

00-145-CD
PATRICIA L. SMITH et al -vs- FIRST UNITED METHODIST CHURCH

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

(72)
(6) PATRICIA L. SMITH and
JOSEPH SMITH,
Plaintiffs

vs.

(4)
FIRST UNITED METHODIST
CHURCH,
Defendant

NO. 20. 145. 60

Type of Case: Civil

Type of Pleading: Praecipe for
Writ of Summons

Filed on behalf of: Plaintiffs

Counsel of Record for this Party:
David P. King, Esquire
23 Beaver Drive
P. O. Box 1016
DuBois, PA 15801
(814) 371-3760

Supreme Court No. 22980

FILED

FEB 07 2000

William A. Shaw
Prothonotary

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

PATRICIA L. SMITH and
JOSEPH SMITH,
Plaintiffs

vs.

FIRST UNITED METHODIST
CHURCH,
Defendant

:
:
:
:
:
:
:
:
:
:

NO. _____ C.D.

PRAECIPE FOR WRIT OF SUMMONS

TO THE PROTHONOTARY:

Please issue a Writ of Summons against the above named
Defendant.



David P. King
Attorney for Plaintiffs,
Patricia L. Smith and
Joseph Smith

2

FILED

copy

FEB 07 2000

1010501 atk kmp dd

William A. Shaw

Prothonotary

\$80.00

Writ to Sheriff

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

PATRICIA L. SMITH and JOSEPH SMITH

Plaintiff(s)

S U M M O N S

NO: 00-145-CD

vs.

FIRST UNITED METHODIST CHURCH

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 February 7, 2000

William A. Shaw, Prothonotary

Issuing Attorney:

David P. King, Esquire
23 Beaver Drive
P.O. Box 1016
DuBois, PA 15801

COPY

DAVID P. KING

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SMITH, PATRICIA L. & JOSEPH

00-145-CD

VS

FIRST UNITED METHODIST CHURCH

SUMMONS

SHERIFF RETURNS

NOW FEBRUARY 9, 2000 AT 2:50 PM EST SERVED THE WITHIN
SUMMONS ON FIRST UNITED METHODIST CHURCH, DEFENDANT AT
EMPLOYMENT, HIGH & LONG AVE., DUBOIS, CLEARFIELD COUNTY,
PENNSYLVANIA BY HANDING TO KEN GEARHART, BUSINESS MGR. A
TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE
KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: DILULLO.

28.21 SHFF. HAWKINS PAID BY: ATTY.
10.00 SURCHARGE PAID BY: ATTY.

SWORN TO BEFORE ME THIS

2nd DAY OF March 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 Harris

CHESTER A. HAWKINS
SHERIFF

FILED

MAR 02 2000

03:02
William A. Shaw
Prothonotary

EAS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA L. SMITH and JOSEPH SMITH,

Plaintiffs,

v.

FIRST UNITED METHODIST CHURCH,

Defendant.

) CIVIL ACTION

) No: 00-145-CD

) **PRAECIPE FOR APPEARANCE**

) Filed on Behalf of: Defendant

) First United Methodist Church of DuBois

) Counsel of Record for this Party:

) Warren D. Ferry, Esquire

) Pa. I.D. #17281

) WARREN D. FERRY, P.C.

) 127 S. McKean Street

) Butler, Pa 16001

) (724) 283-7508

) (724) 283-8557 (fax)

FILED

MAY 10 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

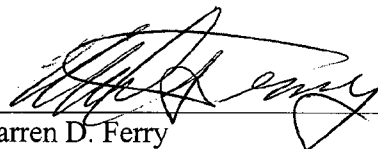
PATRICIA L. SMITH and JOSEPH SMITH,	)	CIVIL ACTION
)	
Plaintiffs,	)	No: 00-145-CD
)	
v.)	
)	
FIRST UNITED METHODIST CHURCH,)	
)	
Defendant.)	

PRAECIPE FOR APPEARANCE

TO: WILLIAM A. SHAW, PROTHONOTARY

Kindly enter my appearance on behalf of Defendant, First United Methodist Church, in the above-captioned action.

Respectfully submitted,

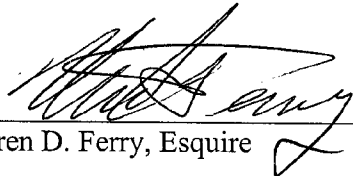


Warren D. Ferry
Attorney for Defendant

CERTIFICATE OF SERVICE

I, Warren D. Ferry, do hereby certify that on this the 8th day of May, 2001, a true and correct copy of the foregoing Praecipe for Appearance has been served, via First-Class Mail, postage prepaid, upon the following counsel of record in this case:

David P. King, Esquire
Beaver Drive
P.O. Box 1016
DuBois, PA 15801


Warren D. Ferry, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA L. SMITH and JOSEPH SMITH,

Plaintiffs,

v.

FIRST UNITED METHODIST CHURCH,

Defendant.

) CIVIL ACTION

) No: 00-145-CD

) **PRAECIPE FOR RULE**
) **TO FILE COMPLAINT**

) Filed on Behalf of: Defendant
) First United Methodist Church of DuBois

) Counsel of Record for this Party:

) Warren D. Ferry, Esquire
) Pa. I.D. #17281

) WARREN D. FERRY, P.C.
) 127 S. McKean Street
) Butler, Pa 16001

) (724) 283-7508
) (724) 283-8557 (fax)

FILED

MAY 10 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

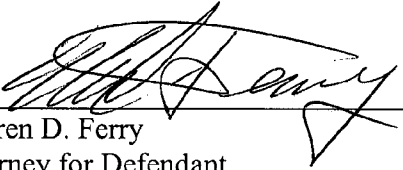
PATRICIA L. SMITH and JOSEPH SMITH,	)	CIVIL ACTION
)	
Plaintiffs,	)	No: 00-145-CD
)	
v.)	
)	
FIRST UNITED METHODIST CHURCH,)	
)	
Defendant.)	

PRAECIPE FOR RULE TO FILE COMPLAINT

TO: WILLIAM A. SHAW, PROTHONOTARY

Please issue a Rule upon the Plaintiffs, Patricia L. Smith and Joseph Smith, to file
a Complaint in the above-captioned action.

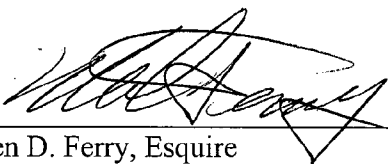
Respectfully submitted,


Warren D. Ferry
Attorney for Defendant

CERTIFICATE OF SERVICE

I, Warren D. Ferry, do hereby certify that on this the 8th day of May, 2001, a true and correct copy of the foregoing Praecipe for Rule to File Complaint has been served, via First-Class Mail, postage prepaid, upon the following counsel of record in this case:

David P. King, Esquire
Beaver Drive
P.O. Box 1016
DuBois, PA 15801


Warren D. Ferry, Esquire

COPY

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

Patricia L. Smith
Joseph Smith

Vs.
First United Methodist Church

Case No. #2000-00145-CD

RULE TO FILE COMPLAINT

TO: Patricia L. Smith and Joseph Smith

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: May 10, 2001

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

PATRICIA L. SMITH and
JOSEPH B. SMITH, her husband,
Plaintiffs

vs.

FIRST UNITED METHODIST
CHURCH,
Defendant

NO. 00-145-C.D.

Type of Case: Civil

Type of Pleading: Complaint

Filed on behalf of: Plaintiffs

Counsel of Record for this Party:
David P. King, Esquire
23 Beaver Drive
P. O. Box 1016
DuBois, PA 15801
(814) 371-3760

Supreme Court No. 22980

FILED

MAY 22 2001

William A. Shaw
Prothonotary

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

PATRICIA L. SMITH and	:	
JOSEPH B. SMITH, her husband,	:	
Plaintiffs	:	
	:	NO. 00-145-C.D.
vs.	:	
	:	
FIRST UNITED METHODIST	:	
CHURCH,	:	
Defendant	:	

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 plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE.
IF YOU DO 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.

Court Administrator
Clearfield County Courthouse
1 North Second Street
Clearfield, PA 16830
(814) 765-2641 Ext. 50-51

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

PATRICIA L. SMITH and	:	
JOSEPH B. SMITH, her husband,	:	
Plaintiffs	:	
	:	
vs.	:	NO. 00-145-C.D.
	:	
FIRST UNITED METHODIST CHURCH,	:	
Defendant	:	

COMPLAINT

AND NOW, come the Plaintiffs, PATRICIA L. SMITH, and her husband, JOSEPH B. SMITH, through their Attorney, David P. King, and for their cause of action, respectfully represents as follows:

1. The Plaintiffs are PATRICIA L. SMITH and JOSEPH B. SMITH, and they reside at 200 East Long Avenue, DuBois, PA 15801.

2. The Defendant is FIRST UNITED METHODIST CHURCH, with its establishment at High Street and Long Avenue, DuBois, Clearfield County, PA.

3. That at all times relevant hereto, the Defendant, FIRST UNITED METHODIST CHURCH, was the owner, occupier and in control and possession of those premises above described at High Street and Long Avenue in the City of DuBois, PA.

4. At all times relevant hereto, the Plaintiff, PATRICIA L. SMITH, was a member, invitee and authorized person of the Defendant's organization and establishment and was otherwise not a trespasser or interloper upon the premises of the Defendant.

5. On the morning of February 19, 1998, which was a Thursday, your Plaintiff, PATRICIA L. SMITH, with other members of the Defendant's Church organization were upon the premises of the Defendant for a regular Bible study session.

6. The Defendant and its employees and agents knew or should have known of the presence of persons such as your Plaintiff at such time and day.

7. Notwithstanding, during the morning of February 19, 1998, the Plaintiff, PATRICIA L. SMITH, a participant in the regular Bible study session, needed to use the restroom and/or obtain a drink of water.

8. In order to do so, it was necessary for said Plaintiff to walk through the hall or hallways of the Defendant's establishment.

9. As said Plaintiff so proceeded, suddenly and violently she slipped upon the flooring of said hall or hallways, and fell violently against the floor.

10. At such time, and as a result of such fall, the Plaintiff seriously injured her right arm, more particularly, in the wrist area of her hand/arm thereof.

11. The injury above generally described suffered by Plaintiff, PATRICIA L. SMITH, at that time, and thereafter required medical procedures, treatment and surgeries for her fractured wrist and complications resulting therefrom.

12. Medical bills incurred by the Plaintiff for such medical care and attention are in excess of \$17,000.00.

13. Additionally, because of her injuries above described, the Plaintiff has also undergone great pain, suffering and mental anguish, not only at the time of her injury, but thereafter, and continuing and expected to continue indefinitely and in the future.

14. Moreover, because of the injuries that the Plaintiff suffered as described above, Plaintiff also has undergone a loss of earnings and a loss of earning ability.

15. JOSEPH B. SMITH, spouse of PATRICIA L. SMITH, has also experienced a loss of consortium and has also suffered damages for the injuries incurred by his wife above described.

16. Plaintiffs state and aver that all of the damages and injuries suffered by them were proximately caused by the negligence of the Defendant which consists of the following:

(a) Maintaining their premises in an unsafe condition for persons invited and known to be upon the premises at the time and place above stated;

(b) Allowing a wet and freshly mopped floor to exist at the time and place above stated while a person such as the Plaintiff, PATRICIA L. SMITH, was in the building, as expected, without any notification to her or others;

(c) Maintaining unlit halls or hallways of the premises where a person such as the Plaintiff, PATRICIA L. SMITH, would likely walk and otherwise utilize;

(d) Failing to place warning signs of the freshly mopped floor in the hall or hallways where Plaintiff fell, although such signs were available and required to be utilized;

(e) Failure to verbally warn persons such as the Plaintiff of the dangerous condition of the hall and hallways and the freshly mopped floors;

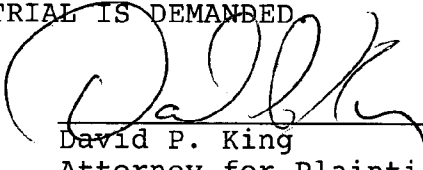
(f) Failure to instruct its agents or employees to guard against such unsafe conditions and properly warn invitees and members of such conditions that existed at said time;

(g) Failure to maintain the premises in general in a reasonable and safe condition for persons such as the Plaintiff, PATRICIA L. SMITH; and

(h) Failure to exercise reasonable care as stated above and under all of the circumstances.

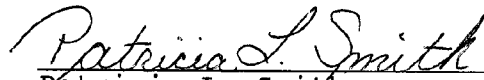
17. Because of the negligence of the Defendant, the Plaintiffs have incurred damages in excess of \$20,000.00.

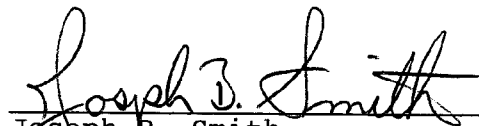
WHEREFORE, Plaintiffs pray your Honorable Court to enter judgment in their favor, and JURY TRIAL IS DEMANDED.


David P. King
Attorney for Plaintiffs

We verify that the statements made in this Complaint are true and correct. We understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Date: May 17, 2001


Patricia L. Smith


Joseph B. Smith

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

PATRICIA L. SMITH and
JOSEPH B. SMITH, her
husband,
Plaintiffs

vs.

FIRST UNITED METHODIST
CHURCH,
Defendant

NO. 00-145-C.D.

Type of Case: Civil

Type of Pleading: Certificate of
Service

Filed on behalf of: Plaintiffs

Counsel of Record for this Party:
David P. King, Esquire
23 Beaver Drive
P. O. Box 1016
DuBois, PA 15801
(814) 371-3760

Supreme Court No. 22980

FILED

MAY 24 2001

m11043/noc

William A. Shaw
Prothonotary

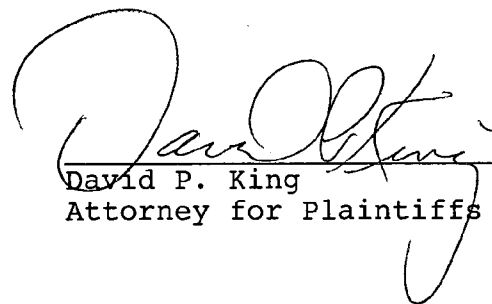
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PATRICIA L. SMITH and	:	
JOSEPH B. SMITH, her husband,	:	
Plaintiffs	:	
	:	
vs.	:	NO. 00-145-C.D.
	:	
FIRST UNITED METHODIST	:	
CHURCH,	:	
Defendant	:	

CERTIFICATE OF SERVICE

The undersigned, David P. King, Attorney at Law, on behalf of the Plaintiffs does hereby certify that on the 23rd day of May, 2001, a true and certified copy of the Complaint filed in this matter was served upon the Attorney of record for the Defendant, Warren D. Ferry, by sending to him, first class mail, postage prepaid, the same at the following address:

Warren D. Ferry, Esquire
127 South McKean Street
Butler, PA 16001



David P. King
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA L. SMITH and JOSEPH SMITH,

Plaintiffs,

v.

FIRST UNITED METHODIST CHURCH,

Defendant.

) CIVIL ACTION
)
)
)
)

) No: 00-145-CD
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)
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)

) **ANSWER**
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)
)

) Filed on Behalf of: Defendant
) First United Methodist Church of DuBois
)
)
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)
)

) Counsel of Record for this Party:
)
)
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)
)
)

) Warren D. Ferry, Esquire
) Pa. I.D. #17281
)
)
)

) WARREN D. FERRY, P.C.
) 127 S. McKean Street
) Butler, Pa 16001
)
)
)

) (724) 283-7508
) (724) 283-8557 (fax)
)
)
)

FILED

JUN 11 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA L. SMITH and JOSEPH SMITH,	)	CIVIL ACTION
)	
Plaintiffs,	)	No: 00-145-CD
)	
v.)	
)	
FIRST UNITED METHODIST CHURCH,)	
)	
Defendant.)	

ANSWER

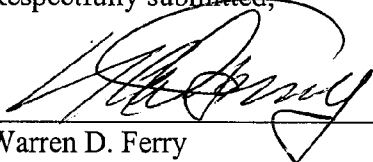
AND NOW, comes the Defendant, through its attorney, Warren D. Ferry, Esquire, and files the within Answer to Plaintiffs' Complaint and in support thereof avers:

1. After reasonable investigation, this Defendant is without sufficient information as to the truth or falsity of the averments of paragraphs 9-15, and therefore said averments are specifically denied and strict proof thereof is demanded at the time of trial.
2. The allegations of paragraph 16 and each of its subparagraphs are denied.
3. After reasonable investigation, Defendant is without sufficient information to form an opinion as to the truth or falsity of the averment of paragraph 17 and therefore said averment is specifically denied and strict proof thereof is demanded at the time of trial.

WHEREFORE, Defendant denies that it is indebted to the Plaintiffs in any sum or sums whatsoever and requests that the Plaintiffs' Complaint be dismissed.

JURY TRIAL DEMANDED.

Respectfully submitted,


Warren D. Ferry
Attorney for Defendant

VERIFICATION

I, Ronald N. Statler, representative of First United Methodist Church of DuBois, verify that the facts contained in the foregoing Answer are true and correct to the best of my knowledge and are based upon my personal information and belief. I understand that the statements contained in this Answer are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

BY:

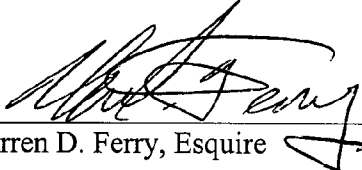
Date: 6/5/01

Ronald N. Statler
Chmn. Board of Trustees

CERTIFICATE OF SERVICE

I, Warren D. Ferry, do hereby certify that on this the 7th day of June, 2001, a true and correct copy of the foregoing Answer has been served, via First-Class Mail, postage prepaid, upon the following counsel of record in this case:

David P. King, Esquire
Beaver Drive
P.O. Box 1016
DuBois, PA 15801


Warren D. Ferry, Esquire

CP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA L. SMITH and JOSEPH SMITH,	)	CIVIL ACTION
)	
Plaintiffs,	)	No: 00-145-CD
)	
v.	)	MOTION TO COMPEL
)	
FIRST UNITED METHODIST CHURCH,)	
)	
Defendant.	)	Filed on Behalf of: Defendant
	)	First United Methodist Church of DuBois
)	
)	
)	
	)	Counsel of Record for this Party:
)	
	)	Warren D. Ferry, Esquire
	)	Pa. I.D. #17281
)	
	)	WARREN D. FERRY, P.C.
	)	127 S. McKean Street
	)	Butler, Pa 16001
)	
	)	(724) 283-7508
	)	(724) 283-8557 (fax)

FILED

SEP 18 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA L. SMITH and JOSEPH SMITH,	)	CIVIL ACTION
Plaintiffs,)	
	)	No: 00-145-CD
v.)	
)	
FIRST UNITED METHODIST CHURCH,)	
Defendant.)	

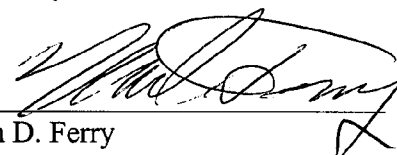
MOTION TO COMPEL

AND NOW, comes the Defendant, through its attorney, Warren D. Ferry, Esquire, and files the within Motion to Compel Answers to Interrogatories and Request for Production and in support thereof avers:

1. This is an action for personal injuries arising out of a fall which occurred on or about February 19, 1998 on the premises of the Defendant Church.
2. On or about May 19, 2003, Defendant served Plaintiff's counsel with Defendant's First Set of Interrogatories and Request for Production of Documents.
3. Despite numerous requests, Plaintiff's counsel has failed to respond to the discovery requests.

WHEREFORE, Defendant moves this Honorable Court to enter an order compelling the Plaintiff to respond to the discovery request within twenty days or suffer sanctions.

Respectfully submitted,


Warren D. Ferry
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

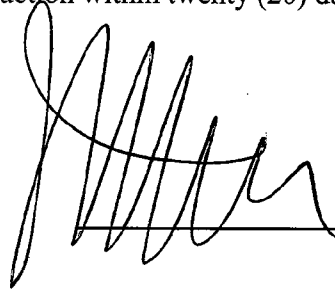
PATRICIA L. SMITH and JOSEPH SMITH,) CIVIL ACTION
)
Plaintiffs,) No: 00-145-CD
)
)
v.)
)
FIRST UNITED METHODIST CHURCH,)
)
Defendant.)
)
)

ORDER OF COURT

AND NOW, to wit, this 10th day of September, 2003,

upon presentation and argument of the within Motion to Compel, it is hereby

ORDERED and DECREED that Plaintiff shall provide answers to Defendant's
First Set of Interrogatories and Request for Production within twenty (20) days of the date of this
Order.


_____ J.

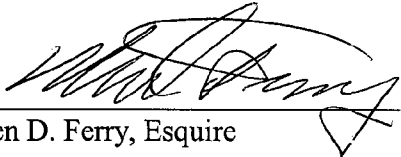
FILED

SEP 19 2003
0/4:00/wn
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to Att'y.

CERTIFICATE OF SERVICE

I, Warren D. Ferry, do hereby certify that on this the 16th day of September, 2003, a true and correct copy of the foregoing Motion to Compel has been served, via First-Class Mail, postage prepaid, upon the following counsel of record in this case:

David P. King, Esquire
Beaver Drive
P.O. Box 1016
DuBois, PA 15801


Warren D. Ferry, Esquire

CA

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

PATRICIA SMITH and JOSEPH
SMITH

vs.

FIRST UNITED METHODIST
CHURCH

:
:
:
: No. 00-145-CD
:
:
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ORDER

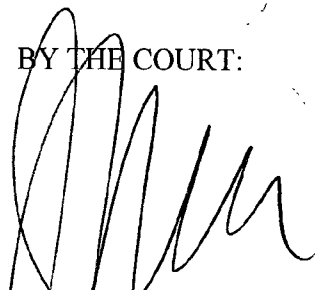
NOW, this 24th day of October, 2003, upon consideration of
Defendant's Motion for Sanctions, a Rule is hereby issued upon Plaintiff to
Appear and Show Cause why the Motion should not be granted. Rule Returnable
is scheduled the 18 day of November, 2003, at 10:30
A.M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield,
PA.

FILED

OCT 24 2003

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT:



JOHN K. REILLY, JR.
President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA L. SMITH and JOSEPH SMITH,

Plaintiffs,

v.

FIRST UNITED METHODIST CHURCH,

Defendant.

) CIVIL ACTION

) No: 00-145-CD

) **MOTION FOR SANCTIONS**

) Filed on Behalf of: Defendant

) First United Methodist Church of DuBois

) Counsel of Record for this Party:

) Warren D. Ferry, Esquire

) Pa. I.D. #17281

) WARREN D. FERRY, P.C.

) 127 S. McKean Street

) Butler, Pa 16001

) (724) 283-7508

) (724) 283-8557 (fax)

FILED

OCT 22 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA L. SMITH and JOSEPH SMITH,	)	CIVIL ACTION
Plaintiffs,)	
	)	No: 00-145-CD
v.)	
)	
FIRST UNITED METHODIST CHURCH,)	
Defendant.)	

MOTION FOR SANCTIONS

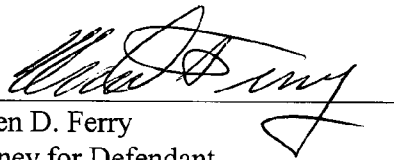
AND NOW, comes the Defendant, through its attorney, Warren D. Ferry, Esquire, and files the within Motion for Sanctions and in support thereof avers:

1. On September 19, 2003, this Honorable Court entered an Order directing the Plaintiff to provide Answers to Defendant's First Set of Interrogatories and Request for Production within 20 days of the date of the Order. A true and correct copy of that Order is attached hereto, made a part hereof, and marked Exhibit "A".
2. Plaintiff has failed to respond to the Motion to Compel.
3. Interrogatories and Request for Production which Defendant served on Plaintiff were not general in nature, but rather were specific questions with regard to specific treatment by specific physicians, hospitals and therapists. Defendant requires a response to these Interrogatories so that it may properly evaluate this claim and may obtain records and bills from the physicians and other medical providers whose treatment is allegedly related to this accident.
4. Defendant has reason to believe that some or all of the alleged treatment is unrelated to this accident.

5. Defendant has been prejudiced by Plaintiff's failure to provide this information to the Defendant and Plaintiff's failure to respond to the Interrogatories and Request for Production and the Motion to Compel.

WHEREFORE, Defendant moves this Honorable Court to enter an Order under Rule 4019(c) conclusively establishing that matters regarding which the questions were asked and any other designated facts shall be taken to be established for the purposes of the action in accordance with the claims of the Defendant and that the medical care and any expenses incurred for medical care are not related to Plaintiff's fall at the First United Methodist Church of DuBois on February 19, 1998.

Respectfully submitted,


Warren D. Ferry
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PATRICIA L. SMITH and JOSEPH SMITH,) CIVIL ACTION
)
Plaintiffs,) No: 00-145-CD
)
)
v.)
)
FIRST UNITED METHODIST CHURCH,)
)
Defendant.)
)
)
)

ORDER OF COURT

AND NOW, to wit, this 19th day of September, 2003,

upon presentation and argument of the within Motion to Compel, it is hereby

ORDERED and DECREED that Plaintiff shall provide answers to Defendant's
First Set of Interrogatories and Request for Production within twenty (20) days of the date of this
Order. 11

BY THE COURT:

/s/ JOHN K. REILLY, JR.

President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

SEP 19 2003

Attest.

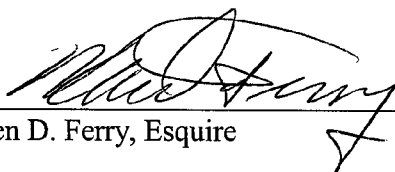
William L. Shaw
Prothonotary/
Clerk of Courts



CERTIFICATE OF SERVICE

I, Warren D. Ferry, do hereby certify that on this the 20th day of October, 2003, a true and correct copy of the foregoing Motion for Sanctions has been served, via First-Class Mail, postage prepaid, upon the following counsel of record in this case:

David P. King, Esquire
Beaver Drive
P.O. Box 1016
DuBois, PA 15801


Warren D. Ferry, Esquire

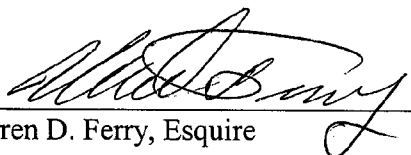
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Warren D. Ferry, do hereby certify that on this the 28th day of October, 2003, a true and correct copy of the foregoing Affidavit of Service has been served, via First-Class Mail, postage prepaid, upon the following counsel of record in this case:

David P. King, Esquire
Beaver Drive
P.O. Box 1016
DuBois, PA 15801

David S. Meholick, Court Administrator
COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY
230 East Market Street
Clearfield, PA 16830


Warren D. Ferry, Esquire

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

PATRICIA L. SMITH and
JOSEPH B. SMITH, her husband,
Plaintiffs

vs.

FIRST UNITED METHODIST
CHURCH,
Defendant

NO. 00-145-C.D.

Type of Case: Civil

Type of Pleading: Praecipe for
Settlement and Discontinuance

Filed on behalf of: Plaintiffs

Counsel of Record for this Party:
David P. King, Esquire
23 Beaver Drive
P. O. Box 1016
DuBois, PA 15801
(814) 371-3760

Supreme Court No. 22980

FILED

JUL 13 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

PATRICIA L. SMITH and
JOSEPH E. SMITH, her husband,
Plaintiffs

vs.

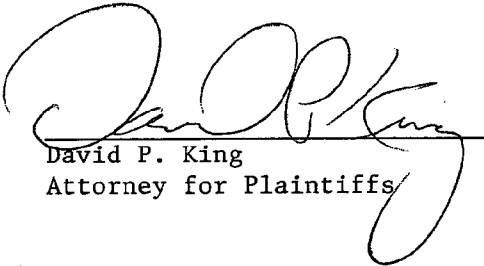
FIRST UNITED METHODIST
CHURCH,
Defendant

:
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:
:
: NO. 00-145-C.D.
:
:
:
:

PRAECIPE

TO WILLIAM A. SHAW, PROTHONOTARY:

Please mark the above captioned case settled and discontinued.


David P. King
Attorney for Plaintiffs

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

CIVIL DIVISION

COPY

**Patricia L. Smith
Joseph Smith**

**Vs.
First United Methodist Church**

No. 2000-00145-CD

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 July 13, 2004, marked:

Settled and Discontinued

Record costs in the sum of \$80.00 have been paid in full by David P. King, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 13th day of July A.D. 2004.

William A. Shaw, Prothonotary