

00-993-CD

DANIEL L. MCCARVEY -vs- DANA SMITH

(1)

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

(21) DANIEL L. MCGARVEY, an
individual, Plaintiff

vs .

(22) DANA SMITH, an individual,
Defendant

: CIVIL DIVISION
: 00-493-
: No. 2000- C. D.
:
: JURY TRIAL DEMANDED
:
: Type of Pleading:
: Complaint
:
: Filed on Behalf of:
: Plaintiff, Daniel L.
: McGarvey
:
:
:
:
: Counsel of Record for this
: Party:
:
: Querino R. Torretti, Esquire
: Supreme Court I.D. No. 23996
: 600 East Main Street
: P.O. Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

FILED

Shaw AUG 15 2000
m/1:05/wr
William A. Shaw, Prothonotary
pp
86

2 CERT TO STAFF.

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

DANIEL L. MCGARVEY, an individual, Plaintiff : CIVIL DIVISION
vs . : No. 2000- C. D.
DANA SMITH, an individual Defendant : Jury Trial Demanded

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.

KEYSTONE LEGAL SERVICES, INC.
211 1-2 East LOCUST STREET
CLEARFIELD, PA 16830
(814) 765-9646

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

COMPLAINT

AND NOW, comes the Plaintiff, by his attorney, QUERINO R. TORRETTI, ESQUIRE, and brings this Complaint of which the following is a concise statement:

GENERAL ALLEGATIONS AS TO ALL COUNTS

1. The Plaintiff, Daniel L. McGarvey, is a sui juris adult who resides at PO Box 1017 Joe Fender Road, DuBois, Clearfield County, Pennsylvania 15801.

2. The Defendant, Dana Smith, is a sui juris adult who resides at 520 Walnut Street, DuBois, Clearfield County, Pennsylvania 15801.

3. That at all times material to the within Complaint, the Plaintiff, Daniel L. McGarvey, was the operator of a 1995 Jeep Wagon bearing Vehicle Identification Number 1J4GZ58SXSC600656 and Pennsylvania license plate number FN522R. Said vehicle was owned by McGarvey Equipment, Inc. Hereinafter said vehicle will be referred to as the Jeep.

4. That at all times material to the within Complaint the Defendant, Dana Smith was the operator and lessee of a 1996 Chevrolet Tahoe bearing Vehicle Title Number 49499807 and Pennsylvania license plate number BAH1625. The lessor of said vehicle was Chase Manhattan Bank NA. Hereinafter said vehicle will be referred to as the Tahoe.

5. That on or about February 17, 1999 at approximately 5:55 a.m., Plaintiff, Daniel L. McGarvey, was operating the Jeep in a northerly direction on North Brady Street, near its intersection with East Park Avenue in the City of DuBois, Clearfield County, Pennsylvania.

6. That on or about February 17, 1999 at the same time and place, the Defendant, Dana Smith was operating the Tahoe in a westerly direction on East Park Avenue near its intersection with North Brady Street in the City of DuBois, Clearfield County, Pennsylvania.

7. That at that time and place the Defendant, Dana Smith, unlawfully entered the intersection of East Park Avenue and North Brady Street in the lane of travel where the Plaintiff, Daniel L. McGarvey, was lawfully operating the Jeep, and violently collided with the Jeep.

8. That the forgoing accident and all of the injuries and damages set forth herein sustained by the Plaintiff are the direct and proximate result of the carelessness, recklessness, and negligence of the Defendant, Dana Smith.

9. Upon impact the Plaintiff, Daniel L. McGarvey, was violently whipped about the inside of the Jeep.

10. As a result of this collision Plaintiff, Daniel L. McGarvey, suffered various injuries, including but not limited to: acute cervical sprain/strain; headaches; neck pain; musculoskeletal sprain/strain; occipital neuritis; trigger points; muscle spasm; and ligamentous injuries.

11. As a result of said injuries the Plaintiff, Daniel L. McGarvey, has suffered emotional and physical suffering and agony and will continue to suffer the same indefinitely into the future.

12. As a result of said injuries the Plaintiff, , Daniel L. McGarvey, has incurred various expenses and bills for necessary and reasonable medical services and treatments in an effort to care for and alleviate his injuries.

13. As a result of said injuries Plaintiff, , Daniel L. McGarvey, will incur, indefinitely into the future, expenses and bills for necessary and reasonable medical services and treatments in an effort to care for and alleviate his injuries.

14. Because of said injuries the Plaintiff, Daniel L. McGarvey, has been prevented from attending to his usual duties and vocation, all to his great damage and loss and will continue to be so limited indefinitely into the future.

15. Because of said injuries the Plaintiff's general health, strength, and vitality has been impaired and diminished and will continue to be so indefinitely into the future and his ability to enjoy and live a full and beneficial life has been impaired and diminished and will continue to be so indefinitely into the future.

16. As a result of the injuries he suffered and as a result of the need to seek medical care and treatment for the injuries he suffered which were caused by Defendant, Dana Smith, Plaintiff, Daniel L. McGarvey, has had extreme difficulty performing the physical demands of his job resulting in lost earnings capacity/lost earnings.

17. As a result of the accident, Plaintiff, Daniel L. McGarvey, has incurred various miscellaneous expenses.

COUNT ONE
Daniel L. McGarvey, Plaintiff
vs.
Dana Smith, Defendant
Negligence

18. Paragraphs one through seventeen are incorporated reference and made a part hereof. The collision was solely, jointly and/or severally the result of the recklessness, negligence, and carelessness of the Defendant, Dana Smith, in that he:

- (a) operated his vehicle in an inattentive manner;
- (b) failed to pay proper attention to the operation of his vehicle in disregard to the position and safety others;
- (c) operated his vehicle in disregard to the position and safety of others;
- (d) in operating his vehicle he unlawfully proceeded into the intersection;
- (e) failed to observe the traffic rules and regulations of the Commonwealth of Pennsylvania, including but not limited to: 75 Pa.C.S.A. §3111 Obedience to traffic-control devices; 75 Pa.C.S.A. §3112 Traffic-control signals; 75 Pa.C.S.A. §3114

Flashing signals; 75 Pa.C.S.A. §3321 Vehicle approaching or entering intersection; 75 Pa.C.S.A. § 3714 Careless driving; and 75 Pa.C.S.A. § 3736 Reckless driving; and 75 Pa.C.S.A. §3361 Driving vehicle at safe speed.

(f) failed to have his vehicle under control so as to be able to stop within the assured clear distance ahead;

(g) operated his vehicle at a speed greater than was reasonable under the circumstances; and

(h) failed to operate his vehicle with due regard for the highway and traffic conditions which existed of which he was aware of or should have been aware of.

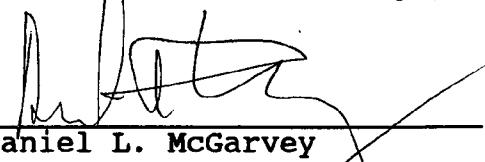
WHEREFORE, Plaintiff, Daniel L. McGarvey, prays for a judgment against the Defendant, Dana Smith, in an amount exceeding Twenty-Five Thousand (\$25,000.00) Dollars and demands a jury trial on the same and requests such other relief as your Honorable Court deems appropriate.

Respectfully submitted,

Querino R. Torretti, Esq.
Querino R. Torretti, Esquire
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA:
SS
COUNTY OF JEFFERSON :
:

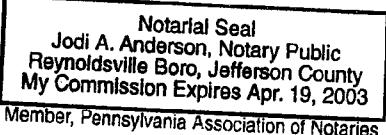
Daniel L. McGarvey, being duly sworn according to law
deposes and says that the facts set forth in the foregoing
Complaint are true and correct to the best of his knowledge,
information, and belief.



Daniel L. McGarvey

Sworn to and subscribed
before me this 2nd day
August, 2000.

Jodi A. Anderson
Jodi A. Anderson



(2)

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

DANIEL L. McGARVEY,	No. 2000 – 993 - CD
vs.	
DANA SMITH,	PRAECIPE FOR APPEARANCE
Defendant.	FILED ON BEHALF OF DEFENDANT
	COUNSEL OF RECORD FOR THIS PARTY:
	PFAFF, McINTYRE, DUGAS, HARTYE & SCHMITT
	HEATHER A. HARRINGTON, ESQUIRE PA I.D.# 62977 P.O. Box 533 Hollidaysburg, PA 16648-0533 814/696-3581

I HEREBY CERTIFY THAT A
TRUE AND CORRECT COPY OF
THE WITHIN WAS MAILED TO
ALL COUNSEL OF RECORD
THIS 23 DAY OF AUGUST, 2000.

Heather A. Harrington
ATTORNEY FOR DEFENDANT

FILED

AUG 24 2000

William A. Shaw
Prothonotary

DANIEL L. McGARVEY, : IN THE COURT OF COMMON PLEAS,
Plaintiff, : OF CLEARFIELD COUNTY, PA
vs. : No. 2000 - 993 - CD
DANA SMITH, :
Defendant. : JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Kindly enter my Appearance as counsel of record for **Defendant, Dana Smith**, in
the above-entitled action.

**PFAFF, McINTYRE, DUGAS,
HARTYE & SCHMITT**



Attorney for Defendant

HEATHER A. HARRINGTON, ESQUIRE
Pa. I.D. #62977
P. O. Box 533
Hollidaysburg, PA 16648-0533
PH: (814) 696-3581
FAX: (814) 696-9399

FILED

AUG 24 2000

1131198cc
William A. Shaw
Prothonotary

(3)

QUERINO R. TORRETTI

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MCGARVEY, DANIEL L.
VS
SMITH, DANA

00-993-CD

COMPLAINT

SHERIFF RETURNS

NOW AUGUST 18, 2000 AT 10:11 AM DST SERVED THE WITHIN
COMPLAINT ON DANA SMITH, DEFENDANT AT EMPLOYMENT CORNER OF
LONG & BRADY ST., DUBOIS DEPOSIT BANK BLDG., 3RD FLOOR,
DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO DANA
SMITH A TRUE AN ATTESTED COPY OF THE ORIGINAL COMPLAINT AND
MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: MCINTOSH/MCCLEARY

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

SWORN TO BEFORE ME THIS

29th DAY OF August 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 Marley Harry
CHESTER A. HAWKINS
SHERIFF

FILED

AUG 29 2000
my 228pm
William A. Shaw
Prothonotary *ESB*

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

COPY

DANIEL L. MCGARVEY, an
individual,

Plaintiff

vs .

DANA SMITH, an individual,
Defendant

: CIVIL DIVISION
: 00-993-
: No. 2000- C. D.
:
: JURY TRIAL DEMANDED
:
: Type of Pleading:
: Complaint
:
: Filed on Behalf of:
: Plaintiff, Daniel L.
: McGarvey
:
:
:
:
: Counsel of Record for this
: Party:
:
: Querino R. Torretti, Esquire
: Supreme Court I.D. No. 23996
: 600 East Main Street
: P.O. Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

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

AUG 15 2000

Attest.


William J. Shan
Prothonotary

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

DANIEL L. MCGARVEY, an individual, Plaintiff : : CIVIL DIVISION
vs . : : No. 2000- C. D.
DANA SMITH, an individual Defendant : : Jury Trial Demanded

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KEYSTONE LEGAL SERVICES, INC.
211 1-2 East LOCUST STREET
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(814) 765-9646

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

DANIEL L. MCGARVEY, an individual, Plaintiff : CIVIL DIVISION
vs . : No. 2000- C. D.
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COUNT ONE
Daniel L. McGarvey, Plaintiff
vs.
Dana Smith, Defendant
Negligence

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- (a) operated his vehicle in an inattentive manner;
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- (c) operated his vehicle in disregard to the position and safety of others;
- (d) in operating his vehicle he unlawfully proceeded into the intersection;
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Pa.C.S.A. §3112 Traffic-control signals; 75 Pa.C.S.A. §3114
Flashing signals; 75 Pa.C.S.A. §3321 Vehicle approaching or
entering intersection; 75 Pa.C.S.A. § 3714 Careless driving; and
75 Pa.C.S.A. § 3736 Reckless driving; and 75 Pa.C.S.A. §3361
Driving vehicle at safe speed.

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(h) failed to operate his vehicle with due regard for the
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aware of or should have been aware of.

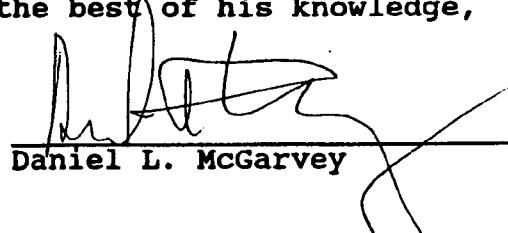
WHEREFORE, Plaintiff, Daniel L. McGarvey, prays for a
judgment against the Defendant, Dana Smith, in an amount
exceeding Twenty-Five Thousand (\$25,000.00) Dollars and demands a
jury trial on the same and requests such other relief as your
Honorable Court deems appropriate.

Respectfully submitted,

Querino R. Torretti, Esq.
Querino R. Torretti, Esquire
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA:
SS
COUNTY OF JEFFERSON :
:

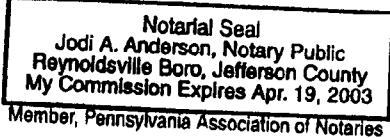
Daniel L. McGarvey, being duly sworn according to law
deposes and says that the facts set forth in the foregoing
Complaint are true and correct to the best of his knowledge,
information, and belief.



Daniel L. McGarvey

Sworn to and subscribed
before me this 2nd day
August, 2000.

Jodi A. Anderson
Jodi A. Anderson



(4)

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

DANIEL L. McGARVEY,

Plaintiff,

vs.

DANA SMITH,

Defendant.

No. 2000 - 993 - CD

ANSWER AND NEW MATTER

FILED ON BEHALF OF DEFENDANT

COUNSEL OF RECORD FOR THIS
PARTY:

PFAFF, McINTYRE, DUGAS,
HARTYE & SCHMITT

HEATHER A. HARRINGTON, ESQUIRE
PA I.D.# 62977
P.O. Box 533
Hollidaysburg, PA 16648-0533
814/696-3581

I HEREBY CERTIFY THAT A
TRUE AND CORRECT COPY OF
THE WITHIN WAS MAILED TO
ALL COUNSEL OF RECORD
THIS 14th DAY OF **SEPTEMBER**,
2000.

William A. Shaw
ATTORNEY FOR DEFENDANT

FILED

SEP 15 2000

William A. Shaw
Prothonotary

DANIEL L. McGARVEY,	IN THE COURT OF COMMON PLEAS,
Plaintiff,	OF CLEARFIELD COUNTY, PA
vs.	No. 2000 - 993 - CD
DANA SMITH,	JURY TRIAL DEMANDED
Defendant.	

ANSWER AND NEW MATTER

AND NOW, comes the Defendant, Dana Smith, by and through his counsel, Pfaff, McIntyre, Dugas, Hartye & Schmitt, and files the within Answer and New Matter, as follows:

ANSWER

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted in part and denied in part. It is admitted that at the time and place noted the Defendant entered the intersection of East Park Avenue and North Brady Street.

However, it is denied that the Defendant did so in an unlawful or improper manner. It is further admitted that a collision occurred between the vehicles operated by the Plaintiff and the Defendant.

8. Paragraph 8 contains conclusions of law to which no responsive pleading is required. Insofar as a response may be required, it is specifically denied that Defendant Smith in any way acted carelessly, recklessly, or negligently.

9. Denied.

10. – 17. Paragraph 10 through 17 contains conclusions of law and medicine which does not require a response. Insofar as a response is required, it is specifically denied that any action or omission of the Defendant legally or factually results in any injury or damages sustained by the Plaintiff for which he may obtain compensation.

COUNT ONE
Daniel L. McGarvey, Plaintiff
vs.
Dana Smith, Defendant
Negligence

18. The Defendant hereby incorporates his responses to Paragraphs 1 through 17 of the Complaint as if more fully set forth at length. By way of further response, the allegations of Paragraph 18 and its subparagraphs are denied.

WHEREFORE, Defendant Dana Smith respectfully requests that this Honorable Court enter judgment in his favor and against the Plaintiff, with prejudice.

NEW MATTER

19. Defendant Smith hereby incorporates by reference his responses to Paragraphs 1 through 18 of the Plaintiff's Complaint.

20. At all times material to the incident described in the Complaint, the Pennsylvania Motor Vehicle Financial Responsibility Act was in effect and therefore governed this litigation.

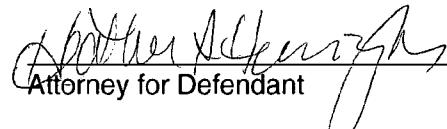
21. The Defendant hereby asserts and reserves all defenses and set-offs available to him under the Pa. MVFRL.

22. To the extent necessary to preserve the defense for use at trial, the Defendant hereby pleads the application of the "limited tort" selection by the Plaintiff as a bar to recovery of any non-economic damages.

WHEREFORE, Defendant Dana Smith respectfully requests that this Honorable Court enter judgment in his favor and against the Plaintiff, with prejudice.

Respectfully submitted:

**PFAFF, McINTYRE, DUGAS,
HARTYE & SCHMITT**

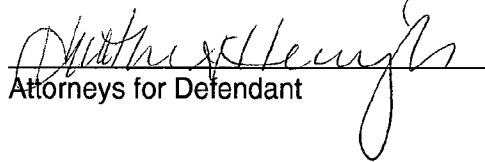


Attorney for Defendant

HEATHER A. HARRINGTON, ESQUIRE
Pa. I.D. #62977
P. O. Box 533
Hollidaysburg, PA 16648-0533
PH: (814) 696-3581
FAX: (814) 696-9399

TO: THE WITHIN NAMED PARTIES

You are hereby notified to plead to the enclosed **New Matter** within **twenty (20)** days from service hereof or a Default Judgment may be entered against you.



Attorneys for Defendant

VERIFICATION

I, **DANA SMITH**, do hereby verify that I have read the foregoing **ANSWER AND NEW MATTER** to Plaintiff's Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.


Dana Smith

Date: 9 - 5 - 00

FILED

SEP 15 2000
01039110cc
William A. Shaw
Prothonotary E/0

(57)

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

DANIEL L. McGARVEY,

: No. 2000 - 993 - CD

: ISSUE:

: Plaintiff,

:
**NOTICE OF SERVICE OF
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS
TO PLAINTIFF - DATED 9/14/00**

: vs.

: DANA SMITH,

: FILED ON BEHALF OF DEFENDANT

: Defendant.

:
**COUNSEL OF RECORD FOR THIS
PARTY:**

:
**PFAFF, McINTYRE, DUGAS,
HARTYE & SCHMITT**

:
**HEATHER A. HARRINGTON, ESQUIRE
PA I.D.# 62977
P.O. Box 533
Hollidaysburg, PA 16648-0533
814/696-3581**

I HEREBY CERTIFY THAT A
TRUE AND CORRECT COPY OF
THE WITHIN WAS MAILED TO
ALL COUNSEL OF RECORD THIS
14TH DAY OF SEPTEMBER, 2000.

Heather A. Harrington
ATTORNEY FOR DEFENDANT

FILED

SEP 15 2000

William A. Shaw
Prothonotary

DANIEL L. McGARVEY, : IN THE COURT OF COMMON PLEAS,
Plaintiff, : OF CLEARFIELD COUNTY, PA
vs. : No. 2000 - 993 - CD
DANA SMITH, :
Defendant. : JURY TRIAL DEMANDED

**NOTICE OF SERVICE OF INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF**

TO: PROTHONOTARY

You are hereby notified that on the **14th** day of **SEPTEMBER, 2000**, Defendant, **DANA SMITH**, served **INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF** DATED 9/14/00 on the Plaintiff by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Querino R. Torretti, Esquire
600 Main Street
P.O. Box 218
Reynoldsville, PA 15851

PFAFF, McINTYRE, DUGAS, HARTYE & SCHMITT



Attnorneys for Defendant

HEATHER A. HARRINGTON, ESQUIRE
PA I.D.#: 62977
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

FILED

SEP 15 2000
MILLO SO/ROCC
William A. Shaw
Prothonotary

(6)

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

DANIEL L. MCGARVEY, an
individual,
Plaintiff

vs .

DANA SMITH, an individual,
Defendant

: CIVIL DIVISION
:
: No. 2000- 993 C. D.
:
: JURY TRIAL DEMANDED
:
: Type of Pleading: Notice of
: Service of Interrogatories
: and Request For Production of
: Documents
:
: Filed on Behalf of:
: Plaintiff, Daniel L.
: McGarvey
:
:
:
:
: Counsel of Record for this
: Party:
:
: Querino R. Torretti, Esquire
: Supreme Court I.D. No. 23996
: 600 East Main Street
: P.O. Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

FILED

SEP 19 2000

112:15 AM

William A. Shaw
Prothonotary

~~No Stamps~~

I CERT TO FILE *ESB*

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

DANIEL L. MCGARVEY, an
individual,
Plaintiff

vs .

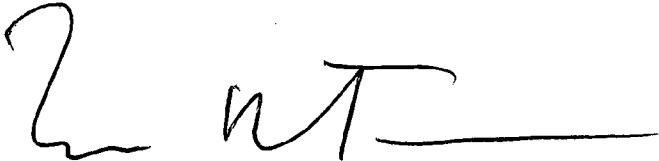
DANA SMITH, an individual
Defendant

: CIVIL DIVISION
: No. 2000- C. D.
:
:
: Jury Trial Demanded
:
:
:

To: William Shaw, PROTHONOTARY

PLEASE TAKE NOTICE that the Plaintiff, Daniel L. McGarvey,
has served Interrogatories and Request For Production Of
Documents on Defendant, Dana Smith, by mailing the same, regular
mail, postage pre-paid, to his attorney, Heather A. Harrington,
Esquire, Pfaff, McIntyre, Dugas, Hartye, & Schmitt, PO Box 533,
Hollidaysburg, PA 16648-0533.

Date: Sep 18, 2000


Querino R. Torretti, Esq.
Attorney for Plaintiff

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

DANIEL L. MCGARVEY, an
individual,
Plaintiff

vs .

DANA SMITH, an individual,
Defendant

: CIVIL DIVISION
: No. 2000- 993 C. D.
: JURY TRIAL DEMANDED
:
: Type of Pleading:
: Reply To New Matter
:
: Filed on Behalf of:
: Plaintiff, Daniel L.
: McGarvey
:
:
:
:
:
: Counsel of Record for this
: Party:
:
: Querino R. Torretti, Esquire
: Supreme Court I.D. No. 23996
: 600 East Main Street
: P.O. Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

FILED

OCT 03 2000

William A. Shaw
Clerk of Court
Prothonotary

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

DANIEL L. MCGARVEY, an individual, Plaintiff : CIVIL DIVISION
vs . : No. 2000- 993 C. D.
DANA SMITH, an individual Defendant : Jury Trial Demanded

REPLY TO NEW MATTER

AND NOW, comes the Plaintiff by his attorney, Querino R. Torretti, Esq. and sets forth the following Reply To Defendant's New Matter:

19. Defendant's Paragraph Number 19 does not require a responsive pleading but to the extent it does, the Plaintiff, hereby incorporates by reference, the allegations he set forth in Paragraphs 1 - 18 of his Complaint.

20. Denied. The allegations contained in Paragraph 20 are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same are therefore denied.

21. Denied. The allegations contained in Paragraph 21 are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same are therefore denied. Specifically it is asserted that no defenses and set-offs under the Pa. MVFRL are available to the Defendant in the present matter.

22. Denied. The allegations contained in Paragraph 22 are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same are therefore denied.

WHEREFORE, Plaintiff, Daniel L. McGarvey, prays for judgment against the Defendant, Dana Smith in an amount exceeding Twenty-Five Thousand (\$25,000.00) Dollars and demands a jury trial on the same and requests such other relief as Your Honorable Court deems appropriate. Furthermore, the Plaintiff, Daniel L. McGarvey, hereby requests that those defenses set forth by the Defendant in his New Matter, be hereby dismissed and set aside.

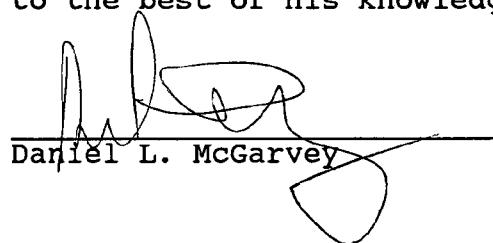
Respectfully submitted,



Querino R. Torretti, Esq.

COMMONWEALTH OF PENNSYLVANIA:
SS
COUNTY OF JEFFERSON :
:

Daniel L. McGarvey, being duly sworn according to law
deposes and says that the facts set forth in the foregoing Reply
To New Matter are true and correct to the best of his knowledge,
information, and belief.



Daniel L. McGarvey

Sworn to and subscribed
before me this 29th day
September, 2000.

Jodi A. Anderson
Jodi A. Anderson

Notarial Seal
Jodi A. Anderson, Notary Public
Reynoldsville Boro, Jefferson County
My Commission Expires Apr. 19, 2003
Member, Pennsylvania Association of Notaries

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

DANIEL L. MCGARVEY, an individual,

Plaintiff

CIVIL DIVISION
No. 2000- 993 C. D.
Jury Trial Demanded

CERTIFICATE OF SERVICE

AND NOW, I do hereby certify this 2nd day of October, 2000,
that I have caused to be served a true and correct copy of the
Reply To New Matter on Defendant, Dana Smith, by regular mail,
postage pre-paid, to his attorney, Heather A. Harrington,
Esquire, Pfaff, McIntyre, Dugas, Hartye, & Schmitt, PO Box 533,
Hollidaysburg, PA 16648-0533.

Date: October, 2, 2000

Querino R. Torretti, Esq.

FILED

OCT 03 2000

113110 CC

William A. Shaw

Prothonotary

EES

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

DANIEL L. McGARVEY,

No. 2000 - 993 - CD

ISSUE:

Plaintiff,

**NOTICE OF SERVICE OF ANSWERS TO
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS
DATED 11/6/2000**

vs.

DANA SMITH,

FILED ON BEHALF OF DEFENDANT

Defendant.

COUNSEL OF RECORD FOR THIS
PARTY:

PFAFF, McINTYRE, DUGAS,
HARTYE & SCHMITT

HEATHER A. HARRINGTON, ESQUIRE
PA I.D. # 62977
P.O. Box 533
Hollidaysburg, PA 16648-0533
814/696-3581

I HEREBY CERTIFY THAT A
TRUE AND CORRECT COPY OF
THE WITHIN WAS MAILED TO
ALL COUNSEL OF RECORD THIS
6TH DAY OF NOVEMBER, 2000.

FILED

NOV 07 2000

Heather A. Harrington
ATTORNEY FOR DEFENDANT

William A. Shaw
Prothonotary

DANIEL L. McGARVEY, : IN THE COURT OF COMMON PLEAS,
Plaintiff, : OF CLEARFIELD COUNTY, PA
vs. : No. 2000 - 993 - CD
DANA SMITH, : JURY TRIAL DEMANDED
Defendant.

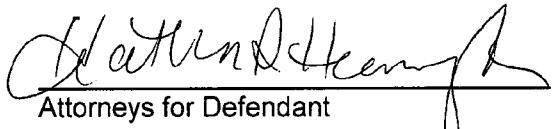
**NOTICE OF SERVICE OF ANSWERS TO INTERROGATORIES AND
RESPONSES TO REQUEST FOR PRODUCTION OF
DOCUMENTS DATED 11/6/2000**

TO: PROTHONOTARY

You are hereby notified that on the **6th** day of **NOVEMBER, 2000**, Defendant, **DANA SMITH**, served ANSWERS TO INTERROGATORIES AND RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS 11/6/00 on the Plaintiff by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

Querino R. Torretti, Esquire
600 Main Street
P.O. Box 218
Reynoldsville, PA 15851

PFAFF, McINTYRE, DUGAS, HARTYE & SCHMITT


Attorneys for Defendant

HEATHER A. HARRINGTON, ESQUIRE
PA I.D.#: 62977
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

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

DANIEL L. McGARVEY,

No. 2000 – 993 - CD

ISSUE:

Plaintiff,

MOTION TO COMPEL

vs.

DANA SMITH,

FILED ON BEHALF OF DEFENDANT

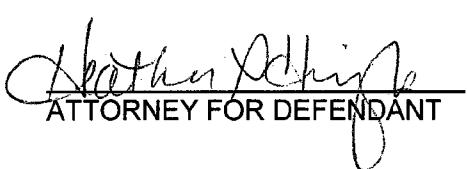
Defendant.

COUNSEL OF RECORD FOR THIS
PARTY:

PFAFF, McINTYRE, DUGAS,
HARTYE & SCHMITT

HEATHER A. HARRINGTON, ESQUIRE
PA I.D.# 62977
P.O. Box 533
Hollidaysburg, PA 16648-0533
814/696-3581

I HEREBY CERTIFY THAT A
TRUE AND CORRECT COPY OF
THE WITHIN WAS MAILED TO
ALL COUNSEL OF RECORD THIS
5TH DAY OF JANUARY, 2001.


ATTORNEY FOR DEFENDANT

FILED

JAN 08 2001

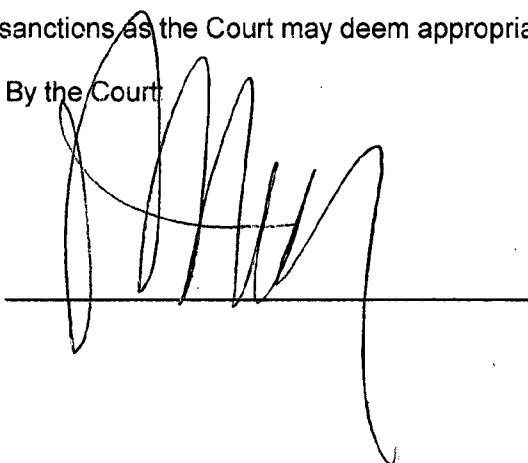
William A. Shaw
Prothonotary

DANIEL L. McGARVEY, : IN THE COURT OF COMMON PLEAS,
Plaintiff, : OF CLEARFIELD COUNTY, PA
vs. : No. 2000 - 993 - CD
DANA SMITH, :
Defendant. : JURY TRIAL DEMANDED

PROPOSED ORDER

AND NOW, this 9th day of January, 2001, after consideration of the Defendant's Motion to Compel, it is hereby ORDERED, DIRECTED and DECREED that the Plaintiff will provide full and complete answers to the Defendant's Interrogatories and Request for Production of Documents served on September 14, 2000 within twenty (20) days of the date of this Order or the Plaintiff shall suffer sanctions as the Court may deem appropriate.

By the Court



FILED

JAN 10 2001

William A. Shaw
Prothonotary

FILED

JAN 10 2001
O/Office of the
William A. Shaw
Prothonotary
Sear

DANIEL L. McGARVEY, : IN THE COURT OF COMMON PLEAS,
Plaintiff, : OF CLEARFIELD COUNTY, PA
vs. : No. 2000 - 993 - CD
DANA SMITH, :
Defendant. : JURY TRIAL DEMANDED

MOTION TO COMPEL

AND NOW, comes Defendant Dana Smith, by and through his counsel, Pfaff, McIntyre, Dugas, Hartye & Schmitt, and files the within Motion to Compel, as follows:

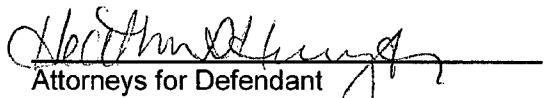
1. This litigation stems from an automobile accident which occurred on February 17, 1999.
2. The pleadings are closed.
3. September 14, 2000 the Defendant served upon the Plaintiff Interrogatories and a Request for Production of Documents.
4. This discovery requests information from the Plaintiff pertaining to the issues of liability and damages.
5. Counsel for the Plaintiff has indicated that the discovery would be forwarded to counsel for Defendant by the end of the calendar year 2000.
6. To date, no responses or objections have been received to the discovery.
7. The Pennsylvania Rules of Civil Procedure clearly provide that discovery responses should be provided within thirty (30) days of receipt of the discovery requests.
8. The information requested by the Defendant in this discovery is necessary for the Defendant to properly access, evaluate and defend this case.

9. Therefore, the Defendant requests that this Honorable Court direct that the Plaintiff provide full and complete answers to all written discovery requests of the Defendant within twenty (20) days of the Court's Order, or suffer sanctions as the Court may deem appropriate.

WHEREFORE, Defendant Dana Smith respectfully requests that this Honorable Court enter an Order directing the Plaintiff to completely and fully respond to the Defendant's discovery within twenty (20) days of the Court's Order or suffer sanctions as the Court may deem appropriate.

Respectfully submitted:

PFAFF, McINTYRE, DUGAS, HARTYE & SCHMITT



Attorneys for Defendant

HEATHER A. HARRINGTON, ESQUIRE
PA I.D.#: 62977
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

FILED

JAN 08 2001

1/8:30 AM

William A. Shaw

Prothonotary

No C/C E
~~1005~~

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

DANIEL L. MCGARVEY, an
individual,

Plaintiff

vs .

DANA SMITH, an individual,
Defendant

: CIVIL DIVISION
: No. 2000 - 993 C. D.
: JURY TRIAL DEMANDED
:
: Type of Pleading: Notice of
: Service of Answers to
: Interrogatories Directed To
: Plaintiff-Dated 9/14/00 and
: Request For Production of
: Documents Directed To Plaintiff
: -Dated 9/14/00
:
: Filed on Behalf of:
: Plaintiff, Daniel L.
: McGarvey
:
:
:
:
: Counsel of Record for this
: Party:
:
: Querino R. Torretti, Esquire
: Supreme Court I.D. No. 23996
: 600 East Main Street
: P.O. Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

FILED

JAN 26 2001
11:15 p.m.
William A. Shaw
Prothonotary *KPD*

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

DANIEL L. MCGARVEY, an individual, Plaintiff : CIVIL DIVISION
vs. : No. 2000- 993 C. D.
DANA SMITH, an individual Defendant : Jury Trial Demanded

To: William Shaw, PROTHONOTARY

PLEASE TAKE NOTICE that the Plaintiff, Daniel L. McGarvey, has served Answers To Interrogatories Directed To Plaintiff - Dated 9/14/00 and Answers To Request For Production Of Documents Directed To Plaintiff - Dated 9/14/00 on Defendant, Dana Smith, by mailing the same, regular mail, postage pre-paid, to his attorney, Heather A. Harrington, Esquire, Pfaff, McIntyre, Dugas, Hartye, & Schmitt, PO Box 533, Hollidaysburg, PA 16648-0533.

Date: January 25, 2000

Querino R. Torretti, Esq.
Attorney for Plaintiff

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

DANIEL L. McGARVEY, an individual, Plaintiff v. DANA SMITH, an individual, Defendant

: CIVIL DIVISION
: No. 2000 - 993 C.D.
:
: JURY TRIAL DEMANDED
:
: Type of Pleading: Notice Of Deposition and Certificate Of Service
:
: Filed on Behalf of: Plaintiff, Daniel L. McGarvey
:
: Counsel of Record for this Party:
: Querino R. Torretti, Esquire
: Supreme Court ID Number: 23996
: 600 E. Main St., PO Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

FILED

APR 20 2001

William A. Shaw
Prothonotary

FILED

APR 20 2001
11:03 AM
William A. Shaw
Prothonotary
FCD

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

DANIEL L. McGARVEY, an individual, Plaintiff : CIVIL DIVISION
v. : : No. 2000 - 993 C.D.
DANA SMITH, an individual, Defendant : JURY TRIAL DEMANDED
: Type of Pleading: Amended Notice
: Of Deposition and Certificate Of
: Service
: Filed on Behalf of: Plaintiff,
: Daniel L. McGarvey
: Counsel of Record for this
: Party:
: Querino R. Torretti, Esquire
: Supreme Court ID Number: 23996
: 600 E. Main St., PO Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

FILED

MAY 11 2001

110:55am
William A. Shaw
Prothonotary

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

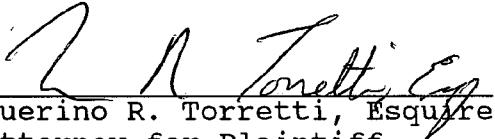
DANIEL L. McGARVEY, an individual, Plaintiff : CIVIL DIVISION
Plaintiff : No. 2000 - 993 C.D.
Plaintiff : JURY TRIAL DEMANDED
Plaintiff :
v. Plaintiff :
Plaintiff :
Plaintiff :
DANA SMITH, an individual, Defendant :
Defendant :
Defendant :

AMENDED NOTICE OF DEPOSITION

To: Dr. Martin Schaeffer
145 Hospital Avenue
Suite 300
DuBois, PA 15801
(814) 375-4660

TAKE NOTICE that your deposition by oral examination has been rescheduled and will be taken at 145 Hospital Avenue, Suite 300, DuBois, PA 15801, on **Friday, June 1, 2001, at 2:00 p.m.** This deposition is being taken for the purpose of discovery and for use at trial, pursuant to the Pennsylvania Rules of Civil Procedure regarding Discovery.

Date: 5/10/01


Querino R. Torretti, Esquire
Attorney for Plaintiff

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

DANIEL L. McGARVEY, an individual,	:	CIVIL DIVISION
Plaintiff	:	No. 2000 - 993 C.D.
	:	JURY TRIAL DEMANDED
	:	
	:	
	:	
	:	
DANA SMITH, an individual, Defendant	:	

CERTIFICATE OF SERVICE

I, hereby certify that a true and correct copy of Plaintiff's Amended Notice of Deposition of Dr. Martin Schaeffer in the above-referenced matter, in the above-captioned matter was mailed by U.S. First Class Mail, postage prepaid, on this 10th day of May, 2001 to the following individuals:

Dr. Martin Schaeffer
145 Hospital Avenue
Suite 300
DuBois, PA 15801

Heather A. Harrington, Esquire
PO Box 533
Hollidaysburg, PA 16648-0533

Sargent's Court Reporting
210 Main Street
Johnstown, PA 15901



Quefino R. Torretti, Esquire
Attorney for Plaintiff

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

DANIEL L. MCGARVEY, an
individual,
Plaintiff

vs .

DANA SMITH, an individual,
Defendant

: CIVIL DIVISION
: No. 2000 - 993 C. D.
: JURY TRIAL DEMANDED
: Type of Pleading: Praecipe to
: Settle And Discontinue
: Filed on Behalf of:
: Plaintiff, Daniel L.
: McGarvey
:
:
:
:
: Counsel of Record for this
: Party:
:
: Querino R. Torretti, Esquire
: Supreme Court I.D. No. 23996
: 600 East Main Street
: P.O. Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

FILED

JUL 18 2001

William A. Shaw
Prothonotary

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

DANIEL L. MCGARVEY, an individual, Plaintiff : CIVIL DIVISION
vs. . : No. 2000- 993 C. D.
DANA SMITH, an individual Defendant : Jury Trial Demanded

To: William Shaw, PROTHONOTARY

PRAECIPE TO SETTLE AND DISCONTINUE

Kindly settle and discontinue the above-captioned matter
upon the records of this Court. *J*

Date: July 16, 2001

Querino R. Torretti, Esq.
Attorney for Plaintiffs

FILED

JUL 18 2001

M. S. Shaffer, Atty. Tocetti
William A. Shaw
Prothonotary
(1) Cert. Do. to
Atty.

Copy CA
JES

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

CIVIL DIVISION

Daniel L. McGarvey

Vs.
Dana Smith

No. 2000-00993-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 18, 2001 marked:

Settled and Discontinued.

Record costs in the sum of \$127.76 have been paid in full by Querino Toretti, Esquire.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 18th day of July A.D. 2001.

William A. Shaw, Prothonotary