE OF SERVICE, filed.

APR. 20, 1999, ORDER, filed. ONE (1) EACH TO ATTY PION, MONTEVERDE, HERBERT, FINIO, ENRIGHT, SUCHRUE, KIM KOERBER & BELL.
RE: MOTION FOR PROTECTIVE ORDER BY THE COURT, s/JOHN K. REILLY, JR., PRESIDENT JUDGE

APR. 20, 1999, ORDER, filed. ONE (1) CERT TO EACH ATTY PION, SUCHRUE, MONTEVERDE, HERBERT, FINIO, ENRIGHT, KESNER, KOERBER, & BELL.

MAY 07, 1999, CERTIFICATE OF SERVICE, REPLY TO REQUEST FOR PRODUCTION OF DOCUMENTS, filed by s/DWIGHT L. KOERBER, JR., ESQUIRE ONE (1) CERT TO ATTY

NOV. 02, 1999, MOTIONS BY THE CLEARFIELD & MAHONING RAILROAD COMPANY FOR COURT APPOINTMENT OF A SPECIAL OR SPECIAL COMMITTEE AND FOR DISMISSAL OR STAY OF DERIVATIVE ACTION, filed by s/KIM C. KESNER, ESQ. EIGHT CERT TO ATTY
VERIFICATION, s/DAVID R. IRVIN
Certificate of Service, s/KIM C. KESNER, ESQ.

NOV. 08, 1999, RULE RETURNABLE, 30th day of November, 1999. BY THE COURT, s/JOHN K. REILLY, JR., P.J. EIGHT (8) CERT TO ATTY

NOV. 09, 1999, CERTIFICATE OF SERVICE, RULE RETURNABLE to MOTIONS BY THE CLEARFIELD & MAHONING RAILROAD COMPANY FOR COURT APPOINTMENT OF A SPECIAL PANEL OR SPECIAL COMMITTEE AND FOR DISMISSAL OR STAY OF DERIVATIVE ACTION, s/UPON PARTIES OF RECORD, s/KIM C. KESNER, ESQUIRE ONE (1) CERT TO ATTY

NOV. 15, 1999, REPLY TO DEFENDANTS R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC. AND RICHARD J. CORMAN TO MOTIONS BY THE CLEARFIELD & MAHONING RAILROAD COMPANY FOR COURT APPOINTMENT OF A SPECIAL PANEL OR SPECIAL COMMITTEE AND FOR DISMISSAL OR STAY OF DERIVATIVE ACTION, filed by s/DWIGHT L. KOERBER, JR., ESQ. ONE (1) CC ATTY KOERBER
VERIFICATION, s/DWIGHT L. KOERBER, JR., ESQ.
CERTIFICATE OF SERVICE, filed.

NOV. 30, 1999, PLAINTIFFS' ANSWER TO MOTIONS BY THE CLEARFIELD & MAHONING RAILROAD COMPANY FOR COURT APPOINTMENT OF A SPECIAL PANEL OR SPECIAL COMMITTEE AND FOR DISMISSAL OR STAY OF DERIVATIVE ACTION, filed by JOHN SUCHRUE TWO (2) CERT TO ATTY

Civil Other

Date		Judge
01/27/2000	New Case Filed. Please refer to docket book for entries prior to November, 2000.	No Judge
01/09/2001	Notice of Service of First Request for Production of Documents upon Toni M. Cherry, Esq. s/James E. Mahood no cc	No Judge
03/01/2001	Praeipce For Appearance on behalf of Defendants. Filed by s/Dennis J. Roman, Esq. Cert of Service. no cc	No Judge
04/20/2001	Motion to Compel. filed by s/James E. Mahood, Esquire Certificate of Service 1 cc atty Mahood	No Judge
04/26/2001	ORDER OF COURT, AND NOW, this 26th day of April, 2001, Plaintiff's Motion to Compel is scheduled before Judge Reilly on the 18th day of May, 2001, at 2:30 p.m. by the Court, s/JKR,JR.,P.J. 2 cc atty Mahood	John K. Reilly Jr.
05/02/2001	Affidavit of Service, Defendant's Motion to Compel, upon Dennis J. Roman, Esq. s/James E. Mahood, Esq. no cc	John K. Reilly Jr.
05/18/2001	ORDER, filed, 2 Cert. to Atty. Mahood for Service. AND NOW, this 18th day of May, 2001, Ordered that Defendants shall within 15 days furnish all documents (see original Order)	John K. Reilly Jr.
09/27/2001	Praeipce For Rule To File Complaint. Filed by s/Dennis J. Roman, Esq. Cert of Svc Rule to Atty Roman	John K. Reilly Jr.
11/07/2001	Complaint in Civil Action. Filed by s/James E. Mahood, Esq and s/Jay N. Silberblatt, Esq. Cert of Svc no cc	John K. Reilly Jr.
02/01/2002	Answer and New Matter. Filed by s/Dennis J. Roman, Esq. Cert of Ser 1 cc to Atty Roman	John K. Reilly Jr.
02/04/2002	Exhibit "1" and Verification to Answer and New Matter. Filed by s/Dennis J. Roman, Esq. Cert of Svc no cc	John K. Reilly Jr.
03/25/2002	Plaintiff's Reply to Defendants' New Matter. Filed by s/James E. Mahood, Esq. s/Jay N. Silberblatt, Esq. Verification s/Linda E. Hoffman Certificate of Service s/Jay N. Silberblatt, Esq. no cc	John K. Reilly Jr.
08/01/2002	Verification of Service of Plaintiff's Response to Defendants' Request for Production of Documents. Filed by s/Jay N. Silberblatt, Esq. no cc	John K. Reilly Jr.
	Verification of Service of Plaintiff's Answers to Defendants' First Set of Interrogatories. Filed by s/Jay N. Silberblatt, Esq. no cc	John K. Reilly Jr.
03/10/2004	Certificate of Readiness. filed by, s/James E. Mahood, Esquire no cc Copy to C/A	John K. Reilly Jr.
03/12/2004	ORDER, NOW, this 11th day of March, 2004, re: CA of Clearfield County to refer case to Administrative Regional Unit II for assignment of a specially Presiding judicial authority. by the Court, s/FJA,P.J. 6 cc C/A	John K. Reilly Jr.
03/15/2004	✓X Motion To Strike Case From Trial List. filed by, s/Janet K. Meub, Esquire Certificate of Service 2 cc Atty Roman	John K. Reilly Jr.
03/17/2004	X* Plaintiff's Response To Defendants' Motion To Strike Case From Trial List. filed by, s/James E. Mahood, Esq. s/Jay N. Silberblatt, Esq. Certificate of Service no cc	J. Michael Williamson
03/18/2004	X* ORDER, AND NOW, this 16th day of March, 2004, re: Motion to Strike Case From Trial List filed on behalf of Defendants is GRANTED. by the Court, s/J. Michael Williamson, J., Specially Presiding	J. Michael Williamson

CONTINUED FROM 5204, LAIRD, et al vs THE CLEARFIELD & MAHONING RAILROAD CO., 98-51-CD

DEC. 11, 1998, CERTIFICATE OF SERVICE, filed by s/JOHN C. HERBERT, ESQ. TWO (2) CERT TO ATTY GIBBS

DEC. 16, 1998, ANSWER OF DEFENDANT R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC. TO REQUEST FOR ADMISSIONS OF DEFENDANT CONSOLIDATED RAIL CORPORATION, filed by s/DWIGHT L. KOERBER, JR., ESQ. NINE (9) CERT TO ATTY KOERBER

VERIFICATION, s/KENNETH ADAMS
CERTIFICATE OF SERVICE, filed.

DEC. 16, 1998, ANSWER OF DEFENDANT RICHARD J. CORMAN TO REQUEST FOR ADMISSIONS OF DEFENDANT CONSOLIDATED RAIL CORPORATION, filed by s/DWIGHT L. KOERBER, JR., ESQ. ELEVEN (11) CERT TO ATTY KOERBER

VERIFICATION, s/KENNETH ADAMS
CERTIFICATE OF SERVICE, filed.

DEC. 16, 1998, MOTION FOR SPECIAL ADMISSION AND NOTICE OF REPRESENTATION, filed by s/RICHARD A. BELL, ESQ. NO CERT COPIES

VERIFICATION, s/RICHARD A. BELL, ESQ.
AFFIDAVIT, s/JOHN K. ENRIGHT, ESQ.
CERTIFICATE OF SERVICE, filed.

DEC. 17, 1998, ORDER, filed. ONE (1) CERT TO EACH ATTY: ENRIGHT, BELL, FINLO, HERBERT, MONTEVERDE, DION SUGHRUE, BY THE COURT, s/JOHN K. REILLY, JR., PRESIDENT JUDGE

DEC. 17, 1998, ORDER OF COURT, filed. ONE (1) CERT TO ATTY BELL
AND NOW, this 17th day of December, 1998, in consideration of the Motion of Richard A. Bell, Esq. for Special Admission of his Co-Counsel, John K. Enright, Esq., on behalf of Defendant Consolidated Rail Corporation in this matter and for good cause shown, it is hereby ORDERED: (Please refer to filing for details)
BY THE COURT: s/JOHN K. REILLY, JR., PRESIDENT JUDGE

DEC. 18, 1998, CONFIDENTIALITY STIPULATION and ORDER, filed. SEVEN (7) CERT TO ATTY
SO ORDERED: s/JOHN K. REILLY, JR., PRESIDENT JUDGE

DEC. 31, 1998, REPLY TO NEW MATTER BY BUFFALO & PITTSBURGH RAILROAD, INC. filed by s/PATRICIA A. TRUJILLO, ESQUIRE
THREE (3) CERT TO ATTY TRUJILLO
VERIFICATION, s/PATRICIA A. TRUJILLO
CERTIFICATE OF SERVICE, s/PATRICIA A. TRUJILLO, ESQ.

JAN. 12, 1999, MOTION OF RICHARD J. CORMAN AND R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC., DEFENDANTS, FOR PROTECTIVE ORDER UNDER Pa. R.C.P. 4012(a), filed by s/DWIGHT L. KOERBER, JR., ESQUIRE
ELEVEN (11) COPIES TO ATTY
CERTIFICATE OF SERVICE, s/DWIGHT L. KOERBER, JR., ESQUIRE

JAN. 12, 1999, ORDER, filed. ONE (10) CERT TO ATTY SUGHRUE
AND NOW, this 12th day of January, 1999, upon consideration of the Preliminary Objections filed on behalf of the Defendants (Please refer to filing for details) BY THE COURT: s/JOHN K. REILLY, JR., President Judge

JAN. 13, 1999, RULE RETURNABLE ORDER, filed. NINE (9) CERT TO ATTY KOERBER
AND NOW, this 12th day of January, 1999, upon consideration of the Motion of Richard J. Corman and R. J. Corman Railroad Company/Pennsylvania Lines, Inc., Defendant, for Protective Order Under Pa.R.C.P. (4012(a)), a Rule is hereby issued upon plaintiffs to show cause why the Motion should not be granted. RULE RETURNABLE the 1st day of February, 1999, for filing written response. BY THE COURT: s/John K. Reilly, Jr., President Judge

JAN. 13, 1999, CERTIFICATE OF SERVICE, COURT ORDER OF JAN. 12, 1999, TO COUNSEL OF RECORD, s/JOHN SUGHRUE, ESQUIRE ONE (1) CERT TO ATTORNEY

JAN. 13, 1999, CERTIFICATE OF SERVICE, SET I INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO BUFFALO & PITTSBURGH RAILROAD, INC., ON BEHALF OF CLEARFIELD & MAHONING RAILROAD COMPANY, R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC. AND RICHARD J. CORMAN has been served by U.S. First Class Mail upon the following: 1) JOHN C. HERBERT, ESQ. 2) JOHN T. PION, ESQ. ALSO, SET I INTERROGATORIES DIRECTED TO BUFFALO & PITTSBURGH RAILROAD, INC. ON BEHALF OF CLEARFIELD & MAHONING RAILROAD COMPANY, R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC. AND RICHARD J. CORMAN, served upon the following: 1) Richard A. Bell, Esq. 2) John K. Enright, Esq. 3) Michael A. Finlo, Esq. 4) Tom P. Monteverde, Esq. 5) John Sughrue, Esq. ONE (1) CERT TO ATTY KOERBER
s/DWIGHT L. KOERBER, JR., ESQUIRE

JAN. 13, 1999, CERTIFICATE OF SERVICE, SET I INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO CONSOLIDATED RAIL CORPORATION ON BEHALF OF CLEARFIELD & MAHONING RAILROAD COMPANY, R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC. AND RICHARD J. CORMAN, upon the following: 1) RICHARD A. BELL, ESQ. 2) JOHN K. ENRIGHT, ESQ. ALSO, SET I INTERROGATORIES DIRECTED TO CONSOLIDATED RAIL CORPORATION ON BEHALF OF CLEARFIELD & MAHONING RAILROAD COMPANY, R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC. AND RICHARD J. CORMAN, upon the following: 1) Michael A. Finlo, Esq. 2) John C. Herbert, Esq. 3) Tom P. Monteverde, Esq. 4) John T. Pion, Esq. 5) John Sughrue, Esq. ONE (1) CERT TO ATTY KOERBER
s/DWIGHT L. KOERBER, JR., ESQUIRE

JAN. 18, 1999, CERTIFICATE OF SERVICE, RULE RETURNABLE ORDER, UPON COUNSEL OF RECORD, filed by s/DWIGHT L. KOERBER, JR., ESQ. ONE (1) CERT TO ATTY KOERBER

JAN. 18, 1999, CERTIFICATE OF SERVICE, SUPPLEMENTAL RESPONSE OF DEFENDANTS THE CLEARFIELD & MAHONING RAILROAD COMPANY, R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC. and RICHARD J. CORMAN TO PLAINTIFF'S FIRST SET OF COMBINED INTERROGATORIES AND DOCUMENT REQUESTS, AND AMENDED SUPPLEMENTAL INTERROGATORIES AND DOCUMENT REQUESTS, UPON COUNSEL OF RECORD, filed by s/DWIGHT L. KOERBER, JR., ESQ. ONE (1) CERT TO ATTY KOERBER

FEB. 01, 1999, PRECIPITE TO SUBSTITUTE COUNSEL, filed. TEN (10) CERT TO ATTY KESNER
RE: DWIGHT L. KOERBER, JR., ESQ. WITHDRAWING AS COUNSEL FOR THE CLEARFIELD & MAHONING RAILROAD COMPANY, KIM C. KESNER, ESQ., ENTERING AS COUNSEL FOR THE CLEARFIELD & MAHONING RAILROAD COMPANY.
s/DWIGHT L. KOERBER, JR., ESQ. s/KIM C. KESNER, ESQ.
CERTIFICATE OF SERVICE, s/KIM C. KESNER, ESQ.

FEB. 01, 1999, ANSWER AND NEW MATTER of THE CLEARFIELD & MAHONING RAILROAD COMPANY to AMENDED COMPLAINT, filed by s/KIM C. KESNER, ESQ. TEN (10) CERT TO ATTY KESNER

FEB. 01, 1999, ANSWER AND NEW MATTER of RICHARD J. CORMAN, DEFENDANT, filed by s/DWIGHT L. KOERBER, JR., ESQ. ELEVEN (11) CERT COPIES TO ATTY KOERBER
VERIFICATION, s/R. J. CORMAN
CERTIFICATE OF SERVICE, filed.

FEB. 01, 1999, ANSWER, NEW MATTER and COUNTERCLAIM of R. J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES, INC., filed by s/DWIGHT L. KOERBER, JR., ESQUIRE
VERIFICATION, s/KENNETH A. ADAMS, ESQ.
CERTIFICATE OF SERVICE, s/DWIGHT L. KOERBER, JR., ESQ.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 00-96-CD

Linda E. Hoffman

VS.

Toni M. Cherry, individually and Gleason, Cherry and Cherry, LLP, a Partnership

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	01/27/00	Praecipe for Writ of Summons	03
02	02/02/00	Sheriff Return	01
03	01/09/01	Notice of Service of First Request for Production of Documents upon Toni M. Cherry, Esq.	03
04	03/01/01	Praecipe for Appearance on behalf of Defendants	03
05	04/20/01	Motion to Compel	11
06	04/26/01	Order of Court, Re: Motion to Compel scheduled	01
07	05/02/01	Affidavit of Service, Defendant's Motion to Compel	02
08	05/18/01	Order, Re: furnishing of documents	02
09	09/27/01	Praecipe for Rule to File Complaint	04
10	11/07/01	Complaint in Civil Action	22
11	02/01/02	Answer and New Matter	16
12	02/04/02	Exhibit "1" and Verification to Answer and New Matter	05
13	03/25/02	Plaintiff's Reply to Defendants' New Matter	13
14	08/01/02	Verification of Service of Plaintiff's Response to Defendants' Request for Production of Documents	02
15	08/01/02	Verification of Service of Plaintiff's Answers to Defendants' First Set of Interrogatories	02
16	03/10/04	Certificate of Readiness	02
17	03/12/04	Order, Re: refer case to Administrative Regional Unit II for assignment of a specially presiding judge	01

James E.
Mahood

LINDA E. HOFFMAN

①

JANUARY 27, 2000, PRAECIPE FOR WRIT OF SUMMONS, filed by James E. Mahood, Attorney for the Plaintiff

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Kindly issue a Writ of Summons in Civil Action against the Defendants, Toni M. Cherry, an individual and Gleason, Cherry and Cherry, L.L.P., a partnership. /s/James E. Mahood

JANUARY 27, 2000, WRIT ISSUED TO SHERIFF FOR SERVICE.

FEB. 02, 2000, SHERIFF RETURN, SUMMONS UPON DEFENDANTS, SO ANSWERS, CHESTER A. HAWKINS, SHERIFF by s/Marilyn Hamm

1

00-96-CD

②

TONI M. CHERRY, individually,
and GLEASON, CHERRY AND
CHERRY, L.L.P. a Partnership

PLEASE REFER TO COMPUTER
FOR FURTHER ENTRIES

Pro	BY ATTY	80.00
Shff		
Hawkins	By Atty	53.88

Date		Judge
01/27/2000	New Case Filed. Please refer to docket book for entries prior to November, 2000.	No Judge
01/09/2001	(3) Notice of Service of First Request for Production of Documents upon Toni M. Cherry, Esq. s/James E. Mahood no cc	3 No Judge
03/01/2001	(4) Praeipe For Appearance on behalf of Defendants. Filed by s/Dennis J. Roman, Esq. Cert of Service. no cc	3 No Judge
04/20/2001	(5) Motion to Compel. filed by s/James E. Mahood, Esquire Certificate of Service 1 cc atty Mahood	11 No Judge
04/26/2001	(16) ORDER OF COURT, AND NOW, this 26th day of April, 2001, Plaintiff's Motion to Compel is scheduled before Judge Reilly on the 18th day of May, 2001, at 2:30 p.m. by the Court, s/JKR,JR.,P.J. 2 cc atty Mahood	John K. Reilly Jr.
05/02/2001	(7) Affidavit of Service, Defendant's Motion to Compel, upon Dennis J. Roman, Esq. s/James E. Mahood, Esq. no cc	2 John K. Reilly Jr.
05/18/2001	(8) ORDER, filed, 2 Cert. to Atty. Mahood for Service. AND NOW, this 18th day of May, 2001, Ordered that Defendants shall within 15 days furnish all documents (see original Order)	2 John K. Reilly Jr.
09/27/2001	(9) Praeipe For Rule To File Complaint. Filed by s/Dennis J. Roman, Esq. Cert of Svc Rule to Atty Roman	4 John K. Reilly Jr.
11/07/2001	(10) Complaint in Civil Action. Filed by s/James E. Mahood, Esq and s/Jay N. Silberblatt, Esq. Cert of Svc no cc	22 John K. Reilly Jr.
02/01/2002	(11) Answer and New Matter. Filed by s/Dennis J. Roman, Esq. 1 cc to Atty Roman	16 John K. Reilly Jr.
02/04/2002	(12) Exhibit "1" and Verification to Answer and New Matter. Filed by s/Dennis J. Roman, Esq. Cert of Svc no cc	John K. Reilly Jr.
03/25/2002	(13) Plaintiff's Reply to Defendants' New Matter. Filed by s/James E. Mahood, Esq. s/Jay N. Silberblatt, Esq. Verification s/Linda E. Hoffman Certificate of Service s/Jay N. Silberblatt, Esq. no cc	13 John K. Reilly Jr.
08/01/2002	(14) Verification of Service of Plaintiff's Response to Defendants' Request for Production of Documents. Filed by s/Jay N. Silberblatt, Esq. no cc	2 John K. Reilly Jr.
	(5) Verification of Service of Plaintiff's Answers to Defendants' First Set of Interrogatories. Filed by s/Jay N. Silberblatt, Esq. no cc	2 John K. Reilly Jr.
03/10/2004	(19) Certificate of Readiness. filed by, s/James E. Mahood, Esquire Copy to C/A	2 John K. Reilly Jr.
03/12/2004	(17) ORDER, NOW, this 11th day of March, 2004, re: CA of Clearfield County to refer case to Administrative Regional Unit II for assignment of a specially Presiding judicial authority. by the Court, s/FJA,P.J. 6 cc C/A	John K. Reilly Jr.
03/15/2004	Motion To Strike Case From Trial List. filed by, s/Janet K. Meub, Esquire Certificate of Service 2 cc Atty Roman	John K. Reilly Jr.
03/17/2004	Plaintiff's Response To Defendants' Motion To Strike Case From Trial List. filed by, s/James E. Mahood, Esq. s/Jay N. Silberblatt, Esq. Certificate of Service no cc	J. Michael Williamson

In the Court of Common Pleas of Clearfield County, Pennsylvania

(102) **Linda E. Hoffman,**

Plaintiff

Civil Division

No. 00-96-CD

VS.

(94) **Toni M. Cherry, individually**

and

(100) **Gleason, Cherry and
Cherry, L.L.P., a Partnership,**

Defendants

**Praecipe for Writ of
Summons in Civil Action**

Code:

Filed on Behalf of:
Linda E. Hoffman, Plaintiff

Counsel of Record
for this Party:
James E. Mahood
Pa. I.D. #20403

Wilder & Mahood
Firm #525
10th Floor, Koppers Building
Pittsburgh, PA 15219
(412) 261-4040

FILED

JAN 27 2000

William A. Shaw
Prothonotary

(11)

**In the Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division**

Linda E. Hoffman,)	
)	
Plaintiff)	
)	
vs.	)	No.
)	
Toni M. Cherry, individually,)	
)	
and)	
)	
Gleason, Cherry and)	
Cherry, L.L.P., a partnership,)	
)	
Defendants)	

Praeipice for Writ of Summons in Civil Action

To: Prothonotary

Kindly issue a Writ of Summons in Civil Action against the Defendants, Toni M. Cherry, an individual and Gleason, Cherry and Cherry, L.L.P, a partnership.

Respectfully submitted,



James E. Mahood
Wilder & Mahood
436 Seventh Avenue – 10th Floor
Pittsburgh, PA 15219

Attorneys for Plaintiff

Date: 1/25/2000
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JAN 27 2000

MA 9:23 AM
William A. Shaw
Prothonotary

MAHAR

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WRT to SWIG

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

LINDA E. HOFFMAN

Plaintiff(s)

S U M M O N S

NO: 00-96-CD

vs.

TONI M. CHERRY, individually,

and

GLEASON, CHERRY and CHERRY, L.L.P.,

a Partnership,

Defendant(s)

To the above named Defendant(s) you are hereby notified
that the above named Plaintiff(s), has/have commenced a Civil Action
against you.

Date January 27, 2000

William A. Shaw, Prothonotary

Issuing Attorney:

James E. Mahood, Esquire
10th Floor
Koppers Building
Pittsburgh, PA 15219

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HOFFMAN, LINDA E.

00-96-CD

VS

CHERRY, TONI M., INDIV.

SUMMONS

SHERIFF RETURNS

NOW FEBRUARY 1, 2000 AT 11:55 AM EST SERVED THE WITHIN
SUMMONS ON TONI M. CHERRY, IND., DEFENDANT AT EMPLOYMENT,
ONE NORTH FRANKLIN ST., PO BOX 505, DUBOIS, CLEARFIELD
COUNTY, PENNSYLVANIA BY HANDING TO TONI M. CHERRY A TRUE AND
ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER
THE CONTENTS THEREOF.
SERVED BY: MCINTOSH

NOW FEBRUARY 1, 2000 AT 11:55 AM EST SERVED THE WITHIN
SUMMONS ON GLEASON, CHERRY & CHERRY, DEFENDANTS AT
EMPLOYMENT, ONE NORTH FRANKLIN ST., PO BOX 505, DUBOIS,
CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO TONI M. CHERRY
P.I.C. A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND
MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: MCINTOSH.

33.88 SHFF. HAWKINS PAID BY: ATTY.
20.00 SURCHARGE PAID BY: ATTY.

SWORN TO BEFORE ME THIS

2nd DAY OF February 2000
William A. Shaw

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co., Clearfield, PA.

SO ANSWERS.

Chester A. Hawkins
by Marilyn Hamr
CHESTER A. HAWKINS
SHERIFF

FILED

FEB 02 2000
013.13
William A. Shaw
Prothonotary

In the Court of Common Pleas of Clearfield County, Pennsylvania

Linda E. Hoffman,

Plaintiff

Civil Division

No. 00-96-CD

VS.

**Toni M. Cherry, individually, and
Gleason, Cherry and Cherry,
L.L.P., a Partnership**

Defendants

**Notice of Service
Plaintiff's First Request
for Production of
Documents**

Code:

Filed on Behalf of:
Linda E. Hoffman, Plaintiff

Counsel of Record
for this Party:
James E. Mahood
Pa. I.D. #20403

FILED

JAN 09 2001

William A. Shaw
Prothonotary

Wilder & Mahood
Firm #525
10th Floor, Koppers Building
Pittsburgh, PA 15219
(412) 261-4040

ORIGINAL

In the Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division

Linda E. Hoffman,

Plaintiff

vs.

No. 00-96-CD

**Toni M. Cherry, individually, and
Gleason, Cherry and
Cherry, L.L.P., a partnership,**

Defendants

**Notice of Service of
First Request for Production of Documents**

To: Hon. William A. Shaw
Prothonotary, Clearfield County

Kindly take notice that the Plaintiff, Linda E. Hoffman, has served a First Request for Production of Documents the 5th day of January, 2001, upon the following person, by first class mail, postage prepaid:

Toni M. Cherry
Gleason, Cherry and Cherry, L.L.P.
P.O. Box 505
DuBois, Pennsylvania 15801-0505



James E. Mahood

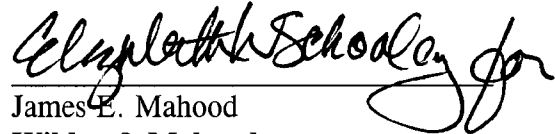
Wilder & Mahood

Attorneys for Linda E. Hoffman

Certificate of Service

I hereby certify that I have caused a true and correct copy of the foregoing
Notice of Service of Plaintiff's First Request for Production of Documents to be served,
upon the following person by first class mail, postage prepaid, this 5th day of
January, 2001:

Toni M. Cherry
Gleason, Cherry and Cherry, L.L.P.
P.O. Box 505
DuBois, Pennsylvania 15801-0505


James E. Mahood
Wilder & Mahood
Attorneys for Linda E. Hoffman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LINDA HOFFMAN,

Plaintiff,

v.

TONI M. CHERRY, individually, and
GLEASON, CHERRY and CHERRY,
L.L.P., a Partnership,

Defendants.

) CIVIL ACTION

)
) No. 00-96-CD

) **PRAECIPE FOR APPEARANCE**

)
) Filed on behalf of defendants, Toni M.
) Cherry, individually and Gleason, Cherry &
) Cherry, L.L.P., a Partnership

)
) Counsel of Record for these Parties:

)
) DENNIS J. ROMAN, ESQUIRE
) Pa. I.D. # 36904

)
) GROGAN GRAFFAM MCGINLEY, P.C.
) Firm I.D. No. 072
) Three Gateway Center
) 22nd Floor
) Pittsburgh, PA 15222
) (412) 553-6300

)
) 20200/17073
)

FILED

MAR 01 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,

Plaintiff,

v.

TONI M. CHERRY, individually, and
GLEASON, CHERRY and CHERRY,
L.L.P., a Partnership,

Defendants.

) CIVIL ACTION

)

) No. 00-96-CD

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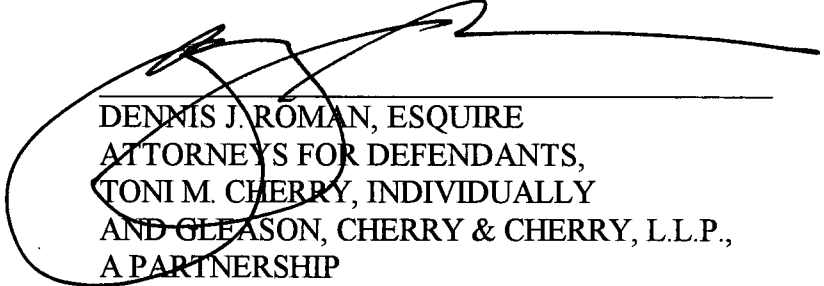
)

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Kindly enter our firm's appearance on behalf of defendants Toni M. Cherry, individually and Gleason, Cherry & Cherry, L.L.P., a partnership, in connection with the above action.

GROGAN GRAFFAM MCGINLEY, P.C.



DENNIS J. ROMAN, ESQUIRE
ATTORNEYS FOR DEFENDANTS,
TONI M. CHERRY, INDIVIDUALLY
AND GLEASON, CHERRY & CHERRY, L.L.P.,
A PARTNERSHIP

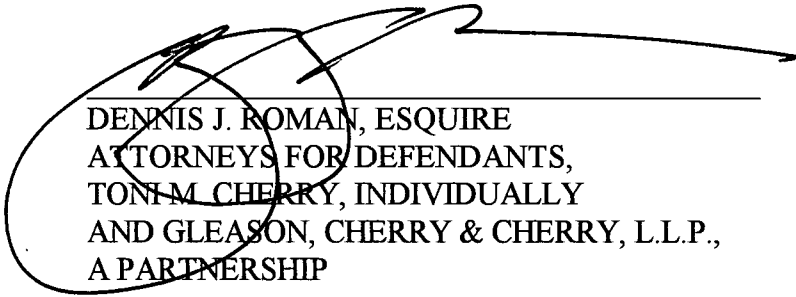
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praecipe for Appearance was served upon the following counsel of record by United States Mail, first class, postage prepaid, this

27th day of February 2001.

James A. Mahood,
Wilder & Manhood
10th Floor, Koppers Building
Pittsburgh, PA 15219

GROGAN GRAFFAM MCGINLEY, P.C.


DENNIS J. ROMAN, ESQUIRE
ATTORNEYS FOR DEFENDANTS,
TONI M. CHERRY, INDIVIDUALLY
AND GLEASON, CHERRY & CHERRY, L.L.P.,
A PARTNERSHIP

CP
In the Court of Common Pleas of Clearfield County, Pennsylvania

Linda E. Hoffman,

Plaintiff

Civil Division

No. 00-96-CD

VS.

**Toni M. Cherry, individually, and
Gleason, Cherry and Cherry,
L.L.P., a Partnership**

Defendants

Motion to Compel

Code:

Filed on Behalf of:
Linda E. Hoffman, Plaintiff

Counsel of Record
for this Party:
James E. Mahood
Pa. I.D. #20403

Wilder & Mahood
Firm #525
10th Floor, Koppers Building
Pittsburgh, PA 15219
(412) 261-4040

FILED

APR 20 2001

William A. Shaw
Prothonotary

ORIGINAL

(#5)

In the Court of Common Pleas of Clearfield County, Pennsylvania

Linda E. Hoffman,

Plaintiff

Civil Division

No. 00-96-CD

VS.

**Toni M. Cherry, individually, and
Gleason, Cherry and Cherry,
L.L.P., a Partnership**

Defendants

**Plaintiff's First Request
for Production of
Documents**

Code:

Filed on Behalf of:
Linda E. Hoffman, Plaintiff

Counsel of Record
for this Party:
James E. Mahood
Pa. I.D. #20403

Wilder & Mahood
Firm #525
10th Floor, Koppers Building
Pittsburgh, PA 15219
(412) 261-4040

In the Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division

Linda E. Hoffman,

Plaintiff

vs.

Toni M. Cherry, individually, and
Gleason, Cherry and
Cherry, L.L.P., a partnership,

Defendants

No. 00-96-CD

First Request for Production of Documents

TO: Toni M. Cherry and
Gleason, Cherry and Cherry, L.L.P.
P.O. Box 505
DuBois, Pennsylvania 15801-0505

Pursuant to Pa. R.C.P. 4009.12, you are required within 30 days of service of this Request to (1) serve an answer, including any objections, to each numbered paragraph in the Request and (2) produce or make available the items sought for production herein to which there is no objection.

Your Answer must be in paragraph form and must

- (1) identify all documents or things produced or made available;
- (2) identify all documents or things *not* produced or made available because of objection that they are not within the scope of permissible discovery under Rule 4003.2 through Rule 4003.6 inclusive [relating to Scope of Discovery: Insurance, General Trial Preparation Material, Trial Preparation Statements, Expert Testimony Trial Preparation Material and Discovery of Treating Physicians] *or* Rule 4011(c) [referencing Rule 4003.1 and relating to objections raising issues of general scope of discovery, claim

of privilege, relevance to subject matter of action, claim or defense];

- (3) identify with reasonable particularity documents or things not produced together with the basis for nonproduction;
- (4) affirmatively state that a reasonable investigation to determine the existence of such documents was made if it has been determined that there are no documents responsive to the request; and
- (5) be signed and verified by the person making it and signed also by the attorney making any objection.

Your Answer may specify a larger group of documents or things from which the documents or things to be produced or made available may be identified as permitted by Pa. R.C.P. 4009.12(a)(2)(i).

As used in connection with this Request for Production of Documents, the following definition shall apply: "Document" means any writing or record of any type or description used in its customary broad sense and includes, without limitation, any writing or other recordation of data and each original, master, and copy of the following items, however produced or reproduced, including but not limited to books, accounting records of any nature whatsoever, agreements, communications, correspondence, telegrams, cables, telexes, memoranda, notes, recordings, studies, summaries or records of personal conversations or interviews, diaries, letters, forecasts, statistical statements, spreadsheets, graphs, information bearing photographic records of any nature whatsoever, photo-records microfilms, tape recordings, computer data, minutes or records of meetings or conferences, expressions or statements of policy, tax returns, bankbooks, checkbooks, bank statements, check stubs, and cancelled checks. You or your refers in every instance to the individual and partnership Defendants together with any employee or agent of either Defendant.

6. Plaintiff is entitled to timely, written, full, verified answers to her request for production of documents in accordance with Pa. R.C.P. 4009.12.

7. Plaintiff requests that Defendants be ordered to file a full and complete written and verified response to her Request within fifteen (15) days.

Wherefore, Plaintiff, Linda E. Hoffman, respectfully requests that this Honorable Court enter an Order requiring the Defendants, Toni M. Cherry, individually, and Gleason, Cherry and Cherry, L.L.P., to file a full, complete, verified response to the Plaintiff's Request for Production of Documents within fifteen (15) days.



James E. Mahood

Wilder & Mahood

Attorneys for Linda E. Hoffman

1. All documents in your possession or control pertaining in any manner to your representation of Ms. Hoffman in or related to the divorce action between Linda E. Hoffman and Robert E. Hoffman, including but not limited to the entire contents of your case file of the divorce action between Linda E. Hoffman and Robert E. Hoffman, including all pleadings, correspondence, workpapers prepared for the case, spreadsheets, notes, internal memoranda, calculations, telephone message sheets or logs, computer disks, or any other documents prepared or obtained at any time from the time of your first meeting with Linda E. Hoffman to the present.

2. All documents pertaining in any manner to the case filed by Linda E. Hoffman against the State Employees Retirement System, including but not limited to, all pleadings, correspondence, notes, internal memoranda, telephone message sheets or logs, calculations, computer disks or any other documents prepared from the time of your first discussion of such action with Linda E. Hoffman to the present.

3. Your billing file or files related to your representation of Linda E. Hoffman, and all documents in your possession or control related to your billings to Linda E. Hoffman, including but not limited to, all invoices and statements, spreadsheets, computer forms, computer disks, printouts of prebilling worksheets, correspondence related to billing, billing worksheets, and any other documents related thereto, including any document pertaining in any manner to any fee agreement between you and Linda E. Hoffman.

4. All documents related to your representation of Linda E. Hoffman, including but not limited to, your malpractice insurance agreement and the application therefor, all

(a) The party upon whom the request is served shall within thirty days after the service of the request

(1) serve an answer including objections to each numbered paragraph in the request, and

(2) produce or make available to the party submitting the request those documents and things described in the request to which there is no objection.

...

(b) The answer shall be in the form of a paragraph-by-paragraph response which shall

(1) identify all documents or things produced or made available;

(2) identify all documents or things not produced or made available because of the objection that they are not within the scope of permissible discovery under Rule 4003.2 through Rule 4003.6 inclusive and Rule 4011(c). Documents or things not produced shall be identified with reasonable particularity together with the basis for non-production;

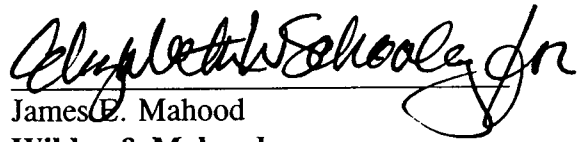
(3) specify a larger group of documents or things from which the documents or things to be produced or made available may be identified as provided by subdivision (a)(2)(i);

(4) object to the request on the grounds set forth in Rule 4011(a), (b), and (e) or on the ground that the request does not meet the requirements of Rule 4009.11;

(5) state that after reasonable investigation, it has been determined that there are no documents responsive to the request.

(c) The answer shall be signed and verified by the party making it and signed also by the attorney making an objection if one is set forth.

correspondence with your insurance carrier related to Linda E. Hoffman, and any other correspondence or other document of whatsoever sort related to, referencing or referring to Linda E. Hoffman not produced in response to other requests.

A handwritten signature in black ink, appearing to read "James E. Mahood", is written over a horizontal line.

James E. Mahood

Wilder & Mahood

Attorneys for Linda E. Hoffman

**In the Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division**

Linda E. Hoffman,

Plaintiff

vs.

**Toni M. Cherry, individually, and
Gleason, Cherry and
Cherry, L.L.P., a partnership,**

Defendants

No. 00-96-CD

Motion to Compel

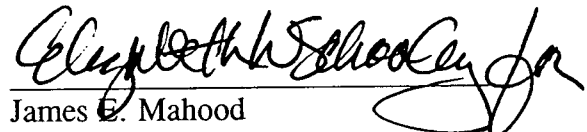
The Plaintiff, Linda E. Hoffman, by her attorneys, James E. Mahood and Wilder & Mahood, files the following Motion to Compel:

1. Plaintiff commenced this action by way of a writ of summons.
2. Plaintiff served a request for production of documents on the Defendants on January 5, 2001 (hereafter "Request"), and her notice of service of same was filed by the Prothonotary on January 9, 2001. A true and correct copy of Plaintiff's Request is attached hereto as Exhibit A.
3. Plaintiff's Request included requests for documents related to the Defendants' legal representation of Plaintiff in connection with a divorce action against Plaintiff's husband to which Plaintiff does not otherwise have access.
4. Defendants have neither served answers nor objections to Plaintiff's Request.
5. Pa. R.C.P. 4009.12 provides, as to answers to requests upon a party for production of documents and things:

Certificate of Service

I hereby certify that I have caused a true and correct copy of the foregoing Plaintiff's First Request for Production of Documents to be served, upon the following person by first class mail, postage prepaid, this 5th day of January, 2001:

Toni M. Cherry
Gleason, Cherry and Cherry, L.L.P.
P.O. Box 505
DuBois, Pennsylvania 15801-0505


James E. Mahood
Wilder & Mahood
Attorneys for Linda E. Hoffman

_____, J.

**In the Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division**

Linda E. Hoffman,

Plaintiff

vs.

No. 00-96-05

Toni M. Cherry, individually,

and

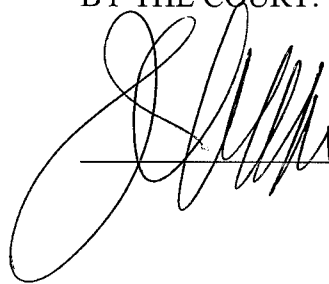
**Gleason, Cherry and
Cherry, L.L.P., a partnership,**

Defendants

Order of Court

And Now, this 26th day of April, 2001, this matter having come before the Court on the Plaintiff's Motion to Compel, argument is hereby scheduled before the Honorable Judge Kelly for the 18th day of May, 2001, at 2:30 ~~am~~ p.m. in Courtroom 1, Clearfield County Courthouse, One North 2nd Street, Clearfield, PA 16830.

BY THE COURT:

_____, J.

FILED

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William A. Shaw
Prothonotary

FILED

APR 26 2001

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William A. Shaw
Prothonotary

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In the Court of Common Pleas of Clearfield County, Pennsylvania

Linda E. Hoffman,

Plaintiff

Civil Division

No. 00-96-CD

VS.

**Toni M. Cherry, individually, and
Gleason, Cherry and Cherry,
L.L.P., a Partnership**

Defendants

Affidavit of Service

Code:

Filed on Behalf of:
Linda E. Hoffman, Plaintiff

Counsel of Record
for this Party:
James E. Mahood
Pa. I.D. #20403

Wilder & Mahood
Firm #525
10th Floor, Koppers Building
Pittsburgh, PA 15219
(412) 261-4040

FILED

MAY 02 2001
m 1142 no cc
William A. Shaw
Prothonotary

**In the Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division**

Linda E. Hoffman,

Plaintiff

vs.

No. 00-96-CD

Toni M. Cherry, individually

and

Gleason, Cherry and Cherry, LLP,

Defendants

Affidavit of Service

I hereby certify that a true and correct copy of Defendant's Motion to Compel and April 26, 2001 Order setting argument thereon was served upon Counsel for Plaintiff in the manner below indicated, which service satisfied the requirements of Pa.R.C.P. 440(a)(1)(i):

Service by first class mail, postage prepaid:

Dennis J. Roman, Esquire
Grogan, Graffam & McGinley
Three Gateway Center
22nd Floor
Pittsburgh, PA 15222-1009

4/30/01
Date

James E. Mahood
Wilder & Mahood
Attorneys for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LINDA HOFFMAN,

Plaintiff,

v.

TONI M. CHERRY, individually, and
GLEASON, CHERRY and CHERRY,
L.L.P., a Partnership,

Defendants.

) CIVIL ACTION
)
) No. 00-96-CD
)
) **ORDER OF COURT**
)
) Filed on behalf of All Parties
)
) Counsel of Record for these Parties:
)
)

FILED

MAY 18 2001

William A. Shaw
Prothonotary

#8

Defendants.

Dennis J. Roman, Esquire
Attorney for Defendants

IN RE: [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

EXHIBIT

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FILED

MAY 18 2001
0/12:48/40
William A. Shaw
Prothonotary

Fuse

2 CENT TO ATTORNEY MAHOD

[illegible handwritten notes]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LINDA HOFFMAN,

Plaintiff,

v.

TONI M. CHERRY, individually, and
GLEASON, CHERRY and CHERRY,
L.L.P., a Partnership,

Defendants.

) CIVIL ACTION
)
) No. 00-96-CD
)
) **PRAECIPE FOR RULE TO FILE**
) **COMPLAINT**
)
) Filed on behalf of defendants, Toni M.
) Cherry, individually and Gleason, Cherry &
) Cherry, L.L.P., a Partnership
)
) Counsel of Record for these Parties:
)
) DENNIS J. ROMAN, ESQUIRE
) Pa. I.D. # 36904
)
) GROGAN GRAFFAM MCGINLEY, P.C.
) Firm I.D. No. 072
) Three Gateway Center
) 22nd Floor
) Pittsburgh, PA 15222
) (412) 553-6300
)
) 20200/17073

FILED

SEP 27 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

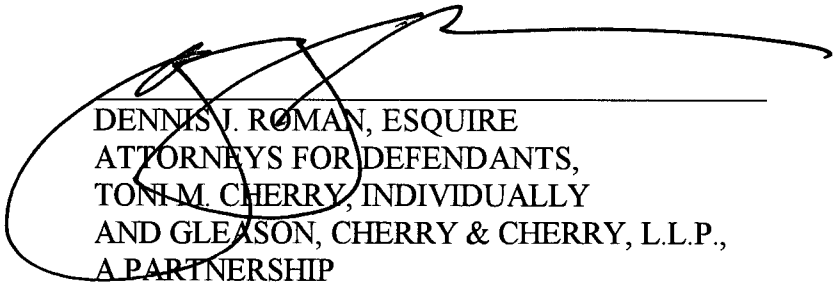
LINDA E. HOFFMAN,	)	CIVIL ACTION
)	
Plaintiff,	)	No. 00-96-CD
)	
v.)	
)	
TONI M. CHERRY, individually, and)	
GLEASON, CHERRY and CHERRY,)	
L.L.P., a Partnership,)	
)	
Defendants.)	
)	

PRAECIPE FOR RULE TO FILE COMPLAINT

TO: PROTHONOTARY

Kindly issue a Rule upon plaintiff to file a Complaint in this action within twenty (20) days.

GROGAN GRAFFAM MCGINLEY, P.C.



DENNIS J. ROMAN, ESQUIRE
ATTORNEYS FOR DEFENDANTS,
TONI M. CHERRY, INDIVIDUALLY
AND GLEASON, CHERRY & CHERRY, L.L.P.,
A PARTNERSHIP

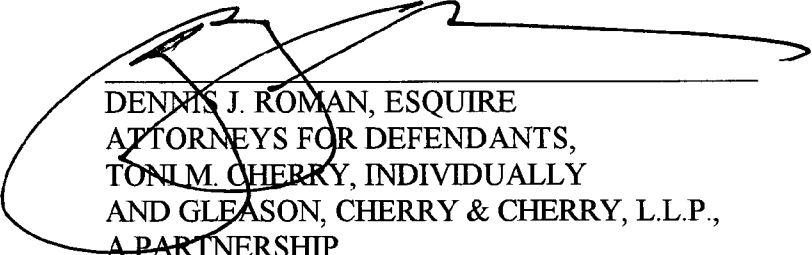
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praecipe for Appearance was served upon the following counsel of record by United States Mail, first class, postage prepaid, this

25th day of September, 2001.

James E. Mahood
Wilder & Mahood
10th Floor, Koppers Building
Pittsburgh, PA 15219

GROGAN GRAFFAM MCGINLEY, P.C.



DENNIS J. ROMAN, ESQUIRE
ATTORNEYS FOR DEFENDANTS,
TONI M. CHERRY, INDIVIDUALLY
AND GLEASON, CHERRY & CHERRY, L.L.P.,
A PARTNERSHIP

FILED

SEP 27 2001

William A. Shaw
Notary Public

to City Korean
City

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

Linda E. Hoffman

Vs.
Toni M. Cherry, individually and
Gleason, Cherry and Cherry, LLP,
a Partnership

Case No. #2000-00096-CD

RULE TO FILE COMPLAINT

TO: Linda E. Hoffman

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within twenty (20) days from service hereof, or a judgment of non pros may be entered against you.

William A. Shaw, Prothonotary

Dated: September 27, 2001

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,
Plaintiff

vs.

TONI M. CHERRY
and
GLEASON, CHERRY AND CHERRY,
L.L.P.

Defendants

CIVIL DIVISION

No. 00-96-CD

Code:

COMPLAINT IN CIVIL ACTION

Counsel of Record for this Party:

James E. Mahood
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

ORIGINAL

FILED

NOV 07 2001

William A. Shaw
Prothonotary

(#10)

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that, if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

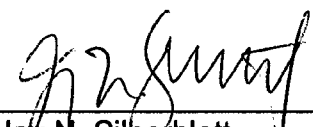
YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU SHOULD NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**LAWYER REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET
P.O. BOX 186
HARRISBURG, PA 17108
1-800-692-7375**

WILDER & MAHOOD, P.C.

By  _____
James E. Mahood

SILBERBLATT MERMELSTEIN, P.C.

By  _____
Jay N. Silberblatt
Attorneys for Plaintiff

COMPLAINT IN CIVIL ACTION

1. Plaintiff is an adult individual and a resident of DuBois, County of Clearfield and Commonwealth of Pennsylvania.

2. Defendant, Toni M. Cherry, is an adult individual and a resident of the County of Clearfield and Commonwealth of Pennsylvania, having been duly admitted to the practice of law before the courts of the Commonwealth of Pennsylvania.

3. At the time of the events hereinafter set forth, Defendant, Toni M. Cherry, Esquire practiced law in the Commonwealth of Pennsylvania, with a law office located at One North Franklin Street, in DuBois, County of Clearfield and Commonwealth of Pennsylvania, and at all times material hereto held herself out to the Plaintiff as an attorney duly licensed and able to practice law in the courts of the Commonwealth of Pennsylvania

4. Defendant, Gleason, Cherry and Cherry, L.L.P., is a law firm that maintains offices at One North Franklin Street in DuBois, County of Clearfield and Commonwealth of Pennsylvania.

5. The Defendant, Gleason, Cherry and Cherry, L.L.P., is engaged in the business of providing legal services to members of the general public desiring such services, including divorces, domestic relations and related matters.

6. At all times pertinent hereto, the Defendant, Gleason, Cherry and Cherry, L.L.P., was acting by and through its agents, servants or employees, who were acting on the business of this Defendant and within the scope of their authority.

7. At all times pertinent hereto, the Defendant, Toni M. Cherry, was acting individually and on her own behalf, and/or as the agent, servant or employee of the Defendant, Gleason, Cherry and Cherry, L.L.P.

8. The Plaintiff entered into a contractual arrangement and a professional relationship with the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., wherein the Defendants agreed to render legal aid, assistance, advice, and representation to the Plaintiff with regard to a divorce from her husband, Robert E. Hoffman, and to reach a resolution of all ancillary claims, including an equitable distribution of marital assets.

9. When Plaintiff met with and retained the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., she advised them that the majority of the marital assets were under the control of her husband, Robert E. Hoffman.

10. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that the majority of the marital assets were under the control of her husband, Robert E. Hoffman.

11. When Plaintiff met with and retained the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., she advised them that her husband, Robert E. Hoffman, was a former Pennsylvania State Police officer and that he had been so employed during their marriage.

12. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that her husband, Robert E. Hoffman, was a former Pennsylvania State Police Officer and that he had been so employed during their marriage.

13. When Plaintiff met with and retained the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., she advised them that her husband, Robert E. Hoffman, was receiving a monthly retirement benefit from the Pennsylvania State Employees' Retirement System (SERS) as a result of his employment as a Pennsylvania State Police Officer during his marriage to the Plaintiff.

14. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that her husband, Robert E. Hoffman, was receiving a monthly retirement benefit from the Pennsylvania State Employees' Retirement System (SERS) as a result of his employment as a Pennsylvania State Police Officer during his marriage to the Plaintiff.

15. During the course of the legal representation that the Defendants provided to the Plaintiff, she told the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., she advised them that her husband, Robert E. Hoffman, had sole control over an IRA account with Equitable Insurance Company which had been funded with monies received from the aforementioned SERS retirement benefit earned during the marriage.

16. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that Robert E. Hoffman had sole control over an IRA account with Equitable Insurance Company.

17. When Plaintiff met with and retained the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., Plaintiff advised them that she and Robert E. Hoffman had been married on September 2, 1983.

18. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that she and Robert E. Hoffman had been married on September 2, 1983.

19. During the course of the legal representation that the Defendants provided to the Plaintiff, the Plaintiff told the Defendants that her husband, Robert E. Hoffman, was not in good health.

20. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that her husband, Robert E. Hoffman, was not in good health.

21. When Plaintiff met with and retained the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., she advised them that she was the beneficiary designated to receive the death benefit on her husband's retirement account with the Pennsylvania State Employees' Retirement System (SERS).

22. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have

known, that the Plaintiff was the beneficiary designated to receive the death benefit of her husband's retirement account with the Pennsylvania State Employees' Retirement System (SERS).

23. Plaintiff advised Defendants that she was the beneficiary designated to receive the proceeds of her husband's IRA account with Equitable Insurance Company.

24. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that she was the beneficiary designated to receive the proceeds of her husband's IRA account with the Equitable Insurance Company.

25. As a result of the employment of Plaintiff's husband, Robert E. Hoffman, by the Commonwealth of Pennsylvania and his participation in the Pennsylvania State Employees' Retirement System (SERS), Plaintiff's husband did not contribute to the Federal Social Security System and was not entitled to any Social Security benefits upon his retirement, nor was his wife, Plaintiff herein, entitled to collect any benefits from the Social Security Administration either as the retired wife of Robert E. Hoffman or as his widow, in the event of his death.

26. The retirement benefits provided for Plaintiff's husband, Robert E. Hoffman, by the Pennsylvania State Employees' Retirement System (SERS) were in lieu of all other retirement benefits, including Social Security and were earned during the marriage and were accumulated, in part, by contributions that Robert E. Hoffman, Plaintiff's husband, made during the time that he was married to and living with Plaintiff.

27. The Pennsylvania State Employees' Retirement System (SERS) plan maintained by Plaintiff's husband, Robert E. Hoffman, constituted an asset in which the Plaintiff had a marital property interest and was otherwise subject to equitable distribution.

28. The IRA account maintained by Plaintiff's husband, Robert E. Hoffman, with Equitable Insurance Company constituted an asset in which the Plaintiff had a marital property interest and was otherwise subject to equitable distribution.

29. The Plaintiff had asserted ancillary economic claims in her domestic litigation in the Court of Common Pleas of Clearfield County, including claims for support, alimony pendente lite, and alimony, for which claims the aforementioned SERS benefits and the Equitable Insurance Company IRA account and Plaintiff's survivors claims thereto were available as security.

30. During the pendency of Plaintiff's domestic litigation in the Court of Common Pleas of Clearfield County, the Defendants did not seek the husband's consent or otherwise petition the Court for an order to maintain the status quo with regard to the retirement account of Robert E. Hoffman, Plaintiff's husband, with the Pennsylvania State Employees' Retirement System (SERS) to prevent the Plaintiff's husband from dissipating the account or from changing the beneficiary thereof.

31. During the pendency of Plaintiff's domestic litigation in the Court of Common Pleas of Clearfield County, the Defendants did not seek the husband's consent or otherwise petition the Court for an order to maintain the status quo with

regard to the IRA account with Equitable Insurance Company to prevent the Plaintiff's husband from dissipating the account or from changing the beneficiary thereof.

32. On or about December 3, 1997, the Plaintiff's husband, Robert E. Hoffman, changed the beneficiary on his retirement account with the Pennsylvania State Employees' Retirement System (SERS).

33. Shortly prior to his death, the Plaintiff's husband, Robert E. Hoffman changed the beneficiary on the IRA account that he maintained with Equitable Insurance Company.

34. On January 30, 1998, Plaintiff's husband, Robert E. Hoffman died.

35. The death benefit on Plaintiff's husband's retirement account with the Pennsylvania State Employees' Retirement System (SERS) was in the amount of Four Hundred Fifty-two Thousand Seven Hundred Thirty-Eight and 42/100 (\$452,738.42) Dollars.

36. The death benefit on Plaintiff's husband's IRA account with Equitable Insurance Company policy at the time of the death of Plaintiff's husband, Robert E. Hoffman, was in the amount of Fifty-one Thousand Six Hundred Eighty-eight and 36/100 (\$51,688.36) Dollars.

37. Defendants knew, or should have known, that Plaintiff's husband's retirement account with the Pennsylvania State Employees' Retirement System (SERS) was under the exclusive and sole control of Robert E. Hoffman, Plaintiff's husband, including the right at any and all times to change the beneficiary thereof.

38. Defendants knew, or should have known, that Plaintiff's husband's IRA account with Equitable Insurance Company was under the exclusive and sole control of Robert E. Hoffman, Plaintiff's husband, including the right at any and all times to change the beneficiary thereof.

39. Upon the death of Plaintiff's husband, Robert E. Hoffman, Plaintiff did not receive the death benefit nor did she receive any of the proceeds of her husband's retirement account with the Pennsylvania State Employees' Retirement System (SERS).

40. Upon the death of Plaintiff's husband, Robert E. Hoffman, Plaintiff did not receive the death benefit nor did she receive any proceeds from his IRA account with Equitable Insurance Company.

41. The Defendants did not take any action prior to the death of Plaintiff's husband, Robert E. Hoffman, to prevent Robert E. Hoffman, from changing the beneficiary on his retirement account with the Pennsylvania State Employees' Retirement System (SERS).

42. The Defendants did not take any action prior to the death of Plaintiff's husband, Robert E. Hoffman, to prevent Robert E. Hoffman from changing the beneficiary on the Equitable Insurance Company IRA account.

43. Prior to the death of Plaintiff's husband, Robert E. Hoffman, Defendants did not seek or otherwise obtain an injunction, a freeze order, a domestic relations order, an order maintaining the status quo, a consent order, or any other appropriate judicial intervention to prevent Plaintiff's husband, Robert E. Hoffman, from removing

Plaintiff as the beneficiary on his retirement account with the Pennsylvania State Employees' Retirement System (SERS).

44. Prior to the death of Plaintiff's husband, Robert E. Hoffman, Defendants did not seek or otherwise obtain an injunction, a freeze order, a domestic relations order, an order maintaining the status quo, a consent order, or any other appropriate judicial intervention to prevent Plaintiff's husband, Robert E. Hoffman, from removing Plaintiff as the beneficiary of the proceeds of the husband's IRA account with Equitable Insurance Company.

COUNT I

LINDA E. HOFFMAN vs. TONI M. CHERRY

45. All of the resultant losses and damages sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, Toni M. Cherry, Esquire, individually and/or as the agent, servant or employee of the Defendant, Gleason, Cherry and Cherry, L.L.P., acting by and through its agents, servants or employees, and each of them, in failing to properly represent and properly advise the Plaintiff, generally and in the following particulars:

- a. In failing to exercise that degree of care, skill and foresight required of this Defendant who held herself out to the Plaintiff as having expertise in the legal field with particular reference to advice pertaining to domestic relations matters; and/or

- b. In failing to fully and thoroughly investigate and research the applicable laws, court rules and guidelines pertaining to remedies available in order to prevent parties from dissipating assets in a domestic relations matter; and/or
- c. In failing to provide adequate and proper legal advice, aid, assistance, counseling and services to the Plaintiff in protecting the assets available for equitable distribution, taking into consideration the type of assets available solely in the name of Plaintiff's husband, Robert E. Hoffman, and the background of the parties; and/or
- d. In failing to fulfill the expectations of the Plaintiff who relied upon this Defendant's legal knowledge, skill and expertise in domestic relations matters; and/or
- e. In failing to take timely and proper action to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS), when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over those funds; and/or
- f. In failing to take timely and proper action to protect the rights of the Plaintiff as the designated beneficiary of the proceeds of the Equitable Insurance Company IRA that belonged to Plaintiff's husband, Robert E. Hoffman; and/or
- g. In failing to request or otherwise obtain an injunction to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS), when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over those funds; and/or
- h. In failing to request or otherwise obtain an injunction to protect the rights of the Plaintiff as the beneficiary of the Equitable Insurance Company IRA that belonged to Plaintiff's husband, Robert E. Hoffman, when this Defendant knew or should have known that Robert E. Hoffman had

sole, exclusive and complete control over that account;
and/or

- i. In failing to obtain a freeze order or an order maintaining the status quo to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS) and as security for Plaintiff's ancillary claims for support, alimony pendente lite, and alimony, when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over those funds; and/or
- j. In failing to obtain a freeze order or an order maintaining the status quo to protect the rights of the Plaintiff as the designated beneficiary on the Equitable Insurance Company IRA account of the Plaintiff's husband, Robert E. Hoffman, and as security for Plaintiff's ancillary claims for support, alimony pendente lite, and alimony, when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over that account; and/or
- k. In failing to notify SERS of Plaintiff's pending domestic litigation and her property interest in her husband's SERS benefits or to otherwise obtain a domestic relations order so as to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS), when this Defendant knew or should have known that Plaintiff's husband, Robert E. Hoffman, had sole, exclusive and complete control over those funds; and/or
- l. In failing to notify Equitable Insurance Company of Plaintiff's pending domestic litigation and her property interest in her husband's IRA account or to otherwise obtain a domestic relations order so as to protect the rights of the Plaintiff as the designated beneficiary on the Equitable Insurance Company IRA account of the Plaintiff's husband, Robert E. Hoffman, when this Defendant knew or should have known that Plaintiff's husband, Robert E. Hoffman, had sole, exclusive and complete control over that account; and/or

- m. In failing to take timely and proper action to protect and preserve the assets available to pay the Plaintiff when this Defendant knew or should have known that Plaintiff's husband, Robert E. Hoffman, was not in good health; and/or
- n. In failing to properly represent Plaintiff in a claim against Plaintiff's husband, Robert E. Hoffman, for equitable distribution of marital assets; and/or
- o. In undertaking to represent Plaintiff in a domestic relations matter and in failing to do so in a workmanlike manner; and/or
- p. In failing to file the necessary documents in order to properly represent Plaintiff in her claim for equitable distribution of the marital assets; and/or
- q. In lulling Plaintiff into a false sense of security; and/or
- r. In ignoring Plaintiff's requests to take action that would protect her rights to an equitable distribution of marital property, including the SERS retirement plan and the Equitable Insurance Company IRA; and/or
- s. In abandoning Plaintiff when she was in need of help and advice; and/or
- t. In failing to keep Plaintiff advised of developments; and/or
- u. In failing to obtain a prompt adjudication of Plaintiff's divorce and Plaintiff's ancillary claims, including equitable distribution, and in failing to promptly follow through to conclusion a settlement of Plaintiff's domestic relations matters; and/or
- v. In otherwise failing to meet the standards and requirements imposed upon this Defendant as a member of the legal profession and as an attorney holding herself out to have a degree of expertise in the domestic relations field; and/or

- w. In failing to allocate a sufficient amount of time to perform legal services and to otherwise represent the interests of the Plaintiff; and/or
- x. In failing to advise and otherwise warn the Plaintiff of the risks associated with failing to maintain the status quo pending equitable distribution; and/or
- z. In failing to advise and otherwise warn the Plaintiff of the risks associated with failing to prevent the husband from changing beneficiary on his SERS retirement account and his Equitable Insurance Company IRA account; and/or
- aa. In failing to plan for the possibility that Plaintiff's husband might die during the pendency of Plaintiff's domestic litigation and in failing to advise the Plaintiff of what might happen to Plaintiff's rights to equitable distribution and her rights in the SERS retirement account and the Equitable Insurance Company IRA account in such an event.

46. As a direct and proximate result of the negligence of the Defendant, Toni M. Cherry, Esquire, Plaintiff sustained economic loss, including the loss of the death benefit available on the retirement account of Robert E. Hoffman with the Pennsylvania State Employees' Retirement System (PSERS) and counsel fees and expenses.

47. As a direct and proximate result of the negligence of the Defendant, Toni M. Cherry, Esquire, Plaintiff sustained economic loss, including the loss of the proceeds of the IRA account with Equitable Insurance Company.

WHEREFORE, Plaintiff claims of the Defendant, Toni M. Cherry, Esquire, damages in a sum in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS.

COUNT II

LINDA E. HOFFMAN vs. GLEASON, CHERRY AND CHERRY, L.L.P.

48. Linda E. Hoffman, Plaintiff herein incorporates by reference paragraphs 1 through 44, inclusive, with the same force and effect as though set forth at length herein.

49. All of the resultant losses and damages sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, Gleason, Cherry and Cherry, L.L.P., acting by and through its agents, servants or employees, in failing to properly represent and properly advise the Plaintiff, generally and in the following particulars:

- a. In failing to exercise that degree of care, skill and foresight required of this Defendant which held itself out to the Plaintiff as having expertise in the legal field with particular reference to advice pertaining to domestic relations matters; and/or
- b. In failing to fully and thoroughly investigate and research the applicable laws, court rules and guidelines pertaining to remedies available in order to prevent parties from dissipating assets in a domestic relations matter; and/or
- c. In failing to provide adequate and proper legal advice, aid, assistance, counseling and services to the Plaintiff in protecting the assets available for equitable distribution, taking into consideration the type of assets available solely in the name of Plaintiff's husband, Robert E. Hoffman, and the background of the parties; and/or
- d. In failing to fulfill the expectations of the Plaintiff who relied upon this Defendant's legal knowledge, skill and expertise in domestic relations matters; and/or
- e. In failing to take timely and proper action to protect the rights of the Plaintiff to the death benefit available on the retirement

account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS), when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over those funds; and/or

- f. In failing to take timely and proper action to protect the rights of the Plaintiff as the designated beneficiary of the proceeds of the Equitable Insurance Company IRA that belonged to Plaintiff's husband, Robert E. Hoffman; and/or
- g. In failing to request or otherwise obtain an injunction to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS), when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over those funds; and/or
- h. In failing to request or otherwise obtain an injunction to protect the rights of the Plaintiff as the beneficiary of the Equitable Insurance Company IRA that belonged to Plaintiff's husband, Robert E. Hoffman, when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over that account; and/or
- i. In failing to obtain a freeze order or an order maintaining the status quo to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS) and as security for Plaintiff's ancillary claims for support, alimony pendente lite, and alimony, when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over those funds; and/or
- j. In failing to obtain a freeze order or an order maintaining the status quo to protect the rights of the Plaintiff as the designated beneficiary on the Equitable Insurance Company IRA account of the Plaintiff's husband, Robert E. Hoffman and as security for Plaintiff's ancillary claims for support, alimony pendente lite, and alimony, when this Defendant

knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over that account; and/or

- k. In failing to notify SERS of Plaintiff's pending domestic litigation and her property interest in her husband's SERS benefits or to otherwise obtain a domestic relations order so as to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS), when this Defendant knew or should have known that Plaintiff's husband, Robert E. Hoffman, had sole, exclusive and complete control over those funds; and/or
- l. In failing to notify Equitable Insurance Company of Plaintiff's pending domestic litigation and her property interest in her husband's IRA account or to otherwise obtain a domestic relations order so as to protect the rights of the Plaintiff as the designated beneficiary on the Equitable Insurance Company IRA account of the Plaintiff's husband, Robert E. Hoffman, when this Defendant knew or should have known that Plaintiff's husband, Robert E. Hoffman, had sole, exclusive and complete control over that account; and/or
- m. In failing to take timely and proper action to protect and preserve the assets available to pay the Plaintiff when this Defendant knew or should have known that Plaintiff's husband, Robert E. Hoffman, was not in good health; and/or
- n. In failing to properly represent Plaintiff in a claim against Plaintiff's husband, Robert E. Hoffman, for equitable distribution of marital assets; and/or
- o. In undertaking to represent Plaintiff in a domestic relations matter and in failing to do so in a workmanlike manner; and/or
- p. In failing to file the necessary documents in order to properly represent Plaintiff in her claim for equitable distribution of the marital assets; and/or
- q. In lulling Plaintiff into a false sense of security; and/or

- r. In ignoring Plaintiff's requests to take action that would protect her rights to an equitable distribution of marital property, including the SERS retirement plan and the Equitable Insurance Company IRA; and/or
- s. In abandoning Plaintiff when she was in need of help and advice; and/or
- t. In failing to keep Plaintiff advised of developments; and/or
- u. In failing to obtain a prompt adjudication of Plaintiff's divorce and Plaintiff's ancillary claims, including equitable distribution, and in failing to promptly follow through to conclusion a settlement of Plaintiff's domestic relations matters; and/or
- v. In otherwise failing to meet the standards and requirements imposed upon this Defendant as members of the legal profession and as a law firm holding itself out to have a degree of expertise in the domestic relations field; and/or
- w. In failing to allocate a sufficient amount of time to perform legal services and to otherwise represent the interests of the Plaintiff; and/or
- x. In failing to advise and otherwise warn the Plaintiff of the risks associated with failing to maintain the status quo pending equitable distribution; and/or
- z. In failing to advise and otherwise warn the Plaintiff of the risks associated with failing to prevent the husband from changing beneficiary on his SERS retirement account and his Equitable Insurance Company IRA account; and/or
- aa. In failing to plan for the possibility that Plaintiff's husband might die during the pendency of Plaintiff's domestic litigation and in failing to advise the Plaintiff of what might happen to Plaintiff's rights to equitable distribution and her rights in the PSERS retirement account and the Equitable Insurance Company IRA account in such an event.

50. As a direct and proximate result of the negligence of the Defendant, Gleason, Cherry and Cherry, L.L.P., Plaintiff sustained economic loss, including the loss of the death benefit available on the retirement account of Robert E. Hoffman with the Pennsylvania State Employees' Retirement System (SERS) and counsel fees and expenses.

51. As a direct and proximate result of the negligence of the Defendant, Gleason, Cherry and Cherry, L.L.P., Plaintiff sustained economic loss, including the loss of the proceeds of the IRA account with Equitable Insurance Company.

WHEREFORE, Plaintiff claims of the Defendant, Gleason, Cherry and Cherry, L.L.P., damages in a sum in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS.

JURY TRIAL DEMANDED

WILDER & MAHOOD, P.C.

By


James E. Mahood

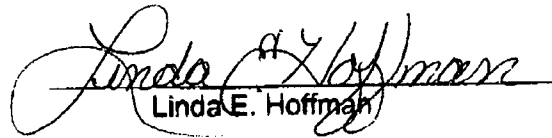
SILBERBLATT MERMELSTEIN, P.C.

By


Jay N. Silberblatt

VERIFICATION

I verify that the statements made in this Complaint are true and correct to the best of my knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


Linda E. Hoffmann

Dated:

November 5, 2001

Certificate of Service

I hereby certify that a copy of the foregoing Complaint was served upon the person
and on the date and manner below indicated:

FIRST CLASS MAIL
Dennis J. Roman, Esq,
Grogan, Graffam, McGinley, P.C.
Three Gateway Center
22nd Floor
Pittsburgh, Pa. 15219

11/6/01 Date


James E. Mahood, Esq.
Attorney for Plaintiff

FILED

NOV 07 2001

m / 3:45 / us

William A. Shaw

Prothonotary

NO CONF COPIES



WAT OF SUMMER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LINDA HOFFMAN,

Plaintiff,

v.

TONI M. CHERRY, individually, and
GLEASON, CHERRY and CHERRY,
L.L.P., a Partnership,

Defendants.

) CIVIL ACTION

) No. 00-96-CD

) ANSWER AND NEW MATTER

) Filed on behalf of defendants, Toni M.
) Cherry, individually and Gleason, Cherry &
) Cherry, L.L.P., a Partnership

) Counsel of Record for these Parties:

) DENNIS J. ROMAN, ESQUIRE
) Pa. I.D. # 36904

) GROGAN GRAFFAM, P.C.
) Firm I.D. No. 072
) Three Gateway Center
) 22nd Floor
) Pittsburgh, PA 15222
) (412) 553-6300

) 20200/17073

FILED

FEB 01 2002

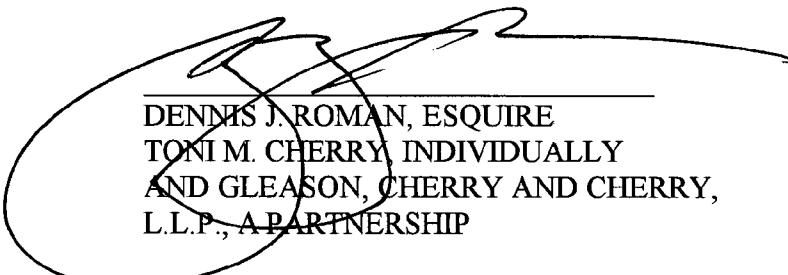
William A. Shaw
Prothonotary

NOTICE TO PLEAD

To: Plaintiff

You are hereby notified to file a written response to the enclosed Answer and New Matter within twenty (20) days from service hereof or a judgment may be entered against you.

GROGAN GRAFFAM, P.C.



DENNIS J. ROMAN, ESQUIRE
TONI M. CHERRY INDIVIDUALLY
AND GLEASON, CHERRY AND CHERRY,
L.L.P., A PARTNERSHIP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,	)	CIVIL ACTION
)	
Plaintiff,	)	No. 00-96-CD
)	
v.)	
)	
TONI M. CHERRY, individually, and)	
GLEASON, CHERRY and CHERRY,)	
L.L.P., a Partnership,)	
)	
Defendants.)	
)	

ANSWER AND NEW MATTER

Defendants, TONI M. CHERRY, individually, and GLEASON, CHERRY AND CHERRY, L.L.P., a partnership (“collectively “attorney-defendants”), by their attorneys, GROGAN GRAFFAM, P.C., set forth the following Answer and New Matter:

1. Admitted in part and denied in part. It is admitted that plaintiff is an adult individual. The remaining averments are denied. To the contrary, it is believed that plaintiff is a resident of Sandy Township, Clearfield County, Pennsylvania, and not a resident of DuBois.

2. Admitted.

3. Admitted in part and denied in part. Paragraph 3 is denied insofar as it alleges that defendant Toni M. Cherry, Esquire (“Attorney Cherry”) “held herself out” to plaintiff in the fashion described as that phrase is vague and ambiguous. The balance of Paragraph 3 is admitted.

4. Admitted.

5. Admitted in part and denied in part. Paragraph 5 is denied insofar as it alleges that Gleason, Cherry and Cherry, L.L.P. ("the Cherry Firm") provided legal services on "related matters" as that phrase is vague and ambiguous. The balance of Paragraph 5 is admitted.

6. Admitted.

7. Admitted.

8. Denied as stated. To the contrary, Attorney Cherry and the Cherry Firm entered into a contractual relationship with plaintiff on or about September 20, 1995, which retention was the subject of a written engagement letter memorializing the scope, terms and conditions of the engagement. Attorney Cherry and the Cherry Firm incorporate by reference such engagement letter, which speaks for itself, a copy of which is attached as Exhibit "1".

9. Admitted in part and denied in part. It is admitted that plaintiff met with Attorney Cherry on September 20, 1995 and that plaintiff retained Attorney Cherry, and Attorney Cherry and the Cherry Firm agreed to represent plaintiff's interests, based upon the scope, terms and conditions set forth in a written engagement letter dated September 20, 1995. A copy of such engagement letter is attached as Exhibit "1" and incorporated by reference. It is denied that plaintiff ever advised attorney-defendants that the "majority of the marital assets were under the control of [plaintiff's] husband, Robert E. Hoffman".

10. Denied. By way of further response, attorney-defendants incorporate by reference Paragraph 9 of this Answer.

11. Admitted.

12. Admitted in part and denied in part. It is admitted that, based upon information supplied by plaintiff on or about September 20, 1995, Attorney Cherry knew that plaintiff's husband, Robert E. Hoffman, was a former Pennsylvania State Police Officer and that he had

been employed in that capacity during their marriage. All remaining and/or contrary averments of Paragraph 12 are denied.

13. Denied as stated. To the contrary, when plaintiff met with and retained attorney-defendants on September 20, 1995, plaintiff advised Attorney Cherry that her husband, Robert E. Hoffman, had a "pension". Attorney Cherry also learned that plaintiff's husband was receiving a monthly retirement benefit from the Pennsylvania State Employees' Retirement System ("SERS") as a result of his former employment as a Pennsylvania State Police Officer. All remaining and/or contrary averments of Paragraph 13 are denied.

14. Denied as stated. Attorney-defendants incorporate by reference Paragraph 13 of this Answer.

15. Denied as stated. It is denied that plaintiff, during the course of attorney-defendants' legal representation of her interests, told or advised attorney-defendants that her husband had sole control over an IRA account with Equitable Insurance Company ("Equitable IRA") which had "been funded with monies received from the aforementioned SERS retirement benefit earned during the marriage". To the contrary, during the initial consultation with plaintiff, Attorney Cherry learned that there existed an IRA. Thereafter, plaintiff referred to this asset as the one that had been rolled over as "our stocks". Attorney Cherry was also informed that such stocks were in a joint account held by plaintiff and Robert E. Hoffman.

16. Denied as stated. Attorney-defendants incorporate by reference Paragraph 15 of this Answer. By way of further response, it was not until after the death of Robert E. Hoffman that Attorney Cherry learned that there existed the Equitable IRA in the sole name of Robert E. Hoffman.

17. Denied as stated. To the contrary, on September 20, 1995, when plaintiff met with Attorney Cherry and retained attorney-defendants, plaintiff advised Attorney Cherry that she had been married to Robert E. Hoffman since September 2, 1983. All remaining and/or contrary averments of Paragraph 17 are denied.

18. Denied as stated. Attorney-defendants incorporate by reference Paragraph 17 of this Answer.

19. Denied.

20. Denied.

21. Denied as stated. To the contrary, on September 20, 1995, when plaintiff met Attorney Cherry and retained attorney-defendants, or sometime shortly thereafter, plaintiff advised Attorney Cherry that she was the beneficiary designated to receive death benefits of her husband's SERS retirement account.

22. Denied as stated. Attorney-defendants incorporate by reference Paragraph 21 of this Answer.

23. Denied. By way of further response, attorney-defendants incorporate by reference Paragraphs 15 and 16 of this Answer.

24. Denied as stated. Attorney-defendants incorporate by reference Paragraphs 15, 16 and 23 of this Answer.

25. The averments set forth in Paragraph 25 are conclusions of law to which no responsive pleading is required. To the extent a response is necessary, such averments are admitted in part and denied in part. It is admitted that Attorney Cherry knew, during the course of her representation of plaintiff's interests, that plaintiff's husband did not contribute to the federal Social Security system and was not entitled to any Social Security benefits upon his

retirement. All remaining and/or contrary averments of Paragraph 25 are denied. By way of further response, Attorney Cherry knew that plaintiff was employed and did contribute to the Social Security system, in addition to having her own pension.

26. Denied as stated. It is believed that only a portion of Robert E. Hoffman's SERS retirement benefits were accumulated during the period he was married to and living with plaintiff. It is admitted that the SERS retirement benefits were in lieu of Social Security retirement benefits. All remaining and/or contrary averments of Paragraph 26 are denied.

27. The averments set forth in Paragraph 27 are conclusions of law to which no responsive pleading is required. To the extent a response is necessary, such averments are denied.

28. The averments set forth in Paragraph 28 are conclusions of law to which no responsive pleading is required. To the extent that a response is necessary, such averments are denied.

29. The averments set forth in Paragraph 29 are conclusions of law to which no responsive pleading is required. To the extent a response is necessary, it is denied that plaintiff asserted any claim other than one for spousal support in the domestic relations litigation filed in Court of Common Pleas of Clearfield County, Pennsylvania. All remaining and/or contrary averments of Paragraph 29 are denied.

30. Admitted. By way of further response, plaintiff informed Attorney Cherry that her husband had listed her as beneficiary of the SERS retirement account and that he would never seek to change her as named beneficiary on the account. Furthermore, to attorney-defendants' knowledge, plaintiff's husband did not "dissipate" the SERS retirement account, nor would have been entitled to "dissipate" such account. Finally, it is denied that, had a petition

been filed with the Court of Common Pleas of Clearfield County “to maintain the status quo with regard to the [SERS] retirement account”, an Order would have been issued by the Court to such effect, and proof to the contrary is demanded.

31. Admitted. By way of further response, attorney-defendants incorporate by reference Paragraphs 15 and 16 of this Answer. In addition, plaintiff’s husband did not “dissipate” the Equitable IRA, nor would have been entitled to “dissipate” such IRA. It is also denied that, had a petition been filed with the Court of Common Pleas of Clearfield County “to maintain the status quo with regard to the IRA account,” an Order would have been issued by the Court to such effect, and proof to the contrary is demanded. Finally, during the course of Attorney Cherry’s representation, plaintiff was adamant that her husband would never remove plaintiff’s name from any asset held by her husband.

32. Admitted. By way of further response, attorney-defendants had no knowledge of the change in beneficiary on the SERS retirement account until after the death of Robert E. Hoffman.

33. Admitted. By way of further response, attorney-defendants had no knowledge of the change in beneficiary on the Equitable IRA until after the death of Robert E. Hoffman.

34. Admitted.

35. After reasonable investigation, attorney-defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth in Paragraph 35 and those averments are therefore denied.

36. After reasonable investigation, attorney-defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth in Paragraph 36 and those averments are therefore denied.

37. Denied. Attorney-defendants incorporate by reference Paragraphs 9, 15, 16, 30 and 31 of this Answer.

38. Denied. Attorney-defendants incorporate by reference Paragraphs 9, 15, 16, 30 and 31 of this Answer.

39. Admitted.

40. Admitted.

41. Admitted. By way of further response, it is denied that had any "action" been taken by attorney-defendants prior to the death of Robert E. Hoffman, such action would have prevented Robert E. Hoffman from changing the beneficiary on his SERS retirement account, and proof to the contrary is demanded.

42. Admitted. By way of further response, it is denied that had attorney-defendants taken any "action" prior to the death of Robert E. Hoffman, such action would have prevented Robert E. Hoffman from changing the beneficiary on the Equitable IRA.

43. Admitted. By way of further response, it is denied that had attorney-defendants sought any of the Orders identified in Paragraph 43 prior to the death of Robert E. Hoffman, such Orders would have been entered by the Court of Common Pleas of Clearfield County, and proof to the contrary is demanded.

44. Admitted. By way of further response, it is denied that had attorney-defendants sought the Orders identified in Paragraph 44 prior to the death of Robert E. Hoffman, such Orders would have been entered by the Court of Common Pleas of Clearfield County, and proof to the contrary is demanded.

COUNT I

LINDA E. HOFFMAN v. TONI M. CHERRY

45 and 45a.-aa. Denied. To the contrary, attorney-defendants at all times acted in a reasonable, careful, proper and non-negligent manner and in strict accordance with their contractual duties and the applicable standard of care, given the information supplied by their client. At all times, attorney-defendants timely and properly undertook to represent the interests of the plaintiff. It is also denied that plaintiff has suffered any losses or damages. To the extent any losses or damages were sustained by plaintiff, which are denied, such losses and damages were not the direct or proximate result of any negligence on the part of attorney-defendants, either in general or in the particulars alleged in Paragraphs 45a through 45aa. Attorney-defendants incorporate by reference Paragraphs 1-44 of this Answer.

46. Denied. Attorney-defendants incorporate by reference Paragraph 45 of this Answer.

47. Denied. Attorney-defendants incorporate by reference Paragraph 45 of this Answer.

WHEREFORE, defendants Toni M. Cherry and Gleason, Cherry and Cherry, L.L.P. demand judgment in their favor with all costs and charges assessed to plaintiff.

COUNT II

LINDA E. HOFFMAN v. GLEASON, CHERRY AND CHERRY, L.L.P.

48. Attorney-defendants incorporate by reference Paragraphs 1-47 of this Answer.

49 and 49a.-aa. Denied. To the contrary, attorney-defendants at all times acted in a reasonable, careful, proper and non-negligent manner and in strict accordance with their

contractual duties and the applicable standard of care, given the information supplied by their client. At all times, attorney-defendants timely and properly undertook to represent the interests of the plaintiff. It is also denied that plaintiff has suffered any losses or damages. To the extent any losses or damages were sustained by plaintiff, which are denied, such losses and damages were not the direct or proximate result of any negligence on the part of attorney-defendants, either in general or in the particulars alleged in Paragraphs 49a through 49aa. Attorney-defendants incorporate by reference Paragraphs 1-48 of this Answer.

50. Denied. Attorney-defendants incorporate by reference Paragraph 49 of this Answer.

51. Denied. Attorney-defendants incorporate by reference Paragraph 49 of this Answer.

WHEREFORE, defendants Toni M. Cherry and Gleason, Cherry and Cherry, L.L.P. demand judgment in their favor with all costs and charges assessed to plaintiff.

NEW MATTER

52. Attorney-defendants incorporate by reference their responses and affirmative averments set forth in Paragraphs 1-51 of this Answer.

53. The Complaint fails to state any claims upon which relief may be granted under Pennsylvania law.

54. Plaintiff's claims are barred by the applicable statute of limitations.

55. This Court lacks subject matter jurisdiction to decide the issues of alleged liability and/or damages.

56. Plaintiff's claims are barred due to the absence of any duty owed by attorney-defendants, or the breach of any duty allegedly owed by attorney-defendants, as to the matters upon which plaintiff's Complaint is premised.

57. Plaintiff's claims are barred due to the absence of any actual loss or harm suffered by plaintiff attributable to the conduct of attorney-defendants.

58. Plaintiff's claims are barred due to the lack of any causal relationship between any alleged acts or omissions by attorney-defendants and any losses or damages allegedly sustained by plaintiff.

59. Plaintiff's claims are barred or diminished, in whole or in part, by plaintiff's contributory and/or comparative negligence.

60. Plaintiff's alleged losses and damages are a result of her own acts, omissions and other conduct.

61. Plaintiff's claims are barred by the exercise of informed judgment by attorney-defendants.

62. Plaintiff's claims are barred due to their speculative and conjectural nature as to both her substantive claims and any damages or losses allegedly flowing therefrom.

63. Plaintiff has waived and/or is estopped from asserting any claims against attorney-defendants.

64. Plaintiff's alleged loss and damages, if proven, should be set-off or credited by the value of any and all assets plaintiff received as a result of not being divorced from her former husband, Robert E. Hoffman.

65. Plaintiff's former husband, Robert E. Hoffman, was born on September 13, 1948 and was 48 years old when he died.

66. The death of Robert E. Hoffman was sudden and unexpected.

67. At the time that Robert E. Hoffman died, plaintiff did not know, nor should she have known, that he was suffering from any life-threatening conditions or diseases.

68. Alternatively, to the extent that plaintiff did know, or should have known, of any conditions or diseases of her husband, Robert E. Hoffman, which were life-threatening to him, plaintiff did not communicate such knowledge to attorney-defendants prior to her husband's death.

69. Plaintiff never advised attorney-defendants of any health problems that plaintiff had suffered or was suffering from during the period of their representation of plaintiff's interests.

70. The issue of whether of plaintiff was entitled to the entry of any Order, including an injunction Order, freeze Order, domestic relations Order, Order maintaining the status quo, or consent Order, preventing her husband from removing plaintiff as a beneficiary under his SERS retirement account, was one of first impression that had not been either addressed or decided by any Pennsylvania published case decision, prior to Robert E. Hoffman's death.

71. The issue of whether of plaintiff was entitled to the entry of any Order, including an injunction Order, freeze Order, domestic relations Order, an Order maintaining the status quo or consent Order, preventing plaintiff's husband, Robert E. Hoffman, from removing plaintiff as a beneficiary under the IRA, was one of first impression that had not been either addressed or decided by any Pennsylvania published case decision, prior to Robert E. Hoffman's death.

72. Prior to Robert E. Hoffman's death, plaintiff never communicated to attorney-defendants that her husband had changed her as named beneficiary of the Equitable IRA.

73. Prior to Robert E. Hoffman's death, plaintiff never communicated to attorney-defendants that her husband had changed her as named beneficiary of the SERS retirement account.

74. Prior to Robert E. Hoffman's death, plaintiff never communicated to attorney-defendants that she had reason to believe that Robert E. Hoffman would not otherwise keep plaintiff as named beneficiary on both the SERS retirement account and the Equitable IRA.

75. Prior to Robert E. Hoffman's death, plaintiff never advised attorney-defendants of any concern of her husband removing her as named beneficiary on the SERS retirement account or the Equitable IRA.

76. The losses and damages allegedly suffered by the plaintiff were due to intervening and superseding causes over which attorney-defendants had no control and for which attorney-defendants cannot be held legally responsible.

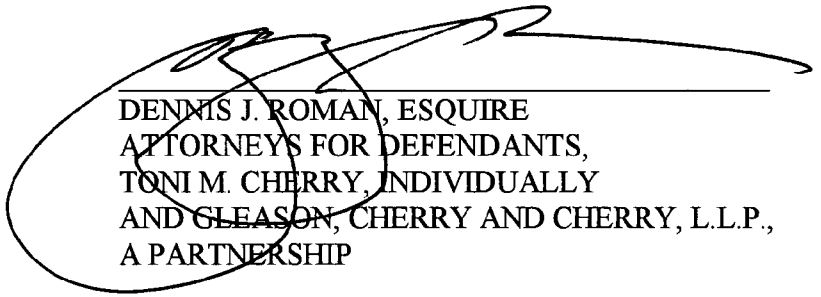
77. Plaintiff's losses and damages, if any, for any sums of money purportedly attributable to her loss of any future income stream, must be reduced to present value.

78. Plaintiff had her own pension as of September 20, 1995 and has maintained that pension through the present date.

79. Plaintiff was employed and did contribute to the Social Security system as of September 20, 1995 and thereafter, and is entitled to retirement benefits under the Social Security system.

WHEREFORE, defendants Toni M. Cherry and Gleason, Cherry and Cherry, L.L.P.
demand judgment in their favor with all costs and charges assessed to plaintiff.

GROGAN GRAFFAM, P.C.



DENNIS J. ROMAN, ESQUIRE
ATTORNEYS FOR DEFENDANTS,
TONI M. CHERRY, INDIVIDUALLY
AND GLEASON, CHERRY AND CHERRY, L.L.P.,
A PARTNERSHIP

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer and New Matter was served upon the following counsel of record by the following methods, this 30th day of January, 2002.

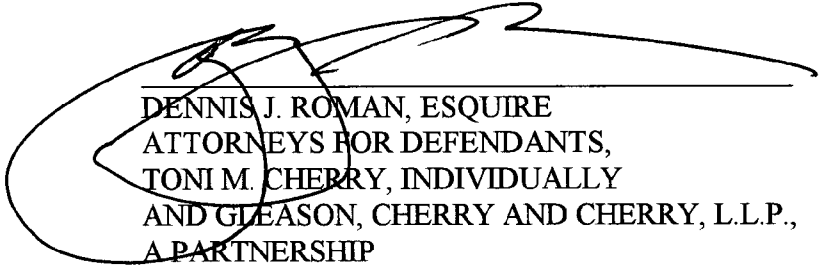
James A. Mahood
Wilder & Mahood
10th Floor, Koppers Building
Pittsburgh, PA 15219

(via first-class mail)

Jay N. Silverblatt, Esquire
Silverblatt Mermelstein, P.C.
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

(via hand delivery)

GROGAN GRAFFAM, P.C.



DENNIS J. ROMAN, ESQUIRE
ATTORNEYS FOR DEFENDANTS,
TONI M. CHERRY, INDIVIDUALLY
AND GLEASON, CHERRY AND CHERRY, L.L.P.,
A PARTNERSHIP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LINDA HOFFMAN,

Plaintiff,

v.

TONI M. CHERRY, individually, and
GLEASON, CHERRY and CHERRY,
L.L.P., a Partnership,

Defendants.

) CIVIL ACTION
)
) No. 00-96-CD
)
) **EXHIBIT "1" AND VERIFICATION TO**
) **ANSWER AND NEW MATTER**
)
) Filed on behalf of defendants, Toni M.
) Cherry, individually and Gleason, Cherry &
) Cherry, L.L.P., a Partnership
)
) Counsel of Record for these Parties:
)
) DENNIS J. ROMAN, ESQUIRE
) Pa. I.D. # 36904
)
) GROGAN GRAFFAM, P.C.
) Firm I.D. No. 072
) Three Gateway Center
) 22nd Floor
) Pittsburgh, PA 15222
) (412) 553-6300
)
) 20200/17073

FILED

FEB 04 2002

m / 10:00 / my

William A. Shaw
Prothonotary

No. C/C

[Signature]

#12

LAW OFFICES
GLEASON, CHERRY AND CHERRY, P.C.
P. O. Box 805
DuBois, PENNSYLVANIA 16801-0505
ONE NORTH FRANKLIN STREET

TONI M. CHERRY
PAULA M. CHERRY
EDWARD V. CHERRY
1950-1990
JAMES A. GLEASON
1946-1978

AREA CODE 814
371-8800
FAX NUMBER
(814) 371-0936

September 20, 1995

Mrs. Linda E. Hoffman
c/o Mr. William Powers
1208 South Brady Street
DuBois, PA 15801

In re: Fee Agreement

Dear Linda:

This letter is to serve as confirmation of our law firm's representation of you and clarification of the general basis upon which fees will be charged by our firm. You have paid a retainer this date of \$500.00 for our representation of you in your domestic matter. The retainer will be credited toward the overall fee in your case. Additional fees, if any, will depend primarily on the time, effort and costs incurred by our representation of you.

During the course of the particular matter for which representation has been accepted, if time and cost charges exceed the amount of the retainer, you will receive additional bills in accordance with our firm's policy, normally on a monthly basis. Each bill you receive will be fully itemized with respect to the time spent, work performed, and charges and costs incurred. It is understood that during the course of this representation our time will be kept at the then-prevailing hourly rate for the person performing the service, with minimum charges in six-minute intervals for all work performed. A minimum of .2 of an hour time charge for telephone conversations; there will be a minimum of .3 of an hour charge in connection with correspondence pertaining to your matter. You will be billed for travel time to and from court at the same rate as the other out-of-court charges. As I told you during our visit on this date, my hourly rate is presently \$100.00.

All bills submitted are to be paid promptly, but no later than thirty (30) days after submission. In the event we are required to institute any legal action for collection of fees or costs due us for services, we have a right also to receive reasonable attorney's fees and costs involved in bringing such action. We reserve the right to terminate our attorney/client relationship for non-payment of fees or costs.

EXHIBIT

tabbies

"1"

Mrs. Linda E. Hoffman
Page Two
September 20, 1995

We will keep you informed about the progress of your case. We will send you copies of all papers coming into and going out of this office, including correspondence, pleadings and other court documents. Your file will always be open for your inspection at any reasonable time. We always attempt to return all telephone calls promptly. If no one is available when you call, we will return your call as quickly as possible, but, under certain circumstances, we might have some delay in returning calls, particularly when preparing for or in trial in another case.

Every effort will be made to expedite your case promptly and efficiently according to the highest legal and ethical standards. However, it is impossible to predict the course that a domestic dispute and action for economic relief will take. Sometimes it expands into property questions and various forms of litigation, all of which you are retaining us to handle on your behalf. It is also impossible to determine in advance the amount of time that will be needed to complete your case. We will use our best judgment to determine the amount of time, who is to perform the work, and the nature of the services to be performed in your best interest. We will keep you as fully informed as possible of all the time devoted to your case by us.

You understand that we have made no guarantees about the disposition of any phase of this matter or matters for which we have been retained, as all statements made by us are only our opinions.

We previously discussed these matters with you in your initial consultation with us this date, but we wanted you to have the terms of our representation in this writing for your reference. We appreciate the opportunity to be of service to you.

Very truly yours,

GLEASON, CHERRY AND CHERRY, P.C.

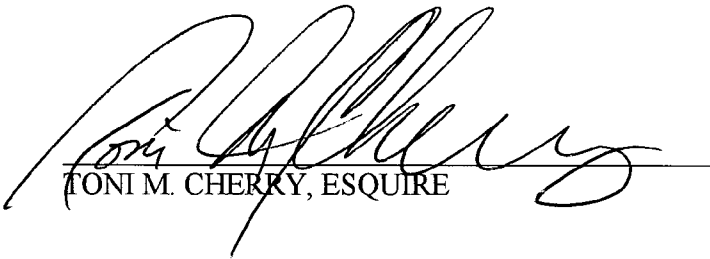
By _____
Toni M. Cherry

TMC:mls

VERIFICATION

I, Toni M. Cherry, Esquire, state that the foregoing Answer and New Matter is true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

DATE: January 30, 2002


TONI M. CHERRY, ESQUIRE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Exhibit "1" and Verification to Answer and New Matter was served upon the following counsel of record by the following methods, this 31st day of January, 2002.

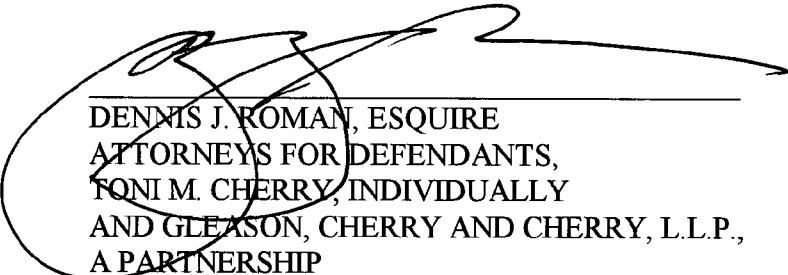
James A. Mahood
Wilder & Mahood
10th Floor, Koppers Building
Pittsburgh, PA 15219

(via first-class mail)

Jay N. Silberblatt, Esquire
Silberblatt Mermelstein, P.C.
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

(via first-class mail)

GROGAN GRAFFAM, P.C.



DENNIS J. ROMAN, ESQUIRE
ATTORNEYS FOR DEFENDANTS,
TONI M. CHERRY, INDIVIDUALLY
AND GLEASON, CHERRY AND CHERRY, L.L.P.,
A PARTNERSHIP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.

Defendants.

CIVIL DIVISION

NO. 00-96-CD

Code:

**PLAINTIFF'S REPLY TO DEFENDANTS'
NEW MATTER**

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

James E. Mahood, Esquire
Pa. I.D. #20403

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10th Floor Koppers Building
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412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

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Pittsburgh, PA 15219
412-232-0580

FILED

MAR 25 2002

M/11:18/10<<
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,
Plaintiff,
vs.

CIVIL DIVISION
NO. 00-96-CD

TONI M. CHERRY,
and
GLEASON, CHERRY AND CHERRY,
L.L.P.
Defendants.

**PLAINTIFF'S REPLY TO
DEFENDANTS' NEW MATTER**

AND NOW, comes the Plaintiff, by her attorneys, James E. Mahood, Esquire and Jay N. Silberblatt, Esquire, and present the within Reply to New Matter, and in pursuance thereof, respectfully represents as follows:

52. Plaintiff incorporates by reference the allegations contained in her Complaint as though more fully set forth at length herein.

53. The allegations contained in Paragraph 53 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial.

54. The allegations contained in Paragraph 54 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary,

the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. The Plaintiff specifically denies that her claims are barred by the applicable statute of limitations. By way of further answer, the Plaintiff claims that her cause of action was timely filed.

55. The allegations contained in Paragraph 55 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial.

56. The allegations contained in Paragraph 56 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. The Plaintiff incorporates by reference the allegations contained in her Complaint as though more fully set forth at length herein.

57. The allegations contained in Paragraph 57 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. The Plaintiff incorporates by reference the allegations contained in her Complaint as though more fully set forth at length herein.

58. The allegations contained in Paragraph 58 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. The Plaintiff incorporates by reference the allegations contained in her Complaint as though more fully set forth at length herein.

59. The allegations contained in Paragraph 59 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer, it is specifically denied that the Plaintiff's conduct contributed in any way to the damages that she sustained as more fully set forth in her Complaint.

60. The allegations contained in Paragraph 60 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer, it is specifically denied that the Plaintiff's conduct contributed in any way to the damages that she sustained as more fully set forth in her Complaint.

61. The allegations contained in Paragraph 61 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the

Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. It is specifically denied that the Plaintiff's claims are precluded due to the exercise of an informed judgment by the defendants. By way of further answer, the Plaintiff asserts that the Defendants' judgment was negligent and the Plaintiff incorporates by reference the allegations contained in her Complaint as though more fully set forth at length herein.

62. The allegations contained in Paragraph 62 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer, Plaintiff denies that her claims are speculative or conjectural in any way and she incorporates by reference the allegations contained in her Complaint as though more fully set forth at length herein.

63. The allegations contained in Paragraph 63 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. It is specifically denied that the Plaintiff has waived or is estopped from asserting the claims set forth in her Complaint.

64. The allegations contained in Paragraph 64 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the

Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. It is specifically denied that the Plaintiff's losses are subject to any set-off or credit as alleged in Defendants' New Matter.

65. Admitted.

66. The allegations contained in Paragraph 66 of the Defendants' New Matter are specifically denied and strict proof thereof is demanded at the time of trial. To the contrary, Robert E. Hoffman had suffered from an irregular heartbeat and had received medical treatment for heart problems for many years and the Plaintiff had specifically advised the Defendants of her husband's illness. By way of further answer, the death of Robert E. Hoffman was certainly a foreseeable risk, particularly given the condition of his health. Nonetheless, whether his death was or was not expected would not have altered the duties and obligations that the Defendants owed to the Plaintiff as are more fully set forth in Plaintiff's Complaint.

67. The allegations contained in Paragraph 67 of the Defendants' New Matter are specifically denied and strict proof thereof is demanded at the time of trial. To the contrary, Robert E. Hoffman had suffered from an irregular heartbeat and had received medical treatment for heart problems for many years and the Plaintiff had specifically advised the Defendants of her husband's illness. By way of further answer, the death of Robert E. Hoffman was certainly a foreseeable risk, particularly given the condition of his health. Nonetheless, whether his death was or was not expected would not have

the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial.

78. Admitted. By way of further answer, this fact is irrelevant to the allegations contained in Plaintiff's Complaint.


79. Admitted. By way of further answer, this fact is irrelevant to the allegations contained in Plaintiff's Complaint.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court to dismiss the Defendants' New Matter and enter judgment in favor of the Plaintiff and against the Defendants.

Respectfully submitted,

WILDER & MAHOOD, P.C.

BY


James E. Mahood

SILBERBLATT MERMELSTEIN, P.C.

BY


Jay N. Silberblatt

Attorneys for Plaintiff

altered the duties and obligations that the Defendants owed to the Plaintiff as are more fully set forth in Plaintiff's Complaint.

68. The allegations contained in Paragraph 68 of the Defendants' New Matter are specifically denied and strict proof thereof is demanded at the time of trial. To the contrary, Robert E. Hoffman had suffered from an irregular heartbeat and had received medical treatment for heart problems for many years and the Plaintiff had specifically advised the Defendants of her husband's illness. By way of further answer, the death of Robert E. Hoffman was certainly a foreseeable risk, particularly given the condition of his health. Nonetheless, whether his death was or was not expected would not have altered the duties and obligations that the Defendants owed the Plaintiff as are more fully set forth in Plaintiff's Complaint.

69. The allegations contained in Paragraph 69 of the Defendants' New Matter are specifically denied and strict proof thereof is demanded at the time of trial. To the contrary, Robert E. Hoffman had been ill for many years and the Plaintiff had specifically advised the Defendants of her husband's illness. By way of further answer, the death of Robert E. Hoffman was certainly a foreseeable risk, particularly given the condition of his health. Nonetheless, whether his death was or was not expected would not have altered the duties and obligations that the Defendants owed to the Plaintiff as are more fully set forth in Plaintiff's Complaint.

70. The allegations contained in Paragraph 70 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary,

the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer, it is specifically denied that the concept of an injunction, freeze Order, domestic relations Order or an Order maintaining the status quo was an issue of first impression in the Commonwealth of Pennsylvania. Indeed, various legal authorities, including, without limitation, the Pennsylvania Divorce Code, decisional case law, and the Rules of Civil Procedure provide numerous references to the availability of such remedies. Moreover, the standard of practice dictates that when all or a substantial portion of property or interests that are subject to the claims of a spouse are under the control of the other spouse, reasonable efforts must be taken to protect those claims and a failure to do so subjects the protectible claims of a party to a foreseeable and preventable risk of loss.

71. The allegations contained in Paragraph 71 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer, it is specifically denied that the concept of an injunction, freeze Order, domestic relations Order or an Order maintaining the status quo was an issue of first impression in the Commonwealth of Pennsylvania. Indeed, various legal authorities, including, without limitation, the Pennsylvania Divorce Code, decisional case law, and the Rules of Civil Procedure provide numerous references to the availability of such remedies. Moreover, the standard of practice dictates that when all or a substantial portion of property or interests that are subject to

the claims of a spouse are under the control of the other spouse, reasonable efforts must be taken to protect those claims and a failure to do so subjects the protectible claims of a party to a foreseeable and preventable risk of loss.

72. Admitted. Indeed, prior to Robert E. Hoffman's death, the Plaintiff was unaware that he had, in fact, removed her as the named beneficiary of the Equitable IRA. By way of further answer and as more fully set forth in Plaintiff's Complaint, it was the obligation of the Defendants to advise the Plaintiff that in the absence of an injunction, freeze Order or an Order maintaining the status quo, Robert E. Hoffman was capable of removing the Plaintiff as the named beneficiary on the SERS retirement account and the Equitable IRA and that such was a foreseeable risk that subjected the Plaintiff and her protectible interests to a preventible risk of loss.

73. Admitted. Indeed, prior to Robert E. Hoffman's death, the Plaintiff was unaware that he had, in fact, removed her as the named beneficiary of the SERS retirement account. By way of further answer and as more fully set forth in Plaintiff's Complaint, it was the obligation of the Defendant to advise the Plaintiff that in the absence of an injunction, freeze Order or an Order maintaining the status quo, Robert E. Hoffman was capable of removing the Plaintiff as the named beneficiary on the SERS retirement account and the Equitable IRA and that such was a foreseeable risk that subjected the Plaintiff and her protectible interests to a preventible risk of loss..

74. Admitted. By way of further answer and as more fully set forth in Plaintiff's Complaint, it was the obligation of the Defendant to advise the Plaintiff that in the absence of an injunction, freeze Order or an Order maintaining the status quo, Robert

E. Hoffman was capable of removing the Plaintiff as the named beneficiary on the SERS retirement account and the Equitable IRA and that such was a foreseeable risk that subjected the Plaintiff and her protectible interests to a preventible risk of loss.

75. Admitted. By way of further answer and as more fully set forth in Plaintiff's Complaint, it was the obligation of the Defendant to advise the Plaintiff that in the absence of an injunction, freeze Order or an Order maintaining the status quo, Robert E. Hoffman was capable of removing the Plaintiff as the named beneficiary on the SERS retirement account and the Equitable IRA and that such was a foreseeable risk that subjected the Plaintiff and her protectible interests to a preventible risk of loss. The Plaintiff incorporates by reference the allegations contained in her Complaint as though more fully set forth at length herein.

76. The allegations contained in Paragraph 76 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary, the allegations contained therein are specifically denied and strict proof thereof is demanded at the time of trial. By way of further answer, the Plaintiff incorporates by reference the allegations contained in her Complaint as though more fully set forth at length herein.

77. The allegations contained in Paragraph 77 of the Defendants' New Matter are conclusions of law to which no reply is required in accordance with the Pennsylvania Rules of Civil Procedure. To the extent that a reply may be necessary,

VERIFICATION

I verify that the statements made in this **Reply to New Matter** are true and correct to the best of my knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: 3/12/02


Linda E. Hoffman

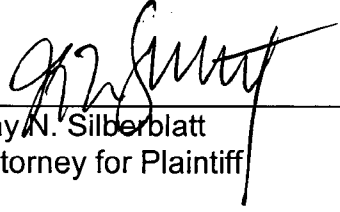
CERTIFICATE OF SERVICE

I, Jay N. Silberblatt, Esquire, counsel for the Plaintiff in the within matter, do hereby certify that a true and correct copy of **Plaintiff's Reply to Defendants' New Matter** was mailed by first class mail, postage prepaid, on the 22 day of March, 2002 to the following person:

**Dennis J. Roman, Esquire
GROGAN GRAFFAM, P.C.
3 Gateway Center, 22nd Floor
Pittsburgh, PA 15222
Attorney for Defendants
Toni M. Cherry
Gleason, Cherry & Cherry, L.L.P.**

SILBERBLATT MERMELSTEIN, P.C.

By


Jay N. Silberblatt
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

CIVIL DIVISION

No. 00-96-CD

**VERIFICATION OF SERVICE OF
PLAINTIFF'S RESPONSE TO
DEFENDANTS' REQUEST FOR
PRODUCTION OF DOCUMENTS**

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

James E. Mahood, Esquire
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

FILED

AUG 01 2002

m110:46 / no cc
William A. Shaw
Prothonotary *RES*

414

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,
Plaintiff,

CIVIL DIVISION
NO. 00-96-CD

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

VERIFICATION OF SERVICE

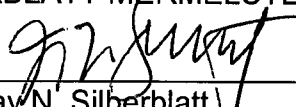
I, Jay N. Silberblatt, Esquire, counsel for the Plaintiff in the within matter, do hereby certify that a true and correct copy of **Plaintiff's Response to Defendants' Request for Production of Documents** was mailed by first class mail, postage prepaid, on the 30th day of **July, 2002** to the following person:

Dennis J. Roman, Esquire
GROGAN GRAFFAM, P.C.
3 Gateway Center, 22nd Floor
Pittsburgh, PA 15222
Attorney for Defendants
Toni M. Cherry
Gleason, Cherry and Cherry, L.L.P.

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

By


Jay N. Silberblatt
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

CIVIL DIVISION

No. 00-96-CD

**VERIFICATION OF SERVICE OF
PLAINTIFF'S ANSWERS TO
DEFENDANTS' FIRST SET OF
INTERROGATORIES**

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

James E. Mahood, Esquire
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

FILED

AUG 01 2002

m/ 10:46/ncc
William A. Shaw
Prothonotary

#15

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

CIVIL DIVISION

Plaintiff,

NO. 00-96-CD

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

VERIFICATION OF SERVICE

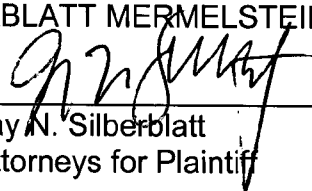
I, Jay N. Silberblatt, Esquire, counsel for the Plaintiff in the within matter, do hereby certify that a true and correct copy of **Plaintiff's Answers to Defendants' First Set of Interrogatories** was mailed by first class mail, postage prepaid, on the 30th day of **July, 2002** to the following person:

Dennis J. Roman, Esquire
GROGAN GRAFFAM, P.C.
3 Gateway Center, 22nd Floor
Pittsburgh, PA 15222
Attorney for Defendants
Toni M. Cherry
Gleason, Cherry and Cherry, L.L.P.

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

By


Jay N. Silberblatt

Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.

Defendants.

CIVIL DIVISION

NO. 00-96-CD

CERTIFICATE OF READINESS

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

James E. Mahood, Esquire
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

FILED

MAR 10 2004

William A. Shaw
Prothonotary/Clerk of Courts

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL TRIAL LISTING

CERTIFICATE OF READINESS

TO THE PROTHONOTARY

00-96-CD

DATE PRESENTED

CASE NUMBER

TYPE TRIAL REQUESTED ESTIMATED TRIAL TIME

Date Complaint (x) Jury () Non-Jury

Filed: 11/6/01

() Arbitration

4 days/hours

LINDA E. HOFFMAN

PLAINTIFF(S)

TONI M. CHERRY and GLEASON,
CHERRY AND CHERRY, LLP

()

Check block if a Minor
is a Party to the Case

DEFENDANT(S)

()

ADDITIONAL DEFENDANT(S)

()

JURY DEMAND FILED BY:

DATE JURY DEMAND FILED:

Plaintiff

11-6-01

AMOUNT AT ISSUE CONSOLIDATION DATE CONSOLIDATION ORDERED

More than \$25,000

& () yes () no

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel:

James E. Mahood, Esquire

412-261-4040

Jay N. Silberblatt, Esquire

412-232-0580

FOR THE PLAINTIFF

TELEPHONE NUMBER

Dennis J. Roman, Esquire

412-553-6325

FOR THE DEFENDANT

TELEPHONE NUMBER

FOR ADDITIONAL DEFENDANT

TELEPHONE NUMBER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

LINDA E. HOFFMAN

vs.

TONI M. CHERRY, individually and
GLEASON, CHERRY & CHERRY,
L.L.P., a Partnership

:
:
: No. 00-96-CD
:
:

ORDER

NOW, this 11th day of March, 2004, upon consideration of recusal of both Judges sitting in the 46th Judicial District, it is the ORDER of this Court that the Court Administrator of Clearfield County refer the above-captioned civil matter to Administrative Regional Unit II for assignment of a specially presiding judicial authority.

BY THE COURT:



FREDRIC J. AMMERMAN
President Judge

FILED

MAR 12 2004

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LINDA HOFFMAN,	)	CIVIL ACTION
)	
Plaintiff,	)	No. 00-96-CD
)	
v.	)	MOTION TO STRIKE CASE FROM
	)	TRIAL LIST
TONI M. CHERRY, individually, and)	
GLEASON, CHERRY and CHERRY,	)	Filed on behalf of defendants, Toni M.
L.L.P., a Partnership,	)	Cherry, individually and Gleason, Cherry &
	)	Cherry, L.L.P., a Partnership
Defendants.)	
	)	Counsel of Record for these Parties:
)	
	)	DENNIS J. ROMAN, ESQUIRE
	)	Pa. I.D. # 36904
)	
	)	JANET K. MEUB, ESQUIRE
	)	Pa. I.D. # 88724
)	
	)	GROGAN GRAFFAM, P.C.
	)	Firm I.D. No. 072
	)	Four Gateway Center
	)	12th Floor
	)	Pittsburgh, PA 15222
	)	(412) 553-6300
		20200/17073

FILED
MAR 15 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,	)	CIVIL ACTION
)	
Plaintiff,	)	No. 00-96-CD
)	
v.)	
)	
TONI M. CHERRY, individually, and)	
GLEASON, CHERRY and CHERRY,)	
L.L.P., a Partnership,)	
)	
)	
Defendants.)	
)	

MOTION TO STRIKE CASE FROM TRIAL LIST

Defendants, TONI M. CHERRY and GLEASON, CHERRY AND CHERRY, L.L.P., by their attorneys, GROGAN GRAFFAM, P.C., and pursuant to Local Rule 212.2(b), file the within Motion to Strike Case From Trial List:

1. Defendants were served with plaintiff's expert report on March 8, 2004, months after formal discovery requests were made by defendants. Plaintiff's expert report was served contemporaneously with plaintiff's Certificate of Readiness.
2. Defendants must be allowed sufficient time (at least 60 days) to procure their own expert to review plaintiff's expert report and the issues raised therein.
3. Contrary to plaintiff's representation in her Certificate of Readiness, there have been no settlement discussions with respect to this matter; in fact, plaintiff has never made any settlement demand.

4. Plaintiff has failed to submit the curriculum vitae of her expert, Mary Cushing Doherty, and background information as requested in both of defendants' First and Second Set of Interrogatories and Request for Production of Documents and, as such, this discovery remains outstanding.

WHEREFORE, defendants, Toni M. Cherry and Gleason, Cherry and Cherry, L.L.P., respectfully request that this Honorable Court grant their Motion to Strike Case From Trial List by signing the accompanying proposed Order of Court.

GROGAN GRAFFAM, P.C.

A handwritten signature in black ink, appearing to read "D.J. Roman", is written over a horizontal line.

DENNIS J. ROMAN, ESQUIRE

Pa. I.D. #36904

JANET K. MEUB, ESQUIRE

Pa. I.D. #88724

ATTORNEYS FOR DEFENDANTS

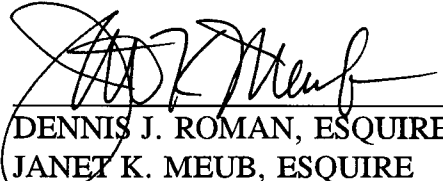
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion To Strike Case From Trial List was served upon the following counsel of record by United States Mail, first class, postage prepaid, this 12th day of March, 2004.

James A. Mahood, Esq.
WILDER, MAHOOD & CRENNY
10th Floor, Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

Jay N. Silberblatt, Esq.
SILBERBLATT & MERMELSTEIN, P.C.
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

GROGAN GRAFFAM, P.C.


DENNIS J. ROMAN, ESQUIRE
JANET K. MEUB, ESQUIRE
ATTORNEYS FOR DEFENDANTS,
TONI M. CHERRY, INDIVIDUALLY
AND GLEASON, CHERRY &
CHERRY, L.L.P., A PARTNERSHIP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.

Defendants.

CIVIL DIVISION

NO. 00-96-CD

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION TO STRIKE
CASE FROM TRIAL LIST**

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

James E. Mahood, Esquire
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

FILED

MAR 17 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,
Plaintiff,

vs.

CIVIL DIVISION

NO. 00-96-CD

TONI M. CHERRY,
and
GLEASON, CHERRY AND CHERRY,
L.L.P.

Defendants.

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION TO STRIKE CASE FROM TRIAL LIST**

AND NOW, comes the Plaintiff, by her attorneys, James E. Mahood, Esquire and the law firm of Wilder and Mahood and Jay N. Silberblatt, Esquire, and the law firm of Silberblatt Mermelstein, P.C., and presents the within Response to Defendants' Motion to Strike Case From Trial List, and in pursuance thereof, respectfully represents as follows:

1. Admitted. By way of further answer, formal discovery in this matter concluded some time ago. Indeed, the parties exchanged all relevant documents many months ago. The Plaintiff's deposition was taken on December 9, 2002 and Defendant's deposition was taken on April 29, 2003.

2. The assertion set forth in Paragraph 2 of the Defendants' Motion are specifically denied. The allegations of negligence made by the Plaintiff against the Defendants are clearly and distinctly delineated in Plaintiff's Complaint. The Defendants have had more than three years in which to engage an expert to review

Plaintiff's allegations of negligence. Documents have been exchanged pursuant to Requests for Production of Documents a long time ago and depositions were concluded in April of 2003. It is nonsense to assert that Defendants are unable to obtain an expert opinion concerning the Defendants' negligence until they first receive the Plaintiff's expert report.

3. The Plaintiff's damages in this matter are liquidated and amount to \$512,403.35. The Defendants' insurance coverage is insufficient to compensate the Plaintiff for the damages she has incurred. These facts have been known to all parties for quite some time. At no time have the Defendants tendered their policy limits to the Plaintiff.

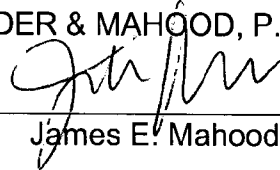
4. The curriculum vitae of Plaintiff's expert will be provided to Defendants' counsel within the next few days. This minor detail should not prevent the normal progression of this case toward trial.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court to dismiss the Defendants' Motion to Strike Case From Trial List.

Respectfully submitted,

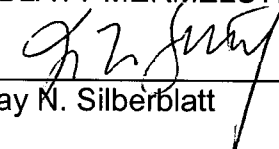
WILDER & MAHOOD, P.C.

BY


James E. Mahood

SILBERBLATT MERMELSTEIN, P.C.

BY


Jay N. Silberblatt


Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Jay N. Silberblatt, Esquire, counsel for the Plaintiff in the within matter, do hereby certify that a true and correct copy of **Plaintiff's Response to Defendants' Motion to Strike Case From Trial List** was mailed by first class mail, postage prepaid, on the 13 day of March, 2004 to the following person:

**Dennis J. Roman, Esquire
GROGAN GRAFFAM, P.C.
Four Gateway Center, 12th Floor
Pittsburgh, PA 15222
Attorney for Defendants
Toni M. Cherry
Gleason, Cherry & Cherry, L.L.P.**

SILBERBLATT MERMELSTEIN, P.C.

By 
Jay N. Silberblatt
Attorney for Plaintiff

ORIGINAL

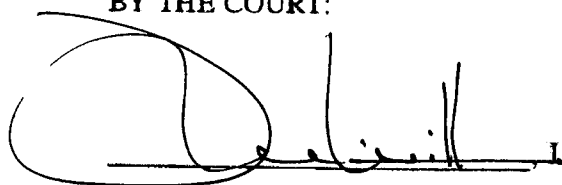
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,	)	CIVIL ACTION
)	
Plaintiff,	)	No. 00-96-CD
)	
v.)	
)	
TONI M. CHERRY, individually, and)	
GLEASON, CHERRY and CHERRY,)	
L.L.P., a Partnership,)	
)	
)	
Defendants.)	
)	

ORDER OF COURT

AND NOW, this 16 day of March, 2004, upon consideration of the foregoing Motion to Strike Case From Trial List filed on behalf of defendants, and for good cause shown, it is hereby ORDERED that such Motion is granted and the above-captioned action is stricken from the trial list.

BY THE COURT:



FILED
m/a:cc/eth
MAR 18 2004

William A. Shaw
Prothonotary/Clerk of Courts

Copies previously distributed
(see letters)



JUDGES CHAMBERS
TWENTY-FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
LOCK HAVEN, PENNSYLVANIA 17745

J. MICHAEL WILLIAMSON
JUDGE

570-893-4014
FAX 570-893-4126

March 16, 2004

William Shaw, Prothonotary
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Re: Hoffman v. Cherry
No. 00-96-CD

Dear Mr. Shaw:

Please file the enclosed Order in the above referenced matter. All copies
have been distributed.

Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Carol E. Miller".

Carol E. Miller
Secretary to Judge Williamson

Enclosure

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

LINDA E. HOFFMAN,
Plaintiff

v.

TONI M. CHERRY and GLEASON,
CHERRY AND CHERRY, L.L.P.,
Defendants

)
)
)
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)
)
)
)

NO. 00-96-CD

- a n d -

LINDA E. HOFFMAN,
Plaintiff

v.

TONI M. CHERRY, P. JOSEPH
VALIGORSKY, II, PAULA M.
CHERRY, and MARK A. PIASIO,
Defendants

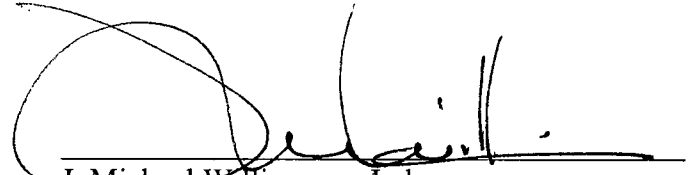
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NO. 03-1893-CD

ORDER

NOW, this 18th day of March, 2004, a conference/argument on all outstanding motions shall be held before the undersigned on Thursday, May 6, 2004, at 1:30 p.m., in Court Room No. 1 of the Clinton County Courthouse, Lock Haven, Pennsylvania.

BY THE COURT:



J. Michael Williamson, Judge

XC: James E. Mahood, Esquire
Jay N. Silberblatt, Esquire
Dennis J. Roman, Esquire
Peter F. Smith, Esquire
Court Administrator

FILED

MAR 22 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

MAR 11 2004

William A. Shaw
Prothonotary/Clerk of Courts

copies already distributed, per letter



JUDGES CHAMBERS
TWENTY-FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
LOCK HAVEN, PENNSYLVANIA 17745

J. MICHAEL WILLIAMSON
JUDGE

570-893-4014
FAX 570-893-4126

March 18, 2004

William Shaw, Prothonotary
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Re: Hoffman v. Cherry, et al.
No. 00-96-CD
Hoffman v. Cherry, et al.
No. 03-1893-CD

Dear Mr. Shaw:

Please file the enclosed Order in the above referenced matters. All copies
have been distributed.

Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Carol E. Miller".

Carol E. Miller
Secretary to Judge Williamson

Enclosure

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

CIVIL DIVISION

No. 00-96-CD

**VERIFICATION OF SERVICE OF
PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND SECOND
REQUEST FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT**

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

James E. Mahood, Esquire
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

FILED

APR 05 2004

MAHOD, JAMES E.
Prothonotary Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

CIVIL DIVISION

Plaintiff,

NO. 00-96-CD

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

VERIFICATION OF SERVICE

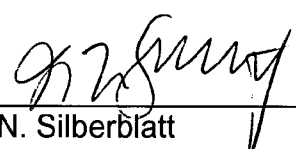
I, Jay N. Silberblatt, Esquire, counsel for the Plaintiff in the within matter, do hereby certify that a true and correct copy of **Plaintiff's First Set of Interrogatories and Second Request for Production of Documents Directed to Defendants** was mailed by first class mail, postage prepaid, on the 2 day of April, 2004 to the following person:

Dennis J. Roman, Esquire
GROGAN GRAFFAM, P.C.
Four Gateway Center, 12th Floor
Pittsburgh, PA 15222
Attorney for Defendants
Toni M. Cherry
Gleason, Cherry and Cherry, L.L.P.

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

By


Jay N. Silberblatt
Attorneys for Plaintiff

GA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

LINDA E. HOFFMAN

vs.

TONI M. CHERRY, individually and
GLEASON, CHERRY & CHERRY,
L.L.P., a Partnership

:
:
: c No. 00-96-CD
:

LINDA E. HOFFMAN

vs.

TONI M. CHERRY, P. JOSEPH
VALIGORSKY, II, PAULA M.
CHERRY and MARK A. PIASIO

:
:
: No. 03-1893-CD
:

FILED


MAY 04 2004

William A. Shaw
Prothonotary/Clerk of Courts

ORDER

AND NOW, this 3rd day of May, 2004, it is the ORDER of the Court that Conference/Argument on all Outstanding Motions in the above matters has been rescheduled from May 6, 2004 to **Tuesday, May 18, 2004 at 1:30 P.M.**, before the Honorable J. Michael Williamson, Specially Presiding, Clearfield County Courthouse, Clearfield, PA. Please report to the Court Administrator's Office. You will be directed from there where this conference will be held.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

LINDA E. HOFFMAN

vs.

TONI M. CHERRY, individually and
GLEASON, CHERRY & CHERRY,
L.L.P., a Partnership

:
:
: No. 00-96-CD
:

FILED

MAY 07 2004

William A. Shaw
Prothonotary/Clerk of Courts

LINDA E. HOFFMAN

vs.

TONI M. CHERRY, P. JOSEPH
VALIGORSKY, II, PAULA M.
CHERRY and MARK A. PIASIO

:
:
: No. 03-1893-CD
:

ORDER

AND NOW, this 7 day of May, 2004, it is the ORDER of the Court that Conference/Argument on all Outstanding Motions in the above matters has been rescheduled from May 6, 2004 to **Tuesday, May 18, 2004 at 1:30 P.M.**, before the Honorable J. Michael Williamson, Specially Presiding, Clearfield County Courthouse, Clearfield, PA. Please report to the Court Administrator's Office. You will be directed from there where this conference will be held.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

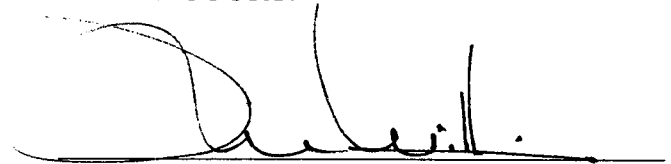
LINDA E. HOFFMAN,)
Plaintiff)
v.) NO. 00-96-CD
TONI M. CHERRY and GLEASON,)
CHERRY AND CHERRY, L.L.P.,)
Defendants)

ORDER

NOW, this 21st day of May, 2004, IT IS HEREBY ORDERED as follows:

1. Jury selection in this matter shall be held on August 26, 2004; counsel shall advise the undersigned if either has an objection to Judge Ammerman or Judge Cherry picking the jury.
2. Trial shall be held beginning August 31, 2004, and continuing thereafter (August 31, September 1, September 2, and September 3 have been reserved for trial).
3. Counsel shall, by July 15, 2004, at 5:00 p.m., submit directly to the undersigned Trial Briefs addressing all issues raised during oral argument on May 18, 2004, and in particular the allocation of responsibility between the jury and the trial judge to resolve disputed issues.

BY THE COURT:



J. Michael Williamson, Judge
Specially Presiding
25th Judicial District of Pennsylvania

XC: James E. Mahood, Esquire
Dennis J. Roman, Esquire
Peter F. Smith, Esquire
Court Administrator

FILED

MAY 27 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

N^o cc-

MAY 27 2004

Copies previously distributed (per letter)

William A. Shaw

Prothonotary/Clerk of Courts

..

William A. Shaw
Prothonotary/Clerk of Courts

FILED ~~2004~~ ~~2004~~ Orders previously distributed - per letter
MAY 13 2004
JUN 23 2004

William A. Snaw
Prothonotary/Clerk of Courts



JUDGES CHAMBERS
TWENTY-FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
LOCK HAVEN, PENNSYLVANIA 17745

J. MICHAEL WILLIAMSON
JUDGE

570-893-4014
FAX 570-893-4126

June 22, 2004

William Shaw, Prothonotary
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Re: Hoffman v. Cherry
No. 00-96-CD

Dear Mr. Shaw:

Please file the enclosed Order in the above referenced matter. All copies have been distributed.

Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Carol E. Miller".

Carol E. Miller
Secretary to Judge Williamson

Enclosure

PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.

Defendants.

CIVIL DIVISION

NO. 00-96-CD

NOTICE TO ATTEND

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

James E. Mahood, Esquire
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

FILED *WAC*
m/10: 5/13/04
JUL 15 2004
WAC
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,

CIVIL DIVISION

Plaintiff,

NO. 00-96-CD

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.

Defendants.

NOTICE TO ATTEND

**To: Toni M. Cherry
Gleason, Cherry & Cherry, L.L.P.
c/o Dennis J. Roman, Esquire
Grogan Graffam, P.C.
Four Gateway Ctr., 12th Floor
Pittsburgh, PA 15222-1009**

(1) You are directed to come to the Second Floor of the Clearfield County Courthouse, located at Market Street and Second Street in Clearfield, Pennsylvania, on Tuesday, August 31, 2004 at 9:00 a.m., to testify on behalf of the Plaintiff in the above case and to remain until excused.

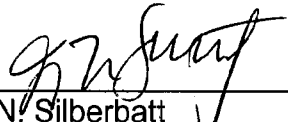
(2) And bring with you the following:

All original documents produced in this matter and otherwise Bate stamped from GCC1 to GCC1250 and also documentation received from the Supreme Court of Pennsylvania, Continuing Legal Education Board, including your Annual CLE Report for 1994 – 1998 listing all CLE attendance.

If you fail to attend or to produce the documents or things required by this Notice to Attend, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

SILBERBLATT MERMELSTEIN, P.C.

Date: 7/13/04

By 
Jay N. Silberbatt
Counsel for Plaintiff
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 232-0580

CERTIFICATE OF SERVICE

I, Jay N. Silberblatt, Esquire, do hereby certify that a true and correct copy of the **Notice to Attend** was mailed by first class mail, postage prepaid, on the 13th day of July, 2004 to counsel of record as follows:

**Dennis J. Roman, Esquire
Grogan Graffam, P.C.
Four Gateway Ctr., 12th Floor
444 Liberty Avenue
Pittsburgh, PA 15222-1009**

SILBERBLATT MERMELSTEIN, P.C.

By


Jay N. Silberblatt
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY, individually, and
GLEASON, CHERRY and CHERRY,
L.L.P., a Partnership,

Defendants.

CIVIL DIVISION

NO.: 00-96-CD

**PLAINTIFF'S REQUEST FOR
ADMISSIONS TO DEFENDANTS**

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

James E. Mahood, Esquire
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Buiding
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. # 32253

Silberblatt Mermelstein, P.C.
Firm I.D. #645

2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

FILED *no*
m/10:51/10/ *cc*
JUL 15 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,

CIVIL DIVISION

Plaintiff,

NO.: 00-96-CD

vs.

TONI M. CHERRY, individually, and
GLEASON, CHERRY and CHERRY,
L.L.P., a Partnership,

Defendants.

PLAINTIFF'S REQUEST FOR ADMISSIONS DIRECTED TO
DEFENDANT

Plaintiff, Linda Hoffman, by her attorneys, James E. Mahood, Esquire and the law firm of Wilder & Mahood, P.C. and Jay N. Silberblatt, Esquire and the law firm of Silberblatt Mermelstein, P.C., pursuant to Rule 4014 of the Pennsylvania Rules of Civil Procedure, requests that the Defendants admit the following statements of fact within thirty (30) days.

REQUEST FOR ADMISSIONS

**TO: Toni M. Cherry, Individually, and
Gleason, Cherry and Cherry, L.L.P.
c/o Dennis J. Roman, Esquire
Grogan Graffam, P.C.
Three Gateway Center
22nd Floor
Pittsburgh, PA 15222**

1. From approximately September 7, 1983 until approximately December 3, 1997, Linda Hoffman was designated as the beneficiary entitled to receive any death benefits on Robert Hoffman's SERS pension.

2. A copy of the SERS beneficiary designation form signed by Robert Hoffman on September 7, 1983 is attached hereto and marked as Exhibit A.

3. From approximately January 28, 1993 until approximately December 4, 1997, Linda Hoffman was designated as the beneficiary entitled to receive any death benefits on Robert Hoffman's Equitable IRA.

4. A copy of the Equitable IRA beneficiary designation form signed by Robert Hoffman on January 28, 1993 is attached hereto and marked as Exhibit B.

5. On December 3, 1997, Robert Hoffman signed a form naming someone other than Linda Hoffman as the beneficiary entitled to receive any death benefits on his SERS pension.

6. A copy of the SERS beneficiary designation form signed by Robert Hoffman on December 3, 1997 is attached hereto and marked as Exhibit C.

7. On December 4, 1997, Robert Hoffman signed a form naming someone other than Linda Hoffman as the beneficiary entitled to receive any death benefits on his Equitable IRA.

8. A copy of the Equitable IRA beneficiary designation form signed by Robert Hoffman on December 4, 1997 is attached hereto and marked as Exhibit D.

9. Following the death of Robert Hoffman, SERS paid death benefits in the amount of \$452,738.42 to Kevin Shane Hoffman, the beneficiary designated by Robert Hoffman to receive his SERS death benefit.

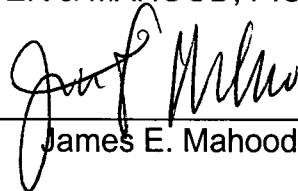
10. Following the death of Robert Hoffman, Equitable paid death benefits in the amount of \$59,664.93 to Kevin Shane Hoffman, the beneficiary designated by Robert Hoffman to receive his Equitable IRA death benefit.

11. Linda Hoffman did not receive any of the death benefits paid by SERS as a result of the death of Robert Hoffman.

12. Linda Hoffman did not receive any of the death benefits paid by Equitable as a result of the death of Robert Hoffman.

WILDER & MAHOOD, P.C.

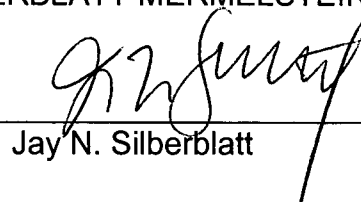
By



James E. Mahood

SILBERBLATT MERMELSTEIN, P.C.

By



Jay N. Silberblatt

☐ I request Form STD -402.

1. Type of Purchase (Complete One Plan Only)

- a. ☐ TSA Public School (S/GV-PS 4931)
 b. ☐ TSA 501(c)(3) Organization (S/GV-501 4921)
 c. ☐ IRA (S/GV-IRA 4971)
 d. ☐ IRA (S/GV-IRA 4971)
 e. ☐ IRA (S/GV-IRA 4971)
 f. ☒ IRA Qualified Plan Rollover (QP IRA) (Distribution from a
 Qualified Plan) (S/GVIRAR 4971)

- g. ☐ EDC (Public Employee Deferred Compensation) (S/GVPEDC 4991)
 h. ☐ EDC (Tax Exempt Organization) (S/GV-EDC 4991)
 i. ☐ SEP (Simplified Employee Pension) (S/GV-SEP 4981)
 j. ☐ SARSEP (Salary Reduction SEP) (S/GVSRS 4981)
 k. ☐ Corporate TRUSTEED (S/GVCORP 4941)
 l. ☐ Keogh/HR-10 Trustee (S/GV-UTR 4911)
 m. ☐ Keogh/HR-10 (S/GV-HR1 4911)

(not trustee or non-trustee) (ISSUED TO EXISTING UNITS ONLY)

DO NOT COMPLETE THIS SECTION IF BOX 1.d or 1.f CHECKED ABOVE

2. Employer/Plan Name

3. ☐ Existing Unit No.

☐ New Unit

(For new Unit Billed IRA, EDC, TSA, SEP, SARSEP, or TRUSTEED Plans, FORM 993-135B is required.)

4. Proposed Annuitant (Print name to appear on Contract)

Robert E. Hoffman

a. ☒ Mr. ☐ Mrs. ☐ Miss ☐ Ms. ☐ Other

b. Date of Birth: Year 1948 Month 9 Day 13

c. Age at Nearest Birthday: 44 d. ☐ Male ☐ Female

e. Annuitant's Mailing Address: f. State of Residence:

No. St. 19159 Delaware Lake

City Dulles

State Pa Zip Code 11580

g. Telephone Number 814-371-0619 ☒ Home ☐ Work

h. Social Security No. (Required) 195-40-7638

i. Are you associated with or employed by a member of National Association of Securities Dealers, Inc. (NASD)? ☐ Yes ☒ No

5. Owner (Print Name) - If Truited or EDC Plan Print Name of Owner; for all other Markets Print Name of Annuitant.

a. Title

6. Retirement Age 44

7. Beneficiary (Print Full Name and Relationship to Annuitant) (For Death Benefits only - Annuitant must be the Owner for EDC Purchases and for most TRUSTEED Plans.)

Linda E. Hoffman - wife

8. Contribution Allocation

Guaranteed Interest Division 85
 Stock Division 7
 Money Market Division
 Balanced Division
 Aggressive Stock Division 8
 (Percentages in Whole Numbers) Total: 100

9. Contributions (Not permitted for 1.f)

a. Reminder Notice (Billing) Required ☒ Yes ☐ No
 If yes, complete b-c-d-e

b. REMINDER DATE Required for Individual IRA or otherwise must agree with existing unit or attached 983-135B. MONTH N/A DAY

c. REMINDER FREQUENCY
☐ Annual ☐ Semi-Annual
☐ Quarterly ☐ Monthly

Available for TSA, EDC, SARSEP and Corporate TRUSTEED and UNIT BILLED IRA ONLY:

☐ Semi-Monthly ☐ Bi-Weekly

d. REMINDER AMOUNT \$

e. BILLING MONTHS TO BE EXCLUDED TSA ONLY

10. Expected First Contract Year

Contribution \$ 30,000

(For additional information on this contract, see page 413)

(For Processing Office Use)

Unit Name

Contract No.

Contract Date

Contract

Contract Date

Contract #

Contract #

Reminder Date

Amendment Required

First Fee \$

Contract Date

11. Did you receive the Separate Account Prospectus? ☒ Yes ☐ No

Date on Prospectus 7-22-92
Date of any supplement to Prospectus _____

12. Items (a) through (g) are to be answered by the annuitant. We are required by the NASD to ask these questions.

(a) Name of Employer: Commonwealth of Pa.

(b) Address of Employer:
21st Herr St.
Harrisburg, Pa. 17108

(c) Occupation: State Police Trooper

(d) Assuming the contract applied for will be issued, will any existing insurance or annuity be replaced or changed (or has it been)?
☐ Yes ☒ No

(e) Estimated Family Annual Income 55,000

(f) Estimated Net Worth 750,000

(g) Investment Objective: ☐ Income ☒ Income & Growth
☐ Aggressive Growth ☐ Growth ☐ Safety Of Principal

13. Special Instructions

Money coming from State of Pa.
Retirement System to the Equitable
for an IRA rollover

14. Amount paid with this form: \$ 30,000

(If a check is submitted with this request, no advanced contract date is permitted.) Backdating is not permitted.

NOTE: Amount paid will be credited upon receipt at Equitable's Processing Office, subject to return if the contract is not issued. The Contract Date will be the date of receipt by Equitable of this application, properly signed and completed, and Contribution at Equitable's Processing Office.

AGREEMENT

All information and statements furnished in this application are true and complete to the best of my knowledge and belief. I understand and acknowledge that no Agent has the authority to make or modify any contract on Equitable's behalf, or to waive or modify any of Equitable's rights and regulations.

IT IS UNDERSTOOD THAT THE ANNUITY ACCOUNT VALUE ATTRIBUTABLE TO ALLOCATIONS TO THE INVESTMENT DIVISIONS OF THE SEPARATE ACCOUNT AND VARIABLE ANNUITY BENEFIT PAYMENTS MAY INCREASE OR DECREASE AND ARE NOT GUARANTEED AS TO DOLLAR AMOUNT. UNDER THE PENALTIES OF PERJURY I (WE) CERTIFY THAT THE SOCIAL SECURITY NUMBER(S) OR TAX IDENTIFICATION NUMBER(S) PROVIDED ON THIS FORM IS (ARE) TRUE, CORRECT AND COMPLETE.

LAWS IN YOUR STATE MAY MAKE IT A CRIME TO FILL OUT AN INSURANCE OR ANNUITY APPLICATION WITH INFORMATION YOU KNOW IS FALSE OR TO LEAVE OUT MATERIAL FACTS.

☒ Robert E. Hoffman Date 1/28/93 City DuBois State Pa.
Signature of Annuitant

☒ _____ Date _____ City _____ State _____
Signature of Authorized Individual (Required for EDC and TRUSTEED) or Owner

AGENT'S SECTION

Will any existing insurance or annuity be replaced or changed (or has it been), assuming the Contract will be issued? ☒ Yes ☐ No

I (we) certify that a prospectus for the Contract has been given to the proposed Annuitant and that no written sales materials other than those approved by The Equitable have been used.

VEST issues must adequately reflect the commission interest of all Agents on previous contracts.

Print Agent's Name(s) (Service Agent first)	Initial of Last Name	Agent Number	Agent %	Agency Code	District Manager Code	Agent's Signature
<u>R. Thomas Mark</u>	<u>M</u>	<u>610563</u>	<u>100</u>	<u>073</u>	<u>063</u>	<u>R. Thomas Mark</u>

For Agency Compliance File: Initials of Agency _____ EQS _____ Date _____ District EQS _____ Date _____

(For ASU Use)

ASU Code and App. No. _____

ASU Fee _____

Date to Proc. Off. _____ Campaign _____ Application reviewed by _____

Agent(s) shown above is Equity Qualified and is licensed in the state where the request is signed. Above Agent information verified by ASA (Registered Firm)

NOMINATION OF BENEFICIARIES
STATE EMPLOYEES' RETIREMENT SYSTEM

MEMBER'S SOCIAL SECURITY NUMBER

195-40-7638

PRINT IN INK OR TYPE ALL DATA

CHECK ONE:

I AM:

☐ AN ACTIVE MEMBER

☐ A VESTEE

☒ RETIRED (ING)

☐ A BENEFICIARY ANNUITANT

A. PRINCIPAL BENEFICIARY(IES)

IN THE EVENT OF MY DEATH, THE FULL AMOUNT OF MY ACCOUNT, INCLUDING ANY OUTSTANDING AMOUNTS PAYABLE TO ME, SHALL BE PAID AS DESIGNATED BELOW. CHECK ONE BLOCK AND LIST NAME(S), INCLUDING FIRST OR GIVEN NAME (SEE INSTRUCTIONS)

- ☒ (1) PAY TO ONE PERSON, ESTATE OR TRUST (IF ESTATE OR TRUST, GIVE EXECUTOR'S OR TRUSTEE'S NAME AND ADDRESS)
- ☐ (2) PAY TO MORE THAN ONE PERSON IN EQUAL SHARES WITH RIGHTS TO SURVIVOR(S). (SEE INSTRUCTIONS)

- ☐ (3) PAY TO MORE THAN ONE PERSON ABSOLUTELY (SEE INSTRUCTIONS)
- ☐ (4) DISTRIBUTE IN DESIGNATED PERCENTAGES AS SHOWN IN "PER CENT" COLUMN.

IF (4) ABOVE IS SELECTED, SHOW PER CENT	NAME	DATE OF BIRTH	ADDRESS (STREET, CITY, STATE, ZIP CODE)
	KEVIN SHADE HOFFMAN	4-27-71	RD #2, MAYPET, PA 16240
	TOTAL (Must equal 100%)		

B. CONTINGENT (SECOND) BENEFICIARY(IES)

IN THE EVENT OF THE DEATH OF THE PRINCIPAL BENEFICIARY(IES), THE FULL AMOUNT, INCLUDING ANY OUTSTANDING AMOUNTS PAYABLE TO ME, SHALL BE PAID AS DESIGNATED BELOW. CHECK ONE BLOCK AND LIST NAME(S), INCLUDING FIRST OR GIVEN NAME (SEE INSTRUCTIONS)

- ☒ (1) PAY TO ONE PERSON, ESTATE OR TRUST (IF ESTATE OR TRUST, GIVE EXECUTOR'S OR TRUSTEE'S NAME AND ADDRESS)
- ☐ (2) PAY TO MORE THAN ONE PERSON IN EQUAL SHARES WITH RIGHTS TO SURVIVOR(S).
- ☐ (3) PAY TO MORE THAN ONE PERSON ABSOLUTELY

- ☐ (4) DISTRIBUTE IN DESIGNATED PERCENTAGES AS SHOWN IN "PER CENT" COLUMN.
- ☐ (5) PAY TO CONTINGENT BENEFICIARIES IN PREFERENTIAL ORDER SHOW 1ST CONTINGENT, 2ND CONTINGENT, ETC., IN "ORDER" COLUMN.

IF (4) ABOVE IS SELECTED, SHOW PER CENT	NAME	DATE OF BIRTH	ADDRESS (STREET, CITY, STATE, ZIP CODE)	IF (5) ABOVE IS SELECTED, SHOW ORDER
	DEBRA K REASINGER	11-25-54	RD #3 Box 237C, BROCKVILLE, PA 15825	
	TOTAL (Must equal 100%)			

ACKNOWLEDGED & FILED

C. GUARDIAN

(To be filled if any beneficiary named above is under 18 years of age.)

NAME OF GUARDIAN	ADDRESS (STREET, CITY, STATE, ZIP CODE)	NAME OF MINOR BENEFICIARY
DEBRA K REASINGER		

STATE EMPLOYEES' RETIREMENT SYSTEM

D. COMPLETE ALL BLOCKS BELOW

Two witnesses are required to your signature. (A beneficiary may not be a witness.)

YOUR SIGNATURE	DATE	YOUR TELEPHONE NUMBER(S): WORK: HOME:
x Robert E Hoffman	12-3-97	814 849-845
WITNESS SIGNATURE	WITNESS SIGNATURE	
Melvin J Hoffman	Robert E Hoffman	
WITNESS ADDRESS (STREET, CITY, STATE, ZIP CODE)	WITNESS ADDRESS (STREET, CITY, STATE, ZIP CODE)	
Box 14 COOKSPRING, PA 15730	Box 14 COOKSPRING, PA 15730	

YOUR NAME AND ADDRESS

NAME Robert E Hoffman

PLAINTIFF'S EXHIBIT
"C"

ORIGINAL MEMBER'S SOCIAL SECURITY NUMBER MUST BE ENTERED ON TOP RIGHT OF THIS FORM. IF YOU ARE A BENEFICIARY ANNUITANT, ENTER YOUR SOCIAL SECURITY NUMBER HERE:

150
Doug

EQUI-VEST® REQUEST FOR CHANGE OF BENEFICIARY

DO NOT RETURN THE CONTRACT WITH THIS REQUEST

BEFORE COMPLETING THIS REQUEST, PLEASE READ THE INSTRUCTIONS ON THE COVER PAGE AND THE PROVISIONS ON THE REVERSE SIDE OF THIS FORM.

ANNUITANT'S NAME Robert E. Hoffman CONTRACT NUMBER(S) 93912814

DAYTIME PHONE NUMBER 814-849-8459

CHANGE OF BENEFICIARY:

FULL NAME OF NEW BENEFICIARY AND RELATIONSHIP TO ANNUITANT
IF MULTIPLE BENEFICIARIES, SHOW ADDRESSES, ETC. IN SAME ORDER AS DESIGNATED. *If the proposed beneficiary is a Trust, the date of the Trust Agreement or the number of the Trust must be furnished. Our liability under the contract ceases when we make payment to a Trustee or succeeding designated payee.*

NAME(S) AND RELATIONSHIP(S): KEVIN SHANE HOFFMAN (SON)

ADDRESS(ES): RD #1 Box 30B
MAYPORT, PA 16240

Social Security #(S): 160-54-8244

For Corporate, Keogh (HR-10) or employer-sponsored TSA Plans (including University plans), one of the following statements must be completed and witnessed:

1. I am the current spouse of the above-named annuitant who is completing this form and I hereby consent by my signature appearing below to such annuitant's designation of the above-named beneficiary who is someone other than myself. I further acknowledge that I understand that I have the right to be named as the annuitant's beneficiary and to receive the death benefits payable under the contract and that I hereby waive such right. I acknowledge that I understand the consequences of this consent and that I have the right to approve of any subsequent change in beneficiary.

N/A

X

Spouse's Signature

2. I am the above-named annuitant and I certify that I am not married.

X

Annuitant's Signature

Witness: (Must be Plan Administrator, Trustee or Notary Public; seal or expiration date must be indicated.)

Name/Title of Witness

X

Signature of Witness

Date

12-4-97

X

Signature of Annuitant

FOR EQUITABLE USE ONLY

Equitable certifies that this change has been recorded.

Date: _____ 19 ____ By: _____

PLAINTIFF'S
EXHIBIT

"D"

tabbies

IMPORTANT: Please use typewriter or ballpoint pen. Press firmly since entries must be legible on both parts. Avoid erasures or alterations. When this page and its duplicate are completed, send both completed copies to us. When we have recorded the change, we will return a copy of the form signed by us as evidence of the change.

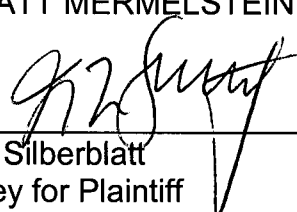
CERTIFICATE OF SERVICE

I, Jay N. Silberblatt, Esquire, counsel for the Plaintiffs in the within matter, do hereby certify that a true and correct copy of the **Plaintiff's Request for Admissions** was sent by first class mail on the 13 day of July, 2004 to the following person:

**Dennis J. Roman, Esquire
Grogan Graffam, P.C.
Four Gateway Center, 12th Floor
Pittsburgh, PA 15222
Attorney for Defendants**

SILBERBLATT MERMELSTEIN, P.C.

By



Jay N. Silberblatt
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

CIVIL DIVISION

No. 00-96-CD

**VERIFICATION OF SERVICE OF
PLAINTIFF'S ANSWERS TO
DEFENDANTS' SECOND SET OF
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS**

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

James E. Mahood, Esquire
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

FILED

JUL 16 2004

William A. Straw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

CIVIL DIVISION

Plaintiff,

NO. 00-96-CD

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

VERIFICATION OF SERVICE

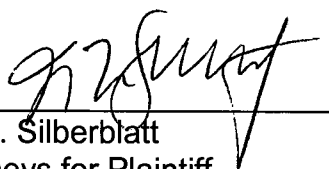
I, Jay N. Silberblatt, Esquire, counsel for the Plaintiff in the within matter, do hereby certify that a true and correct copy of **Plaintiff's Answers to Defendants' Second Set of Interrogatories** was mailed by first class mail, postage prepaid, on the 14 day of **July, 2004** to the following person:

Dennis J. Roman, Esquire
GROGAN GRAFFAM, P.C.
Four Gateway Center, 12th Floor
Pittsburgh, PA 15222
Attorney for Defendants
Toni M. Cherry
Gleason, Cherry and Cherry, L.L.P.

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

By


Jay N. Silberblatt
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

CIVIL DIVISION

NO. 00-96-CD

**PLAINTIFF'S SECOND REQUEST
FOR ADMISSIONS**

Counsel of Record for this Party:

James E. Mahood
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

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2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
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FILED ^{no}cc
m/10:32/04
JUL 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

PLAINTIFF'S SECOND REQUEST FOR ADMISSIONS

**TO: Toni M. Cherry, Individually, and
Gleason, Cherry and Cherry, L.L.P.
c/o Dennis J. Roman, Esquire
Grogan Graffam, P.C.
Three Gateway Center
22nd Floor
Pittsburgh, PA 15222**

Plaintiff, Linda Hoffman, by her attorneys, James E. Mahood, Esquire and the law firm of Wilder & Mahood, P.C. and Jay N. Silberblatt, Esquire and the law firm of Silberblatt Mermelstein, P.C., pursuant to Rule 4014 of the Pennsylvania Rules of Civil Procedure, requests that the Defendants admit the following statements of fact within thirty (30) days.

1. Plaintiff is an adult individual and a resident of DuBois, County of Clearfield and Commonwealth of Pennsylvania.

2. Defendant, Toni M. Cherry, is an adult individual and a resident of the County of Clearfield and Commonwealth of Pennsylvania, having been duly admitted to the practice of law before the courts of the Commonwealth of Pennsylvania.

3. At the time of the events hereinafter set forth, Defendant, Toni M. Cherry, Esquire practiced law in the Commonwealth of Pennsylvania, with a law office located at One North Franklin Street, in DuBois, County of Clearfield and Commonwealth of Pennsylvania.

4. Defendant, Gleason, Cherry and Cherry, L.L.P., is a law firm that maintains offices at One North Franklin Street in DuBois, County of Clearfield and Commonwealth of Pennsylvania.

5. The Defendant, Gleason, Cherry and Cherry, L.L.P., is engaged in the business of providing legal services to members of the general public desiring such services, including divorces and domestic relations.

6. At all times pertinent hereto, the Defendant, Gleason, Cherry and Cherry, L.L.P., was acting by and through its agents, servants or employees, who were acting on the business of this Defendant and within the scope of their authority.

7. At all times pertinent hereto, the Defendant, Toni M. Cherry, was acting individually and on her own behalf, and/or as the agent, servant or employee of the Defendant, Gleason, Cherry and Cherry, L.L.P.

8. The Plaintiff entered into a contractual relationship with the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., on or about September 20, 1995. A written engagement letter memorialized the engagement. A copy of the engagement letter is attached hereto and marked as Exhibit F.

9. Plaintiff met with Toni M. Cherry, Esquire on September 20, 1995 and Plaintiff retained Attorney Cherry and the Cherry Firm agreed to represent Plaintiff's interests, based upon the written engagement letter dated September 20, 1995.

10. When Plaintiff met with and retained the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., she advised them that her husband, Robert E. Hoffman, was a former Pennsylvania State Police officer and that he had been so employed during their marriage.

11. Based upon information supplied by Plaintiff on or about September 20, 1995, Attorney Cherry knew that Plaintiff's husband, Robert E. Hoffman, was a former

Pennsylvania State Police Officer and that he had been employed in that capacity during their marriage.

12. When Plaintiff met with and retained Attorney Cherry on September 20, 1995, Plaintiff advised Attorney Cherry that her husband, Robert E. Hoffman, had a "pension."

13. On September 20, 1995, Attorney Cherry learned that Plaintiff's husband was receiving a monthly retirement benefit from the Pennsylvania State Employees' Retirement System ("SERS") as a result of his former employment as a Pennsylvania State Police Officer.

14. During the initial consultation with Plaintiff, Attorney Cherry learned that Robert E. Hoffman had an IRA.

15. On September 20, 1995, when Plaintiff met with Attorney Cherry and retained attorney-defendants, Plaintiff advised Attorney Cherry that she had been married to Robert E. Hoffman since September 2, 1983.

16. On September 20, 1995, when Plaintiff met Attorney Cherry and retained attorney-defendants, or sometime shortly thereafter, Plaintiff advised Attorney Cherry that she was the beneficiary designated to receive death benefits of her husband's SERS retirement account.

17. The Pennsylvania State Employees' Retirement System (SERS) plan maintained by Plaintiff's husband, Robert E. Hoffman, constituted an asset in which the Plaintiff had a marital property interest and was otherwise subject to equitable distribution.

18. The IRA account maintained by Plaintiff's husband, Robert E. Hoffman, with Equitable Insurance Company constituted an asset in which the Plaintiff had a marital property interest and was otherwise subject to equitable distribution.

19. Robert E. Hoffman instituted divorce proceedings against Plaintiff in the Court of Common Pleas of Clearfield County at No. 95-1256 CD.

20. Blaise J. Ferrarccio, Esq. represented Robert E. Hoffman in the domestic litigation in the Court of Common Pleas of Clearfield County.

21. Attorney Cherry filed papers on the Plaintiff's behalf by which the Plaintiff asserted ancillary economic claims in her domestic litigation in the Court of Common Pleas of Clearfield County, including claims for support, alimony pendente lite, and alimony.

22. During the course of her domestic litigation, Plaintiff advised Attorney Cherry that she wanted to retain her status as the beneficiary designated to receive the death benefits on her husband's SERS retirement account.

23. On November 21, 1995, Attorney Cherry sent a letter to Blaise J. Ferrarccio, Esq. on behalf of Plaintiff. A copy of the November 21, 1995 letter is attached hereto as Exhibit G.

24. On September 6, 1996, Attorney Cherry sent a letter to Blaise J. Ferraraccio, Esq. A copy of the September 6, 1996 letter is attached hereto as Exhibit H.

25. On September 17, 1996, Blaise J. Ferraraccio, Esq. sent a letter to Attorney Cherry. A copy of the September 17, 1966 letter is attached hereto as Exhibit I.

26. On October 1, 1997, Blaise J. Ferraraccio, Esq. sent a letter to Attorney Cherry. A copy of the October 1, 1997 letter is attached hereto as Exhibit J.

27. Enclosed with his October 1, 1997 letter to Attorney Cherry, Blaise J. Ferraraccio, Esq. sent a proposed Property and Separation Agreement. A copy of the proposed Property and Separation Agreement is attached hereto as Exhibit K.

28. On October 10, 1997, Attorney Cherry sent a letter to Blaise J. Ferraraccio, Esq. A copy of the October 10, 1997 letter is attached hereto as Exhibit L.

29. As of October 1997, the Plaintiff and Robert E. Hoffman had sold their house and divided the proceeds.

30. As of October 1997, the Plaintiff and Robert E. Hoffman had divided their bank accounts and their investment accounts.

31. As of October 1997, the Plaintiff and Robert E. Hoffman had divided their furniture and personal belongings.

32. As of October 1997, the only assets that were still subject to equitable distribution were Robert E. Hoffman's SERS pension and his Equitable IRA.

33. On or about December 3, 1997, the Plaintiff's husband, Robert E. Hoffman, changed the beneficiary on his retirement account with the Pennsylvania State Employees' Retirement System (SERS).

34. Shortly prior to his death, the Plaintiff's husband, Robert E. Hoffman changed the beneficiary on the IRA account that he maintained with Equitable Insurance Company.

35. On January 30, 1998, Plaintiff's husband, Robert E. Hoffman died.

36. The death benefit on Plaintiff's husband's retirement account with the Pennsylvania State Employees' Retirement System (SERS) was in the amount of Four Hundred Fifty-two Thousand Seven Hundred Thirty-Eight and 42/100 (\$452,738.42) Dollars.

37. The death benefit on Plaintiff's husband's IRA account with Equitable Insurance Company policy at the time of the death of Plaintiff's husband, Robert E. Hoffman, was in the amount of Fifty-nine Thousand Six Hundred Sixty-four and 93/100 (\$59,664.93) Dollars.

38. Upon the death of Plaintiff's husband, Robert E. Hoffman, Plaintiff did not receive the death benefit nor did she receive any of the proceeds of her husband's retirement account with the Pennsylvania State Employees' Retirement System (SERS).

39. Upon the death of Plaintiff's husband, Robert E. Hoffman, Plaintiff did not receive the death benefit nor did she receive any proceeds from his IRA account with Equitable Insurance Company.

40. The Defendants did not take any action prior to the death of Plaintiff's husband, Robert E. Hoffman, to prevent Robert E. Hoffman, from changing the beneficiary on his retirement account with the Pennsylvania State Employees' Retirement System (SERS).

41. The Defendants did not take any action prior to the death of Plaintiff's husband, Robert E. Hoffman, to prevent Robert E. Hoffman from changing the beneficiary on the Equitable Insurance Company IRA account.

42. During the pendency of Plaintiff's domestic litigation in the Court of Common Pleas of Clearfield County, the Defendants did not seek the husband's

consent or otherwise petition the Court for an order to maintain the status quo with regard to the retirement account of Robert E. Hoffman, Plaintiff's husband, with the Pennsylvania State Employees' Retirement System (SERS) to prevent the Plaintiff's husband from changing the beneficiary thereof.

43. During the pendency of Plaintiff's domestic litigation in the Court of Common Pleas of Clearfield County, the Defendants did not seek the husband's consent or otherwise petition the Court for an order to maintain the status quo with regard to the IRA account with Equitable Insurance Company to prevent the Plaintiff's husband from changing the beneficiary thereof.

44. Prior to the death of Plaintiff's husband, Robert E. Hoffman, Defendants did not seek or otherwise obtain an injunction, a freeze order, a domestic relations order, an order maintaining the status quo, a consent order, or any other appropriate judicial intervention to prevent Plaintiff's husband, Robert E. Hoffman, from removing Plaintiff as the beneficiary on his retirement account with the Pennsylvania State Employees' Retirement System (SERS).

45. Prior to the death of Plaintiff's husband, Robert E. Hoffman, Defendants did not seek or otherwise obtain an injunction, a freeze order, a domestic relations order, an order maintaining the status quo, a consent order, or any other appropriate judicial intervention to prevent Plaintiff's husband, Robert E. Hoffman, from removing Plaintiff as the beneficiary of the proceeds of the husband's IRA account with Equitable Insurance Company.

46. Attorney Cherry provided legal representation to Diane L. Henry in a divorce case docketed at No. 96-998 C.D. in the Court of Common Pleas of Clearfield County.

47. A copy of the docket entries maintained by the Prothonotary of the Court of Common Pleas of Clearfield County in the case of Diane L. Henry v. Charles R. Henry is attached hereto and marked as Exhibit M.

48. On August 6, 1996, Attorney Cherry filed a Petition for Special Relief Under 23 Pa. C.S.A. Sections 3502 and 3503 on behalf of Diane L. Henry in the Court of Common Pleas of Clearfield County. A copy of the Petition is attached hereto as Exhibit N.

49. R. Denning Gearhart, Esq. provided legal representation to Charles R. Henry in the divorce action docketed at No. 96-998 C.D. in the Court of Common Pleas of Clearfield County.

50. R. Denning Gearhart, Esq. consented to the granting of the relief requested in the Henry Petition for Special Relief that is attached hereto as Exhibit O.

51. On August 30, 1996 the Honorable Frederic Ammerman, Judge of the Court of Common Pleas of Clearfield County, signed an Order in the Diane L. Henry divorce case. A copy of the Judge's Order is attached hereto as Exhibit P.

WILDER & MAHOOD, P.C.

By


James E. Mahood

SILBERBLATT MERMELSTEIN, P.C.

By


Jay N. Silberblatt

LAW OFFICES
GLEASON, CHERRY AND CHERRY, P.C.
P. O. Box 808
DuBois, PENNSYLVANIA 16801-0505

TONIN CHERRY
PAULAM CHERRY
EDWARD V. CHERRY
1950-1990
JAMES A. GLEASON
1946-1978

ONE NORTH FRANKLIN STREET

AREA CODE 814
371-8800
FAX NUMBER
(814) 371-0938

September 20, 1995

Mrs. Linda E. Hoffman
c/o Mr. William Powers
1208 South Brady Street
DuBois, PA 15801

In re: Fee Agreement

Dear Linda:

This letter is to serve as confirmation of our law firm's representation of you and clarification of the general basis upon which fees will be charged by our firm. You have paid a retainer this date of \$500.00 for our representation of you in your domestic matter. The retainer will be credited toward the overall fee in your case. Additional fees, if any, will depend primarily on the time, effort and costs incurred by our representation of you.

During the course of the particular matter for which representation has been accepted, if time and cost charges exceed the amount of the retainer, you will receive additional bills in accordance with our firm's policy, normally on a monthly basis. Each bill you receive will be fully itemized with respect to the time spent, work performed, and charges and costs incurred. It is understood that during the course of this representation our time will be kept at the then-prevailing hourly rate for the person performing the service, with minimum charges in six-minute intervals for all work performed. A minimum of .2 of an hour time charge for telephone conversations; there will be a minimum of .3 of an hour charge in connection with correspondence pertaining to your matter. You will be billed for travel time to and from court at the same rate as the other out-of-court charges. As I told you during our visit on this date, my hourly rate is presently \$100.00.

All bills submitted are to be paid promptly, but no later than thirty (30) days after submission. In the event we are required to institute any legal action for collection of fees or costs due us for services, we have a right also to receive reasonable attorney's fees and costs involved in bringing such action. We reserve the right to terminate our attorney/client relationship for non-payment of fees or costs.



GCC 0730

Mrs. Linda E. Hoffman

Page Two

September 20, 1995

We will keep you informed about the progress of your case. We will send you copies of all papers coming into and going out of this office, including correspondence, pleadings and other court documents. Your file will always be open for your inspection at any reasonable time. We always attempt to return all telephone calls promptly. If no one is available when you call, we will return your call as quickly as possible, but, under certain circumstances, we might have some delay in returning calls, particularly when preparing for or in trial in another case.

Every effort will be made to expedite your case promptly and efficiently according to the highest legal and ethical standards. However, it is impossible to predict the course that a domestic dispute and action for economic relief will take. Sometimes it expands into property questions and various forms of litigation, all of which you are retaining us to handle on your behalf. It is also impossible to determine in advance the amount of time that will be needed to complete your case. We will use our best judgment to determine the amount of time, who is to perform the work, and the nature of the services to be performed in your best interest. We will keep you as fully informed as possible of all the time devoted to your case by us.

You understand that we have made no guarantees about the disposition of any phase of this matter or matters for which we have been retained, as all statements made by us are only our opinions.

We previously discussed these matters with you in your initial consultation with us this date, but we wanted you to have the terms of our representation in this writing for your reference. We appreciate the opportunity to be of service to you.

Very truly yours,

GLEASON, CHERRY AND CHERRY, P.C.

By

Toni M. Cherry

TMC:mls

GCC 0731

LAW OFFICES
GLEASON, CHERRY AND CHERRY, P.C.
P. O. Box 505
DuBois, PENNSYLVANIA 15801-0505

TONI M. CHERRY
PAULA M. CHERRY
EDWARD V. CHERRY
1950-1990
JAMES A. GLEASON
1946-1975

ONE NORTH FRANKLIN STREET

AREA CODE 814
371-5800
FAX NUMBER
(814) 371-0936

November 21, 1995

Blaise J. Ferraraccio, Esq.
Ferraraccio & Noble
Attorneys at Law
301 East Pine Street
Clearfield, PA 16830

RE: ROBERT E. HOFFMAN vs.
LINDA E. HOFFMAN
No. 95 - 1256 C.D.

Dear Blaise:

We are enclosing herewith a certified copy of the Answer to Complaint in Divorce, New Matter and Counterclaim endorsed with Notice to Plead, original of which was filed on behalf of Linda E. Hoffman.

We have had an opportunity to review the marital assets with Mrs. Hoffman and she has authorized us to make the following demand for settlement in an effort to resolve this matter as quickly as possible.

1. Mr. Hoffman will pay to Mrs. Hoffman the sum of \$25,000.00 in cash.
2. Mrs. Hoffman will receive one-half of the furniture and one-half of the stocks.
3. Mrs. Hoffman will receive sole possession and title to the 1985 Cadillac.
4. Mrs. Hoffman will receive the sum of \$750.00 a month as her share of Mr. Hoffman's pension and Mr. Hoffman will name her as the beneficiary on his plan so that she will receive any of the unused benefits in the event of his untimely death.
5. Mrs. Hoffman will consent to a divorce on grounds of irretrievable breakdown.



Blaise J. Ferraraccio, Esq.

Page Two

November 21, 1995

We have made the above demand after considering that Mr. Hoffman has been retired since February of 1993 and has received nearly three full years of his pension with no payment to Mrs. Hoffman of her equitable share of the marital portion of those retirement benefits. We calculate that he has received the sum of \$108,759.95. We calculate that at least half of that is marital property and come up with a figure of \$54,379.98. Mrs. Hoffman's demand for \$25,000.00 is less than half of the marital portion to which she is entitled.

The demand for a monthly payment out of the pension benefit does not include a periodic cost of living increase. Mrs. Hoffman is willing to allow that to accrue only to Mr. Hoffman even though I have advised her she is entitled to a portion of that. You know that the parties have already divided the net proceeds from the sale of the marital residence on a 50/50 basis.

Blaise, I consider Mrs. Hoffman's demand to be most fair. She has a much lower earning capacity and I believe she is entitled to a larger portion of the marital estate. She is willing to accept a division based on the demand contained herein and to withdraw her claim for spousal support if this matter can be resolved quickly. Consequently, we would respectfully request that you discuss this matter with Mr. Hoffman and advise.

Very truly yours,

GLEASON, CHERRY AND CHERRY, P.C.

By


Toni M. Cherry

TMC:mls

Enclosure

cc/w. enc.: Mrs. Linda E. Hoffman

LAW OFFICES
GLEASON, CHERRY AND CHERRY, L.L.P.
P. O. Box 505
DuBois, PENNSYLVANIA 15801-0505

TONI M. CHERRY
PAULA M. CHERRY
EDWARD V. CHERRY
1950-1990
JAMES A. GLEASON
1946-1975

ONE NORTH FRANKLIN STREET

AREA CODE 814
371-5800
FAX NUMBER
(814) 371-0936

September 6, 1996

Blaise J. Ferraraccio, Esq.
Ferraraccio & Noble
Attorneys at Law
301 East Pine Street
Clearfield, PA 16830

RE: ROBERT E. HOFFMAN vs.
LINDA E. HOFFMAN
No. 95 - 1256 C.D.

Dear Blaise.

You will recall that we forwarded a demand for settlement in the above-captioned case by letter dated November 21, 1995. To date, we have not yet heard from you directly but our client advises us that the Cadillac and truck have already been transferred and that she has received one-half of the stocks.

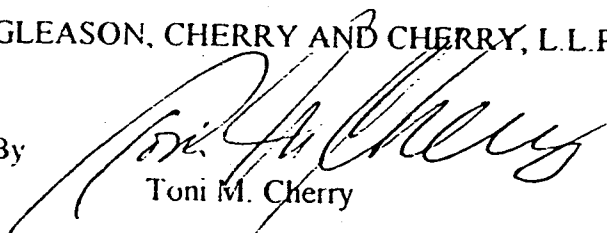
Will you please review our offer of November 21, 1995, with Mr. Hoffman and confirm that we do, in deed, have a settlement and that Mrs. Hoffman will receive the pension benefit we have requested in our letter.

Trusting that we may hear from you in the very near future, we remain

Very truly yours,

GLEASON, CHERRY AND CHERRY, L.L.P.

By


Toni M. Cherry

TMC:mls

cc: Mrs. Linda E. Hoffman



BLAISE J. FERRARACCIO

Attorney & Counselor at Law

301 East Pine Street
Clearfield, Pennsylvania 16830

814-765-4990
814-375-2221

September 17, 1996

Toni M. Cherry, Esquire
Gleason, Cherry and Cherry, L.L.P.
P.O. Box 505
DuBois, PA 15801

RE: Robert E. Hoffman vs. Linda E. Hoffman
No. 95-1256-CD -- Divorce

Dear Toni:

I am in receipt of your letter dated September 6, 1996.

I have spoken to my client and he has advised me that at this point in time he does not wish to proceed forward with the divorce that his wife has filed.

With Best Personal Regards,


Blaise J. Ferraraccio

BJF/lrp

cc: Robert E. Hoffman



FERRARACCIO & NOBLE, P.C.

301 East Pine Street
Clearfield, PA 16830
(814) 765-4990
(814) 375-2221
FAX: (814) 765-9377

October 1, 1997

Toni M. Cherry, Esquire
Gleason, Cherry & Cherry
One North Franklin Street
DuBois, PA 15801

RE: Robert E. Hoffman vs. Linda E. Hoffman
95-1256-CD -- Divorce

Dear Toni:

Please be advised that I have spoken to my client, Robert E. Hoffman, who has spoken to his wife, Linda E. Hoffman, in regard to the above captioned matter.

The parties have agreed to settle their divorce by having Mr. Hoffman pay to Mrs. Hoffman \$650.00 per month in alimony until she reaches the age of 62. In addition, our clients have also agreed to have Mrs. Hoffman named as the beneficiary on Mr. Hoffman's pension.

Enclosed please find Mrs. Hoffman's Affidavit of Consent, Waiver Of Notice Of Intention To Request Entry Of A Divorce Decree Under Section 3301(c) Of The Divorce Code and an Original and four copies of their Property And Separation Agreement. Please have your client execute all of the enclosed documents and then return them to our office.

With Best Personal Regards,

Blaise J. Ferraraccio
Blaise J. Ferraraccio

BJF/lrp
enclosures
cc: Mr. Robert E. Hoffman
Ms. Linda E. Hoffman



PROPERTY AND SEPARATION AGREEMENT

THIS AGREEMENT made this _____ day of _____, 1997,
by and between ROBERT E. HOFFMAN, an individual, hereinafter
referred to as Husband;

A N D

LINDA E. HOFFMAN, an individual, hereinafter referred to as
Wife

W I T N E S S E T H:

WHEREAS, the parties are presently husband and wife; and

WHEREAS, there were no children born of this marriage; and

WHEREAS, the parties desire to settle their property rights
permanently and for all time; and

WHEREAS, both parties agree to relinquish any and all claims
which either may have against any property now owned or belonging
to the other which may hereafter be acquired by either of them by
purchase, gift, devise, bequest, inheritance and otherwise,
except as to the obligations, covenants and agreements contained
herein; and

WHEREAS, the parties hereto have had the opportunity to seek
the benefit of competent and independent legal advise by separate
counsel if such counsel was not waived; and

WHEREAS, a complaint in divorce, captioned 95-1256-C.D. has
been filed to terminate the marriage of the parties.

ALISE J. FERRARACCIO
ATTORNEY & COUNSELOR
AT LAW



NOW THEREFORE, the parties intending to be legally bound hereby do covenant and agree as follows:

1. SEPARATION: It shall be lawful for each party at all times hereafter to live separate and apart from the other party at such place as he or she may from time to time choose or deem fit. The foregoing provision shall not be taken as an admission on the part of either party of the lawfulness or unlawfulness or the causes leading to their living apart.

2. INTERFERENCE: Each party shall be free from interference, authority, and contact by the other as fully as if he or she were single and unmarried, except as may be necessary to carry out the provisions of this agreement. Neither party shall molest the other or attempt to endeavor to molest the other, nor compel the other to cohabit with the other, nor in any way harass the other, nor in any way interfere with the peaceful existence, separate and apart from the other.

3. DESIRE OF THE PARTIES: It is the desire of the parties after long and careful consideration, to amicably adjust, compromise and settle all property rights, and all rights, in, to, or against each other's property or estate, including property heretofore or subsequently acquired by either party and to settle all disputes existing between them including all claims for wife and/or husband's maintenance and/or for support, and property distribution.

4. DEBTS: The husband and wife, represent and warrant to each other that neither one has contracted any debt or debts, charges, or liabilities whatsoever, except as herein expressly set forth for which the other party or their property or their estates shall or may be or become liable or answerable, and they covenant that they will at all times keep each other free, harmless and indemnified against and from any and all debts and liabilities heretofore or hereafter contracted or incurred by either of them, except as expressly provided in this agreement.

5. MUTUAL RELEASE: Subject to the provisions of this agreement, each party has released and discharged, and by this agreement does for himself or herself and his or her heirs, legal representatives, executors, administrators, and assigns, release and discharge the other of and from all causes of action, claims, rights, or demands, whatsoever in law or in equity, which either of the parties ever had or now has against the other, except any cause or causes of action for divorce and except any or all causes of action for breach of any provisions of this agreement.

6. DIVISION OF PERSONAL PROPERTY: The parties hereby have divided their personal property including but not limited to all household goods and furnishings, personal affects and all other items of personal property used by them in common as follows:

(a) Each party shall receive and be the sole owner of his or her personal effects and clothing.

(b) Husband agrees and by these presents does convey to

wife, all right, title and interest he may have in a 1985 Cadillac Seville. Husband agrees to execute any and all documents or titles necessary to effectuate any transfer. Wife agrees and by these presents does convey to husband, all right, title and interest she may have in a 1986 S-10 Chevrolet Pickup Truck. Wife agrees to execute any and all documents or titles necessary to effectuate any transfer. Wife agrees to make all 1985 Cadillac Seville car payments, and all insurance payments upon said car as they may become due and does hereby hold husband harmless from the same. Husband agrees to make all 1986 S-10 Chevrolet Pickup Truck payments and all insurance payments upon said truck as they may become due and does hereby hold wife harmless from the same.

(c) With regard to the other household furnishings, furniture and appliances, as well as all other personal property that the couple owns, it is understood and agreed that wife shall have sole ownership and possession of all items of personalty that are presently in possession of wife, and husband shall have sole ownership and possession of all items of personalty that are presently in possession of husband.

(d) Husband and wife both agree that the aforesaid provisions are in lieu of any and all claims of equitable distribution of the marital estate, and the parties agree that this division is equitable in the circumstances.

7. DIVISION OF REAL PROPERTY: The parties agree that the marital residence located at 959 Treasure Lake, DuBois, Clearfield County, Pennsylvania 15801 has been sold. The husband and the wife both further acknowledge that the proceeds and the contents of the marital residence have been divided equally under the circumstances.

8. CHECKING ACCOUNTS, SAVINGS ACCOUNTS, SAVINGS BONDS, STOCKS AND CREDIT UNION ACCOUNTS: The parties agree that there are no checking accounts or savings accounts or savings bonds or stocks or credit union accounts in the name of husband and wife as all have been mutually divided and each now has their own separate such accounts with respect to which the other will make no claim.

9. MUTUAL DEBTS: The parties recognize that the mutual debts of the parties not previously assigned could include a number of credit cards, loans, debts, bills and/or other expenses which may or may not have outstanding balances incurred by the husband and the wife during the marriage and in his or her possession. Wife does agree to pay all debts, bills, or other expenses incurred to the extent outstanding and in her possession and will have husband's name removed from the debts, bills and/or other expenses within one (1) week from the date of the execution of this agreement. Wife will hold husband harmless from said liabilities until the time that the husband's name is removed from the accounts. Wife does agree to make monthly payments on

any other joint credit cards and loans in her possession and will have husband's name removed from all credit card accounts and loans within one (1) month from the date of the execution of this agreement and will otherwise hold husband harmless from said liabilities until the time that the husband's name is removed from the accounts and loans. Husband does agree to pay all debts, bills, or other expenses incurred to the extent outstanding and in his possession and will have wife's name removed from the debts, bills or other expenses within one (1) week from the date of the execution of this agreement. Husband will hold wife harmless from said liabilities until the time that the wife's name is removed from the accounts. Husband does agree to make monthly payments on any other joint credit cards and loans in his possession and will have wife's name removed from all credit card accounts and loans within one (1) month from the date of the execution of this agreement and will otherwise hold wife harmless from said liabilities until the time that the wife's name is removed from the accounts and loans.

10. INTENDED TAX RESULT AND INDEMNIFICATION: By this agreement the parties have intended to effectuate, the parties have equally divided their marital property. The parties have determined that such equal division conforms to a right and just standard with regards to the rights of each party. The division of existing marital property is not, except as may be otherwise expressly provided herein, intended by the parties to constitute

in any way a sale or exchange of assets and the division is being effected without the introduction of outside funds or other property not constituting a part of the marital estate. As a part of the equal division of the marital properties and the marital settlement contained therein, the parties agree to save and hold each other harmless from all income taxes assessed against the other resulting from the division of the property as herein provided.

11. SPOUSAL SUPPORT, ALIMONY PENDENTE LITE, ALIMONY, ATTORNEY'S FEES AND COSTS: Husband is currently paying the sum of \$775.00 per month in spousal support, when the wife returns to work, the husband will be paying the sum of \$365.00 per month in spousal support. As per the agreement of the husband and the wife, husband agrees to pay to the wife Six Hundred Fifty and 00/100 (\$650.00) Dollars a month in alimony until the wife reaches the age of 62. At the time of the granting of a divorce in this case, the husband's present support obligation will cease. Upon receipt of the first \$650.00 payment, the wife's right to receive spousal support and alimony pendente lite will cease and the wife waives and releases any claims she might otherwise have against her husband for spousal support, alimony pendente lite, attorney's fees, and costs or charges against her husband pertaining to their separation or divorce in consideration of the provisions of the within agreement between the parties. The husband waives and releases any claims he might otherwise have

against his wife for spousal support, alimony pendente lite, alimony, attorney's fees, and costs or charges against his wife pertaining to their separation or divorce in consideration of the provisions of the within agreement between the parties.

12. PENSION PLAN: In reference to husband's and wife's pension plans or pension rights as accrued through their employment, it is hereby further agreed and understood that both the husband and the wife waive and release any and all past, present or future claims they might have against each other's pension plans. Any pension rights accrued after the date of separation will be the sole and exclusive property and entitlement of the husband's own pension plan to himself and the wife's own pension plan to herself. However, it is hereby further agreed and understood that the husband shall name the wife as the beneficiary on his pension immediately upon the granting of a divorce in this case.

13. FINANCIAL DISCLOSURE: The parties confirm that each has relied upon the substantial accuracy of the financial disclosure of the other as an inducement to the execution of this agreement.

14. ADVICE OF COUNSEL: The provisions of this agreement and their legal effect have been explained to the parties by their respective counsel if such counsel was not waived. The parties acknowledged that they have received independent legal advice from counsel of their selection, or have waived legal

advise from independent counsel, and that they fully understand the facts and that they have been fully informed as their legal rights and obligations and acknowledge and accept this agreement. They agree that this agreement is, in the circumstances, fair and equitable and that it is being entered into freely and voluntarily after having received or waived such advice and with such knowledge and that execution of this agreement is not the result of any duress or undue influence and that it is not the result of any collusion or any improper or illegal agreement or agreements.

15. WAIVER OF CLAIMS AGAINST ESTATE: Except as herein otherwise provided, each party may dispose of his or her property, in any way, and each party hereby waives and relinquishes any and all rights he or she may now have or hereafter acquire, under the present or future laws of any jurisdiction, to share in the property or the Estate of the other as the result of the marital relationship, including without limitation, dower, curtesy, statutory allowance, widow's allowance, right to take property under equitable distribution, right to take an intestacy, right to take against the will of the other and right to act as administrator or executor of the other's estate, and he or she will, at the request of the other, execute, acknowledge, and deliver any and all instruments which accomplishes this.

16. APPLICABLE LAW: This agreement shall be construed under the laws of the Commonwealth of Pennsylvania and Jurisdiction of this case will remain with the Court of Common Pleas of Clearfield County, Pennsylvania and shall be effective when all parties have executed this Agreement.

17. VOID CLAUSE: If any term, condition, clause or provision of this agreement shall be determined or declared to be void or invalid in law or otherwise, then only that term, condition, clause, or provision, shall be stricken from this agreement and in all other respects this agreement shall be valid and continue in full force, effect and operation.

18. ENTRY AS PART OF DECREE: It is the intention of the parties that this instrument shall survive any actions for divorce which may be instituted or prosecuted by the other party and no order, judgment or decree of divorce, temporary, interlocutory, final or permanent, shall effect or modify the financial terms of this agreement. It is also the intention of the parties that this agreement shall survive any periods of reconciliation of the parties and no attempt at reconciliation by the parties or cohabitation by the parties hereinafter shall be assumed to cause the property as so divided in this agreement to become marital property for the purposes of equitable distribution under the divorce code of the Commonwealth of Pennsylvania. The parties agree that all property divided by

this agreement shall remain the property of that party as specified within this agreement, unless this agreement is rescinded by the parties by writing in similar form to this agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

Robert E. Hoffman

Linda E. Hoffman

LAW OFFICES
GLEASON, CHERRY AND CHERRY, L.L.P.
P. O. Box 505
DuBois, PENNSYLVANIA 15801-0505

TONI M. CHERRY
PAULA M. CHERRY
EDWARD V. CHERRY
1950-1990
JAMES A. GLEASON
1946-1975

ONE NORTH FRANKLIN STREET

AREA CODE 814
371-5800
FAX NUMBER
(814) 371-0936

October 10, 1997

Blaise J. Ferraraccio, Esq.
Ferraraccio & Noble
Attorneys at Law
301 East Pine Street
Clearfield, PA 16830

RE: **ROBERT E. HOFFMAN vs.**
LINDA E. HOFFMAN
No. 95 - 1256 C.D.

Dear Blaise:

Thank you for your most recent correspondence. Unfortunately, the Property and Separation Agreement did not reflect Mrs. Hoffman's understanding of the deal. In fact, she advises that Mr. Hoffman had made her an offer for a monthly amount and she had told him that it was a start but that he needed to go farther. In any event, she is willing to settle this matter without the additional expense of a Master's Hearing and, in an effort to bring this matter to a speedy resolution, has authorized me to make the following counter-offer:

1. Mr. Hoffman will pay to Mrs. Hoffman the sum of \$15,000.00.
2. Mrs. Hoffman will receive the sum of \$750.00 per month from Mr. Hoffman's pension. Mr. Hoffman will name her as the beneficiary on his plan so that she will receive any of the unused benefits in the event of his untimely death.
3. Mr. Hoffman will be entitled to keep all of the household goods and furnishings in his possession and Mrs. Hoffman will not make a claim for an equitable division of the same.
4. The parties will sign Affidavits of Consent so that a divorce on grounds of irretrievable breakdown can be secured immediately.

Would you please discuss this matter with Mr. Hoffman at your earliest convenience and advise if we can bring this matter to a conclusion.

**PLAINTIFF'S
EXHIBIT**

L

Blaise J. Ferraraccio, Esq.

Page Two

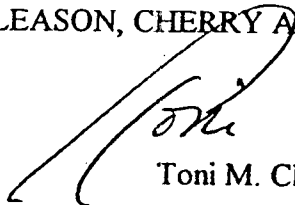
October 10, 1997

Thanking you for your kind attention to this matter, we remain

Very truly yours,

GLEASON, CHERRY AND CHERRY, L.L.P.

By



Toni M. Cherry

TMC:mls

cc: Mrs. Linda E. Hoffman

Toni M. Cherry	DIANE L. HENRY,	AUGUST 6, 1996, COMPLAINT IN DIVORCE, filed by Toni M. Cherry, Esquire. Two (2) copies Certified to Atty Cherry.
		AUG 06, 1996, PETITION FOR SPECIAL RELIEF UNDER 23 PA. C.S.A. SECTIONS 3502 and 3505, filed by s/TONI M. CHERRY, ESQ. TWO (2) CERT TO ATTY CHERRY VERIFICATION, s/Diane L. Henry
Aug 6 10:10 am	96-998-CD	AUG. 14, 1996, RULE, filed. TWO (2) CERT TO ATTY CHERRY AND NOW, this 13 day of August, 1996, in consideration of the foregoing Petition, a Rule is hereby issued upon the Respondent, CHARLES R. HENRY, to show cause, if any he has, why an injunction should not issue and why the relief requested by Petitioner should not be granted. Rule Returnable for hearing is scheduled for the 30th day of August, 1996, in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pa., at 1:30 o'clock p.m. Pending further Order of this Court, Respondent is hereby enjoined and prohibited from removing the name of DIANE L. HENRY as the designated beneficiary of Respondent's pension benefits through the Public School Employees' Retirement System and Respondent is hereby directed to reinstate DIANE L. HENRY as the sole beneficiary of such benefits in the event of the death of the Defendant, CHARLES R. HENRY, pending further Order of this Court. BY THE COURT: s/FRED AMMERMAN, JUDGE
R. Denning Gearhart	CHARLES R. HENRY,	
4/21/97, \$200 Master Deposit by Atty "G"		AUGUST 29, 1996, ENTRY OF APPEARANCE, filed by R. Denning Gearhart, Esquire. Two (2) certified copies to Attorney Gearhart
07/06/98 \$200.00 TO DEPT. BY GEARHART, CK#3652		AUG 30, 1996, AFFIDVIT OF SERVICE, filed. NO CERT COPIES Before me, the undersigned official, appeared TONI M. CHERRY, ESQ. who, being duly sworn according to law, deposes and says that she is the Attorney for DIANE L. HENRY, Plaintiff in the above cause of action, and that she did serve CHARLES R. HENRY with a certified copy of the Divorce Complaint and Petition for Special Relief by mailing the same to him at 610 Brisbin Street, Houtzdale, Pa., 16651, by Certified Mail, Return Receipt Requested, Deliver to Addressee Only on August 21, 1996, by Article No. Z 414 878 602. The Return Receipt Card being attached hereto. s/TONI M. CHERRY, ESQ.
Pro by Atty	54.50	
State by Atty	.50	
CTFA by Atty (4 counts)	10.00	
JCP Fee by Atty	20.00	SEP 03, 1996, ORDER, filed. ONE (1) CERT TO ATTY CHERRY, GEARHART
		AND NOW, this 30th day of August, 1996, upon consideration of the Petition for Special Relief filed on behalf of the Plaintiff and with the consent of counsel for both parties, it is the ORDER of this Court as follows:
		That neither party shall do anything to change the ownership of, or primary beneficiary designated on, any retirement benefits, pensions, or life insurance policies owned by or provided for either party during the pendency of the divorce action filed to the above-captioned term and number. Specifically, CHARLES R. HENRY shall retain the name of DIANE L. HENRY as principal beneficiary of his retirement benefits provided through the Public School Employees' Retirement System during the pendency of this divorce action.
		BY THE COURT, s/FRED AMMERMAN, Judge
APR. 21, 1997, INVENTORY AND APPRAISEMENT OF CHARLES R. HENRY, filed. s/CHARLES R. HENRY TWO (2) CERT TO ATTY GEARHART		
APR. 21, 1997, BUDGET INFORMATION SHEET, Defendant, filed by R. DENNING GEARHART, ESQ. TWO (2) CERT TO ATTY		
APR. 21, 1997, DEFENDANT'S PRETRIAL STATEMENT, filed by s/R. DENNING GEARHART, ESQ. TWO (2) CERT TO ATTY		
APR. 21, 1997, PRAECIPE FOR APPOINTMENT OF MASTER, filed by s/R. DENNING GEARHART, ESQ. ONE (1) CERT TO ATTY GEARHART, CHERRY, T.		
APR. 29, 1997, ORDER APPOINTING MASTER, filed. TWO (2) CERT COPIES TO ATTY GEARHART		
AND NOW, this 28 day of April, 1997, Richard Lhota, Esquire, is appointed Master with respect to the following claim: EQUITABLE DISTRIBUTION and ALIMONY.		BY THE COURT, s/FRED AMMERMAN, JUDGE
MAY 1, 1997, ALL PAPERS TO MASTER, J. RICHARD LHOTA, ESQUIRE		
JUNE 23, 1997, MASTER'S WRITTEN DIRECTIVE REQUIRING FILING OF A PRE-TRIAL STATEMENT, BUDGET INFORMATION AND INVENTORY AND APPRAISEMENT UNDER PENNSYLVANIA RULE OF CIVIL PROCEDURE 1920.33(a) AND (b) AND LOCAL COURT RULE 1920.2(b), filed by J. Richard Lhota, Esquire		Three Copies Certified to Atty Lhota.
JUL 14, 1997, AFFIDAVIT OF SERVICE OF PRE-TRIAL STATEMENT, BUDGET INFORMATION AND INVENTORY AND APPRAISEMENT VIA U.S. MAIL ON JUNE 23, 1997, TO TONI M. CHERRY, ESQ., AND HAND DELIVERED TO R. DENNING GEARHART, ESQ. s/JOHN R. LHOTA, ESQ. THREE (3) CERT TO ATTY LHOTA		
JUL 17, 1997, MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH MASTER'S DIRECTIVE REQUIRING FILING OF PRE-TRIAL STATEMENT, BUDGET INFORMATION AND INVENTORY AND APPRAISAL, filed by s/R. DENNING GEARHART, ESQ. THREE (3) CERT TO ATTY		
JUL 21, 1997, RULE TO SHOW CAUSE WHY MOTION FOR SANCTIONS SHOULD NOT BE GRANTED, filed. THREE (3) CERT TO ATTY GEARHART		
AND NOW, this 18th day of July, 1997, upon motion of Law Offices of R. Denning Gearhart, Attorneys for Defendant		

PLAINTIFF'S
EXHIBIT
M

CONTINUED FROM PAGE 335, HENRY vs HENRY, 96-998-CD

JUL 22, 1997, CERTIFICATE OF SERVICE, MOTION FOR SANCTIONS, JULY 22, 1997, VIA U.S. MAIL, ON TONI M. CHERRY, ESQ. and J. RICHARD MILGRUB, ESQ., filed by s/R. DENNING GEARHART, ESQ. NO CERT COPIES

AUG 20, 1997, INCOME AND EXPENSE SHEET OF DAINE L. HENRY, filed. s/DIANE L. HENRY NO CERT COPIES

AUG 20, 1997, INVENTORY OF DIANE L. HENRY, filed. s/DIANE L. HENRY NO CERT COPIES

AUG 20, 1997, PLAINTIFF'S PRE-TRIAL STATEMENT, filed. s/TONI M. CHERRY, ESQ. NO CERT COPIES

AUG 20, 1997, STIPULATION, filed. s/TONI M. CHERRY, ESQ. s/R. DENNING GEARHART, ESQ.
TWO (2) CERT TO ATTY CHERRY

JANUARY 21, 1998, PETITION TO ENFORCE MARRIAGE SETTLEMENT AGREEMENT, filed by Toni M. Cherry, Esquire.

CERTIFICATE OF SERVICE,

January 20, 1998 served the foregoing on R. Denning Gearhart, Esquire, John R. Lhota, Esquire. /s/ Toni M. Cherry, Esquire.

Two (2) certified copies to Attorney Cherry

JAN. 26, 1998, ANSWER TO PETITION TO ENFORCE MARRIAGE SETTLEMENT AGREEMENT, filed by s/R. DENNING GEARHART, ESQ.
TWO (2) CERT TO ATTY GEARHART

JAN. 27, 1998, RULE, filed. TWO (2) CERT TO ATTY CHERRY

AND NOW, this 26th day of January, 1998, in consideration of the foregoing Petition and the allegations made therein, a Rule is hereby issued upon the Respondent to show cause, if any he has, why the relief requested by the Petitioner should not be granted and why Respondent should not be ordered to prepare a Marriage Settlement Agreement containing the provisions set forth herein and to take all action necessary to effect the terms of said Agreement.

Rule returnable for written answer by the 16th day of February, 1998, with hearing scheduled thereafter if answer be made by Respondent. BY THE COURT: s/FREDRIC J. AMMERMAN, Judge

JAN. 29, 1998, PLAINTIFF'S NOTICE OF MASTER'S HEARING, filed by s/JOHN R. LHOTA, ESQ. MASTER IN DIVORCE
THREE (3) CERT TO ATTY LHOTA

ACCEPTANCE OF SERVICE. s/TONI M. CHERRY, ESQ.

JUL 01 1998, MOTION CONCERNING PAYMENT OF MASTER'S FEE and REIMBURSEMENT for EXPENSES INCURRED UNDER 46 J.D.R.C.P. RULE 206(d), filed by s/JOHN R. LHOTA, ESQ., MASTER IN DIVORCE THREE (3) CERT TO ATTY LHOTA

JUL 06, 1998, ORDER, filed. ONE (1) CERT TO LHOTA, CHERRY, GEARHART

RE: IT IS THE ORDER OF THIS COURT, that William A. Shaw, Prothonotary and Clerk of this Court, is hereby authorized, empowered and directed to release the sum of \$200.00, the amount of said deposit, to Defendant.

BY THE COURT: s/FREDRIC J. AMMERMAN, JUDGE

OCT. 09, 1998, STIPULATION FOR THE ENTRY OF A QUALIFIED DOMESTIC RELATIONS ORDER, filed by s/TONI M. CHERRY, ESQ. FIVE (5) CERT TO ATTY CHERRY

CONTINUED TO PAGE 347

CONTINUED FROM PAGE 347, HENRY vs HENRY, 96-998-CD

OCT. 14, 1998, ORDER, filed. FIVE (5) CERT TO ATTY CHERRY
AND NOW, this 13th day of October, 1998, the attached STIPULATION and AGREEMENT dated October 1st 1998, of
the parties in this case is incorporated, but not merged, into this Order of Court.
BY THE COURT: s/FREDRIC J. AMMERMAN, JUDGE

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUL 19 2004

Attest.

W. L. R.
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DIANE L. HENRY,
Plaintiff
vs.
CHARLES R. HENRY,
Defendant

: No. 96 - 998 C.D.
:
: Type of Case: DIVORCE
:
: Type of Pleading: PETITION
: FOR SPECIAL RELIEF UNDER
: 23 Pa.C.S.A. SECTIONS 3502
: and 3505
:
: Filed on Behalf of: DIANE L.
: HENRY, Petitioner/
: Plaintiff
:
: Counsel of Record for this
: Party:
:
: TONI M. CHERRY, ESQ.
: Supreme Court No.: 30205
:
: GLEASON, CHERRY AND
: CHERRY, L.L.P.
: Attorneys at Law
: P. O. Box 505
: One North Franklin Street
: DuBois, PA 15801
: (814) 371-5800
:

COPY

FILED

AUG 6 1996

William A. Shaw
Prothonotary



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DIANE L. HENRY, :
Plaintiff :
vs. : No. 96 - _____ C.D.
CHARLES R. HENRY, :
Defendant : IN DIVORCE

PETITION FOR SPECIAL RELIEF UNDER 23 Pa. C.S.A.
SECTIONS 3502 and 3505

TO THE HONORABLE FREDRIC J. AMMERMAN, JUDGE OF SAID COURT:

AND NOW, comes the Petitioner, DIANE L. HENRY, by and through her Attorneys, GLEASON, CHERRY AND CHERRY, L.L.P., and petitions your Honorable Court as follows:

1. Your Petitioner, DIANE L. HENRY, is an adult individual who resides at 601 Charles Street, Houtzdale, Clearfield County, Pennsylvania 16651.

2. Respondent, CHARLES R. HENRY, is an adult individual who currently resides at 610 Brisbin Street, Houtzdale, Clearfield County, Pennsylvania 16651.

3. That your Petitioner and Respondent are currently husband and wife, having been married on September 10, 1960, but a divorce has been filed by your Petitioner to the above-captioned term and number requesting a divorce from

Respondent since the marriage cannot be saved and Respondent continues to reside with another woman.

4. That Respondent is employed as a school teacher by the Moshannon Valley School District and, as a result of his employment, is entitled to a retirement pension through the Public School Employees' Retirement System of the Commonwealth of Pennsylvania.

5. That all of such pension is marital property subject to equitable division by your Honorable Court.

6. That Respondent has advised that he has changed his beneficiary to remove your Petitioner as a beneficiary and thus deprive her of benefits to which she is entitled as a result of the marriage in the event of his death prior to the time of the divorce.

7. That Section 3502(d) of the Divorce Code empowers your Honorable Court to direct the continued maintenance and beneficiary designations of existing policies insuring the life or health of either party when the same is necessary to protect the interests of either party in marital property.

8. That Section 3505 of the Divorce Code empowers your Honorable Court to issue an injunction if it appears to your Honorable Court that a party is about to remove property from the jurisdiction of the Court or is about to dispose of, alienate or encumber property in order to defeat equitable distribution.

9. That if, in fact, Respondent has already changed the designated beneficiary of his retirement benefits, he has, in fact, defeated your Petitioner's right to equitable distribution of those proceeds if, in fact, he should die prior to the time of the granting of a divorce.

10. That if your Honorable Court allows the Respondent to either change the beneficiary or does not force Respondent to change it back to Petitioner, he will, in effect, defeat your Petitioner's right to equitable distribution of the most significant asset in the marital estate.

11. That your Petitioner requires the issuance of an injunction prohibiting Defendant from removing Petitioner's name as the sole beneficiary of his retirement benefits until such time as an equitable distribution of marital property has been made or Petitioner will suffer irreparable harm.

WHEREFORE, the undersigned respectfully requests your Honorable Court to issue an injunction in accordance with the equitable powers granted to your Honorable Court under the provisions of the Divorce Code prohibiting the Respondent from disposing of, alienating, selling or otherwise encumbering any of the marital property of the parties and to issue an Order directing Respondent to immediately reinstate the name of Petitioner as the sole beneficiary of his retirement plan until such time as equitable distribution of the marital property has

been made and a Qualified Domestic Relations Order distributing Respondent's retirement benefits has been issued by your Honorable Court.

Respectfully submitted,

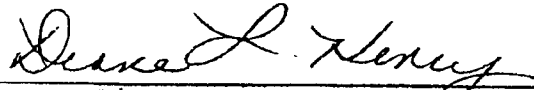
GLEASON, CHERRY AND CHERRY, L.L.P.

By 

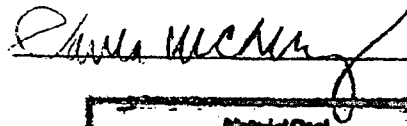
Attorneys for Petitioner/
Plaintiff

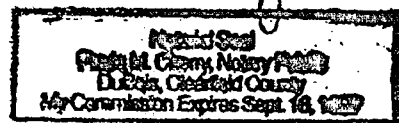
COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

Personally appeared before me, a Notary Public, in and for the County and State aforesaid, DIANE L. HENRY, who, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Petition are true and correct to the best of her knowledge, information and belief.


Diane L. Henry

Sworn to and subscribed before me this 29 day of May, 1996.





IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DIANE L. HENRY,
Plaintiff
vs.
CHARLES R. HENRY,
Defendant

No. 96 - 998 C.D.
IN DIVORCE

R U L E

AND NOW, this 13 day of August, 1996, in consideration of the foregoing Petition, a Rule is hereby issued upon the Respondent, CHARLES R. HENRY, to show cause, if any he has, why an injunction should not issue and why the relief requested by Petitioner should not be granted.

Rule Returnable for hearing is scheduled for the 30th day of August, 1996, in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania, at 1:30 o'clock P.M.

Pending further Order of this Court, Respondent is hereby enjoined and prohibited from removing the name of DIANE L. HENRY as the designated beneficiary of Respondent's pension benefits through the Public School Employees' Retirement System and Respondent is hereby directed to reinstate DIANE L. HENRY as the sole beneficiary of such benefits in the event of the death

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AUG 14 1996

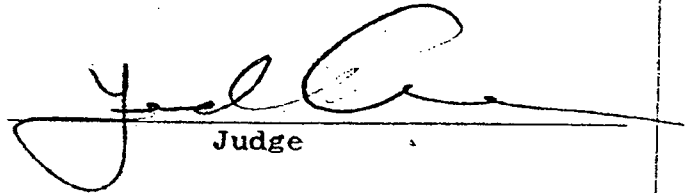
Shirley A. Smith
Clerk of Court

COPY

[Signature]

of the Defendant, CHARLES R. HENRY, pending further Order of
this Court.

BY THE COURT:


Judge

R. Denning Gearhart

Attorney & Counselor at Law

217 EAST LOCUST STREET
CLEARFIELD, PA 16830
TEL: 765-1331
FAX: 765-6745

August 30, 1996

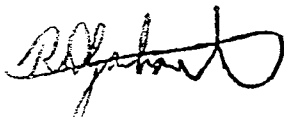
Hon. Fredric J. Ammerman
Clearfield County Courthouse
1 North Second Street
Clearfield, PA 16830

RE: Diane L. Henry vs. Charles R. Henry
No. 96-998-CD

Dear Judge Ammerman:

Be advised that I have entered my appearance on behalf of Charles R. Henry. I enclose an Order which was faxed to my by Toni Cherry, attorney for the Plaintiff, and I consent to its entry.

Sincerely,



R. Denning Gearhart

RDG/sem

cc: Toni M. Cherry, Esq.
Charles R. Henry

Enclosure



IN THE COURT OF COMMON PLEAS OF CLEARFELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

DIANE L. HENRY,
Plaintiff

vs.

CHARLES R. HENRY,
Defendant

No. 96 - 998 C.D.

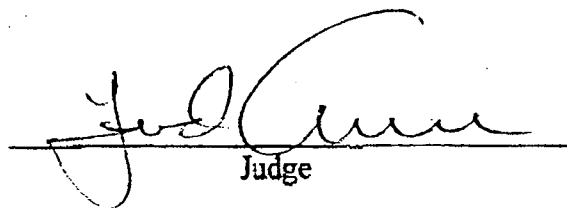
IN DIVORCE

ORDER

AND NOW, this 30 day of August, 1996, upon consideration of the Petition for Special Relief filed on behalf of the Plaintiff and with the consent of counsel for both parties, it is the ORDER of this Court as follows:

That neither party shall do anything to change the ownership of, or primary beneficiary designated on, any retirement benefits, pensions or life insurance policies owned by or provided for either party during the pendency of the divorce action filed to the above-captioned term and number. Specifically, CHARLES R. HENRY shall retain the name of DIANE L. HENRY as principal beneficiary of his retirement benefits provided through the Public School Employees' Retirement System during the pendency of this divorce action.

BY THE COURT:


Judge

COPY

FILED

SEP 03 1996

William A. Shaw
Prothonotary



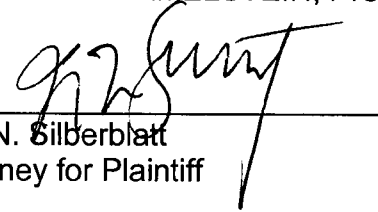
CERTIFICATE OF SERVICE

I, Jay N. Silberblatt, Esquire, counsel for the Plaintiffs in the within matter, do hereby certify that a true and correct copy of the **Plaintiff's Second Request for Admissions** was sent by first class mail on the 26 day of July, 2004 to the following person:

**Dennis J. Roman, Esquire
Grogan Graffam, P.C.
Four Gateway Center, 12th Floor
Pittsburgh, PA 15222
Attorney for Defendants**

SILBERBLATT MERMELSTEIN, P.C.

By


Jay N. Silberblatt
Attorney for Plaintiff

William A. Shaw
Prothonotary, Clerk of Courts



JUDGES CHAMBERS
TWENTY-FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
LOCK HAVEN, PENNSYLVANIA 17745

J. MICHAEL WILLIAMSON
Judge

Clinton County Courthouse
230 E. Water Street
Lock Haven, PA 17745
570-893-4014
FAX 570-893-4126

July 26, 2004

William Shaw, Prothonotary
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Re: Hoffman v. Cherry
No. 00-96-CD

Dear Mr. Shaw:

Please file the enclosed Order in the above referenced matter. All copies have been distributed.

Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Carol E. Miller".

Carol E. Miller
Secretary to Judge Williamson

Enclosure

William A. Shaw
Prothonotary/Clerk of Courts



JUDGES CHAMBERS
TWENTY-FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
LOCK HAVEN, PENNSYLVANIA 17745

J. MICHAEL WILLIAMSON
Judge

Clinton County Courthouse
230 E. Water Street
Lock Haven, PA 17745
570-893-4014
FAX 570-893-4026

August 16, 2004

William Shaw, Prothonotary
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Re: Hoffman v. Cherry
No. 00-96-CD

Dear Mr. Shaw:

Please file the enclosed Order in the above referenced matter. All copies
have been distributed.

Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Carol E. Miller".

Carol E. Miller
Secretary to Judge Williamson

Enclosure

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

CIVIL DIVISION

No. 00-96-CD

**VERIFICATION OF SERVICE OF
PLAINTIFF'S ANSWERS TO
DEFENDANTS' THIRD SET OF
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS**

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

James E. Mahood, Esquire
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

FILED

AUG 23 2004
m/8:30
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

CIVIL DIVISION

Plaintiff,

NO. 00-96-CD

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

VERIFICATION OF SERVICE

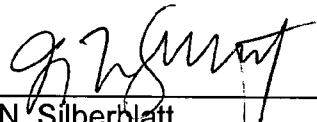
I, Jay N. Silberblatt, Esquire, counsel for the Plaintiff in the within matter, do hereby certify that a true and correct copy of **Plaintiff's Answers to Defendants' Third Set of Interrogatories** was mailed by first class mail, postage prepaid, on the 19 day of **August, 2004** to the following person:

Dennis J. Roman, Esquire
GROGAN GRAFFAM, P.C.
Four Gateway Center, 12th Floor
Pittsburgh, PA 15222
Attorney for Defendants
Toni M. Cherry
Gleason, Cherry and Cherry, L.L.P.

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

By


Jay N. Silberblatt
Attorneys for Plaintiff

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,

Plaintiff,

v.

TONI M. CHERRY, individually, and
GLEASON, CHERRY and CHERRY,
L.L.P., a Partnership,

Defendants.

) CIVIL ACTION
)
) No. 00-96-CD
)
) **MOTION IN LIMINE TO EXCLUDE**
) **ALL EVIDENCE OF A PURPORTED**
) **AGREEMENT BY OR INTENTION OF**
) **DECEDENT, ROBERT E. HOFFMAN,**
) **TO MAINTAIN PLAINTIFF AS NAMED**
) **SERS OR IRA BENEFICIARY**
)
) Filed on behalf of defendants, Toni M.
) Cherry, individually and Gleason, Cherry &
) Cherry, L.L.P., a Partnership
)
) Counsel of Record for these Parties:
)
) DENNIS J. ROMAN, ESQUIRE
) Pa. I.D. # 36904
)
) GROGAN GRAFFAM, P.C.
) Firm I.D. No. 072
) Four Gateway Center
) 12th Floor
) Pittsburgh, PA 15222
) (412) 553-6300

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William A. Shaw
Prothonotary/Clerk of Courts
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,)	CIVIL ACTION
)	
Plaintiff,	)	No. 00-96-CD
)	
v.)	
)	
TONI M. CHERRY, individually, and)	
GLEASON, CHERRY and CHERRY,)	
L.L.P., a Partnership,)	
)	
Defendants.)	
)	

**MOTION IN LIMINE TO EXCLUDE ALL EVIDENCE OF A PURPORTED
AGREEMENT BY OR INTENTION OF DECEDENT, ROBERT E. HOFFMAN, TO
MAINTAIN PLAINTIFF AS NAMED SERS AND IRA BENEFICIARY**

Defendants, TONI M. CHERRY, Esquire, individually, and GLEASON, CHERRY and CHERRY, L.L.P., by their attorneys, GROGAN GRAFFAM, P.C., set forth the following Motion in Limine to Exclude All Evidence of a Purported Agreement By Or Intention Of Decedent, Robert E. Hoffman, To Maintain Plaintiff As Named SERS And IRA Beneficiary:

I. Background

1. This is a legal malpractice action, styled in negligence, filed by plaintiff, Linda E. Hoffman, against defendants Toni M. Cherry, Esquire and her law firm, Gleason, Cherry and Cherry, L.L.P. (collectively "attorney-defendants").

2. Plaintiff's negligence theory of recovery arises out of attorney-defendants' former legal representation of plaintiff's interests in an underlying divorce action filed by plaintiff's husband, Robert E. Hoffman, in the Court of Common Pleas of Clearfield County, Pennsylvania at No. 95-1256-CD ("underlying proceedings" or "Divorce Action").

3. The Hoffmans were married on September 2, 1983. The parties had several periods of separation (plaintiff had previously filed for a divorce in 1987 but the parties later reconciled), before the Hoffmans finally separated on June 16, 1993.

4. On September 5, 1995, the Divorce Action was filed by Mr. Hoffman against plaintiff. At the time, Mr. Hoffman was 46 years old (DOB: September 13, 1948).

5. The essence of the legal malpractice claims is that attorney-defendants were professionally negligent because they “did not seek or otherwise obtain an injunction, a freeze order, a domestic relations order, an order maintaining the status quo, a consent order, or any other appropriate judicial intervention” to prevent Mr. Hoffman from removing plaintiff as the named beneficiary of his retirement account with the Pennsylvania State Employee’s Retirement System (“SERS”) and an IRA account with Equitable Insurance Company (“IRA”). (Complaint, ¶44).

6. Mr. Hoffman began accumulating SERS retirement benefits on April 22, 1971, his date of entry with the Pennsylvania State Police. On February 27, 1993, Mr. Hoffman retired from the Pennsylvania State Police.

7. Mr. Hoffman acquired the IRA on or about February 4, 1993 through a lump sum payment from his SERS account.

8. On January 30, 1998, during the pendency of the Divorce Action, Mr. Hoffman, 49 years old at the time, suddenly and unexpectedly died of a heart attack.

9. By operation of law, the Divorce Action thus abated before the entry of any decree. Haviland v. Haviland, 481 A. 2d 1355 (Pa. Super. 1984).

10. Unbeknownst to attorney-defendants, Mr. Hoffman had, on December 11 and 17, 1997 (roughly 5 – 6 weeks before his death), changed the named beneficiary from plaintiff to his

son by a prior marriage, Kevin Shane Hoffman, on both the IRA and the SERS retirement account.

11. Subsequent attempts by attorney-defendants on plaintiff's behalf to have plaintiff declared the beneficiary of the SERS account and the IRA following Mr. Hoffman's death, including court appeals, were ultimately unsuccessful.

12. On January 27, 2000, plaintiff instituted the instant legal malpractice lawsuit by the filing of a Praecipe for Writ of Summons.

13. On June 15, 2000, plaintiff married for a third time to Pennsylvania State Trooper, Frank M. Thomas.

II. Evidence of a Purported Agreement by or Intention of Decedent, Robert E. Hoffman, to Maintain Plaintiff as Named Beneficiary of Decedent's SERS Retirement Account or IRA Should be Excluded as: (A) Inadmissible Hearsay Subject to no Exception; (B) Irrelevant; (C) Rank Speculation; (D) Unfairly Prejudicial and Misleading and Confusing to the Jury; and (E) an Inadmissible Offer of Compromise.

14. In support of her negligence claim, it is anticipated that plaintiff will seek to offer at trial certain evidence seeking to prove that the decedent, Mr. Hoffman, agreed to or would have agreed to maintain or name plaintiff as the beneficiary of both his SERS retirement account and IRA.

15. It is expected that such evidence will take the form of: (a) testimony from Blaise Ferraraccio, Esquire, former counsel to decedent in the underlying Divorce Action, as to statements or expressions of intent of Mr. Hoffman prior to his death, or as to Attorney Ferraraccio's own intentions or statements, or as to actual or anticipated future advice by him to Mr. Hoffman; (b) testimony of plaintiff as to her conversations with decedent or Attorney Ferraraccio as to decedent's statements or expressions of intent; (c) documentary evidence of communications between Attorney Cherry and Attorney Ferraraccio relating to proposals and

counter-proposals for a global, integrated settlement of the Divorce Action *that was never consummated*.

16. By way of example, plaintiff is expected to seek to admit documents, specifically a letter of Attorney Ferraraccio, plus three enclosures, which are respectively attached hereto as Exhibits “A”, “B”, “C” and “D.” These may be described as follows:

- Exhibit “A” – letter dated October 1, 1997 from Attorney Ferraraccio to Attorney Cherry referencing three enclosures including proposed Property and Separation Agreement.
- Exhibit “B” – enclosed proposed and unsigned Property and Separation Agreement prepared by Attorney Ferraraccio referenced in such October 1, 1997 letter.
- Exhibit “C” – enclosed proposed and unsigned Affidavit of Consent prepared by Attorney Ferraraccio referenced in such October 1, 1997 letter.
- Exhibit “D” – enclosed proposed Waiver of Notice of Intention to Request Entry of a Divorce Decree under Section 3301(c) of the Divorce Code.

17. The proposed integrated Property and Separation Agreement enclosed with Attorney Ferraraccio’s letter of October 1, 1997 was never agreed to by the parties as neither party signed it. There was no “meeting of the minds” and thus no settlement was ever struck. In this regard, a copy of Attorney Cherry’s counter-proposal letter of October 10, 1997 to Attorney Ferraraccio, responding to his offer, is attached hereto as Exhibit “E”.

18. Plaintiff received a copy of Attorney Cherry’s letter of October 10, 1997 as she wrote her own notes on it containing terms *different from* the proposal extended by Attorney Ferraraccio in his October 1st letter. (See, Exhibit “E”). Plaintiff admits that the handwriting on Attorney Cherry’s letter is hers. (See, Deposition of Linda Hoffman, excepted pages attached hereto as Exhibit “F”). In such notes, plaintiff demands \$750/month to be characterized as

“equitable distribution” and not the lesser sum of \$650/month characterized as “alimony” as specified in Attorney Ferraraccio’s October 1st letter.

19. Moreover, the unexecuted Property and Separation Agreement proposed by Attorney Ferraraccio clearly states that “the husband shall name the wife as beneficiary on his [SERS] pension immediately *upon the granting of a divorce in this case.*” (Exhibit “B”, p. 8). This language shows that the granting of a divorce decree was a condition precedent to the naming of plaintiff as beneficiary of Mr. Hoffman’s SERS retirement account.

20. Such documentary evidence, as well as anticipated testimony on the above topics, should be excluded for the reasons that it is: (a) inadmissible hearsay subject to no exception; (b) irrelevant; (c) rank speculation; (d) unfairly prejudicial and misleading and confusing to the jury; and (e) an inadmissible offer of compromise.

21. First, the anticipated evidence identified above is unquestionably hearsay, subject to no exceptions. Pa.R.E. 801 and Pa.R.E. 803.

22. Hearsay is defined as “a statement other than one made by the declarant while testifying at trial or hearing, offered in evidence to prove the truth of the matter asserted.” Pa.R.E. 801.

23. Any out-of-court statements made by decedent, Mr. Hoffman, to either Attorney Ferraraccio or plaintiff, are classic hearsay, subject to no exception. See generally, Phillips v. Gerhart, 801 A.2d 568, 574 (Pa. Super. 2002); Lira v. Albert Einstein Medical Center, 559 A.2d 550 (Pa. Super. 1989); Hatbob v. Brown, 575 A.2d 607, 613 (Pa. Super. 1990) (characterizing statements of decedent in a legal malpractice action as hearsay).

24. Secondly, the anticipated evidence identified above is irrelevant. Pa.R.E. 401.

25. Relevant evidence is defined as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Pa.R.E. 401.

26. Evidence as to *Attorney Ferraraccio’s* intentions, or *Attorney Ferraraccio’s* actual or expected future advice to the decedent, or statements as to what *Attorney Ferraraccio* would have done under a given set of facts is irrelevant because such evidence is not probative of any issues to be decided in the case.¹ It is the *client’s* decision which is paramount and controls, not the *attorney’s* advice to the client as to what the client should do or even what the attorney might recommend to the client under a given set of circumstances that ultimately did not present themselves.

27. Simply stated, it is irrelevant that *Attorney Ferraraccio* would have consented to an order protecting the status quo since it has no probative value as to the client’s actual decision, which we now know was to ultimately change his beneficiary designations. Such evidence also has no probative value as to what the *decedent*, as the client, would have done had Attorney Ferraraccio advised him to agree to a consent order *without a divorce decree*. In fact, if the Court looks at the language of the Property and Separation Agreement, p. 8, ¶ 12, it should reach exactly the opposite conclusion, that is, that maintaining plaintiff as the beneficiary was *expressly conditioned upon* the entry of a divorce decree and nothing short of the entry of a decree.

¹ For example, it is believed that Attorney Ferraraccio will attempt to testify that “had he been approached by the Defendants, *he* would have consented to the entry of an Order of Court by which plaintiff’s status as beneficiary would have been protected.” (See, Plaintiff’s Pre-Trial Statement, pp. 21 and 25, emphasis added). While this statement is ludicrous in light of Attorney Ferraraccio’s duties to decedent (See, Expert Report of James A. Naddeo, Esquire attached to Defendants’ Pre-Trial Memorandum), once again, what Attorney Ferraraccio would have done is not probative of any element of plaintiff’s claims.

28. Because such evidence has no probative value, it is irrelevant and it must be excluded. See, Pa.R.E. 401; Commonwealth v. Vallejo, 616 A.2d 974 (Pa. 1992).

29. Third, the anticipated evidence identified above is highly speculative in nature.

30. Evidence is speculative when it presupposes facts that are not in evidence because they have not yet occurred or their occurrence is contingent upon some future happening. See, Commonwealth v. Williams, 720 A.2d 679 (Pa. 1998).

31. Any testimony by Attorney Ferraraccio or plaintiff as to what actions decedent intended to take, or what path Attorney Ferraraccio would have advised the decedent to pursue or not pursue, or what the decedent might have decided based upon such advice, insofar as plaintiff seeks to prove that decedent would have agreed to a status quo or other similar order, presupposes facts for which there is no admissible evidence. In fact, the non-speculative evidence of what was actually done is directly the opposite of speculation as to what the decedent might have done since, just a few weeks later in December 1997, Mr. Hoffman did, in fact, change the named beneficiaries of the SERS retirement account and the IRA to his son.

32. Additionally, plaintiff cannot now pick and choose which elements of an unsigned Property and Separation Agreement she may have speculatively wanted to enforce, with the benefit of 20/20 hindsight. In this regard, the Court will note that both Attorney Ferraraccio's proposal and Attorney's Cherry's counter-proposal are global, integrated proposals to resolve litigation. The elements of such proposals are not capable of being speculatively parsed out, after the fact by those living who were *not* the ultimate decision-maker, in order to predict what decedent might have done. It is nothing more than rank speculation that the decedent, as some fall-back position to a global settlement conditioned upon agreement to all terms *and* the entry of a divorce decree (Property and Separation Agreement, at p. 8, ¶ 12), would have consented to an

order naming or maintaining plaintiff as beneficiary, particularly where 57% of the SERS and IRA assets were non-marital in nature and thus decedent's to freely dispose of as he saw fit.

33. The jury cannot be allowed to base its deliberations on such rank speculation and such evidence should be excluded. Commonwealth v. Williams, 720 A.2d 679 (Pa. 1998).

34. Fourth, the anticipated evidence is and will be unfairly prejudicial and will be misleading and confusing to the jury. Pa.R.E. 403.

35. Unfair prejudice "means [having] a tendency to suggest decision on an improper basis to divert the jury's attention away from its duty of weighing the evidence impartially." Pa. R.E. 403, Comment – 1998.

36. It would be highly prejudicial to attorney-defendants to permit the jury to hear and base its determination of attorney-defendant's alleged negligence on "evidence" that decedent, Mr. Hoffman, intended to maintain plaintiff as his named beneficiary, or on what Attorney Ferraraccio would have advised decedent to do under a given set of facts that never occurred, especially considering the indisputable fact that decedent ultimately did name his son the beneficiary of his SERS retirement account and IRA.

37. Permitting the jury to hear evidence of some purported actual or future agreement not to take the very action that decedent actually did take, would cause unfair prejudice to attorney-defendants and would serve to confuse and mislead the jury. Such anticipated evidence could only serve to divert the jury's attention from correctly weighing relevant facts and should therefore be excluded. See, Bennett v. Graham, 714 A.2d 393 (Pa. 1998); Johnson v. People's Cab Co., 126 A.2d 720 (Pa. 1956).

38. Fifth, the anticipated evidence is an inadmissible offer of compromise. Pa.R.E. 408.

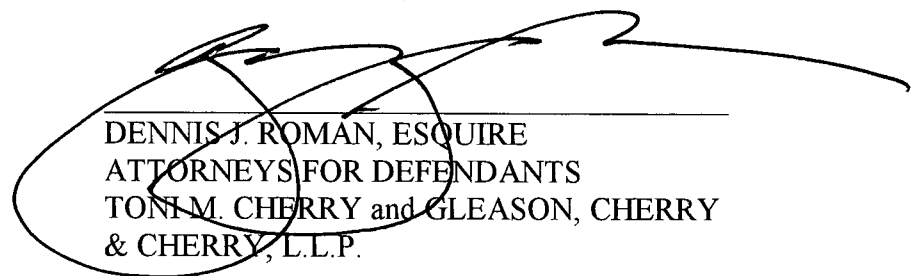
39. According to the Pennsylvania Rules of Evidence, “[e]vidence of (1) furnishing or offering to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise are likewise not admissible.” Pa.R.E. 408.

40. Plaintiff’s efforts to establish a purported agreement or future agreement between herself and decedent, by way of plaintiff’s or Attorney Ferraraccio’s testimony or through Attorney Ferraraccio’s October 1, 1997 letter or accompanying enclosures including the unexecuted Property and Separation Agreement drawn up by Attorney Ferraraccio, should be precluded as inadmissible evidence of offers to compromise. Pa.R.E. 408; See also, Danks v. Government Employee Insurance Company, 453 A.2d 655, 657 (Pa. Super. 1982) (“[w]e will not place the courts in the position of second-guessing counsel in hindsight as to whether he should have accepted an offer to compromise”).

41. For each and every one of the multiple grounds set forth above, the anticipated evidence specifically identified above should be excluded.

WHEREFORE, attorney-defendants, Toni M. Cherry and Gleason, Cherry & Cherry, L.L.P., request that this Court grant this Motion in Limine and sign the attached Order.

GROGAN GRAFFAM, P.C.



DENNIS J. ROMAN, ESQUIRE
ATTORNEYS FOR DEFENDANTS
TONI M. CHERRY and GLEASON, CHERRY
& CHERRY, L.L.P.

FERRARACCIO & NOBLE, P.C.

301 East Pine Street
Clearfield, PA 16830
(814) 765-4990
(814) 375-2221
FAX: (814) 765-9377

October 1, 1997

Toni M. Cherry, Esquire
Gleason, Cherry & Cherry
One North Franklin Street
DuBois, PA 15801

RE: Robert E. Hoffman vs. Linda E. Hoffman
95-1256-CD -- Divorce

Dear Toni:

Please be advised that I have spoken to my client, Robert E. Hoffman, who has spoken to his wife, Linda E. Hoffman, in regard to the above captioned matter.

The parties have agreed to settle their divorce by having Mr. Hoffman pay to Mrs. Hoffman \$650.00 per month in alimony until she reaches the age of 62. In addition, our clients have also agreed to have Mrs. Hoffman named as the beneficiary on Mr. Hoffman's pension.

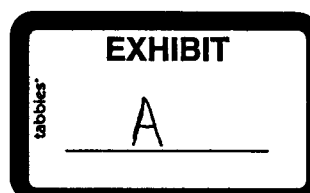
Enclosed please find Mrs. Hoffman's Affidavit of Consent, Waiver Of Notice Of Intention To Request Entry Of A Divorce Decree Under Section 3301(c) Of The Divorce Code and an Original and four copies of their Property And Separation Agreement. Please have your client execute all of the enclosed documents and then return them to our office.

With Best Personal Regards,


Blaise J. Ferraccio

BJF/lrp
enclosures

cc: Mr. Robert E. Hoffman
Ms. Linda E. Hoffman



PROPERTY AND SEPARATION AGREEMENT

THIS AGREEMENT made this _____ day of _____, 199
by and between ROBERT E. HOFFMAN, an individual, hereinafter
referred to as Husband;

A N D

LINDA E. HOFFMAN, an individual, hereinafter referred to a
Wife

W I T N E S S E T H:

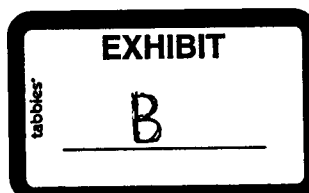
WHEREAS, the parties are presently husband and wife; and
WHEREAS, there were no children born of this marriage; and
WHEREAS, the parties desire to settle their property right
permanently and for all time; and

WHEREAS, both parties agree to relinquish any and all clai
which either may have against any property now owned or belongi
to the other which may hereafter be acquired by either of them
purchase, gift, devise, bequest, inheritance and otherwise,
except as to the obligations, covenants and agreements containe
herein; and

WHEREAS, the parties hereto have had the opportunity to se
the benefit of competent and independent legal advise by separa
counsel if such counsel was not waived; and

WHEREAS, a complaint in divorce, captioned 95-1256-C.D. ha
been filed to terminate the marriage of the parties.

LAISE J. FERRARACCIO
ATTORNEY & COUNSELOR
AT LAW



NOW THEREFORE, the parties intending to be legally bound hereby do covenant and agree as follows:

1. SEPARATION: It shall be lawful for each party at all times hereafter to live separate and apart from the other party at such place as he or she may from time to time choose or deem fit. The foregoing provision shall not be taken as an admission on the part of either party of the lawfulness or unlawfulness of the causes leading to their separation.

2. INTERFERENCE: Each party shall be free from interference, authority, and contact by the other as fully as if he or she were single and unmarried, except as may be necessary to carry out the provisions of this agreement. Neither party shall molest the other or attempt to endeavor to molest the other, nor compel the other to cohabit with the other, nor in any way harass the other, nor in any way interfere with the peaceful existence, separate and apart from the other.

3. DESIRE OF THE PARTIES: It is the desire of the parties after long and careful consideration, to amicably adjust, compromise and settle all property rights, and all rights, in, to, or against each other's property or estate, including property heretofore or subsequently acquired by either party and to settle all disputes existing between them including all claims for wife and/or husband's maintenance and/or for support, and property distribution.

4. DEBTS: The husband and wife, represent and warrant to each other that neither one has contracted any debt or debts, charges, or liabilities whatsoever, except as herein expressly set forth for which the other party or their property or their estates shall or may be or become liable or answerable, and the covenant that they will at all times keep each other free, harmless and indemnified against and from any and all debts and liabilities heretofore or hereafter contracted or incurred by either of them, except as expressly provided in this agreement.

5. MUTUAL RELEASE: Subject to the provisions of this agreement, each party has released and discharged, and by this agreement does for himself or herself and his or her heirs, leg representatives, executors, administrators, and assigns, release and discharge the other of and from all causes of action, claim rights, or demands, whatsoever in law or in equity, which either of the parties ever had or now has against the other, except any cause or causes of action for divorce and except any or all causes of action for breach of any provisions of this agreement

6. DIVISION OF PERSONAL PROPERTY: The parties hereby have divided their personal property including but not limited to all household goods and furnishings, personal affects and all other items of personal property used by them in common as follows:

(a) Each party shall receive and be the sole owner of his or her personal effects and clothing.

(b) Husband agrees and by these presents does convey

wife, all right, title and interest he may have in a 1985 Cadillac Seville. Husband agrees to execute any and all documents or titles necessary to effectuate any transfer. Wife agrees and by these presents does convey to husband, all right, title and interest she may have in a 1986 S-10 Chevrolet Pickup Truck. Wife agrees to execute any and all documents or titles necessary to effectuate any transfer. Wife agrees to make all 1985 Cadillac Seville car payments, and all insurance payments upon said car as they may become due and does hereby hold husband harmless from the same. Husband agrees to make all 1986 S-10 Chevrolet Pickup Truck payments and all insurance payments upon said truck as they may become due and does hereby hold wife harmless from the same.

(c) With regard to the other household furnishings, furniture and appliances, as well as all other personal property that the couple owns, it is understood and agreed that wife shall have sole ownership and possession of all items of personalty that are presently in possession of wife, and husband shall have sole ownership and possession of all items of personalty that are presently in possession of husband.

(d) Husband and wife both agree that the aforesaid provisions are in lieu of any and all claims of equitable distribution of the marital estate, and the parties agree that this division is equitable in the circumstances.

7. DIVISION OF REAL PROPERTY: The parties agree that the marital residence located at 959 Treasure Lake, DuBois, Clearfield County, Pennsylvania 15801 has been sold. The husband and the wife both further acknowledge that the proceeds and the contents of the marital residence have been divided equally under the circumstances.

8. CHECKING ACCOUNTS, SAVINGS ACCOUNTS, SAVINGS BONDS, STOCKS AND CREDIT UNION ACCOUNTS: The parties agree that there are no checking accounts or savings accounts or savings bonds or stocks or credit union accounts in the name of husband and wife as all have been mutually divided and each now has their own separate such accounts with respect to which the other will make no claim.

9. MUTUAL DEBTS: The parties recognize that the mutual debts of the parties not previously assigned could include a number of credit cards, loans, debts, bills and/or other expenses which may or may not have outstanding balances incurred by the husband and the wife during the marriage and in his or her possession. Wife does agree to pay all debts, bills, or other expenses incurred to the extent outstanding and in her possession and will have husband's name removed from the debts, bills and/or other expenses within one (1) week from the date of the execution of this agreement. Wife will hold husband harmless from said liabilities until the time that the husband's name is removed from the accounts. Wife does agree to make monthly payments on

any other joint credit cards and loans in her possession and will have husband's name removed from all credit card accounts and loans within one (1) month from the date of the execution of this agreement and will otherwise hold husband harmless from said liabilities until the time that the husband's name is removed from the accounts and loans. Husband does agree to pay all debts, bills, or other expenses incurred to the extent outstanding and in his possession and will have wife's name removed from the debts, bills or other expenses within one (1) week from the date of the execution of this agreement. Husband will hold wife harmless from said liabilities until the time that the wife's name is removed from the accounts. Husband does agree to make monthly payments on any other joint credit cards and loans in his possession and will have wife's name removed from all credit card accounts and loans within one (1) month from the date of the execution of this agreement and will otherwise hold wife harmless from said liabilities until the time that the wife's name is removed from the accounts and loans.

10. INTENDED TAX RESULT AND INDEMNIFICATION: By this agreement the parties have intended to effectuate, the parties have equally divided their marital property. The parties have determined that such equal division conforms to a right and just standard with regards to the rights of each party. The division of existing marital property is not, except as may be otherwise expressly provided herein, intended by the parties to constitute

in any way a sale or exchange of assets and the division is being effected without the introduction of outside funds or other property not constituting a part of the marital estate. As a part of the equal division of the marital properties and the marital settlement contained therein, the parties agree to save and hold each other harmless from all income taxes assessed against the other resulting from the division of the property as herein provided.

11. SPOUSAL SUPPORT, ALIMONY PENDENTE LITE, ALIMONY, ATTORNEY'S FEES AND COSTS: Husband is currently paying the sum of \$775.00 per month in spousal support, when the wife returns to work, the husband will be paying the sum of \$365.00 per month in spousal support. As per the agreement of the husband and the wife, husband agrees to pay to the wife Six Hundred Fifty and 00/100 (\$650.00) Dollars a month in alimony until the wife reaches the age of 62. At the time of the granting of a divorce in this case, the husband's present support obligation will cease. Upon receipt of the first \$650.00 payment, the wife's right to receive spousal support and alimony pendente lite will cease and the wife waives and releases any claims she might otherwise have against her husband for spousal support, alimony pendente lite, attorney's fees, and costs or charges against her husband pertaining to their separation or divorce in consideration of the provisions of the within agreement between the parties. The husband waives and releases any claims he might otherwise have

against his wife for spousal support, alimony pendente lite, alimony, attorney's fees, and costs or charges against his wife pertaining to their separation or divorce in consideration of the provisions of the within agreement between the parties.

12. PENSION PLAN: In reference to husband's and wife's pension plans or pension rights as accrued through their employment, it is hereby further agreed and understood that both the husband and the wife waive and release any and all past, present or future claims they might have against each other's pension plans. Any pension rights accrued after the date of separation will be the sole and exclusive property and entitlement of the husband's own pension plan to himself and the wife's own pension plan to herself. However, it is hereby further agreed and understood that the husband shall name the wife as the beneficiary on his pension immediately upon the granting of a divorce in this case.

13. FINANCIAL DISCLOSURE: The parties confirm that each has relied upon the substantial accuracy of the financial disclosure of the other as an inducement to the execution of this agreement.

14. ADVICE OF COUNSEL: The provisions of this agreement and their legal effect have been explained to the parties by their respective counsel if such counsel was not waived. The parties acknowledged that they have received independent legal advice from counsel of their selection, or have waived legal

advise from independent counsel, and that they fully understand the facts and that they have been fully informed as their legal rights and obligations and acknowledge and accept this agreement. They agree that this agreement is, in the circumstances, fair and equitable and that it is being entered into freely and voluntarily after having received or waived such advice and with such knowledge and that execution of this agreement is not the result of any duress or undue influence and that it is not the result of any collusion or any improper or illegal agreement or agreements.

15. WAIVER OF CLAIMS AGAINST ESTATE: Except as herein otherwise provided, each party may dispose of his or her property, in any way, and each party hereby waives and relinquishes any and all rights he or she may now have or hereafter acquire, under the present or future laws of any jurisdiction, to share in the property or the Estate of the other as the result of the marital relationship, including without limitation, dower, curtesy, statutory allowance, widow's allowance, right to take property under equitable distribution, right to take an intestacy, right to take against the will of the other and right to act as administrator or executor of the other's estate, and he or she will, at the request of the other, execute, acknowledge, and deliver any and all instruments which accomplishes this.

16. APPLICABLE LAW: This agreement shall be construed under the laws of the Commonwealth of Pennsylvania and Jurisdiction of this case will remain with the Court of Common Pleas of Clearfield County, Pennsylvania and shall be effective when all parties have executed this Agreement.

17. VOID CLAUSE: If any term, condition, clause or provision of this agreement shall be determined or declared to be void or invalid in law or otherwise, then only that term, condition, clause, or provision, shall be stricken from this agreement and in all other respects this agreement shall be valid and continue in full force, effect and operation.

18. ENTRY AS PART OF DECREE: It is the intention of the parties that this instrument shall survive any actions for divorce which may be instituted or prosecuted by the other party and no order, judgment or decree of divorce, temporary, interlocutory, final or permanent, shall effect or modify the financial terms of this agreement. It is also the intention of the parties that this agreement shall survive any periods of reconciliation of the parties and no attempt at reconciliation by the parties or cohabitation by the parties hereinafter shall be assumed to cause the property as so divided in this agreement to become marital property for the purposes of equitable distribution under the divorce code of the Commonwealth of Pennsylvania. The parties agree that all property divided by

this agreement shall remain the property of that party as specified within this agreement, unless this agreement is rescinded by the parties by writing in similar form to this agreement..

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

Robert E. Hoffman

Linda E. Hoffman

• . •
•

—

—
c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

ROBERT E. HOFFMAN, :
Plaintiff :
vs. : No . 95 - 1256 - CD
LINDA E. HOFFMAN, :
Defendant :

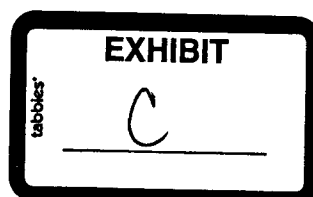
AFFIDAVIT OF CONSENT

1. A complaint in divorce under Section 3301(c) of the Divorce Code was filed on September 5, 1995.
 2. The marriage of Plaintiff and Defendant is irretrievably broken and ninety days have elapsed from the date of filing of the complaint.
 3. I consent to the entry of a final decree of divorce.
 4. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.
 5. I have been advised of the availability of counseling and that I may request the Court to require as such where a complaint has been filed under 3301(c).
- I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: _____

Linda E. Hoffman

JOSE J. FERRARACCIO
ATTORNEY & COUNSELOR
AT LAW



D

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

ROBERT E. HOFFMAN,
Plaintiff

vs.

LINDA E. HOFFMAN,
Defendant

:
:
: No . 95 - 1256 - CD
:
:
:

WAIVER OF NOTICE OF INTENTION TO REQUEST ENTRY OF A
DIVORCE DECREE UNDER SECTION 3301(C) OF THE DIVORCE CODE

1. I consent to the entry of a final decree of divorce without notice.
 2. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.
 3. I understand that I will not be divorced until a divorce decree is entered by the Court and that a copy of the decree will be sent to me immediately after it is filed with the Prothonotary.
- I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

MAISE J. FERRARACCIO
ATTORNEY & COUNSELOR
AT LAW

Date: _____

Linda E. Hoffman, Defendant

EXHIBIT

tabbies

D

LAW OFFICES
GLEASON, CHERRY AND CHERRY, L.L.P.
P. O. Box 505
DuBois, Pennsylvania 15801-0505

JOHN M. CHERRY
PAULA M. CHERRY
EDWARD V. CHERRY
1950-1990
JAMES A. GLEASON
1946-1975

ONE NORTH FRANKLIN STREET

AREA CODE 814
371-5800
FAX NUMBER
(814) 371-0936

October 10, 1997

Blaise J. Ferraraccio, Esq.
Ferraraccio & Noble
Attorneys at Law
301 East Pine Street
Clearfield, PA 16830

RE: ROBERT E. HOFFMAN vs.
LINDA E. HOFFMAN
No. 95 - 1256 C.D.

750.00 month
Equitable distribution
until age of 65

IN THE form of Equi. dis.
not in the form
ALIMONY.

Dear Blaise:

Thank you for your most recent correspondence. Unfortunately, the Property and Separation Agreement did not reflect Mrs. Hoffman's understanding of the deal. In fact, she advises that Mr. Hoffman had made her an offer for a monthly amount and she had told him that it was a start but that he needed to go farther. In any event, she is willing to settle this matter without the additional expense of a Master's Hearing and, in an effort to bring this matter to a speedy resolution, has authorized me to make the following counter-offer:

1. Mr. Hoffman will pay to Mrs. Hoffman the sum of \$15,000.00.
2. Mrs. Hoffman will receive the sum of \$750.00 per month from Mr. Hoffman's pension. Mr. Hoffman will name her as the beneficiary on his plan so that she will receive any of the unused benefits in the event of his untimely death.
3. Mr. Hoffman will be entitled to keep all of the household goods and furnishings in his possession and Mrs. Hoffman will not make a claim for an equitable division of the same.

The parties will sign Affidavits of Consent so that a divorce on grounds of irretrievable breakdown can be secured immediately.

Could you please discuss this matter with Mr. Hoffman at your earliest convenience and advise if we can bring this matter to a conclusion.

EXHIBIT

E

GCC 734

Blaise J. Ferraraccio, Esq.
Page Two
October 10, 1997

Thanking you for your kind attention to this matter, we remain

Very truly yours,

GLEASON, CHERRY AND CHERRY, L.L.P.

/s/ Toni M. Cherry

By

Toni M. Cherry

TMC:mls

cc: Mrs. Linda E. Hoffman

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

LINDA HOFFMAN,)
)
Plaintiff,)
)
vs.) Civil Action
)
TONI M. CHERRY,) No. 00-96-CD
individually, and GLEASON,)
CHERRY and CHERRY, L.L.P.,)
a Partnership,)
)
Defendants.)

DEPOSITION OF LINDA E. THOMAS
MONDAY, DECEMBER 9, 2002

DEPOSITION OF LINDA E. THOMAS, Plaintiff
herein, called by the Defendants pursuant to the
Pennsylvania Rules of Civil Procedure pertaining to
the taking of depositions for the purpose of
discovery and for use at trial, taken before Randall
W. Kim, a Registered Professional Reporter and
Notary Public within and for the Commonwealth of
Pennsylvania, at the law offices of Gleason, Cherry
& Cherry, L.L.P., One North Franklin Street, DuBois,
Pennsylvania 15801 at 10:10 a.m. on the

EXHIBIT

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RVICES

1 phone or in an office consultation?

2 A. To my recollection, it would have been
3 here.

4 Q. And you can't say at all when that
5 conversation would have occurred?

6 A. No, sir.

7 Q. Let me show you what I'll mark as
8 Exhibit 12.

9 - - -

10 (Whereupon, Thomas Deposition Exhibit
11 Number 12 was marked for identification.)

12 - - -

13 BY MR. ROMAN:

14 Q. And ask you to take a look at that.

15 This is a letter dated October 10, 1997,
16 from Toni Cherry to Mr. Ferraraccio noting a copy
17 being sent to you. Correct?

18 A. (No audible response.)

19 Q. Do you understand my question, Ms. Thomas?
20 I'm just asking you to identify for the record that
21 this is a letter as I have described it.

22 A. As to what?

23 Q. It's a letter addressed to Mr. Ferraraccio
24 from Toni Cherry with a copy noted having been sent

1 to you, correct?

2 A. I don't ever recall getting this, to be
3 honest with you.

4 Q. I'm sorry?

5 A. I don't recall getting a copy of this to
6 me.

7 Q. Is that your handwriting on the face of
8 page 1?

9 A. Yes, it is. Yes, it is.

10 Q. All right. So obviously, unless I'm
11 incorrect, I mean you correct me, you got it and you
12 wrote on it?

13 A. I don't know why I would have wrote on it
14 and returned this back to Toni.

15 Q. I'm not asking you why you may have done
16 that, but I mean is it not clear to you that you got
17 this letter?

18 A. I do not recall getting this letter. I'm
19 sorry.

20 Q. But this is your writing on the first page?

21 A. Yes, that is my writing.

22 Q. Do you know why it was that you made the
23 writing on the first page?

24 MR. SILBERBLATT: Dennis, could we have

1 just a moment? Although we have a copy of this
2 letter Bates stamped 581, we don't have a Bates
3 stamped 734 with handwriting on it.

4 MR. MAHOOD: And I don't have that in my
5 index either.

6 MR. ROMAN: Okay. I can't explain to you
7 the reason for it.

8 MR. SILBERBLATT: It doesn't seem like we
9 have any Bates stamped numbers that are in excess of
10 732.

11 MR. ROMAN: Is that the highest one you
12 have?

13 MR. MAHOOD: I'm not sure I can answer it
14 in that fashion. Let me see if I can get 732 here.
15 I'd have to know the beginning page of the document
16 that precedes 732.

17 MR. ROMAN: You mean 733?

18 MR. MAHOOD: No, I'm doing a word search --
19 I'm doing a search.

20 MR. ROMAN: Let's go off the record.

21 - - -

22 (Discussion off the record.)

23 - - -

24 MR. ROMAN: We're back on the record.

1 We're going to check when we get a chance
2 as to the Bates stamped number in the lower
3 right-hand corner on this particular document and
4 whether -- ensuring that counsel for the plaintiff
5 has copies of everything beyond a certain point. I
6 think they indicated perhaps 732.

7 MR. SILBERBLATT: In looking at it again,
8 even the Bates stamp numbers, themselves, seem to be
9 different.

10 MR. ROMAN: Yeah, the face of them is. I
11 see that. Don't have an explanation.

12 MR. MAHOOD: Because as I recall, the last
13 document you gave us was this -- was this billing
14 stuff.

15 MR. ROMAN: Does that end with 731?

16 MR. MAHOOD: 729.

17 MR. ROMAN: Well, I'm not sure --

18 MR. SILBERBLATT: And those Bates stamps
19 seem to be bolder type. And then everything
20 after -- We have a grand mystery here.

21 MR. ROMAN: Well, we'll check it and --

22 MR. MAHOOD: Would that have been done in
23 your office?

24 MR. ROMAN: Why don't we talk off the

1 record about that instead of on the record. I don't
2 think we have to burden the record with that.

3 It would not have been Bates stamped in our
4 office. Unless GCC -- That doesn't look like
5 anything we would have done. I think they're
6 independently Bates stamped.

7 MR. SILBERBLATT: Okay.

8 MR. ROMAN: Okay. Let's stay on the
9 record.

10 MR. SILBERBLATT: Okay, go ahead.

11 MR. ROMAN: But certainly, I think if there
12 are any questions about that, we'll make sure you
13 get the documents. I don't know the reason why you
14 may have one that doesn't have handwriting on.

15 BY MR. ROMAN:

16 Q. All right. With regard to Exhibit 12, you
17 got this document -- Or you don't recall getting
18 this document?

19 A. That's correct.

20 Q. But that is your handwriting?

21 A. Yes, sir.

22 Q. All right. Do you know when it was you
23 made this handwriting on the first page?

24 A. No, sir.

1 Q. Do you know whether you made that
2 handwriting prior to going to see Toni Cherry?

3 A. No, sir.

4 Q. Do you know what that handwriting relates
5 to? In the sense does it refresh your recollection
6 what was being discussed?

7 A. Well, obviously it's the alimony.

8 Q. Is this something that you were seeking to
9 make part of a counter demand, that you would get
10 \$750 a month until the age of 65?

11 A. I don't recall the amount, to be honest
12 with you.

13 Q. All right. Setting aside the amount, was
14 it one of the things that you were desirous of
15 obtaining, would be equitable distribution until the
16 age of 65?

17 A. Yes.

18 Q. Or a periodic payment per month until the
19 age of 65?

20 A. Yes.

21 Q. And then it says in the form of equitable
22 distribution, or E-Q-U-I distribution, which I
23 assume refers to equitable distribution, correct?

24 A. Correct.

1 Q. Not in the form, and then alimony.

2 A. Correct.

3 Q. What does that relate to?

4 A. Probably taxes.

5 Q. My earlier question to you began with did
6 you have a conversation with or meeting with Toni
7 Cherry after receiving Exhibit 11, which is dated
8 October 1, '97. Had you had a conversation or
9 consultation in the office with Toni Cherry as of
10 the sending of what's marked as Exhibit 12 on that
11 response letter?

12 A. I don't recall if it was a telephone or an
13 in person. But obviously, because this was
14 October 1st and this is October 10th.

15 Q. You would agree that it occurred in that
16 time frame, correct?

17 A. I don't recall.

18 Q. Do you have any --

19 A. That's pretty fast, is what I'm sitting
20 here thinking. I'm sorry.

21 Q. Exhibit 12 refers to a counteroffer,
22 correct?

23 A. Yes, sir.

24 Q. And that's made on your behalf?

1 A. It appears to be.

2 Q. Do you deny that the terms of this
3 counteroffer were discussed with you by my client
4 prior to it being sent?

5 A. No, sir, I'm not denying that.

6 Q. Okay. And so even though you said it was
7 fairly quick, is it at least your recollection that
8 this would have been discussed, and then it would
9 have been memorialized in correspondence sent to the
10 other side?

11 A. The only part that is not coming back,
12 because I do not recall her and I talking, that I'm
13 willing to settle the matter without additional
14 expense. If we could have gotten that one settled,
15 I would have to say yes. I don't know how else to
16 answer that.

17 Q. I'm sorry, I'm not understanding what your
18 testimony was. What additional expense?

19 A. The additional expense of a Master's
20 hearing. In the first paragraph.

21 Q. Okay. And are you saying that you don't
22 recall that or that you would have demanded that --
23 you would have been still demanding a Master's
24 hearing?

1 A. No, I would have resolved that without a
2 Master's hearing had he have accepted this offer.
3 Yes, if this was -- I recall a money amount. I
4 recall us saying about how much I wanted a month. I
5 don't recall this letter, is all I'm saying.

6 Q. This recounts in the third sentence a
7 conversation that apparently had occurred between
8 you and Mr. Hoffman whereby he had made an offer for
9 a monthly amount and you had indicated to him that
10 it was a start, but needed to go -- but he needed to
11 go farther. Do you see that?

12 A. Yes, sir.

13 Q. Does that accurately summarize what you had
14 told Mr. Hoffman in response to his offer of a
15 monthly amount?

16 A. I think that's in response to the 650 that
17 he initially made me so I could get the ball rolling
18 again to get some kind of movement on this divorce.

19 Q. Okay. So this accurately does summarize
20 what you said in that regard, that you needed more
21 money, he needed to go farther, correct?

22 A. I believe Toni probably advised me of this,
23 yes.

24 Q. Did you have any input in terms of what was

1 demanded in the counteroffer?

2 A. Yes, I did. I said I wanted money for my
3 furniture, because I took nothing.

4 Q. How about the other aspects of what's in
5 there? You had input into those, didn't you?

6 A. As far as the 15,000?

7 Q. Yeah.

8 A. I said I wanted a dollar amount. I don't
9 recall exactly what it was. I want to say that it
10 was maybe even higher at one point.

11 Q. You're not denying that at this point in
12 time that was your demand, right?

13 A. No, I'm not denying that.

14 Q. What about with regard to the other
15 elements of this counteroffer? Were those the terms
16 of -- on which you were willing to settle it at that
17 point in time?

18 A. That he could keep all the household
19 furnishings? Yes. Mrs. Hoffman won't make a claim
20 for an equitable distribution of the same. Does
21 that mean property or the household goods he can
22 keep? Is that what that means?

23 Q. As you understood it.

24 A. Okay. And yes, I would go on irretrievable

1 breakdown. Yes.

2 Q. What about with regard to the naming of you
3 as beneficiary in paragraph 2?

4 A. That has never been an issue. I always
5 wanted to be the beneficiary.

6 Q. Okay.

7 A. I don't believe I -- because to my
8 understanding, I was named.

9 Q. Let me show you what I'll mark as
10 Exhibit 13.

11 - - -

12 (Whereupon, Thomas Deposition Exhibit
13 Number 13 was marked for identification.)

14 - - -

15 BY MR. ROMAN:

16 Q. This is the best copy I have from this.
17 And I'm sure Mr. Silberblatt will tell you that his
18 copy reflects the same.

19 But take a look at this, if you would.

20 A. (No audible response.)

21 Q. This is a Nomination of Beneficiary form.
22 This did not come from your file or my client's
23 file. This indicates that the principal beneficiary
24 of the plan was going to be Kevin Shane Hoffman.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,	)	CIVIL ACTION
)	
Plaintiff,	)	No. 00-96-CD
)	
v.)	
)	
TONI M. CHERRY, individually, and)	
GLEASON, CHERRY and CHERRY,)	
L.L.P., a Partnership,)	
)	
Defendants.)	
)	

ORDER OF COURT

AND NOW, this _____ day of _____, 2004, upon consideration of the foregoing Motion in Limine to Exclude Any Evidence of Purported Agreement by or Intention of Decedent, Robert E. Hoffman, to Maintain Plaintiff as Named SERS and IRA Beneficiary, filed on behalf of defendants, it is hereby ORDERED that such Motion is granted for all of the reasons set forth therein and plaintiff is precluded from introducing any evidence (including Exhibits "A", "B", "C" and "D" attached to this Motion) as to the intentions of or any purported actual or potential agreements of Robert E. Hoffman and/or his former counsel (Attorney Ferraraccio) to maintain or name plaintiff as a beneficiary under Mr. Hoffman's SERS retirement account or his Equitable IRA. It is further ORDERED that plaintiff, her counsel and all witnesses are otherwise precluded from making any comment upon such matters during opening and closing arguments, during the presentation of evidence and during any other phase of trial.

BY THE COURT:

J.

CERTIFICATE OF SERVICE

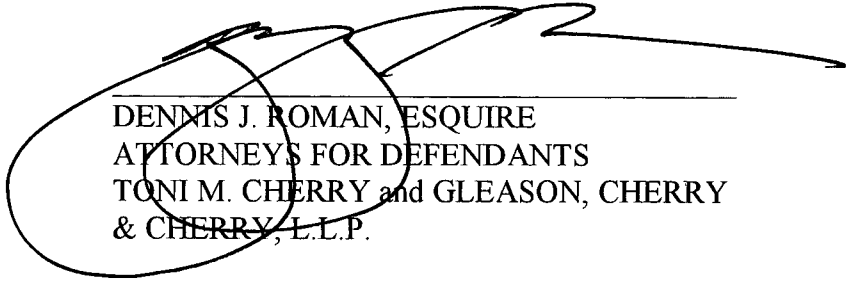
I hereby certify that a true and correct copy of the foregoing Motion in Limine was served by hand delivery, upon the Court and the following counsel of record this 26th day August, 2004:

The Honorable J. Michael Williamson
Court of Common Pleas of Clinton County
Clinton County Courthouse
230 East Water Street
Lock Haven, PA 17745

James A. Mahood, Esquire
Wilder & Mahood
10 Floor, Koppers Building
Pittsburgh, PA 15219

Jay N. Silberblatt, Esquire
Silberblatt Mermelstein, P.C.
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

GROGAN GRAFFAM, P.C.



DENNIS J. ROMAN, ESQUIRE
ATTORNEYS FOR DEFENDANTS
TONI M. CHERRY and GLEASON, CHERRY
& CHERRY, L.L.P.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,

Plaintiff,

v.

TONI M. CHERRY, individually, and
GLEASON, CHERRY and CHERRY,
L.L.P., a Partnership,

Defendants.

) CIVIL ACTION
)
) No. 00-96-CD
)
) **MOTION IN LIMINE TO PRECLUDE**
) **EVIDENCE RELATING TO HENRY**
) **ACTION**
)
) Filed on behalf of defendants, Toni M.
) Cherry, individually and Gleason, Cherry &
) Cherry, L.L.P., a Partnership
)
) Counsel of Record for these Parties:
)
) DENNIS J. ROMAN, ESQUIRE
) Pa. I.D. # 36904
)
) GROGAN GRAFFAM, P.C.
) Firm I.D. No. 072
) Four Gateway Center
) 12th Floor
) Pittsburgh, PA 15222
) (412) 553-6300
)
) 20200/17073
)

FILED

018:57321
AUG 25 2004

2634
William A. Shaw

Prothonotary/Clerk of Courts

sec
Atty Roman

Shaw

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,	)	CIVIL ACTION
)	
Plaintiff,	)	No. 00-96-CD
)	
v.)	
)	
TONI M. CHERRY, individually, and)	
GLEASON, CHERRY and CHERRY,)	
L.L.P., a Partnership,)	
)	
Defendants.)	
)	

MOTION IN LIMINE TO PRECLUDE EVIDENCE RELATING TO HENRY ACTION

Defendants, TONI M. CHERRY, Esquire, individually, and GLEASON, CHERRY and CHERRY, L.L.P., by their attorneys, GROGAN GRAFFAM, P.C., set forth the following Motion in Limine to Preclude Evidence Relating to *Henry Action*:

I. Background

1. This is a legal malpractice action, styled in negligence, filed by plaintiff, Linda E. Hoffman, against defendants Toni M. Cherry, Esquire and her law firm, Gleason, Cherry and Cherry, L.L.P. (collectively "attorney-defendants").

2. Plaintiff's negligence theory of recovery arises out of attorney-defendants' former legal representation of plaintiff's interests in an underlying divorce action filed by plaintiff's husband, Robert E. Hoffman, in the Court of Common Pleas of Clearfield County, Pennsylvania at No. 95-1256-CD ("underlying proceedings" or "Divorce Action").

3. The Hoffmans were married on September 2, 1983. The parties had several periods of separation (plaintiff had previously filed for a divorce in 1987 but the parties later reconciled), before the Hoffmans finally separated on June 16, 1993.

4. On September 5, 1995, the Divorce Action was filed by Mr. Hoffman against plaintiff. At the time, Mr. Hoffman was 46 years old (DOB: September 13, 1948).

5. The essence of the legal malpractice claims is that attorney-defendants were professionally negligent because they “did not seek or otherwise obtain an injunction, a freeze order, a domestic relations order, an order maintaining the status quo, a consent order, or any other appropriate judicial intervention” to prevent Mr. Hoffman from removing plaintiff as the named beneficiary of his retirement account with the Pennsylvania State Employee’s Retirement System (“SERS”) and an IRA account with Equitable Insurance Company (“IRA”). (Complaint, ¶44).

6. Mr. Hoffman began accumulating SERS retirement benefits on April 22, 1971, his date of entry with the Pennsylvania State Police. On February 27, 1993, Mr. Hoffman retired from the Pennsylvania State Police.

7. Mr. Hoffman acquired the IRA on or about February 4, 1993 through a lump sum payment from his SERS account.

8. On January 30, 1998, during the pendency of the Divorce Action, Mr. Hoffman, 49 years old at the time, suddenly and unexpectedly died of a heart attack.

9. By operation of law, the Divorce Action thus abated before the entry of any decree. Haviland v. Haviland, 481 A. 2d 1355 (Pa. Super. 1984).

10. Unbeknownst to attorney-defendants, Mr. Hoffman had, on December 11 and 17, 1997 (roughly 5 – 6 weeks before his death), changed the named beneficiary from plaintiff to his son by a prior marriage, Kevin Shane Hoffman, on both the IRA and the SERS retirement account.

11. Subsequent attempts by attorney-defendants on plaintiff's behalf to have plaintiff declared the beneficiary of the SERS account and the IRA following Mr. Hoffman's death, including court appeals, were ultimately unsuccessful.

12. On January 27, 2000, plaintiff instituted the instant legal malpractice lawsuit by the filing of a Praecipe for Writ of Summons.

13. On June 15, 2000, plaintiff married for a third time to Pennsylvania State Trooper, Frank M. Thomas.

II. Evidence Of The Unrelated *Henry Action* Should Be Excluded

14. During the course of the present trial, it is anticipated that plaintiff will seek to introduce evidence related to another divorce matter handled by Attorney Cherry, Diane L. Henry v. Charles R. Henry, No. 96-998 C.D., filed in the Court of Common Pleas of Clearfield County, Pennsylvania ("*Henry Action*"). Plaintiff's expert, Mary Cushing Doherty, Esquire, refers to the *Henry Action* in her report and Plaintiff's Pre-Trial Statement list various trial exhibits and witnesses associated with the *Henry Action*, including Mrs. Henry herself and the attorney for her ex-husband, Attorney Gearhart.

15. Any references to or evidence of the unrelated *Henry Action* should be excluded for the reasons that: (a) such evidence bears no relevancy to the facts and issues of the underlying Divorce Action (the "case-within-a-case") and thus bears no relevancy to the legal malpractice claims; (b) the admission of such evidence would be unfairly prejudicial to attorney-defendants; and (c) such evidence would only serve to mislead and confuse the jury on unrelated or collateral issues.

16. In the *Henry Action*, the request for relief was the preservation of Mrs. Henry as the *survivor annuitant* (not a "death beneficiary" as here) under the joint and survivor annuity option that had been in effect throughout the life of this 36-year marriage. Mrs. Henry came into

the offices of Gleason, Cherry & Cherry, L.L.P. in 1996 with the specific demand that counsel immediately take whatever action was necessary to protect her rights to her survivor annuity because she had just been told by her adult children that her husband had admitted to them that he had removed her as his survivor annuitant. This information was given by her husband to his adult children from his hospital bed where he was recovering from a massive heart attack. Mr. Henry was an alcoholic with documented significant liver damage and his prognosis for recovery was poor. Consequently, Mrs. Henry directed counsel to immediately file for divorce and to file a petition for an injunction to cause her to be reinstated as the survivor annuitant named on the joint and survivor annuity option that Mr. Henry had elected and had kept in force throughout the marriage. Mr. Henry had left Mrs. Henry and was residing with another woman. There was no hope for reconciliation and Mrs. Henry wanted to be divorced *immediately*.

17. The Superior Court in its decision in Palladino v. Palladino, 713 A.2d 676 (Pa. Super. 1998) recognized that a wife's survivor annuity deriving from a husband's retirement pension was acquired by wife during and pursuant to the parties' marriage and was a vested property interest of the wife *separate and distinct* from the husband's pension. Consequently, a survivor annuity is valued separately from the retirement benefit payable to husband during his life. This is very different from the death benefit payable in the underlying Divorce Action. In the *Henry Action*, all that client was asking the Court to preserve was the benefit payable to her alone and not the benefit payable to Mr. Henry during his lifetime.

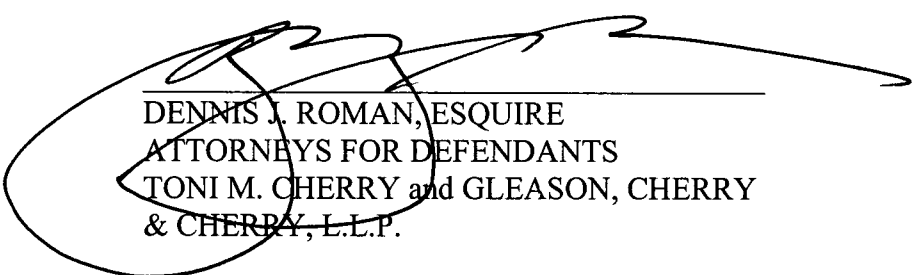
18. Attorney Cherry's representation of Mrs. Henry was tailored to the peculiar facts and circumstances of the *Henry Action* and the issues confronting the client, none of which are even remotely analogous to those presented in the present action. The plaintiff here seeks to use the fact that Attorney Cherry petitioned for and was granted injunctive relief in the *Henry Action* as probative evidence that Attorney Cherry breached the standard of care by failing to do so in

underlying Divorce Action. Attorney Cherry's actions in the *Henry Action* cannot be considered in a vacuum, but must be examined in the context of the specific facts of Mrs. Henry's case. To allow a wholesale comparison of the facts and circumstances of the Henry and Hoffman actions would be improper.

19. The *Henry Action* and the instant case are not analogous, the issues addressed bear no relevancy to the present claims and the only result that would occur through admission of such evidence would be to confuse and mislead the jury on irrelevant and wholly collateral matters that are not before this jury for consideration, thereby unfairly prejudicing attorney-defendants. See, Pa.R.E. 401, 402 and 403; Commonwealth v. Scott, 389 A.2d 79, 82 (Pa. 1978).

WHEREFORE, attorney-defendants, Toni M. Cherry and Gleason, Cherry & Cherry, L.L.P., request that this Court grant this Motion in Limine and sign the attached Order.

GROGAN GRAFFAM, P.C.



DENNIS J. ROMAN, ESQUIRE
ATTORNEYS FOR DEFENDANTS
TONI M. CHERRY and GLEASON, CHERRY
& CHERRY, L.L.P.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,	)	CIVIL ACTION
)	
Plaintiff,	)	No. 00-96-CD
)	
v.)	
)	
TONI M. CHERRY, individually, and)	
GLEASON, CHERRY and CHERRY,)	
L.L.P., a Partnership,)	
)	
Defendants.)	
)	

ORDER OF COURT

AND NOW, this _____ day of _____, 2004, upon consideration of the foregoing Motion in Limine to Preclude Evidence Relative to *Henry Action*, filed on behalf of defendants, it is hereby ORDERED that such Motion is granted and plaintiff is precluded, during any phase of trial, from introducing any evidence, or making any reference to, the *Henry Action* filed at No. 96-998 C.D. of the Court of Common Pleas of Clearfield County, Pennsylvania. It is further ORDERED that plaintiff, her counsel and all witnesses are otherwise precluded from making any comment upon such issues during opening and closing arguments, during the presentation of evidence and during any other phase of trial.

BY THE COURT:

J.

CERTIFICATE OF SERVICE

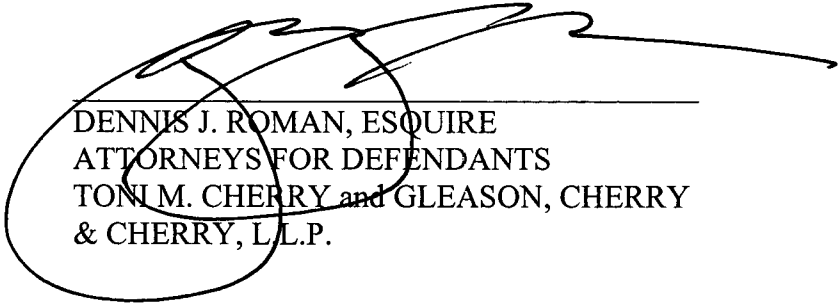
I hereby certify that a true and correct copy of the foregoing Motion in Limine was served by hand delivery, upon the Court and following counsel of record this 26th day August, 2004:

The Honorable J. Michael Williamson
Court of Common Pleas of Clinton County
Clinton County Courthouse
230 East Water Street
Lock Haven, PA 17745

James A. Mahood, Esquire
Wilder & Mahood
10 Floor, Koppers Building
Pittsburgh, PA 15219

Jay N. Silberblatt, Esquire
Silberblatt Mermelstein, P.C.
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

GROGAN GRAFFAM, P.C.



DENNIS J. ROMAN, ESQUIRE
ATTORNEYS FOR DEFENDANTS
TONI M. CHERRY and GLEASON, CHERRY
& CHERRY, L.L.P.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,

Plaintiff,

v.

TONI M. CHERRY, individually,
and GLEASON, CHERRY and CHERRY,
L.L.P., a Partnership,

Defendants.

) CIVIL DIVISION

)

) Case No.: 00-96-CD

)

)

) **SUPPLEMENTAL RESPONSES TO**
) **PLAINTIFF'S FIRST SET OF**
) **INTERROGATORIES AND SECOND**
) **REQUEST FOR PRODUCTION OF**
) **DOCUMENTS DIRECTED TO**
) **DEFENDANTS**

)

)

) Filed on behalf of defendants, Toni M.
) Cherry, individually and Gleason, Cherry &
) Cherry, L.L.P., a Partnership

)

) Counsel of Record for these Parties:

)

) DENNIS J. ROMAN, ESQUIRE
) Pa. I.D. 36904

)

) GROGAN GRAFFAM, P.C.
) Firm I.D. No. 072
) Four Gateway Center
) 12th Floor
) Pittsburgh, PA 15222-1009
) (412) 553-6300

)

) File No.: 20200/17073

)

FILED

AUG 27 2004

WAS

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA E. HOFFMAN,	)	CIVIL DIVISION
)	
Plaintiff,	)	Case No.: 00-96-CD
)	
v.)	
)	
TONI M. CHERRY, individually,)	
and GLEASON, CHERRY and CHERRY,)	
L.L.P., a Partnership,)	
)	
Defendants.)	

**SUPPLEMENTAL RESPONSES TO PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND SECOND REQUEST FOR PRODUCTION OF
DOCUMENTS DIRECTED TO DEFENDANT**

Defendants, TONI M. CHERRY, individually, and GLEASON, CHERRY & CHERRY, L.L.P., by and through counsel, GROGAN GRAFFAM, P.C., submit the following supplemental responses to Plaintiff's First Set of Interrogatories and Second Request for Production of Documents Directed to Defendant:

1. Identify each and every person you expect to call as an expert witness at the trial of this case and identify the subject about which he or she will testify.

ANSWER: James A. Naddeo, Esquire. See Expert Report attached to Defendants' Pre-Trial Memorandum as Exhibit "A", previously furnished to counsel.

2. As to each person named in the response to the preceding Interrogatory, state:

(a) the substance of each fact to which he or she is expected to testify;

ANSWER: See Expert Report.

(b) the substance of each opinion to which he or she is to testify;

ANSWER: See Expert Report.

(c) the grounds for each opinion;

ANSWER: See Expert Report.

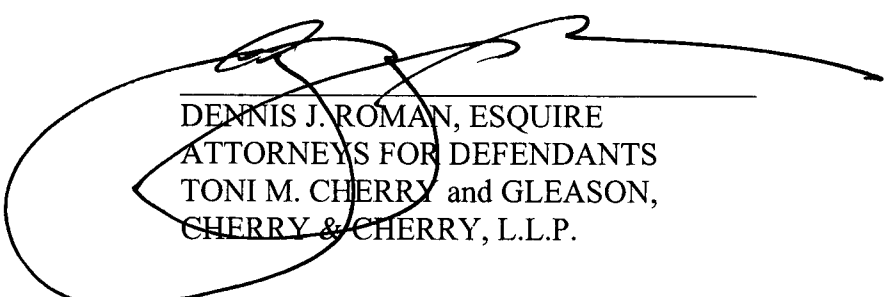
(d) each person's background, training, experience and other qualifications; and

ANSWER: Attorney Naddeo has handled domestic relations cases during his thirty-seven years of practice. See Expert Report.

(e) each other instance in which such person has been retained to act as an expert including the caption of the lawsuit, the court system where it was filed and the docket number.

ANSWER: Objection. Pa.R.C.P. 4003.5 requires only discovery of facts known and opinions held by expert.

GROGAN GRAFFAM, P.C.



DENNIS J. ROMAN, ESQUIRE
ATTORNEYS FOR DEFENDANTS
TONI M. CHERRY and GLEASON,
CHERRY & CHERRY, L.L.P.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within SUPPLEMENTAL RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES AND SECOND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANTS was served upon the following parties of record on this 24th day of August, 2004 by regular U.S. Mail, postage pre-paid:

James A. Mahood, Esquire
Wilder & Mahood
10 Floor, Koppers Building
Pittsburgh, PA 15219

Jay N. Silberblatt, Esquire
Silberblatt Mermelstein, P.C.
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219



DENNIS J. ROMAN, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

CIVIL DIVISION

No. 00-96-CD

**VERIFICATION OF SERVICE OF
PLAINTIFF'S SUPPLEMENTAL
ANSWERS TO DEFENDANTS'
SECOND SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION
OF DOCUMENTS**

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

James E. Mahood, Esquire
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
Firm #645
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

FILED *no cc*
10:50 AM
AUG 30 2004
WAS
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

CIVIL DIVISION

Plaintiff,

NO. 00-96-CD

vs.

TONI M. CHERRY,

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

VERIFICATION OF SERVICE

I, Jay N. Silberblatt, Esquire, counsel for the Plaintiff in the within matter, do hereby certify that a true and correct copy of **Plaintiff's Supplemental Answers to Defendants' Second Set of Interrogatories** was mailed by first class mail, postage prepaid, on the 27th day of **August, 2004** to the following person:

Dennis J. Roman, Esquire
GROGAN GRAFFAM, P.C.
Four Gateway Center, 12th Floor
Pittsburgh, PA 15222
Attorney for Defendants
Toni M. Cherry
Gleason, Cherry and Cherry, L.L.P.

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

By



Jay N. Silberblatt

Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,

Plaintiff,

vs.

TONI M. CHERRY

and

GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

CIVIL DIVISION

No. 00-96-CD

**PRAECIPE TO SETTLE AND
DISCONTINUE**

Filed on Behalf of the Plaintiff

Counsel of Record for this Party:

James E. Mahood
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

FILED No cc
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SEP 03 2004 to Atty Silberblatt
copy to CIA
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,
Plaintiff,
vs.

CIVIL DIVISION

No. 00-96-CD

TONI M. CHERRY
and
GLEASON, CHERRY AND CHERRY,
L.L.P.,

Defendants.

PRAECIPE TO SETTLE AND DISCONTINUE

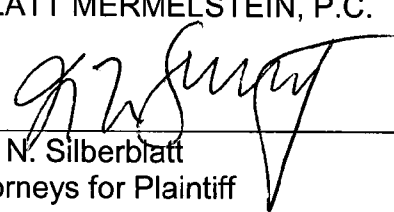
TO: *WILLIAM A. SHAW, PROTHONOTARY*

Please settle and discontinue the within-captioned case and mark it off the docket or satisfy the Verdict, Award or Judgment.

- (XXX) Attorney for Plaintiff;
- (XXX) Prothonotary Settle and Discontinue
with Issue Costs; and
- (XXX) Certificate.

SILBERBLATT MERMELSTEIN, P.C.

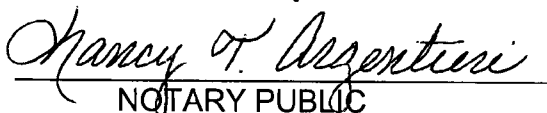
By


Jay N. Silberblatt
Attorneys for Plaintiff

DATE: _____

PROTHONOTARY COSTS: _____

SWORN to and subscribed before me
this 1 day of September, 2004.


NOTARY PUBLIC

I:\JNS\General\01582\PRAECIPE.S&d.doc



**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA**

CIVIL DIVISION

COPY

Linda E. Hoffman

Vs.

No. 2000-00096-CD

**Toni M. Cherry and
Gleason, Cherry and Cherry, LLP**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on September 3, 2004, marked:

Settled and Discontinued

Record costs in the sum of \$80.00 have been paid in full by James E. Mahood, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 3rd day of September A.D. 2004.

William A. Shaw, Prothonotary

LAW OFFICES
WILDER & MAHOOD

A PROFESSIONAL CORPORATION

TENTH FLOOR KOPPERS BUILDING

436 SEVENTH AVENUE

PITTSBURGH, PENNSYLVANIA 15219-1827

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JOANNE ROSS WILDER
JAMES E. MAHOOD
ANN M. FUNGE
ELISABETH PRIDE
ELIZABETH W. SCHOOLEY

OF COUNSEL
BRUCE L. WILDER
LYNNE N. CRENNEY

April 13, 2000

William A. Shaw, Prothonotary
Clearfield County
P.O. Box 549
Clearfield, PA 16830

Re: Linda E. Hoffman v. Toni M. Cherry, individually
and Gleason, Cherry & Cherry, a partnership
No. 00-96 CD

Dear Mr. Shaw:

Please change your records to reflect our current address as listed above for the following attorneys:

Joanne Ross Wilder	PA ID #15274
James E. Mahood	PA ID #20403
Ann M. Funge	PA ID #70859
Elisabeth Pride	PA ID #80553
Elizabeth W. Schooley	PA ID #56585

Thank you for your assistance in this matter.

Yours very truly,



Marybeth Pagano
Legal Administrator

MBP/ms

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

LINDA E. HOFFMAN,
Plaintiff

vs.

TONI M. CHERRY
and
GLEASON, CHERRY AND CHERRY,
L.L.P.

Defendants

CIVIL DIVISION

No. 00-96-CD

Code:

COMPLAINT IN CIVIL ACTION

Counsel of Record for this Party:

James E. Mahood
Pa. I.D. #20403

Wilder & Mahood, P.C.
10th Floor Koppers Building
Pittsburgh, PA 15219
412-261-4040

Jay N. Silberblatt, Esquire
Pa. I.D. #32253

Silberblatt Mermelstein, P.C.
2904 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
412-232-0580

ORIGINAL

FILED

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William A. Shaw
Prothonotary

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that, if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU SHOULD NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**LAWYER REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET
P.O. BOX 186
HARRISBURG, PA 17108
1-800-692-7375**

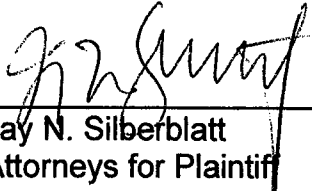
WILDER & MAHOOD, P.C.

By


James E. Mahood

SILBERBLATT MERMELSTEIN, P.C.

By


Jay N. Silberblatt
Attorneys for Plaintiff

COMPLAINT IN CIVIL ACTION

1. Plaintiff is an adult individual and a resident of DuBois, County of Clearfield and Commonwealth of Pennsylvania.

2. Defendant, Toni M. Cherry, is an adult individual and a resident of the County of Clearfield and Commonwealth of Pennsylvania, having been duly admitted to the practice of law before the courts of the Commonwealth of Pennsylvania.

3. At the time of the events hereinafter set forth, Defendant, Toni M. Cherry, Esquire practiced law in the Commonwealth of Pennsylvania, with a law office located at One North Franklin Street, in DuBois, County of Clearfield and Commonwealth of Pennsylvania, and at all times material hereto held herself out to the Plaintiff as an attorney duly licensed and able to practice law in the courts of the Commonwealth of Pennsylvania.

4. Defendant, Gleason, Cherry and Cherry, L.L.P., is a law firm that maintains offices at One North Franklin Street in DuBois, County of Clearfield and Commonwealth of Pennsylvania.

5. The Defendant, Gleason, Cherry and Cherry, L.L.P., is engaged in the business of providing legal services to members of the general public desiring such services, including divorces, domestic relations and related matters.

6. At all times pertinent hereto, the Defendant, Gleason, Cherry and Cherry, L.L.P., was acting by and through its agents, servants or employees, who were acting on the business of this Defendant and within the scope of their authority.

7. At all times pertinent hereto, the Defendant, Toni M. Cherry, was acting individually and on her own behalf, and/or as the agent, servant or employee of the Defendant, Gleason, Cherry and Cherry, L.L.P.

8. The Plaintiff entered into a contractual arrangement and a professional relationship with the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., wherein the Defendants agreed to render legal aid, assistance, advice, and representation to the Plaintiff with regard to a divorce from her husband, Robert E. Hoffman, and to reach a resolution of all ancillary claims, including an equitable distribution of marital assets.

9. When Plaintiff met with and retained the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., she advised them that the majority of the marital assets were under the control of her husband, Robert E. Hoffman.

10. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that the majority of the marital assets were under the control of her husband, Robert E. Hoffman.

11. When Plaintiff met with and retained the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., she advised them that her husband, Robert E. Hoffman, was a former Pennsylvania State Police officer and that he had been so employed during their marriage.

12. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that her husband, Robert E. Hoffman, was a former Pennsylvania State Police Officer and that he had been so employed during their marriage.

13. When Plaintiff met with and retained the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., she advised them that her husband, Robert E. Hoffman, was receiving a monthly retirement benefit from the Pennsylvania State Employees' Retirement System (SERS) as a result of his employment as a Pennsylvania State Police Officer during his marriage to the Plaintiff.

14. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that her husband, Robert E. Hoffman, was receiving a monthly retirement benefit from the Pennsylvania State Employees' Retirement System (SERS) as a result of his employment as a Pennsylvania State Police Officer during his marriage to the Plaintiff.

15. During the course of the legal representation that the Defendants provided to the Plaintiff, she told the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., she advised them that her husband, Robert E. Hoffman, had sole control over an IRA account with Equitable Insurance Company which had been funded with monies received from the aforementioned SERS retirement benefit earned during the marriage.

16. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that Robert E. Hoffman had sole control over an IRA account with Equitable Insurance Company.

17. When Plaintiff met with and retained the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., Plaintiff advised them that she and Robert E. Hoffman had been married on September 2, 1983.

18. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that she and Robert E. Hoffman had been married on September 2, 1983.

19. During the course of the legal representation that the Defendants provided to the Plaintiff, the Plaintiff told the Defendants that her husband, Robert E. Hoffman, was not in good health.

20. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that her husband, Robert E. Hoffman, was not in good health.

21. When Plaintiff met with and retained the Defendants, Toni M. Cherry, Esquire and the law firm of Gleason, Cherry and Cherry, L.L.P., she advised them that she was the beneficiary designated to receive the death benefit on her husband's retirement account with the Pennsylvania State Employees' Retirement System (SERS).

22. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have

known, that the Plaintiff was the beneficiary designated to receive the death benefit of her husband's retirement account with the Pennsylvania State Employees' Retirement System (SERS).

23. Plaintiff advised Defendants that she was the beneficiary designated to receive the proceeds of her husband's IRA account with Equitable Insurance Company.

24. During the course of the legal representation that the Defendants provided to the Plaintiff, the Defendants knew, or in the exercise of reasonable care should have known, that she was the beneficiary designated to receive the proceeds of her husband's IRA account with the Equitable Insurance Company.

25. As a result of the employment of Plaintiff's husband, Robert E. Hoffman, by the Commonwealth of Pennsylvania and his participation in the Pennsylvania State Employees' Retirement System (SERS), Plaintiff's husband did not contribute to the Federal Social Security System and was not entitled to any Social Security benefits upon his retirement, nor was his wife, Plaintiff herein, entitled to collect any benefits from the Social Security Administration either as the retired wife of Robert E. Hoffman or as his widow, in the event of his death.

26. The retirement benefits provided for Plaintiff's husband, Robert E. Hoffman, by the Pennsylvania State Employees' Retirement System (SERS) were in lieu of all other retirement benefits, including Social Security and were earned during the marriage and were accumulated, in part, by contributions that Robert E. Hoffman, Plaintiff's husband, made during the time that he was married to and living with Plaintiff.

27. The Pennsylvania State Employees' Retirement System (SERS) plan maintained by Plaintiff's husband, Robert E. Hoffman, constituted an asset in which the Plaintiff had a marital property interest and was otherwise subject to equitable distribution.

28. The IRA account maintained by Plaintiff's husband, Robert E. Hoffman, with Equitable Insurance Company constituted an asset in which the Plaintiff had a marital property interest and was otherwise subject to equitable distribution.

29. The Plaintiff had asserted ancillary economic claims in her domestic litigation in the Court of Common Pleas of Clearfield County, including claims for support, alimony pendente lite, and alimony, for which claims the aforementioned SERS benefits and the Equitable Insurance Company IRA account and Plaintiff's survivors claims thereto were available as security.

30. During the pendency of Plaintiff's domestic litigation in the Court of Common Pleas of Clearfield County, the Defendants did not seek the husband's consent or otherwise petition the Court for an order to maintain the status quo with regard to the retirement account of Robert E. Hoffman, Plaintiff's husband, with the Pennsylvania State Employees' Retirement System (SERS) to prevent the Plaintiff's husband from dissipating the account or from changing the beneficiary thereof.

31. During the pendency of Plaintiff's domestic litigation in the Court of Common Pleas of Clearfield County, the Defendants did not seek the husband's consent or otherwise petition the Court for an order to maintain the status quo with

regard to the IRA account with Equitable Insurance Company to prevent the Plaintiff's husband from dissipating the account or from changing the beneficiary thereof.

32. On or about December 3, 1997, the Plaintiff's husband, Robert E. Hoffman, changed the beneficiary on his retirement account with the Pennsylvania State Employees' Retirement System (SERS).

33. Shortly prior to his death, the Plaintiff's husband, Robert E. Hoffman changed the beneficiary on the IRA account that he maintained with Equitable Insurance Company.

34. On January 30, 1998, Plaintiff's husband, Robert E. Hoffman died.

35. The death benefit on Plaintiff's husband's retirement account with the Pennsylvania State Employees' Retirement System (SERS) was in the amount of Four Hundred Fifty-two Thousand Seven Hundred Thirty-Eight and 42/100 (\$452,738.42) Dollars.

36. The death benefit on Plaintiff's husband's IRA account with Equitable Insurance Company policy at the time of the death of Plaintiff's husband, Robert E. Hoffman, was in the amount of Fifty-one Thousand Six Hundred Eighty-eight and 36/100 (\$51,688.36) Dollars.

37. Defendants knew, or should have known, that Plaintiff's husband's retirement account with the Pennsylvania State Employees' Retirement System (SERS) was under the exclusive and sole control of Robert E. Hoffman, Plaintiff's husband, including the right at any and all times to change the beneficiary thereof.

38. Defendants knew, or should have known, that Plaintiff's husband's IRA account with Equitable Insurance Company was under the exclusive and sole control of Robert E. Hoffman, Plaintiff's husband, including the right at any and all times to change the beneficiary thereof.

39. Upon the death of Plaintiff's husband, Robert E. Hoffman, Plaintiff did not receive the death benefit nor did she receive any of the proceeds of her husband's retirement account with the Pennsylvania State Employees' Retirement System (SERS).

40. Upon the death of Plaintiff's husband, Robert E. Hoffman, Plaintiff did not receive the death benefit nor did she receive any proceeds from his IRA account with Equitable Insurance Company.

41. The Defendants did not take any action prior to the death of Plaintiff's husband, Robert E. Hoffman, to prevent Robert E. Hoffman, from changing the beneficiary on his retirement account with the Pennsylvania State Employees' Retirement System (SERS).

42. The Defendants did not take any action prior to the death of Plaintiff's husband, Robert E. Hoffman, to prevent Robert E. Hoffman from changing the beneficiary on the Equitable Insurance Company IRA account.

43. Prior to the death of Plaintiff's husband, Robert E. Hoffman, Defendants did not seek or otherwise obtain an injunction, a freeze order, a domestic relations order, an order maintaining the status quo, a consent order, or any other appropriate judicial intervention to prevent Plaintiff's husband, Robert E. Hoffman, from removing

Plaintiff as the beneficiary on his retirement account with the Pennsylvania State Employees' Retirement System (SERS).

44. Prior to the death of Plaintiff's husband, Robert E. Hoffman, Defendants did not seek or otherwise obtain an injunction, a freeze order, a domestic relations order, an order maintaining the status quo, a consent order, or any other appropriate judicial intervention to prevent Plaintiff's husband, Robert E. Hoffman, from removing Plaintiff as the beneficiary of the proceeds of the husband's IRA account with Equitable Insurance Company.

COUNT I

LINDA E. HOFFMAN vs. TONI M. CHERRY

45. All of the resultant losses and damages sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, Toni M. Cherry, Esquire, individually and/or as the agent, servant or employee of the Defendant, Gleason, Cherry and Cherry, L.L.P., acting by and through its agents, servants or employees, and each of them, in failing to properly represent and properly advise the Plaintiff, generally and in the following particulars:

- a. In failing to exercise that degree of care, skill and foresight required of this Defendant who held herself out to the Plaintiff as having expertise in the legal field with particular reference to advice pertaining to domestic relations matters; and/or

- b. In failing to fully and thoroughly investigate and research the applicable laws, court rules and guidelines pertaining to remedies available in order to prevent parties from dissipating assets in a domestic relations matter; and/or
- c. In failing to provide adequate and proper legal advice, aid, assistance, counseling and services to the Plaintiff in protecting the assets available for equitable distribution, taking into consideration the type of assets available solely in the name of Plaintiff's husband, Robert E. Hoffman, and the background of the parties; and/or
- d. In failing to fulfill the expectations of the Plaintiff who relied upon this Defendant's legal knowledge, skill and expertise in domestic relations matters; and/or
- e. In failing to take timely and proper action to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS), when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over those funds; and/or
- f. In failing to take timely and proper action to protect the rights of the Plaintiff as the designated beneficiary of the proceeds of the Equitable Insurance Company IRA that belonged to Plaintiff's husband, Robert E. Hoffman; and/or
- g. In failing to request or otherwise obtain an injunction to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS), when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over those funds; and/or
- h. In failing to request or otherwise obtain an injunction to protect the rights of the Plaintiff as the beneficiary of the Equitable Insurance Company IRA that belonged to Plaintiff's husband, Robert E. Hoffman, when this Defendant knew or should have known that Robert E. Hoffman had

sole, exclusive and complete control over that account;
and/or

- i. In failing to obtain a freeze order or an order maintaining the status quo to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS) and as security for Plaintiff's ancillary claims for support, alimony pendente lite, and alimony, when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over those funds; and/or
- j. In failing to obtain a freeze order or an order maintaining the status quo to protect the rights of the Plaintiff as the designated beneficiary on the Equitable Insurance Company IRA account of the Plaintiff's husband, Robert E. Hoffman, and as security for Plaintiff's ancillary claims for support, alimony pendente lite, and alimony, when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over that account; and/or
- k. In failing to notify SERS of Plaintiff's pending domestic litigation and her property interest in her husband's SERS benefits or to otherwise obtain a domestic relations order so as to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS), when this Defendant knew or should have known that Plaintiff's husband, Robert E. Hoffman, had sole, exclusive and complete control over those funds; and/or
- l. In failing to notify Equitable Insurance Company of Plaintiff's pending domestic litigation and her property interest in her husband's IRA account or to otherwise obtain a domestic relations order so as to protect the rights of the Plaintiff as the designated beneficiary on the Equitable Insurance Company IRA account of the Plaintiff's husband, Robert E. Hoffman, when this Defendant knew or should have known that Plaintiff's husband, Robert E. Hoffman, had sole, exclusive and complete control over that account; and/or

- m. In failing to take timely and proper action to protect and preserve the assets available to pay the Plaintiff when this Defendant knew or should have known that Plaintiff's husband, Robert E. Hoffman, was not in good health; and/or
- n. In failing to properly represent Plaintiff in a claim against Plaintiff's husband, Robert E. Hoffman, for equitable distribution of marital assets; and/or
- o. In undertaking to represent Plaintiff in a domestic relations matter and in failing to do so in a workmanlike manner; and/or
- p. In failing to file the necessary documents in order to properly represent Plaintiff in her claim for equitable distribution of the marital assets; and/or
- q. In lulling Plaintiff into a false sense of security; and/or
- r. In ignoring Plaintiff's requests to take action that would protect her rights to an equitable distribution of marital property, including the SERS retirement plan and the Equitable Insurance Company IRA; and/or
- s. In abandoning Plaintiff when she was in need of help and advice; and/or
- t. In failing to keep Plaintiff advised of developments; and/or
- u. In failing to obtain a prompt adjudication of Plaintiff's divorce and Plaintiff's ancillary claims, including equitable distribution, and in failing to promptly follow through to conclusion a settlement of Plaintiff's domestic relations matters; and/or
- v. In otherwise failing to meet the standards and requirements imposed upon this Defendant as a member of the legal profession and as an attorney holding herself out to have a degree of expertise in the domestic relations field; and/or

- w. In failing to allocate a sufficient amount of time to perform legal services and to otherwise represent the interests of the Plaintiff; and/or
- x. In failing to advise and otherwise warn the Plaintiff of the risks associated with failing to maintain the status quo pending equitable distribution; and/or
- z. In failing to advise and otherwise warn the Plaintiff of the risks associated with failing to prevent the husband from changing beneficiary on his SERS retirement account and his Equitable Insurance Company IRA account; and/or
- aa. In failing to plan for the possibility that Plaintiff's husband might die during the pendency of Plaintiff's domestic litigation and in failing to advise the Plaintiff of what might happen to Plaintiff's rights to equitable distribution and her rights in the SERS retirement account and the Equitable Insurance Company IRA account in such an event.

46. As a direct and proximate result of the negligence of the Defendant, Toni M. Cherry, Esquire, Plaintiff sustained economic loss, including the loss of the death benefit available on the retirement account of Robert E. Hoffman with the Pennsylvania State Employees' Retirement System (PSERS) and counsel fees and expenses.

47. As a direct and proximate result of the negligence of the Defendant, Toni M. Cherry, Esquire, Plaintiff sustained economic loss, including the loss of the proceeds of the IRA account with Equitable Insurance Company.

WHEREFORE, Plaintiff claims of the Defendant, Toni M. Cherry, Esquire, damages in a sum in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS.

COUNT II

LINDA E. HOFFMAN vs. GLEASON, CHERRY AND CHERRY, L.L.P.

48. Linda E. Hoffman, Plaintiff herein incorporates by reference paragraphs 1 through 44, inclusive, with the same force and effect as though set forth at length herein.

49. All of the resultant losses and damages sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, Gleason, Cherry and Cherry, L.L.P., acting by and through its agents, servants or employees, in failing to properly represent and properly advise the Plaintiff, generally and in the following particulars:

- a. In failing to exercise that degree of care, skill and foresight required of this Defendant which held itself out to the Plaintiff as having expertise in the legal field with particular reference to advice pertaining to domestic relations matters; and/or
- b. In failing to fully and thoroughly investigate and research the applicable laws, court rules and guidelines pertaining to remedies available in order to prevent parties from dissipating assets in a domestic relations matter; and/or
- c. In failing to provide adequate and proper legal advice, aid, assistance, counseling and services to the Plaintiff in protecting the assets available for equitable distribution, taking into consideration the type of assets available solely in the name of Plaintiff's husband, Robert E. Hoffman, and the background of the parties; and/or
- d. In failing to fulfill the expectations of the Plaintiff who relied upon this Defendant's legal knowledge, skill and expertise in domestic relations matters; and/or
- e. In failing to take timely and proper action to protect the rights of the Plaintiff to the death benefit available on the retirement

account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS), when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over those funds; and/or

- f. In failing to take timely and proper action to protect the rights of the Plaintiff as the designated beneficiary of the proceeds of the Equitable Insurance Company IRA that belonged to Plaintiff's husband, Robert E. Hoffman; and/or
- g. In failing to request or otherwise obtain an injunction to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS), when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over those funds; and/or
- h. In failing to request or otherwise obtain an injunction to protect the rights of the Plaintiff as the beneficiary of the Equitable Insurance Company IRA that belonged to Plaintiff's husband, Robert E. Hoffman, when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over that account; and/or
- i. In failing to obtain a freeze order or an order maintaining the status quo to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS) and as security for Plaintiff's ancillary claims for support, alimony pendente lite, and alimony, when this Defendant knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over those funds; and/or
- j. In failing to obtain a freeze order or an order maintaining the status quo to protect the rights of the Plaintiff as the designated beneficiary on the Equitable Insurance Company IRA account of the Plaintiff's husband, Robert E. Hoffman and as security for Plaintiff's ancillary claims for support, alimony pendente lite, and alimony, when this Defendant

knew or should have known that Robert E. Hoffman had sole, exclusive and complete control over that account; and/or

- k. In failing to notify SERS of Plaintiff's pending domestic litigation and her property interest in her husband's SERS benefits or to otherwise obtain a domestic relations order so as to protect the rights of the Plaintiff to the death benefit available on the retirement account of Plaintiff's husband, Robert E. Hoffman, from the Pennsylvania State Employees' Retirement System (SERS), when this Defendant knew or should have known that Plaintiff's husband, Robert E. Hoffman, had sole, exclusive and complete control over those funds; and/or
- l. In failing to notify Equitable Insurance Company of Plaintiff's pending domestic litigation and her property interest in her husband's IRA account or to otherwise obtain a domestic relations order so as to protect the rights of the Plaintiff as the designated beneficiary on the Equitable Insurance Company IRA account of the Plaintiff's husband, Robert E. Hoffman, when this Defendant knew or should have known that Plaintiff's husband, Robert E. Hoffman, had sole, exclusive and complete control over that account; and/or
- m. In failing to take timely and proper action to protect and preserve the assets available to pay the Plaintiff when this Defendant knew or should have known that Plaintiff's husband, Robert E. Hoffman, was not in good health; and/or
- n. In failing to properly represent Plaintiff in a claim against Plaintiff's husband, Robert E. Hoffman, for equitable distribution of marital assets; and/or
- o. In undertaking to represent Plaintiff in a domestic relations matter and in failing to do so in a workmanlike manner; and/or
- p. In failing to file the necessary documents in order to properly represent Plaintiff in her claim for equitable distribution of the marital assets; and/or
- q. In lulling Plaintiff into a false sense of security; and/or

- r. In ignoring Plaintiff's requests to take action that would protect her rights to an equitable distribution of marital property, including the SERS retirement plan and the Equitable Insurance Company IRA; and/or
- s. In abandoning Plaintiff when she was in need of help and advice; and/or
- t. In failing to keep Plaintiff advised of developments; and/or
- u. In failing to obtain a prompt adjudication of Plaintiff's divorce and Plaintiff's ancillary claims, including equitable distribution, and in failing to promptly follow through to conclusion a settlement of Plaintiff's domestic relations matters; and/or
- v. In otherwise failing to meet the standards and requirements imposed upon this Defendant as members of the legal profession and as a law firm holding itself out to have a degree of expertise in the domestic relations field; and/or
- w. In failing to allocate a sufficient amount of time to perform legal services and to otherwise represent the interests of the Plaintiff; and/or
- x. In failing to advise and otherwise warn the Plaintiff of the risks associated with failing to maintain the status quo pending equitable distribution; and/or
- z. In failing to advise and otherwise warn the Plaintiff of the risks associated with failing to prevent the husband from changing beneficiary on his SERS retirement account and his Equitable Insurance Company IRA account; and/or
- aa. In failing to plan for the possibility that Plaintiff's husband might die during the pendency of Plaintiff's domestic litigation and in failing to advise the Plaintiff of what might happen to Plaintiff's rights to equitable distribution and her rights in the PSERS retirement account and the Equitable Insurance Company IRA account in such an event.

50. As a direct and proximate result of the negligence of the Defendant, Gleason, Cherry and Cherry, L.L.P., Plaintiff sustained economic loss, including the loss of the death benefit available on the retirement account of Robert E. Hoffman with the Pennsylvania State Employees' Retirement System (SERS) and counsel fees and expenses.

51. As a direct and proximate result of the negligence of the Defendant, Gleason, Cherry and Cherry, L.L.P., Plaintiff sustained economic loss, including the loss of the proceeds of the IRA account with Equitable Insurance Company.

WHEREFORE, Plaintiff claims of the Defendant, Gleason, Cherry and Cherry, L.L.P., damages in a sum in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS.

JURY TRIAL DEMANDED

WILDER & MAHOOD, P.C.

By


James E. Mahood

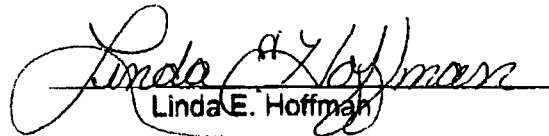
SILBERBLATT MERMELSTEIN, P.C.

By


Jay N. Silberblatt

VERIFICATION

I verify that the statements made in this Complaint are true and correct to the best of my knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


Linda E. Hoffmann

Dated: November 5, 2001

Certificate of Service

I hereby certify that a copy of the foregoing Complaint was served upon the person
and on the date and manner below indicated:

FIRST CLASS MAIL
Dennis J. Roman, Esq,
Grogan, Graffam, McGinley, P.C.
Three Gateway Center
22nd Floor
Pittsburgh, Pa. 15219

11/6/01 Date


James E. Mahood, Esq.
Attorney for Plaintiff