

00-1369-CD

EDWARD A. HARZINSKI -vs- CHESTER L. BRIGGS et al

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendant

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No.

00-1369-00

JURY TRIAL DEMANDED

Type of Action:  
Personal Injury

Type of Pleading:  
Complaint

Filed on Behalf of:  
Plaintiff

FILED

NOV 06 2000

William A. Shaw  
Prothonotary

Counsel of Record for this  
Party:

Richard H. Milgrub, Esquire  
Supreme Court I.D. 19865

211 North Second Street  
Clearfield, PA 16830  
(814) 765-1717

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
—  
109 NORTH BRADY STREET  
DUBOIS, PA 15801

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendant

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No.

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.

COURT ADMINISTRATOR  
Clearfield County Courthouse  
Second & Market Streets  
Clearfield, PA 16830  
(814) 765-2641

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

109 NORTH BRADY STREET  
DUBOIS, PA 15801

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendant

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No.

JURY TRIAL DEMANDED

COMPLAINT

AND NOW, comes the Plaintiff, Edward A. Harzinski, by  
and through his attorney, Richard H. Milgrub, Esquire, files the  
following Complaint:

1. Plaintiff, Edward A. Harzinski, is a citizen of the  
Commonwealth of Pennsylvania who resides at RR 1, Box 123,  
Olanta, Clearfield County, Pennsylvania.

2. Defendant, Chester L. Briggs, is a citizen of the  
Commonwealth of Pennsylvania who resides at RR 1, Box 868D,  
Altoona, Blair County, Pennsylvania.

3. Defendant, Hueys Excavating, is a Pennsylvania  
corporation, organized and incorporated under the laws of the  
Commonwealth of Pennsylvania, with a principal place of business  
located at RR 7, Box 511, Altoona, Blair County, Pennsylvania.

4. At all times material hereto, Defendant, Chester L.  
Briggs, was an agent, servant, workman and/or employee of the  
Defendant, Huey's Excavating.

5. The facts and occurrences hereinafter related took place on or about October 29, 1999, at approximately 1:57 p.m. on SR 2023, Lawrence Township, Clearfield County, Pennsylvania.

6. At that time and place, Plaintiff, operating a 1998 Dodge Dakota, was traveling within the right lane of travel for southbound traffic on SR 2023, Lawrence Township, Clearfield County, Pennsylvania.

7. At that time and place, Defendant, Chester L. Briggs, acting as agent for Hueys Excavating, was operating a 1979 Mac Truck east on SR 307 (Whiskey Hill).

8. At that time and place, Defendant, Chester L. Briggs, acting as agent for Hueys Excavating, pulled out from a stop sign and then proceeded to cross SR 2023 so as to head in a northerly direction when his vehicle collided with the Plaintiff, who had been traveling south on SR 2023.

9. At that time and place, and due to the negligence and carelessness of the Defendant, his agents, servants, workmen and/or employees, Plaintiff's vehicle collided with Defendant's vehicle, causing the Plaintiff to sustain the injuries set forth below.

10. The negligence and carelessness of the Defendant, his agents, servants, workmen and/or employees consisted of:

- a. failing to have his vehicle under proper and adequate control;
- b. failing to apply the brakes to avoid the collision;
- c. negligently applying the brakes;

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW

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d. failing to observe Plaintiff's vehicle on the highway;

e. failing to operate his vehicle in accordance with existing traffic conditions and traffic controls;

f. failing to exercise the high degree of care required of a motorist entering an intersection;

g. failing to observe traffic signals controlling Defendant's direction of traffic;

h. failing to keep a reasonable lookout for other vehicles lawfully on the road;

i. attempting to enter an intersection when such movement could not be safely accomplished;

j. failing to yield the right-of-way to traffic already upon the highway;

k. turning in such a manner as to endanger other vehicles on the highway;

l. failing to prudently proceed through the intersection so as to avoid creating a dangerous situation for other vehicles on the highway;

m. failing to observe oncoming traffic;

n. proceeding through an intersection when such movement could be made in safety;

o. failing to keep a proper lookout for approaching vehicles;

p. failing to yield the right-of-way to oncoming traffic;

q. operating the vehicle so as to create a dangerous situation for other vehicles on the highway;

r. failing to have yielded half of the highway to oncoming traffic;

s. failing to keep the vehicles within the proper lane;

t. otherwise operating said vehicle in a careless, reckless and negligent manner and in a manner violating the Motor Vehicle Code of the Commonwealth of Pennsylvania.

11. Plaintiff sustained painful and severe injuries which include, but are not limited to:

a. post multiple trauma from a truck accident;

b. laceration of the nose and face;

c. fracture/dislocation of the left hip  
(Pipkin I fracture/dislocation of the left hip);

d. ligament injury to the left knee, possible disruption of the posterior cruciate ligament; and

e. traumatic arthritis of the left hip.

12. The injury sustained by the Plaintiff as set forth above is a serious injury which resulted in both serious impairment of bodily function and permanent, serious disfigurement.

13. By reason of the aforesaid injuries sustained by the Plaintiff, he was forced to incur liability for medical treatment, medications, hospitalizations and similar

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
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miscellaneous expenses in an effort to restore himself to health, and claim is made therefore.

14. Because of the nature of his injuries, Plaintiff has been advised and therefore avers, that he may be forced to incur similar expenses in the future and claim is made therefore.

15. Plaintiff's accident-related medical expenses exceed Five thousand dollars (\$5,000.00) and claim is made for all expenses incurred above Five thousand dollars (\$5,000.00).

16. As a result of the aforementioned injuries, Plaintiff has undergone and in the future will undergo great physical and mental suffering, great inconvenience in carrying out his daily activities, loss of life's pleasures and enjoyment, and claim is made therefore.

17. As a result of the aforesaid injuries, Plaintiff has been and in the future will be subject to great humiliation and embarrassment and claim is made therefore.

18. As a result of the aforementioned injuries, Plaintiff has sustained work loss, loss of opportunity, and permanent diminution of his earning power and capacity, and claim is made therefore.

19. As a result of the aforesaid injuries, Plaintiff has sustained uncompensated work loss, and claim is made therefore.

20. Plaintiff continues to be plagued by persistent pain and limitation and, therefore, avers, that his injuries may



be of a permanent nature, causing residual problems, the remainder of his lifetime, and claim is made therefore.

21. As a result of the aforesaid accident, Plaintiff has sustained scars which will result in permanent disfigurement, and claim is made therefore.

WHEREFORE, Plaintiff demands judgment against the Defendants in an amount in excess of Twenty thousand dollars (\$20,000.00) exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration. JURY TRIAL DEMANDED.

By 

Richard H. Milgrub, Esquire  
Attorney for Plaintiff

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

109 NORTH BRADY STREET  
DUBOIS, PA 15801

I, Edward A. Harzinski, verify that the statements made in the Complaint 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: 11-2000

Edward A. Harzinski

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830

—  
111 NORTH BRADY STREET  
DUBOIS, PA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, PENNSYLVANIA

EDWARD A. HARZINSKI

PLAINTIFF  
VS  
DEFENDENT

CHESTER L. BRIGGS, INDIVIDUAL  
AND AGENT FOR HUEY EXCAVATING,  
AND HUEY EXCAVATING

NO. 00-1369-CD

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF CLEARFIELD

I, R. STUART AUBER, BEING FIRST DULY SWORN AND ACCORDING TO  
LAW, DEPOSES AND SAYS:

1. THAT HE IS A CONSTABLE FOR THE COUNTY OF CLEARFIELD  
AND THE STATE OF PENNSYLVANIA, AND NOT A PARTY TO THE  
WITHIN ACTION.

2. THAT ON THE 20 DAY OF NOV, 2000, HE SERVED A  
TRUE AND CORRECT COPY OF A PERSONAL INJURY UPON  
RAYMOND HUEY, AT HIS RESIDENCE,  
IN THE CITY, BORO, VILLAGE OF ALTOONA, TOWNSHIP OF  
                    , COUNTY OF BLAIR, PENNSYLVANIA,  
THE DEFENDENT NAMED IN SAID DOCUMENT, BY THEN AND THERE  
AT THE PLACE AND AND ON THE DATE NOTED ABOVE, DELIVERED TO  
RAYMOND HUEY A TRUE AND CORRECT COPY OF THE  
SAID STATED DOCUMENTS. TIME OF THIS SERVICE WAS AT 0805  
HOURS.

R. Stuart Auber  
R. STUART AUBER, CONSTABLE  
215 1/2 STATE STREET  
CURWENSVILLE, PA 16833  
(814) 236-1407

**FILED**

NOV 29 2000  
10:03 AM  
William A. Shaw  
Prothonotary  
no c/c

**FILED**  
 NOV 29 2000  
 2001310312  
 William A. Shaw  
 Prothonotary  
 no c/c

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

EDWARD A. HARZINSKI

Plaintiff,

NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

Type of Action:  
Personal Injury

Type of Pleading  
Entry of Appearance

Filed on behalf of Defendants,  
Chester L. Briggs, individually and  
Chester L. Briggs, as agent for  
Hueys Excavating, and Hueys  
Excavating

Counsel of Record for this Party

John J. Donnelly, Esquire  
I.D. No.: 53898

Donnelly & Associates, P.C.  
14 South Orange Street  
Media, PA 19063  
(610) 892-7600

**FILED**

DEC 13 2000

William A. Shaw  
Prothonotary

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

---

EDWARD A. HARZINSKI

Plaintiff,

NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

---

**PRAECIPE TO ENTER APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter my appearance as attorney for the defendants, CHESTER L. BRIGGS,  
individually, and CHESTER L. BRIGGS as agent for HUEYS EXCAVATING, and HUEYS  
EXCAVATING, in the above-captioned Civil Action.

DONNELLY & ASSOCIATES, P.C.

By: 

JOHN J. DONNELLY, ESQUIRE

FILED

DEC 13 2000

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William A. Shaw  
Prothonotary

WAS

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

EDWARD A. HARZINSKI

Plaintiff,

NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

Type of Action:  
Personal Injury

Type of Pleading  
Answer and New Matter

Filed on behalf of Defendants,  
Chester L. Briggs, individually and  
Chester L. Briggs, as agent for  
Hueys Excavating, and Hueys  
Excavating

Counsel of Record for this Party

John J. Donnelly, Esquire  
I.D. No.: 53898

Donnelly & Associates, P.C.  
14 South Orange Street  
Media, PA 19063  
(610) 892-7600

FILED

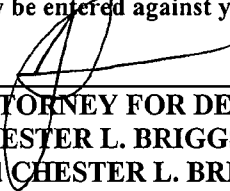
DEC 13 2000

William A. Shaw  
Prothonotary



**DONNELLY & ASSOCIATES, P.C.**  
**BY: JOHN J. DONNELLY, ESQUIRE**  
**ATTORNEY I.D. #53898**  
**14 South Orange Street**  
**Media, Pa. 19063**  
**(610) 892-7600**

**To: All Parties**  
**You are hereby notified to file a**  
**written response to the enclosed**  
**pleading within twenty (20) days**  
**from service hereof or a judgment**  
**may be entered against you.**

  
**ATTORNEY FOR DEFENDANTS**  
**CHESTER L. BRIGGS, individually**  
**and CHESTER L. BRIGGS as agent**  
**for HUEYS EXCAVATING and**  
**HUEYS EXCAVATING**

---

**EDWARD A. HARZINSKI**

**COURT OF COMMON PLEAS**  
**CLEARFIELD COUNTY**

Plaintiff,

**CIVIL DIVISION**  
**NO. 00-1369-CO**

vs.

**CHESTER L. BRIGGS, individually, and**  
**CHESTER L. BRIGGS as agent for**  
**HUEYS EXCAVATING, and HUEYS**  
**EXCAVATING**

Defendants,

---

**ANSWER AND NEW MATTER**

1. Admitted upon information and belief.

2-3. Admitted.

4. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure. By way of further answer, however, after reasonable investigation, answering defendant lacks sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial. On the contrary, responding defendant specifically denies that at any time material hereto it acted through authorized agents and employees in the manner as averred by the

plaintiff. Strict proof of this averment is demanded at trial. To the contrary, responding party at all times material hereto acted independently and in our own interest and not through or by an agent.

5-6. Denied. The averments contained in these paragraphs state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure. By way of further answer, however, after reasonable investigation, answering defendant lacks sufficient knowledge or information to form a belief as to the truth of the averments contained in these paragraphs and, therefore, denies same and demands strict proof thereof at trial.

7. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure. By way of further answer, however, after reasonable investigation, answering defendant lacks sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial. On the contrary, responding defendant specifically denies that at any time material hereto it acted through authorized agents and employees in the manner as averred by the plaintiff. Strict proof of this averment is demanded at trial. To the contrary, responding party at all times material hereto acted independently and in our own interest and not through or by an agent.

8. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure. By way of further answer, however, after reasonable investigation, answering defendant lacks sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

9. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure. By way of further answer, however, after reasonable investigation, answering defendant lacks sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial. On the contrary, responding defendant specifically denies that at any time material hereto it acted through authorized agents and employees in the manner as averred by the plaintiff. Strict proof of this averment is demanded at trial. To the contrary, responding party at all times material hereto acted independently and in our own interest and not through or by an agent.

10. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure. By way of further answer, however, after reasonable investigation, answering defendant lacks sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial. The allegations of paragraph 10(a)-10(t) are specifically denied. To the contrary at all times pertinent hereto answering defendant acted in a safe, careful and non-negligent manner.

11-21. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure. By way of further answer, however, after reasonable investigation, answering defendant lacks sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at trial.

WHEREFORE, defendants demand judgment in their favor and against the plaintiff, along with costs for this action.

**NEW MATTER**

22. Answering Defendants, incorporate by reference paragraphs 1 through 21 as though fully set forth herein at length.
23. Defendant was not negligent, careless, and/or reckless at any time material hereto
24. Plaintiff may have failed to state a cause of action upon which relief can be granted.
25. The applicable Statute of Limitations may have expired prior to the institution of this action.
26. Defendant caused no injuries or damages to plaintiff, and any injury or damage allegedly sustained by the plaintiff may have caused by a party other than the defendant and not within the control of defendant.
27. Plaintiff may have assumed the risk of injury.
28. Plaintiff may have been contributorily negligent.
29. Plaintiff may have executed a release discharging defendant in the within action.
30. Plaintiff's claims may be barred and/or limited by the application of the Pennsylvania Comparative Negligence Act.
31. Plaintiff may have been otherwise negligent as may be determined during the course and scope of discovery and/or trial.
32. Plaintiff's claims are barred and/or limited by the applicable provisions of the Pennsylvania Motor Vehicle Responsibility Law, 75 Pa.C.S.A. Section 1701 et seq and any amendments thereto.
33. The medical bills and expenses accrued by the plaintiff were not reasonable, necessary or causally related to the accident in question and, therefore, they are not recoverable under the terms and provisions of the Pennsylvania Motor Vehicle Financial Responsibility Act, 75 Pa.C.S.A. Section 1701, et seq.

34. The Plaintiff's medical treatment was not reasonable and necessary and that the costs of said treatment are, therefore, not recoverable under the terms and provisions of the Pennsylvania Motor Vehicle Financial Responsibility Act, 75 Pa.C.S.A. Section 1701, et seq.

35. The Plaintiff's cause of action is barred or limited by the terms and provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa.C.S.A. Section 1701, et seq, as amended by Act 6 of 1990, and the answering Defendant hereby asserts all of the rights and defenses available pursuant to the aforesaid Act.

36. Plaintiff's cause of action may be barred or limited in accordance with 75 Pa.C.S.A. Section 1705 by the "tort option" contained in the policy of insurance providing them with the coverage for the accident in question.

37. Defendant breached no duty to the plaintiff.

38. If defendant was negligent, which is expressly denied, then the acts or omissions of defendant alleged to constitute negligence were not substantial factors or causes of the action or incident of which plaintiff complains and/or did not result in the injuries or damages alleged by the plaintiff.

39. The intervening negligent acts or omissions of other persons or entities may have constituted superseding causes of the accident or incident of which plaintiff complains, and any injuries or damages allegedly suffered by the plaintiff were caused by such superseding negligence of other persons and/or entities.

40. Defendant raises the Sudden Emergency Doctrine as a defense herein.

41. Plaintiff is negligent as a matter of law for violation of the statutes pertaining to the operation of motor vehicle.

42. Pennsylvania Rule of Civil Procedure 238 regarding delay damages is unconstitutional.

43. Defendant reserves the right to assert at the time of trial any and all affirmative defenses revealed through discovery.

WHEREFORE, defendants demand judgment in their favor and against the plaintiff,  
along with costs for this action.

DONNELLY & ASSOCIATES, P.C.

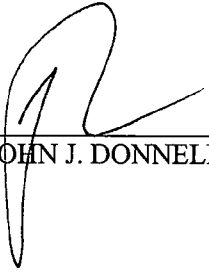
By: 

JOHN J. DONNELLY, JR., ESQUIRE  
Attorney for Defendants

**VERIFICATION**

I, JOHN J. DONNELLY, JR., ESQUIRE, attorney for defendants in the within action, hereby state that the facts set forth in the foregoing Answer and New Matter are true and correct to the best of my knowledge, information and belief.

This Verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



---

JOHN J. DONNELLY, JR.

**DONNELLY & ASSOCIATES, P.C.**  
**BY: JOHN J. DONNELLY, ESQUIRE**  
**ATTORNEY I.D. #53898**  
14 South Orange Street  
Media, Pa. 19063  
(610) 892-7600

**ATTORNEY FOR DEFENDANTS**  
**CHESTER L. BRIGGS, individually**  
**and CHESTER L. BRIGGS as agent**  
**for HUEYS EXCAVATING and**  
**HUEYS EXCAVATING**

---

EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

---

**CERTIFICATE OF SERVICE**

JOHN J. DONNELLY, ESQUIRE, attorney for defendants hereby certifies that copy of  
Defendants Answer and New Matter was served upon all counsel of record by United States first  
class mail.

DATE: 12/12/2000

BY: 

JOHN J. DONNELLY, ESQUIRE  
Attorney for Defendants



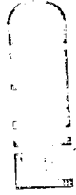
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DEC 13 2000

M1138110

William A. Shaw  
Prothonotary

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Keb

			<div data-bbox="883 884 959 1077"></div> <div data-bbox="949 745 1131 1129"><p>NOV 06 2003 012521000 Milgrub</p></div> <div data-bbox="1131 678 1181 892"><p>dd \$80.00</p></div> <div data-bbox="1164 485 1247 821"><p>dec atty Milgrub</p></div> <div data-bbox="1247 745 1428 1192"><p>RICHARD H. MILGRUB <i>Attorney &amp; Counselor at Law</i> 211 NORTH SECOND STREET CLEARFIELD, PENNSYLVANIA 16830</p></div>
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THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

EDWARD A. HARZINSKI

Plaintiff

No.: 00-1369-CO

vs.

CHESTER L. BRIGGS, Individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and  
HUEYS EXCAVATING

Defendants,

Type of Action: Personal Injury

Type of Pleading: Preliminary Objections

Filed on behalf of Plaintiff  
Edward A. Harzinski

Counsel of Record for this Party:

Samuel Cohen, Esquire  
Attorney I.D. No.: 27544  
Katz, Cohen & Price, P.C.  
117 South 17th Street, Suite 2010  
Philadelphia, PA 19103  
(215) 636-0400

Richard H. Milgrub, Esquire  
Attorney I.D. No.: 19865  
109 N. Brady Street  
DuBois, PA 15801  
(814) 765-1717

**FILED**

DEC 27 2000

William A. Shaw  
Prothonotary

**KATZ, COHEN & PRICE, P.C.****ATTORNEY FOR PLAINTIFF****By: SAMUEL COHEN****ATTORNEY LD. NO.: 27544****117 SOUTH 17th STREET****SUITE 2010****PHILADELPHIA, PA 19103****(215) 636-0400****EDWARD A. HARZINSKI****COURT OF COMMON PLEAS  
CLEARFIELD COUNTY**

vs.

**NO.: 00-1369-CO****CHESTER L. BRIGGS, Individually and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING and HUEYS  
EXCAVATING****PLAINTIFFS PRELIMINARY OBJECTIONS TO NEW MATTER OF DEFENDANTS**

COMES NOW, Plaintiff Edward A. Harzinski, by and through his counsel, Katz, Cohen & Price, P.C. and Richard H. Milgrub, Esquire, and hereby preliminary objects to the New Matter of Defendants and avers in support thereof the following:

1. Defendants filed an Answer with New Matter to Plaintiff's Complaint on or about December 13, 2000 a true and correct copy of the Answer with New Matter is attached hereto as Exhibit "A".

2. In paragraph 26 of the New Matter, Defendants alleged as an affirmative defense the following:

Defendant caused no injuries or damages to plaintiff, and any injury or damage allegedly sustained by the plaintiff may have caused by a party other than the defendant and not within the control of defendant.

3. In paragraph 29 of the New Matter, Defendants alleged as an affirmative defense the following:

Plaintiff may have executed a release discharging defendant in the within action.

4. In paragraph 31 of the New Matter, Defendants alleged as an affirmative defense the following:

Plaintiff may have been otherwise negligent as may be determined during the course and scope of discovery and/or trial.

5. In paragraph 39 of the New Matter, Defendants alleged as an affirmative defense the following:

The intervening negligent acts or omissions of other persons or entities may have constituted superseding causes of the accident or incident of which plaintiff complains, and any injuries or damages allegedly suffered by the plaintiff were caused by such superseding negligence of other persons and/or entities.

6. In paragraph 40 of the New Matter, Defendants alleged as an affirmative defense the following:

Defendant raises the Sudden Emergency Doctrine as a defense herein.

7. In paragraph 43 of the New Matter, Defendants alleged as an affirmative defense the following:

Defendant reserves the right to assert at the time of trial any and all affirmative defenses revealed through discovery.

*just*

8. The allegations of paragraph 26 of the New Matter do not set forth the material facts which would enable Plaintiff to answer the allegations with specificity, as Defendants do not identify the "party other than the Defendant and not within the control of Defendant" to which they refer.

9. The allegations of paragraph 29 of the New Matter do not set forth the material facts which would enable Plaintiff to answer the allegations with specificity but rather alleges some unspecified and unattached "release" without identifying the parties, the date or the consideration.

10. The allegations of paragraph 31 of the New Matter do not set forth the material facts which would enable Plaintiff to answer the allegations with specificity but rather set forth no facts whatsoever which would allow the Plaintiff to respond to the allegation.

11. The allegations of paragraph 39 of the New Matter do not set forth the material facts which would enable Plaintiff to answer the allegations with specificity but rather alleges unspecified "superseding causes" without identifying same caused by "other persons and/or entities" without identifying same.

12. The allegations of paragraph 40 alleges the application of the "Sudden Emergency Doctrine" without setting forth any facts in support of same.

13. Mere conclusions of law and general allegations in a pleading which fails to set forth the material facts upon which each defense is based is violative of Pennsylvania Rules of Civil Procedure 1019(a).

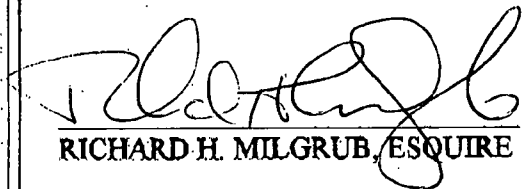
14. Material facts giving rise to Defendants' affirmative defenses must be pleaded in New Matter.

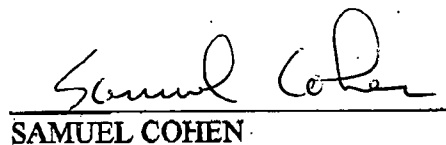
WHEREFORE, Plaintiff prays this Honorable Court enter an Order directing that paragraphs 26, 29, 31, 39, 40 and 43 of the New Matter filed on behalf of Defendants be stricken.

Respectfully submitted:

RICHARD H. MILGRUB, ESQUIRE

KATZ, COHEN & PRICE, P.C.

  
RICHARD H. MILGRUB, ESQUIRE

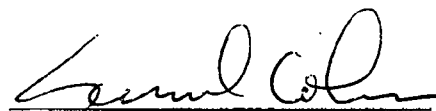
  
SAMUEL COHEN

Dated: 12/77/00

**CERTIFICATION OF SERVICE**

I, Samuel Cohen, certify that a true and correct copy of the within Plaintiff's Response to Preliminary Objections to New Matter of Defendants was forwarded via regular mail through the United States Postal Service on 12/27/00 to: John J. Connelly, Attorney at Law, 14 South Orange Street, Media, PA 19063.

KATZ, COHEN &amp; PRICE, P.C.



By: SAMUEL COHEN

Dated: 12/27/00



I, Edward Harzinski, verify that the statements  
Preliminary  
made in the Objections 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: 12/27/00

Edward A. Harzinski

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
1 NORTH SECOND STREET  
CLEARFIELD, PA 16830

11 NORTH BRADY STREET  
DUBOIS, PA 15801

<div><div><div><div><div><div><b>FILED</b></div><div>DEC 27 2000</div><div>William A. Shaw</div><div>Prothonotary</div></div></div><div><div>100</div><div>13:33</div><div>200</div><div>Any Milgrub</div></div></div></div><div><div><div>RICHARD H. MILGRUB</div><div><i>Attorney &amp; Counselor at Law</i></div><div>211 NORTH SECOND STREET</div><div>CLEARFIELD, PENNSYLVANIA 16830</div></div></div></div>

CA

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendants

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\*

No. 00-1369-CD

JURY TRIAL DEMANDED

AMENDED AFFIDAVIT OF SERVICE

I, R. STUART AUBER, being duly sworn and according to law  
deposes and says:

1. I am a constable for the County of Clearfield and the  
State of Pennsylvania and not a party to within action.

2. On the 20th day of November, 2000, I served a true and  
correct copy of a Complaint and Interrogatories upon Raymond  
Huey, Hueys Excavating at his residence in the City, Borough,  
Village of Altoona, County of Blair, Pennsylvania, The Defendant  
named in said document, by then and there at the place and on the  
date noted above, delivered to Raymond Huey a true and correct  
copy of the said stated documents. Service was at 8:05 a.m.

**FILED**

DEC 28 2000

012:54/1000  
William A. Shaw  
Prothonotary

*R. Stuart Auber*

R. Stuart Auber, Constable  
215 1/2 State Street  
Curwensville, PA 16833  
(814) 236-1407

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

111 NORTH BRADY STREET  
DUBOIS, PA 15801

**KATZ, COHEN & PRICE, P.C.**  
**By: SAMUEL COHEN**  
**ATTORNEY I.D. NO.: 27544**  
**115 SOUTH 19th STREET**  
**SUITE 300**  
**PHILADELPHIA, PA 19103**  
**(215) 561-2600**

**ATTORNEY FOR PLAINTIFF**

**EDWARD A. HARZINSKI**

**COURT OF COMMON PLEAS**

**vs.**

**CLEARFIELD COUNTY**

**CHESTER L. BRIGGS, Individually, and**  
**CHESTER L. BRIGGS as agent for**  
**HUEYS EXCAVATING, and HUEYS**  
**EXCAVATING**

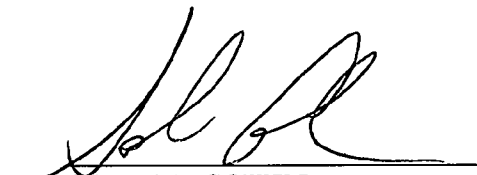
**NO.: 00-1369-CO**

**ENTRY OF APPEARANCE**

**TO THE PROTHONOTARY:**

Kindly enter my appearance as co-counsel on behalf of Plaintiff, Edward A. Harzinski, in the above captioned matter.

**KATZ, COHEN & PRICE, P.C.**

  
**SAMUEL COHEN**

Dated: 12/27/00

**FILED**

**JAN 02 2001**

**William A. Shaw**  
**Prothonotary**

RECEIVED DISTRICT COURT

CLERK OF DISTRICT COURT  
JAN 02 2001  
JAN 02 2001  
JAN 02 2001

FILED

JAN 02 2001

11/10/2000

William A. Shaw  
Prothonotary

atty  
Cohen

8/1

Please fill this-

PO's will be scheduled

by letter - not done yet

so please just file this

for now.

Heiles

Certified  
Copies attached

1/29/01

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## IMPORTANT MESSAGE

FOR \_\_\_\_\_

DATE \_\_\_\_\_ TIME \_\_\_\_\_ A.M.  
P.M.

M \_\_\_\_\_

OF \_\_\_\_\_

PHONE \_\_\_\_\_  
AREA CODE NUMBER EXTENSION

☐ FAX

☐ MOBILE \_\_\_\_\_  
AREA CODE NUMBER TIME TO CALL

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE \_\_\_\_\_

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\_\_\_\_\_

SIGNED \_\_\_\_\_



FORM 3002S  
MADE IN U.S.A.

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

EDWARD A. HARZINSKI

Plaintiff,

NO. 00-1369-00

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

Type of Action:  
Personal Injury

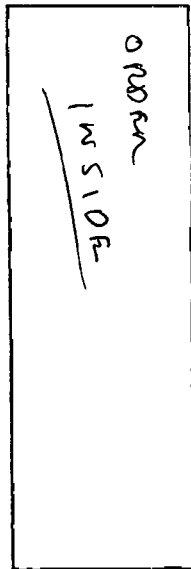
Type of Pleading  
Defendants' Response to Plaintiff's  
Preliminary Objections to Defendants'  
New Matter

Filed on behalf of Defendants,  
Chester L. Briggs, individually and  
Chester L. Briggs, as agent for  
Hueys Excavating, and Hueys  
Excavating

Counsel of Record for this Party

John J. Donnelly, Esquire  
I.D. No.: 53898

Donnelly & Associates, P.C.  
14 South Orange Street  
Media, PA 19063  
(610) 892-7600



**FILED**

JAN 26 2001

W/12:10/01  
William A. Shaw  
Prothonotary

1 SENT TO ASTY

*[Handwritten signature]*



DONNELLY & ASSOCIATES, P.C.  
BY: JOHN J. DONNELLY, ESQUIRE  
ATTORNEY I.D. #53898  
14 South Orange Street  
Media, Pa. 19063  
(610) 892-7600

ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
and CHESTER L. BRIGGS as agent  
for HUEYS EXCAVATING and  
HUEYS EXCAVATING

EDWARD A. HARZINSKI

Plaintiff,

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY  
CIVIL DIVISION  
NO. 00-1369-CO

---

**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_ 2001, upon consideration of  
Plaintiff's Preliminary Objections to Defendants' New Matter, and Defendants' Response thereto,  
it is **ORDERED** that said Preliminary Objections are denied.

BY THE COURT:

\_\_\_\_\_  
J.

**DONNELLY & ASSOCIATES, P.C.**  
**BY: JOHN J. DONNELLY, ESQUIRE**  
**ATTORNEY I.D. #53898**  
**14 South Orange Street**  
**Media, Pa. 19063**  
**(610) 892-7600**

**ATTORNEY FOR DEFENDANTS**  
**CHESTER L. BRIGGS, individually**  
**and CHESTER L. BRIGGS as agent**  
**for HUEYS EXCAVATING and**  
**HUEYS EXCAVATING**

---

EDWARD A. HARZINSKI

Plaintiff,

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY  
CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

---

**RESPONSE OF DEFENDANTS TO PLAINTIFF'S PRELIMINARY**  
**OBJECTIONS TO DEFENDANTS' NEW MATTER**

Defendants, Chester L. Briggs, individually, and Chester L. Briggs as agent for Hueys Excavating, and Hueys Excavating, by and through their attorneys, Donnelly & Associates, P.C. hereby respond to Plaintiff's Preliminary Objections to Defendants' New Matter as follows:

1-8. Denied. These averments characterize or mischaracterize Defendants' New Matter. Defendants' New Matter is contained in Defendants' Answer, which is a written legal document that speaks for itself. Any characterization thereof is denied.

9-12. Denied. Defendants' New matter is contained in Defendants' Answer which is a legal document that speaks for itself. Any characterization thereof is denied.

13. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure.

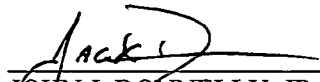
14. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure. By way of further response, Plaintiff's cause of action arises from an alleged motor vehicle accident. All of the averments in Defendants' New Matter apply to the car accident described in Plaintiff's Complaint, and the applicability of the averments contained in Defendants' New Matter is undeniably obvious. Therefore, Plaintiff's Preliminary Objections to Defendants' New matter are mean spirited, and merely intended to harass and annoy Defendants. Since the facts of this case involve an alleged motor vehicle accident, the facts of this case do lie within the knowledge of Plaintiff. Moreover, discovery has not even begun. Therefore, Defendants' New Matter is specific enough to apprise Plaintiff of the defenses relied upon by Defendants.

WHEREFORE, Defendants respectfully request that this Honorable Court deny Plaintiff's Preliminary Objections to Defendants' New Matter. Alternatively, Defendants respectfully request that, should Plaintiff's Preliminary Objections be granted Defendants be allowed to file an Amended Answer and New Matter as Plaintiff's demand that Defendants' defenses be stricken is unreasonable and not consistent with the spirit and letter of the Rules of Civil Procedure.

Respectfully submitted,

DONNELLY & ASSOCIATES, P.C.

By:

  
JOHN J. DONNELLY, JR., ESQUIRE  
Attorney for Defendants

DONNELLY & ASSOCIATES, P.C.  
BY: JOHN J. DONNELLY, ESQUIRE  
ATTORNEY I.D. #53898  
14 South Orange Street  
Media, Pa. 19063  
(610) 892-7600

ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
and CHESTER L. BRIGGS as agent  
for HUEYS EXCAVATING and  
HUEYS EXCAVATING

EDWARD A. HARZINSKI

Plaintiff,

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY  
CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

---

**MEMORANDUM OF LAW IN SUPPORT OF**  
**DEFENDANTS' RESPONSE TO PLAINTIFF'S PRELIMINARY**  
**OBJECTIONS TO DEFENDANTS' NEW MATTER**

Defendants, Chester L. Briggs, individually, and Chester L. Briggs as agent for Hueys Excavating, and Hueys Excavating, by and through their attorneys, Donnelly & Associates, P.C. respectfully submit this Memorandum of Law in Support of their Response to Plaintiff's Preliminary Objections to Defendants' New Matter.

**I. FACTUAL BACKGROUND**

Plaintiff's Complaint seeks damages arising out of an alleged motor vehicle accident, which is described in Plaintiff's Complaint. A copy of Plaintiff's Complaint is attached hereto and incorporated herein as Exhibit "A". Count 9 of Plaintiff's Complaint alleges:

at that time and place, and due to the negligence and carelessness of the defendant, his agents, servants, workman and/or employees, **PLAINTIFF'S VEHICLE COLLIDED WITH DEFENDANTS' VEHICLE...**

emphases added.

The fact that "Plaintiff's vehicle collided with Defendants' vehicle" demonstrates, for example, that:

1. Defendant caused no injuries or damages to plaintiff, and any injury or damage allegedly sustained by the plaintiff may have caused by a party other than the defendant and not within the control of defendant.
2. Plaintiff may have been otherwise negligent as may be determined during the course and scope of discovery and/or trial.
3. The intervening negligent acts or omissions of other persons or entities may have constituted superseding causes of the accident or incident of which plaintiff complains, and any injuries or damages allegedly suffered by the plaintiff were caused by such superseding negligence of other persons and/or entities.
4. Defendant is entitled to raise the Sudden Emergency Doctrine.

Moreover, discovery has not even begun. The Rules of Civil Procedure require Defendants to plead certain defenses in their New Matter or those defenses are waived. Defendants have plead those defenses in their New Matter, and have done so with sufficient material facts. Plaintiff's Preliminary Objections are nothing more than Plaintiff's attempt to handcuff Defendants and prevent them from asserting viable defenses. Given the early stages of this litigation, Plaintiff's Preliminary Objections to Defendants' New Matter are mean spirited, and merely intended to harass and annoy defendants.

## **II. Legal Argument**

### **A. Plaintiff's Preliminary Objections Should Be Denied.**

As previously stated, this action involved an alleged motor vehicle accident. The issues in this case are not complex. Moreover, the facts of this case do lie within Plaintiff's knowledge. In responding to Plaintiff's allegations contained in this Complaint, some affirmative defenses would be deemed waived if Defendants did not plead them. See, Pa.R.C.P. 1031.

Given the simple nature of this case, the affirmative defenses raised in Defendants' New Matter are predictable and, in no way, surprise Plaintiff or his counsel. Given the infancy stage of

this litigation, the fact that discovery has not even begun, and Pa.R.C.P. 126 allows courts to liberally construe the pleading rules, Plaintiff's Preliminary objections should be denied. See, e.g., Gotwalt v. York Hospital, 102 York L.R. 151 (1988) (denying Plaintiff's Preliminary Objections to Defendants' New Matter since the facts lie as much with Plaintiff as the Defendants, less precision is required in averring them). Therefore, Plaintiff's Preliminary Objections should be denied.

B. If Plaintiff's Preliminary Objections Are Granted, Defendants Should Be Granted leave to Amend.

The liberal amendment of pleadings is designed to allow the full development of a litigant's theories and averments, and to promote resolution of cases on their merits rather than based upon a mere technicality. See, Pa.R.C.P. 1033. See, also, Horowitz v. Universal Underwriters Ins. Co., 397 Pa.Super. 473, 580 A.2d 395, *app. denied* 590 A.2d 297 (1990). Thus, Pa.R.C.P. 1030 has been interpreted to permit amendments to pleadings at any time, including before, during, and after trial. See, Horowitz, supra. Plaintiff's demand that paragraphs 26, 29, 31, 39, 40 and 43 and defenses therein be stricken is mean spirited, and is not consistent with the spirit and letter of the Rules of Civil Procedure. Therefore, these paragraphs and defenses should not be stricken. Defendants should be allowed to file an Amended New matter or, at least, Defendants should be allowed to raise additional defenses as they become known. See, e.g., Fitzgerald v. Kaguyutan, 18 Pa. D&C 4<sup>th</sup> 1 (1993).<sup>1</sup>

WHEREFORE, Defendants respectfully request that this Honorable Court deny Plaintiff's Preliminary Objections to Defendants' New Matter. Alternatively, Defendants

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<sup>1</sup> Defendants respectfully submit that denying Plaintiff's Preliminary Objections would prevent multiple and unnecessary pleadings. This Court should also note that Defendants were reasonable in responding to Plaintiff's Complaint. Defendants could have filed Preliminary Objections to the *amorphous legalese* contained in paragraph 10(t) of Plaintiff's Complaint wherein Plaintiff alleges.

10. The negligence and carelessness of the Defendant...consisted of ...

- (t) otherwise operating said vehicle in a careless, reckless and negligent manner and in a manner violating the Motor Vehicle Code of the Commonwealth of Pennsylvania.

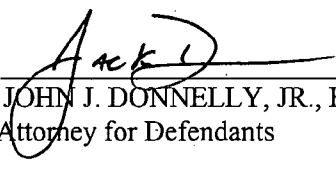
However, Defendants realized the simplicity and predictability of the facts alleged, and filed an answer.

respectfully request that, should Plaintiff's Preliminary Objections be granted Defendants be allowed to file an Amended Answer and New Matter as Plaintiff's demand that Defendants' defenses be stricken is unreasonable and not consistent with the spirit and letter of the Rules of Civil Procedure.

Respectfully submitted,

DONNELLY & ASSOCIATES, P.C.

By:

  
JOHN J. DONNELLY, JR., ESQUIRE  
Attorney for Defendants





IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISIONEDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendant\*  
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\*No. 00-1369-00  
JURY TRIAL DEMANDEDType of Action:  
Personal InjuryType of Pleading:  
ComplaintFiled on Behalf of:  
PlaintiffCounsel of Record for this  
Party:Richard H. Milgrub, Esquire  
Supreme Court I.D. 19865211 North Second Street  
Clearfield, PA 16830  
(814) 765-1717I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

NOV 06 2000

Attest.

  
ProthonotaryRICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
10 N NORTH BRADY STREET  
DUBOIS, PA 15801

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendant

\*  
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\* No.  
\* JURY TRIAL DEMANDED  
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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  
Second & Market Streets  
Clearfield, PA 16830  
(814) 765-2641

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
—  
108 NORTH BRADY STREET  
DUNBOIR, PA 15801

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendant

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No.

JURY TRIAL DEMANDED

COMPLAINT

AND NOW, comes the Plaintiff, Edward A. Harzinski, by and through his attorney, Richard H. Milgrub, Esquire, files the following Complaint:

1. Plaintiff, Edward A. Harzinski, is a citizen of the Commonwealth of Pennsylvania who resides at RR 1, Box 123, Olanta, Clearfield County, Pennsylvania.

2. Defendant, Chester L. Briggs, is a citizen of the Commonwealth of Pennsylvania who resides at RR 1, Box 868D, Altoona, Blair County, Pennsylvania.

3. Defendant, Hueys Excavating, is a Pennsylvania corporation, organized and incorporated under the laws of the Commonwealth of Pennsylvania, with a principal place of business located at RR 7, Box 511, Altoona, Blair County, Pennsylvania.

4. At all times material hereto, Defendant, Chester L. Briggs, was an agent, servant, workman and/or employee of the Defendant, Huey's Excavating.

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
—  
69 NORTH BRADY STREET  
DUNCIS, PA 15801

5. The facts and occurrences hereinafter related took place on or about October 29, 1999, at approximately 1:57 p.m. on SR 2023, Lawrence Township, Clearfield County, Pennsylvania.

6. At that time and place, Plaintiff, operating a 1998 Dodge Dakota, was traveling within the right lane of travel for southbound traffic on SR 2023, Lawrence Township, Clearfield County, Pennsylvania.

7. At that time and place, Defendant, Chester L. Briggs, acting as agent for Hueys Excavating, was operating a 1979 Mac Truck east on SR 307 (Whiskey Hill).

8. At that time and place, Defendant, Chester L. Briggs, acting as agent for Hueys Excavating, pulled out from a stop sign and then proceeded to cross SR 2023 so as to head in a northerly direction when his vehicle collided with the Plaintiff, who had been traveling south on SR 2023.

9. At that time and place, and due to the negligence and carelessness of the Defendant, his agents, servants, workmen and/or employees, Plaintiff's vehicle collided with Defendant's vehicle, causing the Plaintiff to sustain the injuries set forth below.

10. The negligence and carelessness of the Defendant, his agents, servants, workmen and/or employees consisted of:

a. failing to have his vehicle under proper and adequate control;

b. failing to apply the brakes to avoid the collision;

c. negligently applying the brakes;

- d. failing to observe Plaintiff's vehicle on the highway;
- e. failing to operate his vehicle in accordance with existing traffic conditions and traffic controls;
- f. failing to exercise the high degree of care required of a motorist entering an intersection;
- g. failing to observe traffic signals controlling Defendant's direction of traffic;
- h. failing to keep a reasonable lookout for other vehicles lawfully on the road;
- i. attempting to enter an intersection when such movement could not be safely accomplished;
- j. failing to yield the right-of-way to traffic already upon the highway;
- k. turning in such a manner as to endanger other vehicles on the highway;
- l. failing to prudently proceed through the intersection so as to avoid creating a dangerous situation for other vehicles on the highway;
- m. failing to observe oncoming traffic;
- n. proceeding through an intersection when such movement could be made in safety;
- o. failing to keep a proper lookout for approaching vehicles;
- p. failing to yield the right-of-way to oncoming traffic;

- q. operating the vehicle so as to create a dangerous situation for other vehicles on the highway;
- r. failing to have yielded half of the highway to oncoming traffic;
- s. failing to keep the vehicles within the proper lane;
- t. otherwise operating said vehicle in a careless, reckless and negligent manner and in a manner violating the Motor Vehicle Code of the Commonwealth of Pennsylvania.

11. Plaintiff sustained painful and severe injuries which include, but are not limited to:

- a. post multiple trauma from a truck accident;
- b. laceration of the nose and face;
- c. fracture/dislocation of the left hip (Pipkin I fracture/dislocation of the left hip);
- d. ligament injury to the left knee, possible disruption of the posterior cruciate ligament; and
- e. traumatic arthritis of the left hip.

12. The injury sustained by the Plaintiff as set forth above is a serious injury which resulted in both serious impairment of bodily function and permanent, serious disfigurement.

13. By reason of the aforesaid injuries sustained by the Plaintiff, he was forced to incur liability for medical treatment, medications, hospitalizations and similar

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
1 NORTH SECOND STREET  
CLARFIELD, PA 16830

19 NORTH BRADY STREET  
DUBOIS, PA 15801

miscellaneous expenses in an effort to restore himself to health, and claim is made therefore.

14. Because of the nature of his injuries, Plaintiff has been advised and therefore avers, that he may be forced to incur similar expenses in the future and claim is made therefore.

15. Plaintiff's accident-related medical expenses exceed Five thousand dollars (\$5,000.00) and claim is made for all expenses incurred above Five thousand dollars (\$5,000.00).

16. As a result of the aforementioned injuries, Plaintiff has undergone and in the future will undergo great physical and mental suffering, great inconvenience in carrying out his daily activities, loss of life's pleasures and enjoyment, and claim is made therefore.

17. As a result of the aforesaid injuries, Plaintiff has been and in the future will be subject to great humiliation and embarrassment and claim is made therefore.

18. As a result of the aforementioned injuries, Plaintiff has sustained work loss, loss of opportunity, and permanent diminution of his earning power and capacity, and claim is made therefore.

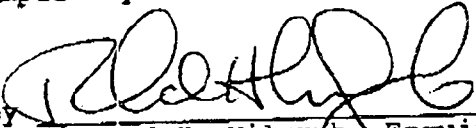
19. As a result of the aforesaid injuries, Plaintiff has sustained uncompensated work loss, and claim is made therefore.

20. Plaintiff continues to be plagued by persistent pain and limitation and, therefore, avers, that his injuries may

be of a permanent nature, causing residual problems, the remainder of his lifetime, and claim is made therefore.

21. As a result of the aforesaid accident, Plaintiff has sustained scars which will result in permanent disfigurement, and claim is made therefore.

WHEREFORE, Plaintiff demands judgment against the Defendants in an amount in excess of Twenty thousand dollars (\$20,000.00) exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration. JURY TRIAL DEMANDED.

By   
Richard H. Milgrub, Esquire  
Attorney for Plaintiff

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
—  
48 NORTH BRADY STREET  
DUBOIS, PA 15801



I, Edward A. Harzinski, verify that the statements made in the Complaint 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: 11-2-00

Edward A. Harzinski

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
1 NORTH SECOND STREET  
CLEARFIELD, PA 16830

11 NORTH BRADY STREET  
DUBOIS, PA 15801

**DONNELLY & ASSOCIATES, P.C.**  
**BY: JOHN J. DONNELLY, ESQUIRE**  
**ATTORNEY I.D. #53898**  
**14 South Orange Street**  
**Media, Pa. 19063**  
**(610) 892-7600**

**ATTORNEY FOR DEFENDANTS**  
**CHESTER L. BRIGGS, individually**  
**and CHESTER L. BRIGGS as agent**  
**for HUEYS EXCAVATING and**  
**HUEYS EXCAVATING**

---

EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

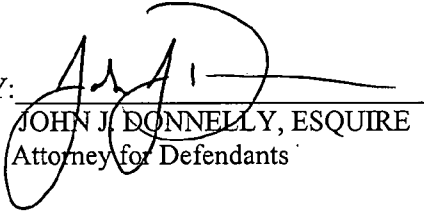
Defendants,

---

**CERTIFICATE OF SERVICE**

JOHN J. DONNELLY, ESQUIRE, attorney for defendants, hereby certifies that a true and correct copy of the Defendants' Response to Plaintiff's Preliminary Objections to Defendants' New Matter was served upon all counsel of record by United States first class mail.

DATE: 6/23/2001

BY:   
JOHN J. DONNELLY, ESQUIRE  
Attorney for Defendants

8

[illegible]

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

EDWARD A. HARZINSKI

Plaintiff,

NO. 00-1369-00

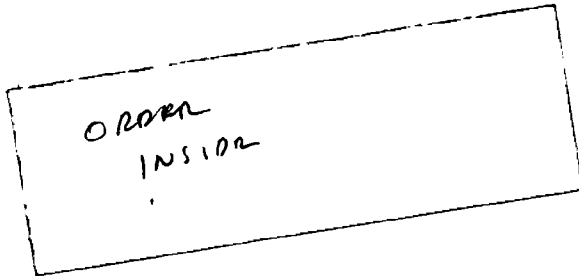
vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

Type of Action:  
Personal Injury

Type of Pleading  
Defendants' Response to Plaintiff's  
Preliminary Objections to Defendants'  
New Matter



Filed on behalf of Defendants,  
Chester L. Briggs, individually and  
Chester L. Briggs, as agent for  
Hueys Excavating, and Hueys  
Excavating

Counsel of Record for this Party

John J. Donnelly, Esquire  
I.D. No.: 53898

Donnelly & Associates, P.C.  
14 South Orange Street  
Media, PA 19063  
(610) 892-7600

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

JAN 26 2001

Attest.

*William L. Shaw*  
Prothonotary

**DONNELLY & ASSOCIATES, P.C.**  
**BY: JOHN J. DONNELLY, ESQUIRE**  
**ATTORNEY I.D. #53898**  
**14 South Orange Street**  
**Media, Pa. 19063**  
**(610) 892-7600**

**ATTORNEY FOR DEFENDANTS**  
**CHESTER L. BRIGGS, individually**  
**and CHESTER L. BRIGGS as agent**  
**for HUEYS EXCAVATING and**  
**HUEYS EXCAVATING**

EDWARD A. HARZINSKI

Plaintiff,

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY  
CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

---

**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_ 2001, upon consideration of  
Plaintiff's Preliminary Objections to Defendants' New Matter, and Defendants' Response thereto,  
it is **ORDERED** that said Preliminary Objections are denied.

BY THE COURT:

---

J.

DONNELLY & ASSOCIATES, P.C.  
BY: JOHN J. DONNELLY, ESQUIRE  
ATTORNEY I.D. #53898  
14 South Orange Street  
Media, Pa. 19063  
(610) 892-7600

ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
and CHESTER L. BRIGGS as agent  
for HUEYS EXCAVATING and  
HUEYS EXCAVATING

EDWARD A. HARZINSKI

Plaintiff,

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY  
CIVIL DIVISION  
NO. 00-1369-CO

---

**RESPONSE OF DEFENDANTS TO PLAINTIFF'S PRELIMINARY  
OBJECTIONS TO DEFENDANTS' NEW MATTER**

Defendants, Chester L. Briggs, individually, and Chester L. Briggs as agent for Hueys Excavating, and Hueys Excavating, by and through their attorneys, Donnelly & Associates, P.C. hereby respond to Plaintiff's Preliminary Objections to Defendants' New Matter as follows:

1-8. Denied. These averments characterize or mischaracterize Defendants' New Matter. Defendants' New Matter is contained in Defendants' Answer, which is a written legal document that speaks for itself. Any characterization thereof is denied.

9-12. Denied. Defendants' New matter is contained in Defendants' Answer which is a legal document that speaks for itself. Any characterization thereof is denied.

13. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure.

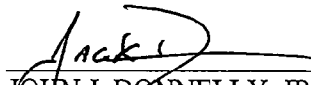
14. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure. By way of further response, Plaintiff's cause of action arises from an alleged motor vehicle accident. All of the averments in Defendants' New Matter apply to the car accident described in Plaintiff's Complaint, and the applicability of the averments contained in Defendants' New Matter is undeniably obvious. Therefore, Plaintiff's Preliminary Objections to Defendants' New matter are mean spirited, and merely intended to harass and annoy Defendants. Since the facts of this case involve an alleged motor vehicle accident, the facts of this case do lie within the knowledge of Plaintiff. Moreover, discovery has not even begun. Therefore, Defendants' New Matter is specific enough to apprise Plaintiff of the defenses relied upon by Defendants.

WHEREFORE, Defendants respectfully request that this Honorable Court deny Plaintiff's Preliminary Objections to Defendants' New Matter. Alternatively, Defendants respectfully request that, should Plaintiff's Preliminary Objections be granted Defendants be allowed to file an Amended Answer and New Matter as Plaintiff's demand that Defendants' defenses be stricken is unreasonable and not consistent with the spirit and letter of the Rules of Civil Procedure.

Respectfully submitted,

DONNELLY & ASSOCIATES, P.C.

By:

  
JOHN J. DONNELLY, JR., ESQUIRE  
Attorney for Defendants

DONNELLY & ASSOCIATES, P.C.  
BY: JOHN J. DONNELLY, ESQUIRE  
ATTORNEY I.D. #53898  
14 South Orange Street  
Media, Pa. 19063  
(610) 892-7600

ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
and CHESTER L. BRIGGS as agent  
for HUEYS EXCAVATING and  
HUEYS EXCAVATING

EDWARD A. HARZINSKI

Plaintiff,

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY  
CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

---

**MEMORANDUM OF LAW IN SUPPORT OF**  
**DEFENDANTS' RESPONSE TO PLAINTIFF'S PRELIMINARY**  
**OBJECTIONS TO DEFENDANTS' NEW MATTER**

Defendants, Chester L. Briggs, individually, and Chester L. Briggs as agent for Hueys Excavating, and Hueys Excavating, by and through their attorneys, Donnelly & Associates, P.C. respectfully submit this Memorandum of Law in Support of their Response to Plaintiff's Preliminary Objections to Defendants' New Matter.

**I. FACTUAL BACKGROUND**

Plaintiff's Complaint seeks damages arising out of an alleged motor vehicle accident, which is described in Plaintiff's Complaint. A copy of Plaintiff's Complaint is attached hereto and incorporated herein as Exhibit "A". Count 9 of Plaintiff's Complaint alleges:

at that time and place, and due to the negligence and carelessness of the defendant, his agents, servants, workman and/or employees, **PLAINTIFF'S VEHICLE COLLIDED WITH DEFENDANTS' VEHICLE...**

emphases added.



The fact that "Plaintiff's vehicle collided with Defendants' vehicle" demonstrates, for example, that:

1. Defendant caused no injuries or damages to plaintiff, and any injury or damage allegedly sustained by the plaintiff may have caused by a party other than the defendant and not within the control of defendant.
2. Plaintiff may have been otherwise negligent as may be determined during the course and scope of discovery and/or trial.
3. The intervening negligent acts or omissions of other persons or entities may have constituted superseding causes of the accident or incident of which plaintiff complains, and any injuries or damages allegedly suffered by the plaintiff were caused by such superseding negligence of other persons and/or entities.
4. Defendant is entitled to raise the Sudden Emergency Doctrine.

Moreover, discovery has not even begun. The Rules of Civil Procedure require Defendants to plead certain defenses in their New Matter or those defenses are waived. Defendants have plead those defenses in their New Matter, and have done so with sufficient material facts. Plaintiff's Preliminary Objections are nothing more than Plaintiff's attempt to handcuff Defendants and prevent them from asserting viable defenses. Given the early stages of this litigation, Plaintiff's Preliminary Objections to Defendants' New Matter are mean spirited, and merely intended to harass and annoy defendants.

## **II. Legal Argument**

### **A. Plaintiff's Preliminary Objections Should Be Denied.**

As previously stated, this action involved an alleged motor vehicle accident. The issues in this case are not complex. Moreover, the facts of this case do lie within Plaintiff's knowledge. In responding to Plaintiff's allegations contained in this Complaint, some affirmative defenses would be deemed waived if Defendants did not plead them. See, Pa.R.C.P. 1031.

Given the simple nature of this case, the affirmative defenses raised in Defendants' New Matter are predictable and, in no way, surprise Plaintiff or his counsel. Given the infancy stage of

this litigation, the fact that discovery has not even begun, and Pa.R.C.P. 126 allows courts to liberally construe the pleading rules, Plaintiff's Preliminary objections should be denied. See, e.g., Gotwalt v. York Hospital, 102 York L.R. 151 (1988) (denying Plaintiff's Preliminary Objections to Defendants' New Matter since the facts lie as much with Plaintiff as the Defendants, less precision is required in averring them). Therefore, Plaintiff's Preliminary Objections should be denied.

B. If Plaintiff's Preliminary Objections Are Granted, Defendants Should Be Granted leave to Amend.

The liberal amendment of pleadings is designed to allow the full development of a litigant's theories and averments, and to promote resolution of cases on their merits rather than based upon a mere technicality. See, Pa.R.C.P. 1033. See, also, Horowitz v. Universal Underwriters Ins. Co., 397 Pa.Super. 473, 580 A.2d 395, *app. denied* 590 A.2d 297 (1990). Thus, Pa.R.C.P. 1030 has been interpreted to permit amendments to pleadings at any time, including before, during, and after trial. See, Horowitz, supra. Plaintiff's demand that paragraphs 26, 29, 31, 39, 40 and 43 and defenses therein be stricken is mean spirited, and is not consistent with the spirit and letter of the Rules of Civil Procedure. Therefore, these paragraphs and defenses should not be stricken. Defendants should be allowed to file an Amended New matter or, at least, Defendants should be allowed to raise additional defenses as they become known. See, e.g., Fitzgerald v. Kaguyutan, 18 Pa. D&C 4<sup>th</sup> 1 (1993).<sup>1</sup>

WHEREFORE, Defendants respectfully request that this Honorable Court deny Plaintiff's Preliminary Objections to Defendants' New Matter. Alternatively, Defendants

---

<sup>1</sup> Defendants respectfully submit that denying Plaintiff's Preliminary Objections would prevent multiple and unnecessary pleadings. This Court should also note that Defendants were reasonable in responding to Plaintiff's Complaint. Defendants could have filed Preliminary Objections to the *amorphous legalese* contained in paragraph 10(t) of Plaintiff's Complaint wherein Plaintiff alleges.

10. The negligence and carelessness of the Defendant...consisted of ...

- (t) otherwise operating said vehicle in a careless, reckless and negligent manner and in a manner violating the Motor Vehicle Code of the Commonwealth of Pennsylvania.


However, Defendants realized the simplicity and predictability of the facts alleged, and filed an answer.

respectfully request that, should Plaintiff's Preliminary Objections be granted Defendants be allowed to file an Amended Answer and New Matter as Plaintiff's demand that Defendants' defenses be stricken is unreasonable and not consistent with the spirit and letter of the Rules of Civil Procedure.

Respectfully submitted,

DONNELLY & ASSOCIATES, P.C.

By:

  
\_\_\_\_\_  
JOHN J. DONNELLY, JR., ESQUIRE  
Attorney for Defendants



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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendant

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\*  
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\*

No.

00-1369-00

JURY TRIAL DEMANDED

Type of Action:  
Personal Injury

Type of Pleading:  
Complaint

Filed on Behalf of:  
Plaintiff

Counsel of Record for this  
Party:

Richard H. Milgrub, Esquire  
Supreme Court I.D. 19865

211 North Second Street  
Clearfield, PA 16830  
(814) 765-1717

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

NOV 06 2000

Attest.

*William L. [Signature]*  
Prothonotary

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
OR NORTH BRADY STREET  
DUBOIS, PA 15801

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendant

\*  
\*  
\*  
\* No.  
\* JURY TRIAL DEMANDED  
\*  
\*  
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\*  
\*

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  
Second & Market Streets  
Clearfield, PA 16830  
(814) 765-2641

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
—  
334 NORTH BRADY STREET  
DUMFRIES, PA 15801

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendant

\*  
\*  
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\*  
\*  
\*

No.

JURY TRIAL DEMANDED

COMPLAINT

AND NOW, comes the Plaintiff, Edward A. Harzinski, by  
and through his attorney, Richard H. Milgrub, Esquire, files the  
following Complaint:

1. Plaintiff, Edward A. Harzinski, is a citizen of the  
Commonwealth of Pennsylvania who resides at RR 1, Box 123,  
Olanta, Clearfield County, Pennsylvania.

2. Defendant, Chester L. Briggs, is a citizen of the  
Commonwealth of Pennsylvania who resides at RR 1, Box 868D,  
Altoona, Blair County, Pennsylvania.

3. Defendant, Hueys Excavating, is a Pennsylvania  
corporation, organized and incorporated under the laws of the  
Commonwealth of Pennsylvania, with a principal place of business  
located at RR 7, Box 511, Altoona, Blair County, Pennsylvania.

4. At all times material hereto, Defendant, Chester L.  
Briggs, was an agent, servant, workman and/or employee of the  
Defendant, Huey's Excavating.

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
—  
09 NORTH BRADY STREET  
DUNDEE, PA 15801

5. The facts and occurrences hereinafter related took place on or about October 29, 1999, at approximately 1:57 p.m. on SR 2023, Lawrence Township, Clearfield County, Pennsylvania.

6. At that time and place, Plaintiff, operating a 1998 Dodge Dakota, was traveling within the right lane of travel for southbound traffic on SR 2023, Lawrence Township, Clearfield County, Pennsylvania.

7. At that time and place, Defendant, Chester L. Briggs, acting as agent for Hueys Excavating, was operating a 1979 Mac Truck east on SR 307 (Whiskey Hill).

8. At that time and place, Defendant, Chester L. Briggs, acting as agent for Hueys Excavating, pulled out from a stop sign and then proceeded to cross SR 2023 so as to head in a northerly direction when his vehicle collided with the Plaintiff, who had been traveling south on SR 2023.

9. At that time and place, and due to the negligence and carelessness of the Defendant, his agents, servants, workmen and/or employees, Plaintiff's vehicle collided with Defendant's vehicle, causing the Plaintiff to sustain the injuries set forth below.

10. The negligence and carelessness of the Defendant, his agents, servants, workmen and/or employees consisted of:

a. failing to have his vehicle under proper and adequate control;

b. failing to apply the brakes to avoid the collision;

c. negligently applying the brakes;



- d. failing to observe Plaintiff's vehicle on the highway;
- e. failing to operate his vehicle in accordance with existing traffic conditions and traffic controls;
- f. failing to exercise the high degree of care required of a motorist entering an intersection;
- g. failing to observe traffic signals controlling Defendant's direction of traffic;
- h. failing to keep a reasonable lookout for other vehicles lawfully on the road;
- i. attempting to enter an intersection when such movement could not be safely accomplished;
- j. failing to yield the right-of-way to traffic already upon the highway;
- k. turning in such a manner as to endanger other vehicles on the highway;
- l. failing to prudently proceed through the intersection so as to avoid creating a dangerous situation for other vehicles on the highway;
- m. failing to observe oncoming traffic;
- n. proceeding through an intersection when such movement could be made in safety;
- o. failing to keep a proper lookout for approaching vehicles;
- p. failing to yield the right-of-way to oncoming traffic;

q. operating the vehicle so as to create a dangerous situation for other vehicles on the highway;

r. failing to have yielded half of the highway to oncoming traffic;

s. failing to keep the vehicles within the proper lane;

t. otherwise operating said vehicle in a careless, reckless and negligent manner and in a manner violating the Motor Vehicle Code of the Commonwealth of Pennsylvania.

11. Plaintiff sustained painful and severe injuries which include, but are not limited to:

a. post multiple trauma from a truck accident;

b. laceration of the nose and face;

c. fracture/dislocation of the left hip

(Pipkin I fracture/dislocation of the left hip);

d. ligament injury to the left knee, possible disruption of the posterior cruciate ligament; and

e. traumatic arthritis of the left hip.

12. The injury sustained by the Plaintiff as set forth above is a serious injury which resulted in both serious impairment of bodily function and permanent, serious disfigurement.

13. By reason of the aforesaid injuries sustained by the Plaintiff, he was forced to incur liability for medical treatment, medications, hospitalizations and similar

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
1 NORTH SECOND STREET  
CLARFIELD, PA 16830

19 NORTH BRADY STREET  
DUBOIS, PA 15801

miscellaneous expenses in an effort to restore himself to health, and claim is made therefore.

14. Because of the nature of his injuries, Plaintiff has been advised and therefore avers, that he may be forced to incur similar expenses in the future and claim is made therefore.

15. Plaintiff's accident-related medical expenses exceed Five thousand dollars (\$5,000.00) and claim is made for all expenses incurred above Five thousand dollars (\$5,000.00).

16. As a result of the aforementioned injuries, Plaintiff has undergone and in the future will undergo great physical and mental suffering, great inconvenience in carrying out his daily activities, loss of life's pleasures and enjoyment, and claim is made therefore.

17. As a result of the aforesaid injuries, Plaintiff has been and in the future will be subject to great humiliation and embarrassment and claim is made therefore.

18. As a result of the aforementioned injuries, Plaintiff has sustained work loss, loss of opportunity, and permanent diminution of his earning power and capacity, and claim is made therefore.

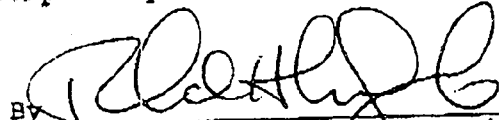
19. As a result of the aforesaid injuries, Plaintiff has sustained uncompensated work loss, and claim is made therefore.

20. Plaintiff continues to be plagued by persistent pain and limitation and, therefore, avers, that his injuries may

be of a permanent nature, causing residual problems, the remainder of his lifetime, and claim is made therefore.

21. As a result of the aforesaid accident, Plaintiff has sustained scars which will result in permanent disfigurement, and claim is made therefore.

WHEREFORE, Plaintiff demands judgment against the Defendants in an amount in excess of Twenty thousand dollars (\$20,000.00) exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration. JURY TRIAL DEMANDED.

By   
Richard H. Milgrub, Esquire  
Attorney for Plaintiff

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
—  
48 NORTH BRADY STREET  
DUBOIS, PA 15801

I, Edward A. Harzinski, verify that the statements made in the Complaint 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: 11-2-00

Edward A. Harzinski

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
1 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
—  
11 NORTH BRADY STREET  
DUBOIS, PA 15801

DONNELLY & ASSOCIATES, P.C.  
BY: JOHN J. DONNELLY, ESQUIRE  
ATTORNEY I.D. #53898  
14 South Orange Street  
Media, Pa. 19063  
(610) 892-7600

ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
and CHESTER L. BRIGGS as agent  
for HUEYS EXCAVATING and  
HUEYS EXCAVATING

---

EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

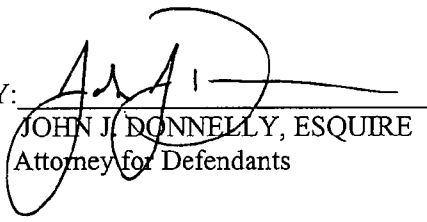
Defendants,

---

**CERTIFICATE OF SERVICE**

JOHN J. DONNELLY, ESQUIRE, attorney for defendants, hereby certifies that a true and correct copy of the Defendants' Response to Plaintiff's Preliminary Objections to Defendants' New Matter was served upon all counsel of record by United States first class mail.

DATE: 1/23/2001

BY:   
JOHN J. DONNELLY, ESQUIRE  
Attorney for Defendants

**DONNELLY & ASSOCIATES, P.C.**

ATTORNEYS AT LAW  
14 SOUTH ORANGE STREET  
MEDIA, PENNSYLVANIA 19063

(610) 892-7600  
FAX: (610) 892-7699

JOHN J. DONNELLY, JR. •  
MICHAEL P. MAGUIRE •

• PA & NJ BAR

**PHILADELPHIA OFFICE**

TWO PENN CENTER  
1500 JFK BOULEVARD  
SUITE 200  
PHILADELPHIA, PA 19102  
1-866-862-7600

**NEW JERSEY OFFICE**

FOUR GREEN TREE CENTER  
SUITE 201  
MARLTON, NJ 08053  
(856) 988-4070

January 23, 2001

Prothonotary  
Court of Common Pleas of  
Clearfield County  
P. O. Box 549  
Clearfield, PA 16830

Re: Harzinski v. Briggs, et al  
No. 00-1369

Dear Sir/Madam:

Enclosed please find an original and one copy of Defendants' Response to Plaintiff's Preliminary Objections to Defendants' New Matter with reference to the above matter. Please file the original of record and return the time-stamped copy to my attention in the self-addressed stamped envelope, which I have provided.

Thank you.

NOT PROVIDED?

Very truly yours,

DONNELLY & ASSOCIATES, P.C.

By: \_\_\_\_\_

JOHN J. DONNELLY

JJD:cdj

Encls.

cc: With Enclosures

Richard H. Milgrub, Esquire

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

EDWARD A. HARZINSKI

Plaintiff,

NO. 00-1369-00

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

Type of Action:  
Personal Injury

Type of Pleading  
Defendants' Motion to Compel  
Answers to Discovery

Filed on behalf of Defendants,  
Chester L. Briggs, individually and  
Chester L. Briggs, as agent for  
Hueys Excavating, and Hueys  
Excavating

Counsel of Record for this Party

John J. Donnelly, Esquire  
I.D. No.: 53898

Donnelly & Associates, P.C.  
14 South Orange Street  
Media, PA 19063  
(610) 892-7600

**FILED**

FEB 12 2001

William A. Shaw  
Prothonotary



DONNELLY & ASSOCIATES, P.C.  
BY: JOHN J. DONNELLY, ESQUIRE  
ATTORNEY I.D. #53898  
14 South Orange Street  
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ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
and CHESTER L. BRIGGS as agent  
for HUEYS EXCAVATING and  
HUEYS EXCAVATING

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EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

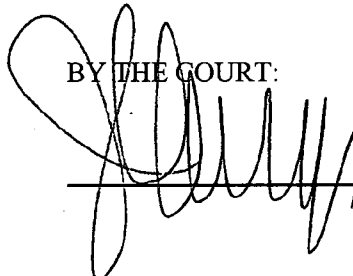
Defendants,

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**ORDER**

AND NOW, this 13<sup>th</sup> day of February, 2001, upon consideration of Defendants' Motion to Compel Answers to Interrogatories, Expert Interrogatories and Request for Production of Documents and any answer thereto, it is hereby ORDERED and DECREED that Plaintiffs shall file full and complete answers to Defendants' Interrogatories, Expert Interrogatories and Request for Production of Documents within twenty (20) days from the date hereof or appropriate sanctions will be imposed upon application to this Honorable Court.

BY THE COURT:



J.

**FILED**

FEB 13 2001

William A. Shaw  
Prothonotary

**FILED**  
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FEB 13 2001  
William A. Shaw  
Prothonotary  
Atty General  
P. J. B. 124

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EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

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NO. 00-1369-CO

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CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

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**DEFENDANTS', MOTION TO COMPEL**  
**ANSWERS TO DISCOVERY**

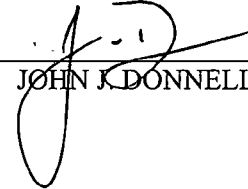
Defendants, Chester L. Briggs, individually and Chester L. Briggs as agent for Hueys Excavating, and Hueys Excavating, hereby makes this Motion to Compel Discovery and state their reasons as follows:

1. On or about September 19, 2000, the Plaintiffs commenced this action by filing a Civil Action Complaint.
2. On or about December 11, 2000, Defendants, by their attorney served Plaintiff's counsel with Interrogatories and Request for Production of Documents. A true and correct copy of Defendants' Interrogatories and Request for Production of Documents is attached hereto as Exhibit "A".
3. On or about December 29, 2000, Defendants, by their attorneys, served Plaintiff's counsel with Expert Interrogatories. A true and correct copy of Defendants' Expert Interrogatories is attached hereto as Exhibit "B".
4. The time period for all responses has expired without any answer whatsoever.
5. More than the thirty (30) days have lapsed since Plaintiffs were served with Defendants' Interrogatories, Expert Interrogatories and Request for Production of Documents.
6. The requested answers to Interrogatories, Expert Interrogatories and Request for Production of Documents seek information which is relevant and discoverable to this matter.

7. No objections have been made to the said Interrogatories, Expert Interrogatories and Request for Production of Documents and no answers to these Interrogatories, Expert Interrogatories and Request for Production of Documents have been filed or served on counsel for Defendant, notwithstanding the fact that said Interrogatories, Expert Interrogatories and Request for Production of Documents were endorsed with a Notice to Plead within thirty (30) days.

WHEREFORE, Defendants request an Order for Sanctions under Pennsylvania Rule of Civil Procedure No. 4019 be entered requesting the Plaintiff to file and serve answers to Interrogatories, Expert Interrogatories and Request for Production of Documents within twenty (20) days of service of this Court's Order.

DONNELLY & ASSOCIATES, P.C.

By:   
JOHN J. DONNELLY, JR.

DONNELLY & ASSOCIATES, P.C.  
BY: JOHN J. DONNELLY, ESQUIRE  
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COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

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CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

---

**MEMORANDUM OF LAW IN SUPPORT OF**  
**DEFENDANTS' MOTION TO COMPEL**  
**ANSWERS TO DISCOVERY**

Defendants, Chester L. Briggs, individually and Chester L. Briggs as agent for Hueys Excavating, and Hueys Excavating, by and through their attorneys, Donnelly & Associates, P.C., forwarded Interrogatories and Request for Production of Documents to Plaintiff's attorney on December 11, 2000. On December 29, 2000 Defendants' forwarded Expert Interrogatories to Plaintiff's attorney. The Plaintiff, despite repeated requests by Defendants' counsel, has failed to either answer or object to Defendants' discovery requests. More than the thirty days have lapsed since Plaintiff was served with the Interrogatories, Expert Interrogatories and Request for Production of Documents.

Pennsylvania Rule of Civil Procedure 4006(a)(2) provides in part:

The answering party shall serve a copy of the answers, and objections if any, within thirty (30) days after the service of the Interrogatories.

Pennsylvania Rule of Civil Procedure 4009(b)(2) provides in part:

The party upon whom the request is served shall within thirty (30) days after service of the request...serve an answer...to each number paragraph in the request

Plaintiff's failure to respond to Defendants' discovery requests is in blatant disregard of the Pennsylvania Rules of Civil Procedure on discovery. Accordingly, Defendant requests that this Honorable Court enter its Order compelling Plaintiff to answer, fully and completely, Defendants' Interrogatories, Expert Interrogatories and Request for Production of Documents.

WHEREFORE, Defendants request an Order for Sanctions under Pennsylvania Rule of Civil Procedure No. 4019 be entered requesting the Plaintiff to file and serve answers to Interrogatories, Expert Interrogatories and Request for Production of Documents within twenty (20) days of service of this Court's Order.

DONNELLY & ASSOCIATES, P.C.

By: 

JOHN J. DONNELLY, JR.

**VERIFICATION**

I, JOHN J. DONNELLY, JR., ESQUIRE, attorney for Defendants in the within action, hereby state that the facts set forth in the foregoing Motion to Compel Answers to Discovery are true and correct to the best of my knowledge, information and belief.

This Verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



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JOHN J. DONNELLY, JR.





**DONNELLY & ASSOCIATES, P.C.**

ATTORNEYS AT LAW  
14 SOUTH ORANGE STREET  
MEDIA, PENNSYLVANIA 19063

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MICHAEL P. MAGUIRE •

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FOUR GREEN TREE CENTER  
SUITE 201  
MARLTON, NJ 08053  
(856) 988-4070

December 11, 2000

Richard H. Milgrub, Esquire  
211 North Second Street  
Clearfield, PA 16830

Re: Harzinski v. Briggs, et al  
No. 00-1369

Dear Mr. Milgrub:

Enclosed please find Interrogatories and Request for Production of Documents directed to plaintiff. Please have these documents answered within the required time period.

Thank you.

Very truly yours,

DONNELLY & ASSOCIATES, P.C.

By: \_\_\_\_\_

JOHN J. DONNELLY

JJD:cdj  
Encls.

DONNELLY & ASSOCIATES, P.C.  
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EXCAVATING

Defendants,

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**DEFENDANTS' INTERROGATORIES**  
**DIRECTED TO PLAINTIFF**

These Interrogatories are to be answered pursuant to the Rules of Civil Procedure within the thirty (30) days of service.

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE ATTACHED INTERROGATORIES WITHIN THIRTY (30) DAYS FROM SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

These Interrogatories are continuing and any information secured subsequent to the filing of your Answers, which would have been includable in the Answers had it been known or available, is to be supplied by Supplemental Answers.

These Interrogatories request information known to you or anyone acting on your behalf.

If a minor-plaintiff is involved, the following Interrogatories, where applicable, are to be answered with reference to said minor.

Any gaps in numbering should be disregarded.

Please answer in the space provided after each question and use supplemental document only if space provided is inadequate.

## INTERROGATORIES

### GENERAL

1. State whether you claim any person at fault for this accident was convicted or accepted into the Accelerated Rehabilitative Disposition for driving under the influence or a controlled substance in this accident.

2. If the answer to the foregoing was in the affirmative, state:

(a) Name of the person whom you claim accepted ARD or was driving under the influence of alcohol or a controlled substance;

(b) State the county, court term and number under which the individual identified above accepted ARD or was convicted of driving under the influence or a controlled substance.

3. State whether you claim any person at fault for this accident was operating a motor vehicle registered in another state.

4. If the answer to the foregoing is in the affirmative, state:

(a) The state in which the vehicle was registered;

(b) The motor vehicle VIN, registration number and tag number;

5. State whether you claim any person at fault for this accident intended to injure himself or another person and the act was done with the realization that the act created a grave risk causing injury or the act or omission causing the injury is for the purpose of averting bodily harm to himself or to another person.

6. If the answer to the foregoing is in the affirmative, state:

(a) What evidence you base the above answer upon including any and all statements or admissions;

(b) State what witnesses you intend to call at the time of trial to prove the intentional act including the name, address and telephone number;

7. State whether any person at fault for this accident has failed to maintain financial responsibility as required by the Pennsylvania Motor Vehicle Act.

(a) If the answer to the foregoing is in the affirmative, name which individual failed to maintain motor vehicle financial responsibility insurance.

8. State whether you selected the full tort or limited tort option on a policy of motor vehicle insurance on which you are a named insured.

(a) If the answer to the foregoing is in the affirmative, state the policy period that the policy referred to was in force.

(b) The insurance company and policy number which you refer to; and

(c) If you will do so without a formal request for production, please enclose a copy of the declaration sheet.

9. If a copy of the declaration sheet is not available from the carrier, provide a letter from the carrier or other documentation establishing the selection of the full tort or limited tort option.

10. At the time of this accident, were you an occupant or operator of a vehicle other than a private passenger motor vehicle?

11. State whether you are an insured under any private passenger motor vehicle insurance policies at the time of this accident.

(a) If the answer to the foregoing is in the affirmative, state the policy period in which the policy or policies were in effect;

(b) Provide the insurance company and policy number of the policy or policies to which you refer;

(c) If you will do so without a formal request for production, please provide a declaration sheet for the policy or policies to which you refer.

12. If you will do so without a formal request for production, please provide a copy of the declaration sheet for the private passenger motor vehicle insurance for the vehicle in which you were an occupant at the time of the accident.

13. List all of the private passenger motor vehicles registered in your name at the time of the accident.

14. Indicate whether the vehicles identified in the Interrogatory above were insured at the time of this accident.

15. If you will do so without a formal request for production, provide the insurance company and policy number for the insurance policies referred to in the Interrogatory above.

16. State whether you sustained any permanent serious disfigurement as a result of this accident.

(a) If the answer to the foregoing is in the affirmative, indicate which body part was disfigured.

17. State whether you sustained a serious impairment of a body function as a result of this accident.

18. If the answer to the foregoing is in the affirmative, state:

(a) Which body function was seriously impaired;

(b) The activities which you normally engaged in prior to the accident that you were unable to continue after the accident;

(I) State the period of time from which you were unable to perform the activity indicated;

(c) Indicate the number of days from work missed as a result of this accident regardless of whether a wage loss claim is asserted;

(d) Indicate whether any doctor indicated that surgery should be considered or required for the injuries you claim were sustained in this accident;

(e) State the period for which you were admitted to the hospital for the injuries you claim as a result of this motor vehicle accident;

(f) State the period for which you were bedridden as a result of the injuries you claim as a result of this accident.



19. Identify the physician(s) [include address and phone number] who will testify at the time of trial that you sustained a serious injury or serious permanent disfigurement as defined by Section 1702 of the Motor Vehicle Code.

20. State:

(a) Your name;

(b) Your age;

(c) Date of Birth;

(d) Place of Birth;

(e) Social Security number;

(f) Service and inclusive dates of military service;

(g) Date, place and spouse's name of each marriage;

(h) Name, age and address of each dependent;

(I) Present home address;

(j) Blue Cross number;

(k) Blue Shield number;

(l) Veteran's claim number;

(m) All names by which you are or have been known.

21. If you are an individual and in business as a sole proprietor, state the full name and address of your business including all trade names.

22. If you are a partnership, state:

(a) the name under which the partnership does business;

(b) the name and address of each and every partner;

23. If you are a corporation, state:

(a) the full and correct name of the corporation and all trade names;

(b) the date you were incorporated;

(c) the state of incorporation;

(d) principal place of business;

(e) the names and addresses of all officers;

(f) is the corporation registered to do business in the Commonwealth of Pennsylvania;

(g) date the corporation was so registered to do business.

DETAILS OF ACCIDENT

24. Explain fully the manner in which this accident occurred.

25. State:

(a) the type of road surface on which you were driving before the point of impact (i.e. concrete, black top, etc.);

(b) the condition of the road surface on which you were driving (i.e. dry, wet, muddy, etc.) at the time of the accident;

(c) whether there were any defects in the road surface;

(d) whether there was any grade on the road on which you were traveling and, if so, the direction of that grade and the degree;

(e) state the weather conditions existing at the time of the accident.

26. What were the lighting conditions at the time and place of this accident?

27. State the location of the accident in relation to the nearest roads and intersection.

28. At the point when you first observed Defendants' vehicle, state:

(a) the positions and directions of the respective vehicles;

(b) the distance between the vehicles;

(c) the respective speeds of the vehicles;

29. If you applied your brakes prior to the impact occurring, state:

(a) the distance between the vehicles at the point your brakes were applied;

(b) the distance traveled between the point your brakes were applied and the point of impact.

30. At the point of impact, state:

(a) the positions and directions of the respective vehicles;

(b) the respective speeds of the vehicles;

(c) what parts of your vehicle came into contact with what parts of Defendants' vehicle.

31. State whether your vehicle was driveable immediately following the accident in question. If not, state where the vehicle was removed to and by whom.

32. State whether your vision was obstructed in any manner from either inside your vehicle or by any external factors and if so, state in what manner.

33. State:

(a) whether there were any skid marks left by either vehicle and, if so, the length of the skid marks, and by which vehicle they were left;

(b) the distance between the vehicles;

(c) the respective speeds of the vehicles.

34. At the time of the accident, state:

(a) where you were coming from;

(b) what time you left the place you were coming from;

(c) where you were going;

(d) what time you were scheduled to arrive at the place to which you were going;

(e) what time the accident occurred;

(f) in detail, your route from the place set forth in your answer to (a) above, until you reached that point where your vehicle collided with Defendants' vehicle.

35. Immediately prior to the accident, how long had you been driving that day?

36. State:

(a) were you on the business of an employer at the time of the accident;

(b) If so, give the name and address of the employer.

37. State whether you have ever driven past the location of the accident prior to the date of the accident, and if so, how often and when was the last time you drove by the scene of the accident before the date of the accident.

38. State whether or not a police department or officer investigated the accident/incident which is the subject of Plaintiff's cause of action?

If so, state:

(a) the name of the municipality;

(b) the name of the police officer and badge number;

(c) whether or not a report was taken and include incident number if known.

39. Did you have a conversation with any of the police officers who investigated the accident/incident at the scene of the accident/incident?

If so, state:

(a) the name and badge number of each police officer;

(b) substance of conversation.



### WITNESSES

40. To the extent known to you, your attorney or other representative, set forth the name and home and business addresses of the following persons:

(a) those who actually saw the accident;

(b) those who did not see the accident, but were present at or near the scene at the time of the accident;

(c) those who have any knowledge of or information as to any facts pertaining to the cause of the accident or the acts of negligence averred in your Complaint.

### SUMMARIZATION OF SPECIAL DAMAGES

41. List all expenses (special damages) which you claim resulted from the accident (answer, even if duplicated in other answers).

### HOSPITALS

42. Set forth the name and address of each hospital, nursing home, clinic or other institution in which you have been confined, examined or received out-patient treatment because of the accident, which dates of confinement and out-patient treatment received, the charges for same, and the amount of each charge that has been paid and by whom.

### DOCTORS

43. Set forth the name and address of each doctor, nurse or other person who has examined, treated or rendered services to you because of this accident; the inclusive dates of such services and the number of visits; the charges for same; and the amount of each such charge that has been paid and by whom.

### X-RAYS

44. If x-rays were taken of you because of this accident, state the names and addresses of the persons taking same; the dates taken; the parts of the body x-rayed; the charges; the amount of each such charge that has been paid and by whom.

### TERMINATION OF MEDICAL SERVICE

45. When and by whom were you last examined or given medical attention for the injuries received in this accident?

### CONTINUATION OF MEDICAL SERVICES

46. If you are still being treated for the injuries received in this accident, state by whom and how frequently such treatments are being given now.

### CONFINEMENT

47. If you were not hospitalized, or after such hospitalization was over, were you confined to a bed or confined to the house as a result of injuries sustained in this accident? State the period of any such confinement.

### SCARS OR DISFIGUREMENT

48. If at the time of answering these Interrogatories you have any scars or are disfigured in any way as a result of this accident, describe said scars and/or disfigurement.

### PRIOR CONDITION

49. If prior to the accident you ever suffered any injury or illness involving any part or function of the body as to which you claim injury or damage in this accident, set forth the nature of such injury or illness, the dates of same, the cause of same and the name and address of doctors and hospitals by which you were treated for same.

50. If you allege that the accident here involved aggravated a pre-existing condition, state:

(a) whether you had recovered from said condition at the time of the accident here involved and the approximate date of your recovery;

(b) the name and address of each hospital or other institution to which you had gone for examination and/or treatment and the date of your last visit;

(c) the name and address of each doctor or other person to whom you had gone for examination and/or treatment and the date of your last visit.

#### PRIOR OR SUBSEQUENT ACCIDENTS

51. If prior or subsequent to the accident you were involved in any other accidents involving injuries to any part or parts of the body which you claim to have been injured in this case, set forth the places and dates of such accidents; the injuries sustained by you, if any; the names and addresses of all other parties involved; whether or not you are or have made claim for such injuries; and the Court, Term, and Number of all litigation arising therefrom.

#### LOSS OF EARNINGS

52. If you are making any claims for loss of earnings or impairment of earning power because of this accident, set forth the following information:

- (a) the name and address of your employer and your job title and description of duties; and your monthly or weekly rate of pay at the time of this accident;
  
  
  
  
  
  
  
  
  
  
- (b) if you had more than one employer during the five year prior preceding the accident, state the name and address of each such employer, other than the one mentioned in (a) above, your job title, pay rate, and the inclusive dates of such employment during the said five year period;

- (c) your adjusted gross income and your net income after taxes as shown on your income tax return for each of the three years preceding the accident and each year since the accident;
- (d) state the inclusive dates during which you allege you were unable to work as result of this accident and the total amount of earnings you lost because of this absence;
- (e) state the dates on which you first returned to work following the accident and state the name and address of each employer you have worked for with inclusive dates of employment, each job title you have held and each monthly or weekly rate of pay which you have received from the date of starting work again after the accident until the present time;
- (f) If self-employed, state the address of your usual place of business; the name under which you operate it; the nature of your business; name and address of your account; amount you claim to have lost as a result of the accident; how same was calculated;
- (g) If self-employed, state the name and address of each employee hired as a result of your disability, if any, and the date of such employment and the amount of money paid to each such employee.

#### HOUSEHOLD HELP

53. If claim is made for household help, state whether or not you had any household help prior to the accident, state name, address and period of employment for each person so employed; and the increased or actual cost of such help resulting from the accident.

### OTHER DAMAGES

54. If the Plaintiff contends that as a result of injuries sustained in the accident which give rise to this matter he has incurred any economic detriment which has not been compensated because of any limitation in accordance with Section 202 (a), (b), (c) or (d) of the Pennsylvania No-Fault Motor Vehicle Insurance Act, set forth with specificity the details of the economic detriment, the amount compensated, when and by whom compensation was made and the balance that remains uncompensated.

55. If Plaintiff contends that he has sustained any other economic detriment, other than that dealt with in answer to the preceding Interrogatory, for which he is entitled to be compensated by the Defendants in the instant matter, set forth with specificity the nature and amount of said economic detriment.

56. With regard to any non-economic detriment for which the Plaintiff claims he is entitled to receive compensation in the instant matter describe with particularity each separate and specific detriment for which compensation is sought.

### INJURIES

57. State in detail which injuries you sustained in the accident upon which this suit is based, and the approximate date on which you recovered from each injury.

58. If you have not fully recovered from your injuries, state in which respects you have not fully recovered.

### SETTLEMENTS

59. State whether you have received, or agreed to receive from any person any sum or thing of value for any injuries or damages resulting from the accident referred to in the Complaint and, if so, state amounts received or to be received, dates of payment, and names and addresses of payers.

### INSURANCE

60. Set forth the names and addresses of all insurance carriers who had automobile insurance policies in effect at the time of the accident which gives rise to the instant matter, under which policy or policies the injured Plaintiff in this action qualified as named insured and provides the policy number for each insurance policy.

61. Set forth the names and addresses of all insurance companies who had automobile insurance policies in effect at the time of the accident which gives rise to this matter, under which policy or policies, while not named insured, the injured Plaintiff qualified as insured and obtained or is eligible to obtain benefits by reason of said accident and provide the policy numbers for each insurance policy.

62. If the Plaintiff who claims to have been injured by result of the accident which gives rise to the instant matter has received benefits, either directly or indirectly, from any automobile insurance carriers pursuant to the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law set forth the following:

- (a) the name and address of the insurance carrier providing such benefits;

(b) the amounts of any sums paid directly to the Plaintiffs and the dates when said sums were received;

(c) the basis for said payments under the provisions of the Act; i.e. medical expenses reimbursed, additional expenses, work loss, etc.

(d) set forth the amount paid by said insurance carrier to any other persons or organizations by reason of injury sustained by the Plaintiffs indicating the name and address of the payee, the amount paid and the nature of the service rendered by the payee for which said payment was made.

#### STATEMENTS

63. Have you or anyone acting on your behalf, obtained statements, reports, memoranda or testimony in any form, from any person(s) regarding, in any way relating to, or concerning the incident alleged in Plaintiff's Complaint?

64. If the answer to number 63 above is affirmative state:

(a) the name and address of each person making such statement(s) and/or report(s);

(b) the name and address of each person in whose presence such statement(s) and/or reports(s) was made;



(c) the date and place each such statement or report was made;

(d) the form of each statement or report, whether written or oral or by recording device or to a stenographer;

(e) whether each such statement or report, if written, was signed and the number of pages thereof;

(f) the name and address of each person presently having custody of each such statement or report or any notes or writings pertaining thereto;

(g) attach a copy of any statement obtained from any person mentioned, either as a witness or a party, in answer to this Interrogatory.

#### EXPERT WITNESSES

65. Have you or anyone acting on your behalf retained any expert or consultant who is expected to or may testify at the trial of this case?

66. If the answer to number 65 above is affirmative, state:

(a) the name, residence and business addresses, occupations or profession, and the area of expertise and/or discipline of each such expert or consultant;

(b) the substance of the facts to which each such expert or consultant is expected to testify;

(c) the opinion held by each such expert or consultant to which he will testify;

(d) the grounds of each opinion to which each such expert or consultant will testify;

(e) in detail, the factual information supplied to each such expert or consultant which was used as a basis for his opinion, including all objects examined, the type, place and dates of examination, as well as a description of all photographs or plans reviewed;

(f) the background and experience of each such expert or consultant with regard to his area of expertise and/or discipline, including, but not limited to, schools attended, years in attendance, degrees received, names and addresses of employers, inclusive years of employment and all publications authored;

(g) the full captions of all cases in which each such expert or consultant has testified in the past five years. If the full captions are unavailable, give the names of the cases and state the names of each Court in which they were tried, as well as the approximate dates of trial;

(h) if the opinion of any expert or consultant listed above is based in whole or in part on any scientific rule or principal, set forth the said rule or principal;

(I) if the opinion of any expert or consultant listed above is based in whole or in part on any code, regulations or standard, governmental or otherwise, identify the said code, regulation or standard and specifically set forth the section relied upon;

(j) if the opinion of any expert or consultant listed above is based in whole or in part upon any scientific or medical textbook or other publication, identify said textbook or publication.

#### PHOTOGRAPHS, DOCUMENTS AND THINGS

67. Do you or anyone on your behalf have or know of any photographs, motion picture, maps, drawings, diagrams, measurements, survey, or other descriptions regarding, in any way relating to or concerning the incident alleged in Plaintiff's Complaint?

68. If the answer to number 67, above is affirmative, state, for each such photograph, document of thing:

(a) the nature of same;

(b) its specific subject matter;

(c) the date same was made or taken;

(d) the name and address of the person making or taking same;

(e) what it purports to show or illustrate;

(f) the name and address of each person presently having custody of same;

DOCUMENTARY EVIDENCE

69. Do you intend to use any book, magazine, or other writing at the trial of this case?

(a) if so, describe the writing in detail as to author, publisher, copyright date, and give the name and address of any known present custodian or said writing.

70. Have you applied for unemployment compensation benefits since the date of your alleged accident? If so, state the date of such application.

71. Have you received any unemployment compensation benefits since the date of your alleged accident? If so, state the dates you received such benefits and the amounts received on each date.

72. Will you voluntarily sign the enclosed authorization for release of your unemployment compensation records, if any?

73. Will you voluntarily sign the enclosed authorization for release of your medical records?

74. Describe in detail, without reference to your Complaint, regarding the automobile which you were operating at the time of the motor vehicle accident alleged in your Complaint, the following:

- a) the make;
- (b) the model;
- (c) the year;
- (d) the motor number;
- (e) the serial number;
- (f) the mileage at the time of the accident;
- (g) whether the vehicle had power steering and/or power brakes;
- (h) the color;

(i) whether there was any printing, writing, emblem, or picture on the exterior of said vehicle and, if so, describe said printing, writing, emblem or picture.

75. State concerning the vehicle:

- (a) the identity of the owner(s);
- (b) from whom the vehicle was purchased (including name and address);
- (c) when the vehicle was purchased;
- (d) whether the vehicle was purchased new or used;
- (e) the purchase price.

76. If the vehicle has been sold or disposed of since the accident, state to whom it was sold, how it was disposed of, why and for what consideration.

77. State whether there was any damage to the vehicle which you alleged you were operating in your Complaint and, if so, state:

- (a) the location on the vehicle of the damage;
- (b) the nature and extent of the damage to each part of the vehicle;
- (c) whether the vehicle was repaired; and, if so,
  - 1. when the vehicle was repaired;
  - 2. by whom it was repaired (including his/her name and address);
  - 3. the cost of such repairs;
  - 4. the nature of the repairs made;



5. attach copies of any and all written repair estimates and receipts;

6. the location of all damage on the vehicle before the accident.

78. Were any of the plaintiffs medical bills paid by the Pennsylvania Department of Public Welfare or Medicaid?

79. Did plaintiff or anyone to whom plaintiff owed a duty of support receive cash assistance or any other benefit from the Pennsylvania Department of Public Welfare since the date of the accident?

DONNELLY & ASSOCIATES, P.C.

By: 

JOHN J. DONNELLY, JR., ESQUIRE  
Attorney for Defendants

DONNELLY & ASSOCIATES, P.C.  
BY: JOHN J. DONNELLY, ESQUIRE  
ATTORNEY I.D. #53898  
14 South Orange Street  
Media, Pa. 19063  
(610) 892-7600

ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
and CHESTER L. BRIGGS as agent  
for HUEYS EXCAVATING and  
HUEYS EXCAVATING

---

EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

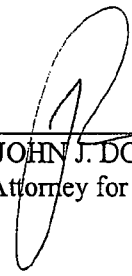
Defendants,

---

**CERTIFICATE OF SERVICE**

JOHN J. DONNELLY, ESQUIRE, attorney for defendant, hereby certifies that a true and correct copy of the Defendants Interrogatories directed to Plaintiff was served upon all counsel of record by United States first class mail.

DATE: 12/12/2000

BY:   
JOHN J. DONNELLY, ESQUIRE  
Attorney for Defendants

DONNELLY & ASSOCIATES, P.C.  
BY: JOHN J. DONNELLY, ESQUIRE  
ATTORNEY I.D. #53898  
14 South Orange Street  
Media, Pa. 19063  
(610) 892-7600

ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
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for HUEYS EXCAVATING and  
HUEYS EXCAVATING

---

EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

---

**DEFENDANTS' REQUEST FOR PRODUCTION OF**  
**DOCUMENTS ADDRESSED TO PLAINTIFF**  
**PURSUANT TO P.A.R.C.P. 4003 AND 4009**

TO: Edward A. Harzinski  
c/o Richard A. Milgrub, Esquire  
211 North Second Street  
Clearfield, PA 16830

You are hereby requested to Respond to the following Requests for Production and to produce for inspection and copying the documents and things requested herein pursuant to the Federal Rules of Civil Procedures. You are required to serve upon the undersigned your Responses or any objections, within thirty (30) days after service of these Requests and to produce the requested documents and things within thirty (30) days of these Requests at the law offices of Donnelly & Associates, P.C., 14 South Orange Street, Media, PA 19063.

## **I. DEFINITIONS**

For purposes of these Requests for Production of Documents, the following definitions shall apply:

A. "Person(s)" shall mean all individuals and entities, including, without limitation, all natural persons, sole proprietorships, organizations, associations, companies, partnerships, joint ventures, corporations, trusts and estates.

B. "Or" and "and" shall mean "and/or".

C. "Documents" mean: (1) all written or printed matter of any kind, including the originals and all non-identical copies, whether different from the originals by reason of any notation made on such copies or otherwise, including, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, releases, agendas, opinions, reports, studies, statements, consultations, speeches, summaries, pamphlets, books, inter-office and intra-office communications, manuals, notations of any sort of conversations, bulletins, computer printouts, teletypes, telefax, emails, invoices, worksheets, and all drafts, alterations, modifications, changes and amendments or any of the foregoing; (2) graphic or manual records or representations of any kind, including without limitations, photographs, charts, graphs, microfiche, microfilm, videotape, records, motion pictures; and (3) electronic, mechanical or electric records or representations of any kind, including, without limitation, tapes, cassettes, discs and recordings.

D. "Date" means the exact day, month and year, if ascertainable or if not, the best approximation (including the relation of other events).

E. "Identify" when used with regard to a natural person or persons, means state (1) the name of each person; (2) the person's present or last known business and home addresses; (3) the name of the person's present or last known employers, and (4) if such person was affiliated at any time with any party to this litigation, or with any affiliate or any party to this litigation by employment or otherwise, state the nature (including job title), if any, and dates of such affiliation.

F. "Identify" when used in reference to any entity other than a natural person means to state to the fullest extent possible the full name and location or present or last known address of the principal place of business of the corporation, partnership, proprietorship, association or other entity to be identified.

G. "Identify" when used in reference to a place, means to state to the fullest extent possible the street address, locale, city or state in which it is situated, of it such identification is not possible, otherwise to describe its location as precisely as possible.

## **III. Requests**

A. Any and all statements concerning the above-captioned action or its subject matter previously made by the parties to whom this request is directed, or by the parties by whom this request is made, or by any other parties or by any witness(es), including any and all written statements signed or otherwise adopted or approved by the person(s) making the statement, as well as any and all stenographic, mechanical, electrical and/or other recordings or transcriptions which are substantially verbatim recitals of any and all oral statements by the person(s) making the said statement(s), and contemporaneously recorded;

B. Any and all reports, notes, memoranda, summaries and/or records of any kind or description relating to any and all interviews of any and all parties and witness(es) made by an investigator, adjuster, insurer and/or any other agent or representative of the parties to whom this request is directed, other than their attorney;

C. Any and all reports, notes, memoranda, summaries, and/or records of any kind or description relating to any and all interviews of any and all parties and witness(es) made by the attorney for the parties to whom this request is directed, excluding only those statements of a party made only in the presence of the party's attorney, to which the attorney/client privilege applies;

D. Any and all investigative reports, notes, memoranda, summaries and/or records of any kind or description concerning the above-captioned action or its subject matter, prepared, obtained or otherwise in the possession, custody or control of the parties to whom this request is directed, and/or their attorney, investigator, adjuster, insurer and/or any other agent or representative excluding only that non-discoverable material as more particularly specified in Pa.R.C.P. 4003.3;

E. Any and all photographs, plans, drawings or diagrams concerning the above-captioned action or its subject matter, or of persons, objects or instrumentalities alleged or believed by plaintiff to have been involved in the accident in this case, obtained or otherwise in the possession, custody and control of the parties to whom this request is directed, and/or their attorney, investigator, adjuster, insurer and/or any other agent or representative;

F. All information, not otherwise requested in paragraphs (A) through (E), inclusive, above, which is contained in the files of the party to whom this request is directed, and/or that party's attorney, investigator, adjuster, insurer and/or any other agent or representative, and which is neither the mental impression of their attorney nor that attorney's conclusions, opinions, memoranda, notes, summaries, legal research of legal theories, nor with respect to the representative of the parties to whom this request is directed other than their attorney, neither mental impressions, conclusions or opinions respecting the value or merit of a claim or defense or respecting strategy or tactics;

G. Any and all bills, reports, notes, memoranda, summaries and/or records of any kind or description relating to the medical, osteopathic, chiropractic, nursing, physical therapeutic and/or any other physical or mental examination, care and/or treatment of the parties to whom this request is directed with regard to any alleged personal injuries which are the subject matter of this action and which documents or things are in the possession, custody or control of the parties to whom this request is directed and/or their attorney, investigator, adjuster, insurer and/or other agent or representative;

H. Any and all bills, reports, notes, memoranda, summaries and/or records of any kind or description relating to any items of alleged special or consequential damage(s) which are the subject matter of this action and which documents or things are in the possession, custody or control of the parties to whom this request is directed and/or any other agent or representative;

I. Any and all expert reports prepared by any expert engaged by the plaintiff who will be called to testify at the trial of the case. Said request is inclusive of any and all reports prepared by said experts during the course of the engagement by the plaintiff dealing with any factual issue involving the case, any and all facts and data which have been reviewed by said expert, and any and all opinions which he has rendered; as well as any resume or curriculum vitae or any other documents setting forth the expert's qualifications;

J. Any and all consultant reports prepared by any consultant engaged by the plaintiff who, although they will not be called to testify at the trial of this case, have been retained and/or consulted with in anticipation of litigation. Said request is inclusive of any and all reports prepared by said consultants

during the course of the engagement by the plaintiff dealing with any factual issue involving the case, any and all facts and data which have been reviewed by said consultant, and any and all opinions which he or she has rendered; as well as any resume or curriculum vitae or any other documents setting forth the consultant's qualifications;

K. Any and all personal employment records, including but not limited to, wage and earning statements, W2 forms and W4 forms and copies of all federal income tax returns covering the period from January 1, 1990 through the present.

L. Any and all objects and instrumentalities in the possession of plaintiff or his attorney alleged or believed by plaintiff to have been involved in the accident in this case.

M. Any and all documents, demonstrative evidence or tangible things identified or referred to in plaintiff's Answers to defendants' Interrogatories.

N. Any and all documents and exhibits that plaintiff intends to introduce at trial.

O. Any and all press releases and/or newspaper articles in the possession of plaintiff, plaintiff's attorneys, insurers, agents, consultants, investigators, or are otherwise known to plaintiff, concerning the incident alleged in the plaintiff's Complaint.

P. Any and all documents and/or materials containing the names and homes and business addresses of all individuals who witnessed the accident or have knowledge of its occurrence or the events which immediately followed.

Q. Copies of any certificates of insurance and/or declaration sheets providing or which may provide insurance to plaintiff for any of the damages alleged in the plaintiff's Complaint which was/were in effect on the date of the accident alleged in the Complaint.

R. Copies of any certificates of insurance and/or declaration sheets providing or which may provide insurance to plaintiff which set forth the tort option, (i.e., limited tort or full tort), selected by plaintiff for any policy in effect on the date of the accident alleged in the Complaint.

S. The entire contents of any file or files or any other documents or materials in your possession which support or relate to the allegations set forth in your pleadings (excluding references to mental impressions, conclusions or opinions representing the value of the claim or defense, representing strategy or tactics and privileged communications from and to present counsel).

T. The entire contents of any file or files or any other documents or materials in your possession which set forth, relate or pertain to any other incidents, accidents or occurrences in which the plaintiff was or has been involved, either before or after the incident alleged in the plaintiffs' Complaint, which resulted in personal injuries and/or damages to plaintiff the same or similar in kind or nature to the personal injuries and/or damages claimed by plaintiff to have been sustained in the incident alleged in the Complaint.

DONNELLY & ASSOCIATES, P.C.

By: 

JOHN J. DONNELLY, JR., ESQUIRE  
Attorney for Defendants

DONNELLY & ASSOCIATES, P.C.  
BY: JOHN J. DONNELLY, ESQUIRE  
ATTORNEY I.D. #53898  
14 South Orange Street  
Media, Pa. 19063  
(610) 892-7600

ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
and CHESTER L. BRIGGS as agent  
for HUEYS EXCAVATING and  
HUEYS EXCAVATING

---

EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

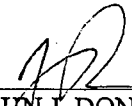
Defendants,

---

**CERTIFICATE OF SERVICE**

JOHN J. DONNELLY, ESQUIRE, attorney for defendants, hereby certifies that a true and correct copy of Defendants Request for Production of Documents directed to Plaintiff was served upon all counsel of record by United States first class mail.

DATE: 12/12/2000

BY:   
JOHN J. DONNELLY, ESQUIRE  
Attorney for Defendants





**DONNELLY & ASSOCIATES, P.C.**

ATTORNEYS AT LAW  
14 SOUTH ORANGE STREET  
MEDIA, PENNSYLVANIA 19063

**PHILADELPHIA OFFICE**

TWO PENN CENTER  
1500 JFK BOULEVARD  
SUITE 200  
PHILADELPHIA, PA 19102  
1-866-862-7600

**NEW JERSEY OFFICE**

FOUR GREEN TREE CENTER  
SUITE 201  
MARLTON, NJ 08053  
(856) 988-4070

JOHN J. DONNELLY, JR. •  
MICHAEL P. MAGUIRE •

• PA & NJ BAR

(610) 892-7600  
FAX: (610) 892-7699

December 29, 2000

Richard H. Milgrub, Esquire  
211 North Second Street  
Clearfield, PA 16830

Re: Harzinski v. Briggs, et al  
No. 00-1369

Dear Mr. Milgrub:

Enclosed please find Expert Witness Interrogatories directed to plaintiff. Please have these documents answered within the required time period.

Thank you.

Very truly yours,

DONNELLY & ASSOCIATES, P.C.

By: \_\_\_\_\_

  
JOHN J. DONNELLY

JJD:cdj  
Encls.

**DONNELLY & ASSOCIATES, P.C.**  
**BY: JOHN J. DONNELLY, ESQUIRE**  
**ATTORNEY I.D. #53898**  
**14 South Orange Street**  
**Media, Pa. 19063**  
**(610) 892-7600**

**ATTORNEY FOR DEFENDANTS**  
**CHESTER L. BRIGGS, individually**  
**and CHESTER L. BRIGGS as agent**  
**for HUEYS EXCAVATING and**  
**HUEYS EXCAVATING**

---

**EDWARD A. HARZINSKI**

**COURT OF COMMON PLEAS**  
**CLEARFIELD COUNTY**

Plaintiff,

**CIVIL DIVISION**  
**NO. 00-1369-CO**

vs.

**CHESTER L. BRIGGS, individually, and**  
**CHESTER L. BRIGGS as agent for**  
**HUEYS EXCAVATING, and HUEYS**  
**EXCAVATING**

Defendants,

---

**EXPERT WITNESS INTERROGATORIES**

These Interrogatories are to be answered pursuant to the Rules of Civil Procedure within thirty (30) days of service.

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE ATTACHED INTERROGATORIES WITHIN THIRTY (30) DAYS FROM SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

These Interrogatories are continuing and any information secured subsequent to the filing of your Answers, which would have been includable in the Answers had it been known or available, is to be supplied by Supplemental Answers.

These Interrogatories request information known to you or anyone acting on your behalf.

If a minor-plaintiff is involved, the following Interrogatories, where applicable, are to be answered with reference to said minor.

Any gaps in numbering should be disregarded.

Please answer in the space provided after each question and use supplemental document only if space provided is inadequate.

1. State the names and home and business addresses of all persons whom you expect to call as expert witnesses at the time of trial, including medical witnesses.

2. For all those persons named in answers #1, state their occupations, and, if they specialize in any particular field, set forth their areas of specialization.

3. Set forth the qualifications of those persons listed in answer #1, and in doing so, list: the schools each has attended, including years in attendance and degrees received; experience in particular fields, including names and addresses of employers with inclusive years of employment; and a list of all publications authored by said person, including title of the work, the name of the periodical in which it was printed, and the date of its printing. (If the persons listed in answer to #1 have printed, mimeographed, or otherwise reproduced a list of qualifications, you may attach a copy of same in lieu of answering this question). Use a separate sheet if necessary.

4. Set forth the facts to which each expert is expected to testify.

5. Set forth the opinion to which each such expert is expected to testify.

6. Set forth in detail, the factual information supplied to each such expert which was used as a basis for his opinion, including all objects examined, the type, place and date of examination, as well as description of all photographs or plans reviewed.

7. Set forth a summary of the grounds (other than facts requested in Answer No. 4) for each opinion, including any text material upon which the expert witnesses will rely. Identify all such texts, including name, author, edition and page.

8. As to all persons listed in Answer No. 1, state the full captions of all cases in which that person has testified in the past five years. If the full captions are unavailable, give the names of the cases and state the names of each court in which they were tried, as well as, the approximate date of the trial.

9. Identify any and all statements and photographs which are in any respect relevant to the above captioned cause of action by identifying the date thereof, the subject thereof, the individual who provided same and the individual who took same.

10. Identify any and all documents, agreements, plans, diagrams or blueprints which are in any fashion relevant to this cause of action by subject matter, date or other description.

11. Identify by name, address, job title and employer the identity of any individuals who you may know to have any knowledge concerning the facts and circumstances of the happening of this accident and the events leading up thereto.

12. State whether you have contacted, discussed or interviewed any witnesses who have any knowledge or information or circumstances or facts pertaining to the claim or defense. If so, state:

(a) Names, addresses and employer's addresses of all witnesses;

(b) Names, addresses and employer's addresses of all persons who contacted the witness.

(c) Whether or not a statement was obtained; and if so, whether said statement was recorded including the date thereof and by whom the statement was recorded.

(d) State the substance in detail of all such statements of any witnesses who have any knowledge of the pending claims or defenses in the above-captioned matter.

(e) Will you attach a copy of all statements without a Motion to Produce?

13. (a) State the names and home and business addresses of all persons who have conducted investigations, tests, inspections or examination with respect to the accident or occurrences which are the subject matter of this litigation and state for each such person their occupation, training, experience and areas of purported expertise.

(b) State the dates, times, and places of each investigation, test, inspection or examination performed by any of the individuals named in the answer to Interrogatory No. 13(a).

(c) State completely what procedures were used to perform any investigations, tests, inspections or examinations and provide a complete description of the investigation, test, inspection or examination including what specifically was investigated, tested, inspected or examined.

(d) State in detail the results of each investigation, test, inspection or examination and if such results were obtained by other than the individuals listed in Interrogatory No. 13(a), state the names and home and business addresses of such other persons along with their occupation, training, experience and areas of purported expertise.

(e) State whether any written reports exist with respect to any investigation, test, inspection or examination and indicate its location (complete address), custodian and the preparers of such reports.

(f) If you will do so without requiring a Motion to Produce, attach hereto a copy of any report from any investigation, test, inspection or examination.

14. (a) State whether at any time prior to the accident or occurrences which are the subject matter of the claims and defenses herein, any investigation, tests, inspections, or examinations were conducted with respect to or relevant to or relate, concern or touch upon in any way the accident, occurrences, instrumentality's, systems, product, components, component parts, premises or personnel which are the subject matter of this litigation.

(b) State the dates, times and places of each investigation, test, inspection, or examination which you listed as being performed in your response to Interrogatory No. 14(a).

(c) If any investigation, tests, inspections or examinations were conducted as set forth in Interrogatory 14(a), state the names and home and business addresses of all persons who have conducted such investigations, tests, inspections or examinations and with respect to each person, state their occupation, training, experience and areas of purported expertise.

(d) State completely what procedures were used to perform any investigations, tests, inspections or examinations which you listed as being performed in your response to Interrogatories No. 14(a).

(e) State in detail the results of each investigation, test or inspection which you listed as being performed in your response to Interrogatory No. 14(a), and if such results were obtained by individuals other than those mentioned in Answer to Interrogatory 14(c), state such other persons names and their home and business addresses, occupations, training, experience and areas of purported expertise.

(f) State whether any written reports or records exist with respect to any investigations, tests, inspections or examinations, which you listed as being performed in your response to Interrogatory 14(a). If such reports or records exist, state their location (complete address), custodian and the preparers of such reports or records.



(g) If you will do so without requiring a Motion to Produce, attach hereto a copy of any reports or records from any investigation, tests, inspection or examination which is listed as being performed in your response to Interrogatory 14(a).

15. State whether you gave any statements, written or oral to anyone including your attorney concerning the subject matter of this litigation. If so, state:

(a) Name and address and employer's address of the person who gave the statements.

(b) Name and address and employer's address of the persons to whom the statements were given.

(c) Were the statements written or recorded in any form; and if so, state the name and address and employer's address of the person who memorialized the statement.

(d) State the date and place where all statements were given.

(e) State the nature and substance of all such statements in detail.

(f) Will you attach a copy of all statements without requiring a Motion to Produce?

16. State whether you or your representatives, including attorneys, interviewed, discussed or obtained any statements from any other persons or witnesses concerning the facts and circumstances of the subject matter of this litigation including all claims and defenses.

If so, state:

(a) Name and address and employer's address of the person who gave the statements.

(b) Name and address and employer's address of the person to whom the statements were given.

(c) Were the statements written or recorded in any form; and if so, state name and address and employer's address of the person who memorialized the statement.

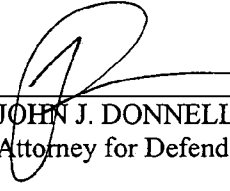
(d) State the date and place where all statements were given.

(e) State the nature and substance of all such statements in detail.

(f) Will you attach a copy of all statements without requiring a Motion to Produce?

DONNELLY & ASSOCIATES, P.C.

By: \_\_\_\_\_

  
JOHN J. DONNELLY, ESQUIRE  
Attorney for Defendants

DONNELLY & ASSOCIATES, P.C.  
BY: JOHN J. DONNELLY, ESQUIRE  
ATTORNEY I.D. #53898  
14 South Orange Street  
Media, Pa. 19063  
(610) 892-7600

ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
and CHESTER L. BRIGGS as agent  
for HUEYS EXCAVATING and  
HUEYS EXCAVATING

---

EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

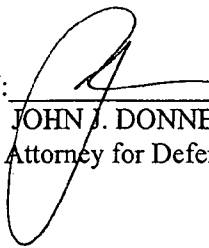
Defendants,

---

**CERTIFICATE OF SERVICE**

JOHN J. DONNELLY, ESQUIRE, attorney for defendants, hereby certifies that a true and correct copy of the Defendants' Expert Witness Interrogatories directed to plaintiff was served upon all counsel of record by United States first class mail.

DATE: 12/29/2000

BY:   
JOHN J. DONNELLY, ESQUIRE  
Attorney for Defendants

DONNELLY & ASSOCIATES, P.C.  
BY: JOHN J. DONNELLY, ESQUIRE  
ATTORNEY I.D. #53898  
14 South Orange Street  
Media, Pa. 19063  
(610) 892-7600

ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
and CHESTER L. BRIGGS as agent  
for HUEYS EXCAVATING and  
HUEYS EXCAVATING

EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

**CERTIFICATE OF SERVICE**

JOHN J. DONNELLY, JR., ESQUIRE, attorney for Defendants, Chester L. Briggs,  
individually and Chester L. Briggs as agent for Hueys Excavating, and Hueys Excavating, hereby  
certifies that a true and correct copy of Defendants' Motion to Compel Answers to Discovery was  
served upon all counsel of record by United States First Class Mail.

DONNELLY & ASSOCIATES, P.C.

Dated: 2/6/2001

By:   
JOHN J. DONNELLY, JR.

<div data-bbox="631 1020 697 1215" data-label="Text"><p>FILED</p></div> <div data-bbox="568 1031 604 1205" data-label="Text"><p>FEB 12 2001</p></div> <div data-bbox="465 1026 568 1285" data-label="Text"><p>MJ8:SS/19063 Wm A. Shaw Prothonotary</p></div> <div data-bbox="366 911 403 1297" data-label="Text"><p>DONNELLY &amp; ASSOCIATES, P.C.</p></div> <div data-bbox="341 1026 363 1182" data-label="Text"><p>ATTORNEYS AT LAW</p></div> <div data-bbox="275 982 330 1226" data-label="Text"><p>14 South Orange Street Media, Pennsylvania 19063</p></div> <div data-bbox="198 1003 252 1207" data-label="Text"><p>Phone: (610) 892-7600 Fax: (610) 892-7699</p></div>				

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendants

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No. 00-1369-CD

JURY TRIAL DEMANDED

Type of Action:  
Personal Injury

Type of Pleading:  
Plaintiff's Motion to Compel  
Answers to Discovery

Filed on Behalf of:  
Plaintiff

Counsel of Record for this  
Party:

Richard H. Milgrub, Esquire  
Supreme Court I.D. 19865  
211 North Second Street  
Clearfield, PA 16830  
(814) 765-1717

Samuel Cohen, Esquire  
Supreme Court I.D. 27544  
Katz, Cohen & Price, P.C.  
117 South 17th Street  
Philadelphia, PA 19103  
(215) 636-0400

FILED

MAR 02 2001

William A. Shaw  
Prothonotary

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

111 NORTH BRADY STREET  
DUBOIS, PA 15801

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
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BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
ESCAVATING,  
Defendants

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No. 00-1369-CD

JURY TRIAL DEMANDED

PLAINTIFF'S MOTION TO COMPEL  
ANSWERS TO DISCOVERY

Plaintiff, Edward A. Harzinski, hereby makes this  
Motion to Compel Discovery and states his reasons as follows:

1. On or about November 6, 2000, the Plaintiff  
commenced this action by filing a Civil Action Complaint.

2. On November 20, 2000, the Defendants, Chester L.  
Briggs, individually and Chester L. Briggs as agent for Hueys  
Excavating, and Hueys Excavating were served with both a  
Complaint and Interrogatories. A true and correct copy of  
Plaintiff's Complaint and Interrogatories are attached hereto as  
Exhibit "A".

3. The time period for responses to Interrogatories  
has expired without any answer whatsoever.

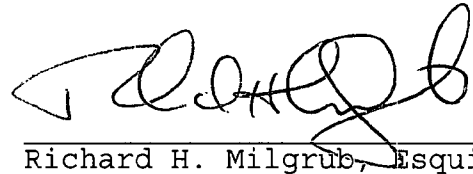
4. More than thirty (30) days have lapsed since  
Defendants were served with Plaintiff's Interrogatories.

5. The requested answers to Interrogatories are  
relevant and discoverable in this matter.



6. No objections have been made to said Interrogatories and no answers to these Interrogatories have been filed or served on counsel for Plaintiff, notwithstanding the fact that said Interrogatories were endorsed with a Notice to Plead within thirty (30) days.

WHEREFORE, Plaintiff requests an Order for Sanctions under Pennsylvania Rule of Civil Procedure 4019 be entered requesting the Defendants to file and serve answers to Interrogatories within twenty (20) days of service of this Court's Order.

A handwritten signature in dark ink, appearing to read 'R. Milgrub', is written over a horizontal line.

Richard H. Milgrub, Esquire

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

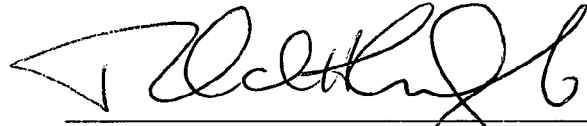
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DUBOIS, PA 15801

VERIFICATION

I, Richard H. Milgrub, have read the foregoing Motion. The Statements therein are correct to the best of my personal knowledge or information and belief.

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

I am authorized to make this verification on behalf of Plaintiff because of my position as counsel of record.

  
Richard H. Milgrub, Esquire

Dated: 3/2/01

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
—  
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendant

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No. 00-1369-CD  
JURY TRIAL DEMANDED

Type of Action:  
Personal Injury

Type of Pleading:  
Complaint

Filed on Behalf of:  
Plaintiff

Counsel of Record for this  
Party:

Richard H. Milgrub, Esquire  
Supreme Court I.D. 19865

211 North Second Street  
Clearfield, PA 16830  
(814) 765-1717

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW

11 NORTH SECOND STREET  
CLEARFIELD, PA 16830

09 NORTH BRADY STREET  
DUBOIS, PA 15801

Exhibit A

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendant

\*  
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\* No.  
\* JURY TRIAL DEMANDED  
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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  
Second & Market Streets  
Clearfield, PA 16830  
(814) 765-2641

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830

—  
09 NORTH BRADY STREET  
DUBOIS, PA 15801

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

-vs-

CHESTER L. BRIGGS, indiv-  
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BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
EXCAVATING,  
Defendant

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No.

JURY TRIAL DEMANDED

COMPLAINT

AND NOW, comes the Plaintiff, Edward A. Harzinski, by  
and through his attorney, Richard H. Milgrub, Esquire, files the  
following Complaint:

1. Plaintiff, Edward A. Harzinski, is a citizen of the  
Commonwealth of Pennsylvania who resides at RR 1, Box 123,  
Olanta, Clearfield County, Pennsylvania.

2. Defendant, Chester L. Briggs, is a citizen of the  
Commonwealth of Pennsylvania who resides at RR 1, Box 868D,  
Altoona, Blair County, Pennsylvania.

3. Defendant, Hueys Excavating, is a Pennsylvania  
corporation, organized and incorporated under the laws of the  
Commonwealth of Pennsylvania, with a principal place of business  
located at RR 7, Box 511, Altoona, Blair County, Pennsylvania.

4. At all times material hereto, Defendant, Chester L.  
Briggs, was an agent, servant, workman and/or employee of the  
Defendant, Huey's Excavating.

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ATTORNEY & COUNSELOR  
AT LAW  
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5. The facts and occurrences hereinafter related took place on or about October 29, 1999, at approximately 1:57 p.m. on SR 2023, Lawrence Township, Clearfield County, Pennsylvania.

6. At that time and place, Plaintiff, operating a 1998 Dodge Dakota, was traveling within the right lane of travel for southbound traffic on SR 2023, Lawrence Township, Clearfield County, Pennsylvania.

7. At that time and place, Defendant, Chester L. Briggs, acting as agent for Hueys Excavating, was operating a 1979 Mac Truck east on SR 307 (Whiskey Hill).

8. At that time and place, Defendant, Chester L. Briggs, acting as agent for Hueys Excavating, pulled out from a stop sign and then proceeded to cross SR 2023 so as to head in a northerly direction when his vehicle collided with the Plaintiff, who had been traveling south on SR 2023.

9. At that time and place, and due to the negligence and carelessness of the Defendant, his agents, servants, workmen and/or employees, Plaintiff's vehicle collided with Defendant's vehicle, causing the Plaintiff to sustain the injuries set forth below.

10. The negligence and carelessness of the Defendant, his agents, servants, workmen and/or employees consisted of:

- a. failing to have his vehicle under proper and adequate control;
- b. failing to apply the brakes to avoid the collision;
- c. negligently applying the brakes;

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- d. failing to observe Plaintiff's vehicle on the highway;
- e. failing to operate his vehicle in accordance with existing traffic conditions and traffic controls;
- f. failing to exercise the high degree of care required of a motorist entering an intersection;
- g. failing to observe traffic signals controlling Defendant's direction of traffic;
- h. failing to keep a reasonable lookout for other vehicles lawfully on the road;
- i. attempting to enter an intersection when such movement could not be safely accomplished;
- j. failing to yield the right-of-way to traffic already upon the highway;
- k. turning in such a manner as to endanger other vehicles on the highway;
- l. failing to prudently proceed through the intersection so as to avoid creating a dangerous situation for other vehicles on the highway;
- m. failing to observe oncoming traffic;
- n. proceeding through an intersection when such movement could be made in safety;
- o. failing to keep a proper lookout for approaching vehicles;
- p. failing to yield the right-of-way to oncoming traffic;

q. operating the vehicle so as to create a dangerous situation for other vehicles on the highway;

r. failing to have yielded half of the highway to oncoming traffic;

s. failing to keep the vehicles within the proper lane;

t. otherwise operating said vehicle in a careless, reckless and negligent manner and in a manner violating the Motor Vehicle Code of the Commonwealth of Pennsylvania.

11. Plaintiff sustained painful and severe injuries which include, but are not limited to:

a. post multiple trauma from a truck accident;

b. laceration of the nose and face;

c. fracture/dislocation of the left hip

(Pipkin I fracture/dislocation of the left hip);

d. ligament injury to the left knee, possible disruption of the posterior cruciate ligament; and

e. traumatic arthritis of the left hip.

12. The injury sustained by the Plaintiff as set forth above is a serious injury which resulted in both serious impairment of bodily function and permanent, serious disfigurement.

13. By reason of the aforesaid injuries sustained by the Plaintiff, he was forced to incur liability for medical treatment, medications, hospitalizations and similar

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miscellaneous expenses in an effort to restore himself to health, and claim is made therefore.

14. Because of the nature of his injuries, Plaintiff has been advised and therefore avers, that he may be forced to incur similar expenses in the future and claim is made therefore.

15. Plaintiff's accident-related medical expenses exceed Five thousand dollars (\$5,000.00) and claim is made for all expenses incurred above Five thousand dollars (\$5,000.00).

16. As a result of the aforementioned injuries, Plaintiff has undergone and in the future will undergo great physical and mental suffering, great inconvenience in carrying out his daily activities, loss of life's pleasures and enjoyment, and claim is made therefore.

17. As a result of the aforesaid injuries, Plaintiff has been and in the future will be subject to great humiliation and embarrassment and claim is made therefore.

18. As a result of the aforementioned injuries, Plaintiff has sustained work loss, loss of opportunity, and permanent diminution of his earning power and capacity, and claim is made therefore.

19. As a result of the aforesaid injuries, Plaintiff has sustained uncompensated work loss, and claim is made therefore.

20. Plaintiff continues to be plagued by persistent pain and limitation and, therefore, avers, that his injuries may

be of a permanent nature, causing residual problems, the remainder of his lifetime, and claim is made therefore.

21. As a result of the aforesaid accident, Plaintiff has sustained scars which will result in permanent disfigurement, and claim is made therefore.

WHEREFORE, Plaintiff demands judgment against the Defendants in an amount in excess of Twenty thousand dollars (\$20,000.00) exclusive of interest and costs and in excess of any jurisdictional amount requiring compulsory arbitration. JURY TRIAL DEMANDED.

By Richard H. Milgrub, Esquire  
Attorney for Plaintiff

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
—  
39 NORTH BRADY STREET  
DUBOIS, PA 15801

I, Edward A. Harzinski, verify that the statements made in the Complaint 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: 11-2-00

Edward A. Harzinski

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
1 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
—  
11 NORTH BRADY STREET  
DUBOIS, PA 15801

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

EDWARD A. HARZINSKI,  
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CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
ESCAVATING,  
Defendants

No. 00-1369-CD

JURY TRIAL DEMANDED

PLAINTIFF'S FIRST SET OF INTERROGATORIES

TO: Chester L. Briggs  
RR 1, Box 868  
Altoona, PA 16601

Please take notice that you are hereby required pursuant to the Pennsylvania Rules of Civil Procedure, to serve upon the undersigned, within thirty (30) days from service hereof, your answers to the Interrogatories provided by Plaintiff in writing and under oath.

These shall be deemed to be continuing Interrogatories. If, between the time of your answers and the time of trial of this case, you or anyone acting on your behalf, learn of any further information not contained in your answers, you shall promptly furnish said information to the undersigned by supplemental answers.

Date:

By

Richard H. Milgrub, Esquire  
Attorney for Plaintiff

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW

11 NORTH SECOND STREET  
CLEARFIELD, PA 16830

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DUBOIS, PA 15801

Instructions for Answering Interrogatories

A. In accordance with Pa. R.C.P. Rule 4005, the original and two (2) copies of these written Interrogatories have been served upon you to be answered by the party served of, if the party served is a public or private corporation or similar entity or a partnership or association, by any officer or agent, who shall furnish such information as is available to the party.

B. In accordance with Pa. R.C.P. Rule 4006, written answers shall be inserted in the spaces provided in the Interrogatories. If there is insufficient space to answer an Interrogatory, the remainder of the answer shall follow on a supplemental sheet.

C. In accordance with Pa. R.C.P. Rule 4006(b), a sufficient answer to such an Interrogatory shall be to specify the records from which the answer may be derived or ascertained.

D. Please file and serve answers to these Interrogatories in accordance with Pa. R.C.P. Rule 4006(a)(2).

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BRIGGS as agent for HUEYS  
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EXCAVATING,  
Defendants

No. 00-1369-CD

JURY TRIAL DEMANDED

PLAINTIFF'S FIRST SET OF INTERROGATORIES

TO: Chester L. Briggs  
RR 1, Box 868  
Altoona, PA 16601

1. Please identify yourself fully, giving your full name, age, social security number, residence address, business address, and occupation, and if married, give the name of your spouse.

2. Please describe in complete detail your present employment and occupation, stating:

(a) the name and address of your employer and your immediate supervisor, if any,

(b) your job description and title,

(c) your duties and responsibilities

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(d) the date you started work with your present employer,

(e) all training you have had for your present occupation.

3. Please describe in full detail how the occurrence happened, giving all events in detail in the order in which they occurred, before, during and after the occurrence, which had any bearing on the cause and manner of the happening of the occurrence.

4. Please identify the operator of your vehicle at the time of the alleged occurrence, giving name, address, operator's license number, and the date when issued and the state by which issued and date of expiration.

5. At the time of the alleged occurrence, were there any restrictions, qualifications, or conditions contained on your motor vehicle operator's license?

6. If your eyesight or vision in either eye at the time of the alleged occurrence was below normal without the use of eyeglasses or other corrective lenses, please state:

(a) the nature and extent of the limitation of your vision below normal in your right eye,

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(b) the nature and extent of the limitations of your vision below normal in your left eye.

7. Please state the extent to which you were familiar with the location of the alleged occurrence at the time of the alleged occurrence.

8. What was the name and address of the person in whose name, and the state in which, the vehicle you were riding in was registered, at the time of the alleged occurrence?

9. Please identify any occupants of your vehicle who saw some or all of the events preceding, during or subsequent to the occurrence.

10. Please identify and describe the appearance of each and every person who observed, or was present in the vicinity of, the alleged occurrence, giving the name and address of each such person if known to you.

11. If you claim that any other person or persons contributed to cause the alleged occurrence, please state the name of each such person and the manner in which he/she contributed to the alleged occurrence.

12. If the operator of your vehicle at the time of the occurrence was a person other than you:



(a) did the operator have the express or implied consent or permission of you or the owner of the vehicle to operate it at the time and place of the occurrence,

(b) was the operator in the pay or employ of the owner of the vehicle at the time and place of the occurrence,

(c) was the operator acting in the course of his employment in the interest of, or with, or for the benefit of the owner of the vehicle at the time and place of the occurrence,

(d) was the owner a passenger in the vehicle?

13. At the time and place of the alleged occurrence, were there any police officers, crosswalk guards, traffic directors, etc., nearby?

14. Please give:

(a) the identity of the person who inspected your vehicle most recently preceding the alleged occurrence,

(b) the results of such inspection.

15. If any repairs were made to your vehicle within one year preceding the alleged occurrence, please give full details of such repairs, including:

(a) a description of each such repair and the mechanical problem that was repaired,

(b) the date of each such repair,

(c) the identity of the person who made each such repair,

(d) any instructions, directions or comments given to you by any repairman.

16. Please state whether there were any police officers, ambulances or tow trucks present at the place of the occurrence, identifying which.

17. If anyone involved in the alleged occurrence was brought to a hospital soon after the alleged occurrence, please identify such person and such hospital.

18. Please give the name and address of the person, firm or corporation responsible for any excavation/construction near the place of the occurrence.

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19. Please give the name and address of each occupant of the vehicle owned, operated or occupied by you at the time of the alleged occurrence, and give the position of each at the time of the alleged occurrence.

20. At the time of the alleged occurrence, had you ever had your motor vehicle operator's license revoked, suspended or withdrawn by the licensing authority?

21. Please state exactly where the occurrence happened, including names of cities or towns, names and numbers of streets, and other named or readily identifiable landmarks, buildings or fixed objects.

22. Please describe the general neighborhood at the place the alleged occurrence happened, stating in your answer whether it was a residential or business district, and whether it was sparsely or thickly settled.

23. Please describe as accurately as you can the location where the alleged occurrence happened, giving the distance in feet from the nearest other roadway or highway, whether intersection, driveway, entrance, exit ramp or otherwise.

24. Please describe as fully as possible the condition of the road at the time and location of the alleged occurrence, setting forth the type of surface material, the general upkeep or condition of the road, any holes or defects in the road, the amount of any accumulated precipitation, the nature of such precipitation, a

description of the slipperiness of the road surface, and the amount and type of any foreign substance or debris on the roadway.

25. Please describe the location of the alleged occurrence, stating:

(a) the approximate widths of all roadways or streets involved,

(b) all traffic signs, markings on pavement, or traffic control signals,

(c) the posted speed limit.

26. (a) Please state the weight of your vehicle unloaded.

(b) Please state the weight of your vehicle at the time of the incident.

27. Please describe any objects in or on the vehicle owned, operated or occupied by you which may have partially blocked your vision, or the operator's vision, including such things as snow, frost, objects tied to the mirror, window stickers, animals, children, passengers, etc.

28. At the time of the alleged occurrence, was a trailer attached to your vehicle?

29. Please state every light with which your vehicle was equipped at the time of the alleged occurrence.

30. At the time of the alleged occurrence, was your body subject to any physical restraint of any kind, including a seat belt, a shoulder harness, a person holding you or otherwise?

31. Please state each warning device with which your vehicle was equipped at the time of the alleged occurrence which was operable at the time of the alleged occurrence.

32. Did you or any agent or employee of you have any knowledge of the existence of any defect, or defective condition of your vehicle prior to the alleged occurrence?

33. Please describe any mechanical defect or other adverse condition of your vehicle at the time of the alleged occurrence which could in any way have affected its operation, including:

(a) a description of such defect or condition,

(b) the length of time prior to the occurrence that such defect or condition had existed.

34. Just prior to the alleged occurrence, was your attention distracted from the road ahead by anything whatsoever for any amount of time?

35. Please describe as completely as you can the lighting conditions at the time and place of the alleged occurrence, including the amount of natural light and/or the amount of artificial lighting, and the sources thereof.

36. Please describe in detail the location and movements of any other parked or moving vehicles in the vicinity of the occurrence, other than those directly involved in the occurrence, and state in what way, if any, such other vehicles were connected with or related to the occurrence.

37. Please describe fully and in complete detail all events which occurred from one hour before the alleged occurrence until the time of the occurrence, and please describe such events in sequential order.

38. For approximately the last 500 feet of your approach to the location of the occurrence, if the highway, street, or roadway was curved or changed direction, please describe in detail all such curves or changes in direction, indicating whether right or left, and whether gradual, moderate or sharp.

39. For approximately the last 500 feet of your approach to the location of the occurrence, if the highway, street or roadway was an upgrade or downgrade, please describe in detail all such

upgrades or downgrades, indicating whether gradual, moderate or steep.

40. Did you slow down as you approached the stop sign?

41. Did you stop at the stop sign?

42. At the time that you were at the stop sign, and before proceeding out into the roadway, were you able to observe the plaintiff's vehicle approaching?

43. Was your vehicle at a stationary position or moving at the time that you first noticed the plaintiff's vehicle approaching?

44. Where exactly was the front portion of your vehicle at the time that you first noticed the plaintiff's vehicle approaching?

45. Was your vision or that of the operator of your vehicle obstructed in any way by any so-called "blind spot" of the vehicle in which you were riding?

46. State the distance in feet that you had a clear and unobstructed view of the public way ahead of you to the scene of the occurrence just prior to the happening of the occurrence.

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47. At the time of the alleged occurrence, were you wearing dark, colored or sunglasses?

48. If, at the time of the alleged occurrence, the visibility of the highway at the place of the occurrence was limited or decreased from normal in any way due to any consideration of weather such as rain, snow, sleet, heavy cloudiness, glare of sunlight, etc., or some atmospheric condition such as fog, smoke, or smog, please describe in complete detail such condition and every action taken by you or the operator of your vehicle to overcome or diminish the adverse effect of each such condition.

49. Please state what, if any traffic control signs, signals or devices you observed at the time of the occurrence, within 500 feet before you reached the place of impact.

50. Please describe fully and in complete detail the route you drove from one hour prior to the alleged occurrence until the occurrence.

51. Please describe each and every obstruction to your view or the view of the operator of your vehicle as your vehicle approached the place of the occurrence, giving the location of all such obstructions in relation to the point of impact.

52. Please describe as fully as possible the weather and road conditions at the time and location of the alleged occurrence, setting forth conditions of light, precipitation and temperature.

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111 NORTH BRADY STREET  
DUBOIS, PA 15801



53. Please state as accurately as you can the time when the alleged occurrence happened, stating the date, hour and minute as nearly as possible.

54. Please describe fully and in complete detail any alcohol or drugs, prescription and non-prescription, which you ingested within twenty-four hours prior to the occurrence.

55. If during the three minute period immediately before impact you were engaged in any activity which required the use of one or both hands, such as smoking, adjusting equipment or touch some person or object, please describe such conduct or activity in detail, setting forth:

(a) a complete description of each activity,

(b) the duration of each activity,

(c) how long in seconds before the occurrence such activity ended.

56. Please state where you were coming from and where you were going at the time of the alleged occurrence, giving in your answer the place where you last entered the vehicle and the place where you next intended to disembark from it.

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830

111 NORTH BRADY STREET  
DUBOIS, PA 15801

57. Please describe any glasses or contact lenses worn by you at the time of the occurrence and describe any prescription for

glasses, naming the doctor prescribing them, the date prescribed and the prescription.

58. With respect to each time the operator of your vehicle applied the brakes just prior to the alleged occurrence, please state:

(a) the speed in miles per hour at which the vehicle owned, operated or occupied by you was traveling,

(b) the distance in feet between the vehicle owned, operated or occupied by you and the vehicle with which your vehicle collided,

(c) the distance in feet the vehicle owned, operated or occupied by you traveled from the point where the brakes were applied to the point of impact,

(d) the distance in feet that the vehicle owned, operated or occupied by you traveled from the point where the brakes were applied to the point where the vehicle came to a full stop after impact.

59. Please state each and every act or action taken by you or by any agent or employee of you which was related in any way to the alleged occurrence.

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
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DUBOIS, PA 15801

60. Please state everything you or the operator of your vehicle did in the mechanical operation of your vehicle from the time you first saw the other vehicle up to the time of impact.

61. Please state everything you saw the party with whose vehicle your vehicle collided do up to the moment of impact, describing such party's entire conduct and action in detail.

62. Please state the movements of each vehicle, describing the course each vehicle took from the time you first saw the other vehicle up to the time of the alleged occurrence, describing in feet how far from the right-hand curb each vehicle was traveling, and stating whether either vehicle changed its direction, giving all details with respect thereto.

63. Please describe all the lights which were operating on each vehicle involved in the alleged occurrence at the time of the alleged occurrence.

64. Please describe fully and in complete detail any and all malfunctions that occurred in your vehicle at the time of the alleged occurrence.

65. Please state in detail everything you or any agent or employee of you did to avoid the alleged occurrence.

66. If there were any tire marks or any other marks on the road as a result of the occurrence, please describe such marks in detail,

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ATTORNEY & COUNSELOR  
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DUBOIS, PA 15801

giving length in feet, location on the road surface, and identify which vehicle made each mark.

67. Please state the speed or different speeds of each vehicle involved in the alleged occurrence from the time you first saw the other vehicle up to the time of impact.

68. Please describe the position of both vehicles at the instant of first impact with each other, giving in your answer approximate distances in feet to nearby curbing or other fixed objects.

69. With reference to the time when you first saw the plaintiff's vehicle, please state:

(a) the exact location of your vehicle, giving measurements to curbs and other fixed objects,

(b) the exact location of the plaintiff's vehicle, giving measurements to curbs and other fixed objects,

(c) the distance between your vehicle and the plaintiff's vehicle,

(d) the distance from your vehicle to the point of impact,

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW

11 NORTH SECOND STREET  
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DUBOIS, PA 15801

(e) the distance from the plaintiff's vehicle to the point of impact.

70. With reference to the time when both vehicles had come to a full stop after impact, please state:

(a) the exact location of your vehicle, giving measurements to curbs and other fixed objects,

(b) the exact location of plaintiff's vehicle, giving measurements to curbs and other fixed objects,

(c) the distance between your vehicle and the plaintiff's vehicle,

(d) the distance from your vehicle to the point of impact,

(e) the distance from the plaintiff's vehicle to the point of impact.

71. Please describe any other object struck by either vehicle, indicating its location, type, and the time when it was struck relative to the impact of the two vehicles.

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ATTORNEY & COUNSELOR  
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72. Please describe in detail any warning or signal given by you or the operator of any vehicle just prior to the time of the alleged occurrence.

73. Please state the time in minutes and seconds that elapsed between the time that you first observed the vehicle owned, operated or occupied by the plaintiff and the time of impact.

74. Please describe in full detail the points of contact between the vehicles, naming every part of each vehicle which was damaged.

75. Please describe in full detail the speed and acceleration of the vehicle owned, operated or occupied by plaintiff at the moment of impact, indicating whether such vehicle was accelerating, coasting, slowing down, braking, stopped, going backwards or other wise.

76. State how far from the right-hand curbing of the street the motor vehicle operated by you was driven at the moment you first saw the plaintiff or the plaintiff's motor vehicle.

77. If there were any traffic controls, signs, signals, lights, or other devices located at or near the place of the alleged occurrence which were in any way involved in the happening of the alleged occurrence, please describe such control or device indicating the direction of traffic controlled by such device and the manner in which it was involved in the alleged occurrence.

RICHARD H. MILGRUB  
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78. Please give the substance of any conversation you had with the other party after the alleged occurrence.

79. Please give an itemized account of all damages you claim were suffered by you as a result of the alleged occurrence.

80. Please describe all injuries, giving the size, appearance and position of any marks, cuts, bruises or blood, if any, that you or any agent or employee of you saw upon the other party or upon yourself immediately after the alleged occurrence.

81. Please describe fully and in complete detail any and all repairs and inspections done to your vehicle after the alleged occurrence.

82. Please state every act or omission on the part of the other party which contributed to cause the alleged occurrence.

83. Please describe fully and in complete detail each and every automobile accident in which you have been involved since the alleged occurrence.

84. Please state the date and substance of each and every written statement or report prepared, submitted or made by you regarding the alleged occurrence.

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
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DUBOIS, PA 15801

85. Please state whether or not, to your knowledge or to the knowledge of any agent, employee, or attorney of yours, any statement in any form was obtained, secured, or received from any person regarding in any way the alleged occurrence.

86. If the answer to the preceding interrogatory is in the affirmative, please state:

(a) the name and address of the person, firm or corporation on whose behalf or for whose benefit any such statement was obtained, secured or received,

(b) the name and address of the person from whom any such statement was obtained, secured or received,

(c) the date of any such statement,

(d) the name and address of the person, firm or corporation now having possession or custody of any such statement.

87. If you or any agent or employee of the defendant received notice of any kind from the plaintiff or someone on behalf of the plaintiff of the alleged occurrence, please give the date of receipt, the method by which such notice was given and the substance of such notice.

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
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CLEARFIELD, PA 16830

—  
11 NORTH BRADY STREET  
DUBOIS, PA 15801



88. Please state every act or omission on the part of the plaintiff which contributed to cause the alleged occurrence.

89. If it is your contention that your vehicle had the right of way, please state all facts on which you base this contention.

90. At the time of and place of the alleged occurrence, were you the named insured on any policies of liability insurance?

91. At the time and place of the alleged occurrence, were you an insured other than a named insured on any policies of liability insurance?

92. If the answer to either of the foregoing questions is "yes", state the following with respect to each of such policies of liability insurance:

(a) name and address of the company issuing each policy,

(b) the number of such policy,

(c) the limits of liability of such policy,

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
11 NORTH SECOND STREET  
CLEARFIELD, PA 16830

11 NORTH BRADY STREET  
DUBOIS, PA 15801

(d) the named insured under such policy,

(e) the vehicle or vehicles in connection with such policy was issued,

(f) the nature and extent of the coverage which protects you against risk of this suit.

93. Do you or your attorneys know or have reason to believe that the company issuing any policy which would protect you against that risk sued herein, claims or intends to claim that it has some ground for denying you the coverage provided by the policy?

94. If so, explain the nature and extent of this knowledge.

95. Has any insurer been tendered the defense of this suit?

96. If so, has the insurer accepted the defense?

97. If the insurer does not accept the defense, state why not?

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
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CLEARFIELD, PA 16830

11 NORTH BRADY STREET  
DUBOIS, PA 15801

98. Are any of the aforesaid insurance companies handling your defense under reservation of rights or non-waiver agreement?

99. If so, state:

(a) the name and address of each company,

(b) the number of the policy involved,

(c) the grounds for this reservation.

100. Please state the limits of liability insurance of any applicable insurance policy.

101. Attach a copy of each insurance policy which protects you against the risk of this suit.

By

Richard H. Milgrub, Esquire  
Attorney for Plaintiff

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
10 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
  
101 NORTH BRADY STREET  
DUBOIS, PA 15801

2

<p>FILED MAR 02 2004 08332/1440th WILLIAM A. SHAW Prothonotary 2004</p> <p>RICHARD H. MILGRUB <i>Attorney &amp; Counselor at Law</i> 211 NORTH SECOND STREET CLEARFIELD, PENNSYLVANIA 16830</p>

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS, indiv-  
idually, and CHESTER L.  
BRIGGS as agent for HUEYS  
EXCAVATING, and HUEYS  
ESCAVATING,  
Defendants

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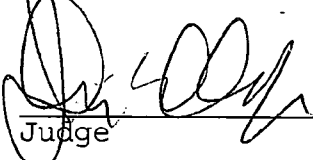
No. 00-1369-CD

JURY TRIAL DEMANDED

ORDER

AND NOW, this 6<sup>th</sup> day of March, 2001,  
upon consideration of Plaintiff's Motion to Compel Answers to  
Interrogatories and any answer thereto, it is hereby ORDERED and  
DECREED that Defendants shall file full and complete answers to  
Plaintiff's Interrogatories within twenty (20) days from the date  
hereof or appropriate sanctions will be imposed upon application  
to this Honorable Court.

BY THE COURT:

  
Judge

**FILED**

MAR 06 2001

William A. Shaw  
Prothonotary

RICHARD H. MILGRUB  
ATTORNEY & COUNSELOR  
AT LAW  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

111 NORTH BRADY STREET  
DUBOIS, PA 15801

FILED

MAR 06 2001

01632154 ath  
William A. Shaw  
Prothonotary

RICHARD H. MILGRUB

*Attorney & Counselor at Law*

211 NORTH SECOND STREET  
CLEARFIELD, PENNSYLVANIA 16830

*Milgrub*  
*E. Shaw*

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

EDWARD A. HARZINSKI

-vs-

No. 00 – 1369 – CD

CHESTER L. BRIGGS, Individually, and  
CHESTER L. BRIGGS, as agent for  
HUEYS EXCAVATING and HUEYS  
EXCAVATING

**ORDER**

NOW, this 2<sup>nd</sup> day of April, 2001, upon consideration of Preliminary Objections to Defendants' New Matter in the nature of a Motion to Strike filed on behalf of Plaintiff above-named, and argument and briefs thereon, it is the ORDER of this Court that said Objections be and are hereby sustained to the extent that paragraph 43 of Defendants' New Matter shall be and is hereby stricken with prejudice and Defendants directed to more specifically plead paragraphs 26, 29, 31, 39 and 40 of their New Matter within 20 days from date of completion of depositions of the parties.

By the Court,

President Judge

**FILED**

APR 02 2001

William A. Shaw  
Prothonotary

**FILED**

3

10:56  
APR 02 2001

William A. Shaw  
Prothonotary

*ES*

1 - City Milgram  
1 - City Cohen  
1 - City ~~Donnelly~~  
Donnelly



CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

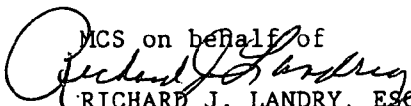
CASE NO: 00-1369-CD

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of RICHARD J. LANDRY, ESQUIRE  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

DATE: 11/06/2001

MCS on behalf of  
  
RICHARD J. LANDRY, ESQUIRE  
Attorney for DEFENDANT

**FILED**

NOV 08 2001

m119/1000

William A. Shaw

DE11-289696 Prothonotary - L01

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

HARZINSKI

TERM,

-VS-

CASE NO: 00-1369-CD

BRIGGS

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

CLEARFIELD HOSPITAL  
CLEARFIELD HOSPITAL  
MARK PIASIO, MD  
R. S. POLINTAN, M.D.  
ALLEGHENY GENERAL HOSPITAL  
ALLEGHENY GENERAL HOSPITAL  
BRIAN ERNSTOFF, M.D.

MEDICAL  
X-RAY ONLY  
MEDICAL RECORDS & XRAYs  
MEDICAL RECORDS & XRAYs  
MEDICAL  
X-RAY ONLY  
MEDICAL RECORDS & XRAYs

TO: SAMUEL COHEN, ESQUIRE  
RICHARD MILGRUB, ESQUIRE

MCS on behalf of RICHARD J. LANDRY, ESQUIRE intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 10/16/2001

MCS on behalf of

RICHARD J. LANDRY, ESQUIRE  
Attorney for DEFENDANT

CC: RICHARD J. LANDRY, ESQUIRE - HARZINSKI

Any questions regarding this matter, contact

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900  
DE02-167474 74531-C01

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

Vs.

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

No. 2000-01369-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE  
4009.22

TO: THE CUSTODIAN OF RECORDS FOR: CLEARFIELD HOSPITAL

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce  
the following documents or things:

SEE ATTACHED

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this  
subpoena, together with the certificate of compliance, to the party making this request at the address  
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or  
producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days  
after its service, the party serving this subpoena may seek a court order compelling you to comply with  
it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: RICHARD J. LANDRY, ESQUIRE

ADDRESS: 323 E. FRONT STREET

MEDIA, PA 19063

TELEPHONE: (215) 246-0900

SUPREME COURT ID # \_\_\_\_\_

ATTORNEY FOR: THE DEFENDANT

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division

DATE: Wednesday, October 10, 2001  
Seal of the Court



## **EXPLANATION OF REQUIRED RECORDS**

**TO:** CUSTODIAN OF RECORDS FOR:

CLEARFIELD HOSPITAL  
809 TURNPIKE AVENUE  
P. O. BOX 992

CLEARFIELD, PA 16830

**RE:** 74531  
EDWARD HARZINSKI

ANY AND ALL RECORDS BEFORE & AFTER 10-29-99 ACCIDENT.

Any and all records, correspondence, files and memorandums, handwritten notes, relating to any examination, consultation care or treatment.

**Dates Requested:** up to and including the present.

**Subject :** EDWARD HARZINSKI

R.R. 1, BOX 123, OLANTA, PA 16863

**Social Security #:** 180-60-7970

**Date of Birth:** 11-16-1979

CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of RICHARD J. LANDRY, ESQUIRE  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

DATE: 11/06/2001

MCS on behalf of

RICHARD J. LANDRY, ESQUIRE  
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

HARZINSKI

TERM,

-VS-

CASE NO: 00-1369-CD

BRIGGS

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

CLEARFIELD HOSPITAL  
CLEARFIELD HOSPITAL  
MARK PIASIO, MD  
R. S. POLINTAN, M.D.  
ALLEGHENY GENERAL HOSPITAL  
ALLEGHENY GENERAL HOSPITAL  
BRIAN ERNSTOFF, M.D.

MEDICAL  
X-RAY ONLY  
MEDICAL RECORDS & XRAYs  
MEDICAL RECORDS & XRAYs  
MEDICAL  
X-RAY ONLY  
MEDICAL RECORDS & XRAYs

TO: SAMUEL COHEN, ESQUIRE

RICHARD MILGRUB, ESQUIRE

MCS on behalf of RICHARD J. LANDRY, ESQUIRE intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 10/16/2001

MCS on behalf of

RICHARD J. LANDRY, ESQUIRE  
Attorney for DEFENDANT

CC: RICHARD J. LANDRY, ESQUIRE - HARZINSKI

Any questions regarding this matter, contact

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900  
DE02-167474 74531-C01

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

Vs.

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

No. 2000-01369-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE  
4009.22

TO: THE CUSTODIAN OF RECORDS FOR: CLEARFIELD HOSPITAL  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce  
the following documents or things:

SEE ATTACHED

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this  
subpoena, together with the certificate of compliance, to the party making this request at the address  
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or  
producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days  
after its service, the party serving this subpoena may seek a court order compelling you to comply with  
it.


THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: RICHARD J. LANDRY, ESQUIRE  
ADDRESS: 323 E. FRONT STREET  
MEDIA, PA 19063  
TELEPHONE: (215) 246-0900  
SUPREME COURT ID # \_\_\_\_\_  
ATTORNEY FOR: THE DEFENDANT

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, October 10, 2001  
Seal of the Court

  
\_\_\_\_\_

## **EXPLANATION OF REQUIRED RECORDS**

**TO:** CUSTODIAN OF RECORDS FOR:

CLEARFIELD HOSPITAL  
809 TURNPIKE AVENUE  
P. O. BOX 992

CLEARFIELD, PA 16830

**RE:** 74531  
EDWARD HARZINSKI

ANY AND ALL ORIGINAL PRINTS OF ALL MRI'S; CT SCANS & OTHER FILMS.

Any and all X-Rays pertaining to patient.

**Dates Requested:** up to and including the present.

**Subject :** EDWARD HARZINSKI

R.R. 1, BOX 123, OLANTA, PA 16863

**Social Security #:** 180-60-7970

**Date of Birth:** 11-16-1979



CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of RICHARD J. LANDRY, ESQUIRE  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

DATE: 11/06/2001

MCS on behalf of

RICHARD J. LANDRY, ESQUIRE  
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

HARZINSKI

TERM,

-VS-

CASE NO: 00-1369-CD

BRIGGS

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

CLEARFIELD HOSPITAL  
CLEARFIELD HOSPITAL  
MARK PIASIO, MD  
R. S. POLINTAN, M.D.  
ALLEGHENY GENERAL HOSPITAL  
ALLEGHENY GENERAL HOSPITAL  
BRIAN ERNSTOFF, M.D.

MEDICAL  
X-RAY ONLY  
MEDICAL RECORDS & XRAYs  
MEDICAL RECORDS & XRAYs  
MEDICAL  
X-RAY ONLY  
MEDICAL RECORDS & XRAYs

TO: SAMUEL COHEN, ESQUIRE

RICHARD MILGRUB, ESQUIRE

MCS on behalf of RICHARD J. LANDRY, ESQUIRE intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 10/16/2001

MCS on behalf of

RICHARD J. LANDRY, ESQUIRE  
Attorney for DEFENDANT

CC: RICHARD J. LANDRY, ESQUIRE - HARZINSKI

Any questions regarding this matter, contact

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900  
DE02-167474 74531-C01

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

Vs.

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

No. 2000-01369-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE  
4009.22

TO: THE CUSTODIAN OF RECORDS FOR: MARK PIASIO, M.D.  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce  
the following documents or things:

SEE ATTACHED

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this  
subpoena, together with the certificate of compliance, to the party making this request at the address  
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or  
producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days  
after its service, the party serving this subpoena may seek a court order compelling you to comply with  
it.

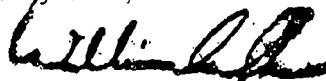
THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: RICHARD J. LANDRY, ESQUIRE  
ADDRESS: 323 E. FRONT STREET  
MEDIA, PA 19063  
TELEPHONE: (215) 246-0900  
SUPREME COURT ID # \_\_\_\_\_  
ATTORNEY FOR: THE DEFENDANT

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, October 10, 2001  
Seal of the Court



## **EXPLANATION OF REQUIRED RECORDS**

**TO:** CUSTODIAN OF RECORDS FOR:

MARK PIASIO, MD  
90 BEAVER DRIVE  
SUITE 110B

DUBOIS, PA 15801

**RE:** 74531  
EDWARD HARZINSKI

ANY AND ALL RECORDS BEFORE & AFTER 10-29-1999 ACCIDENT, ALSO ANY AND ALL ORIGINAL PRINTS OF ALL MRI'S, CT SCANS & OTHER FILMS.

Any and all records, correspondence, files and memorandums, handwritten notes, original X-Rays, billing and payment records, relating to any examination, consultation, care or treatment.

**Dates Requested:** up to and including the present.

**Subject :** EDWARD HARZINSKI

R.R. 1, BOX 123, OLANTA, PA 16863

**Social Security #:** 180-60-7970

**Date of Birth:** 11-16-1979

CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of RICHARD J. LANDRY, ESQUIRE  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

DATE: 11/06/2001

MCS on behalf of

RICHARD J. LANDRY, ESQUIRE  
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

HARZINSKI

TERM,

-VS-

CASE NO: 00-1369-CD

BRIGGS

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

CLEARFIELD HOSPITAL

MEDICAL

CLEARFIELD HOSPITAL

X-RAY ONLY

MARK PIASIO, MD

MEDICAL RECORDS & XRAYs

R. S. POLINTAN, M.D.

MEDICAL RECORDS & XRAYs

ALLEGHENY GENERAL HOSPITAL

MEDICAL

ALLEGHENY GENERAL HOSPITAL

X-RAY ONLY

BRIAN ERNSTOFF, M.D.

MEDICAL RECORDS & XRAYs

TO: SAMUEL COHEN, ESQUIRE

RICHARD MILGRUB, ESQUIRE

MCS on behalf of RICHARD J. LANDRY, ESQUIRE intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 10/16/2001

MCS on behalf of

RICHARD J. LANDRY, ESQUIRE

Attorney for DEFENDANT

CC: RICHARD J. LANDRY, ESQUIRE - HARZINSKI

Any questions regarding this matter, contact

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900  
DE02-167474 74531-C01

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

Vs.

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

No. 2000-01369-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE  
4009.22

TO: THE CUSTODIAN OF RECORDS FOR: R.S. POLINTAN, M.D.  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce  
the following documents or things:

SEE ATTACHED

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this  
subpoena, together with the certificate of compliance, to the party making this request at the address  
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or  
producing the things sought.

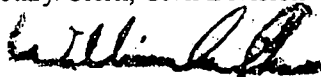
If you fail to produce the documents or things required by this subpoena within twenty (20) days  
after its service, the party serving this subpoena may seek a court order compelling you to comply with  
it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: RICHARD J. LANDRY, ESQUIRE  
ADDRESS: 323 E. FRONT STREET  
MEDIA, PA 19063  
TELEPHONE: (215) 246-0900  
SUPREME COURT ID #                       
ATTORNEY FOR: THE DEFENDANT

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division



DATE: Wednesday, October 10, 2001  
Seal of the Court

## **EXPLANATION OF REQUIRED RECORDS**

**TO:** CUSTODIAN OF RECORDS FOR:

R. S. POLINTAN, M.D.  
807 TURNPIKE AVENUE

CLEARFIELD, PA 16830

**RE:** 74531  
EDWARD HARZINSKI

ANY AND ALL RECORDS BEFORE & AFTER 10/29/1999 ACCIDENT, ALSO ANY AND ALL ORIGINAL OF PRINTS OF ALL MRI'S, CT SCANS & FILMS.

Any and all records, correspondence, files and memorandums, handwritten notes, original X-Rays, billing and payment records, relating to any examination, consultation, care or treatment.

**Dates Requested:** up to and including the present.

**Subject :** EDWARD HARZINSKI

R.R. 1, BOX 123, OLANTA, PA 16863

**Social Security #:** 180-60-7970

**Date of Birth:** 11-16-1979



CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of RICHARD J. LANDRY, ESQUIRE  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

DATE: 11/06/2001

MCS on behalf of

RICHARD J. LANDRY, ESQUIRE  
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

HARZINSKI

TERM,

-VS-

CASE NO: 00-1369-CD

BRIGGS

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

CLEARFIELD HOSPITAL  
CLEARFIELD HOSPITAL  
MARK PIASIO, MD  
R. S. POLINTAN, M.D.  
ALLEGHENY GENERAL HOSPITAL  
ALLEGHENY GENERAL HOSPITAL  
BRIAN ERNSTOFF, M.D.

MEDICAL  
X-RAY ONLY  
MEDICAL RECORDS & XRAYs  
MEDICAL RECORDS & XRAYs  
MEDICAL  
X-RAY ONLY  
MEDICAL RECORDS & XRAYs

TO: SAMUEL COHEN, ESQUIRE  
RICHARD MILGRUB, ESQUIRE

MCS on behalf of RICHARD J. LANDRY, ESQUIRE intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 10/16/2001

MCS on behalf of

RICHARD J. LANDRY, ESQUIRE  
Attorney for DEFENDANT

CC: RICHARD J. LANDRY, ESQUIRE - HARZINSKI

Any questions regarding this matter, contact

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900  
DE02-167474 74531-C01

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

Vs.

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

\*

\*

\*

No. 2000-01369-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE  
4009.22

TO: THE CUSTODIAN OF RECORDS FOR: ALLEGHENY GENERAL HOSPITAL  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce  
the following documents or things:

SEE ATTACHED

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this  
subpoena, together with the certificate of compliance, to the party making this request at the address  
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or  
producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days  
after its service, the party serving this subpoena may seek a court order compelling you to comply with  
it.

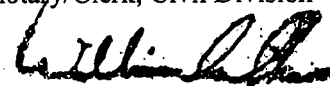
THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: RICHARD J. LANDRY, ESQUIRE  
ADDRESS: 323 E. FRONT STREET  
MEDIA, PA 19063  
TELEPHONE: (215) 246-0900  
SUPREME COURT ID #                       
ATTORNEY FOR: THE DEFENDANT

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, October 10, 2001  
Seal of the Court



## **EXPLANATION OF REQUIRED RECORDS**

**TO:** CUSTODIAN OF RECORDS FOR:

ALLEGHENY GENERAL HOSPITAL  
320 E. NORTH AVENUE

PITTSBURGH, PA 15212

**RE:** 74531  
EDWARD HARZINSKI

**ANY AND ALL RECORDS BEFORE & AFTER 10/29/99 ACCIDENT.**

Any and all records, correspondence, files and memorandums, handwritten notes, relating to any examination, consultation care or treatment.

**Dates Requested: up to and including the present.**

**Subject : EDWARD HARZINSKI**

**R.R. 1, BOX 123, OLANTA, PA 16863**

**Social Security #: 180-60-7970**

**Date of Birth: 11-16-1979**

CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of RICHARD J. LANDRY, ESQUIRE  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

DATE: 11/06/2001

MCS on behalf of

RICHARD J. LANDRY, ESQUIRE  
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

CLEARFIELD HOSPITAL  
CLEARFIELD HOSPITAL

MARK PIASIO, MD

R. S. POLINTAN, M.D.

ALLEGHENY GENERAL HOSPITAL

ALLEGHENY GENERAL HOSPITAL

BRIAN ERNSTOFF, M.D.

MEDICAL

X-RAY ONLY

MEDICAL RECORDS & XRAYs

MEDICAL RECORDS & XRAYs

MEDICAL

X-RAY ONLY

MEDICAL RECORDS & XRAYs

TO: SAMUEL COHEN, ESQUIRE

RICHARD MILGRUB, ESQUIRE

MCS on behalf of RICHARD J. LANDRY, ESQUIRE intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 10/16/2001

MCS on behalf of

RICHARD J. LANDRY, ESQUIRE

Attorney for DEFENDANT

CC: RICHARD J. LANDRY, ESQUIRE - HARZINSKI

Any questions regarding this matter, contact

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900  
DE02-167474 74531-C01

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

Vs.

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

\*

\*

\*

No. 2000-01369-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE  
4009.22

TO: THE CUSTODIAN OF RECORDS FOR: ALLEGHENY GENERAL HOSPITAL  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce  
the following documents or things:

SEE ATTACHED

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this  
subpoena, together with the certificate of compliance, to the party making this request at the address  
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or  
producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days  
after its service, the party serving this subpoena may seek a court order compelling you to comply with  
it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: RICHARD J. LANDRY, ESQUIRE  
ADDRESS: 323 E. FRONT STREET  
MEDIA, PA 19063  
TELEPHONE: (215) 246-0900  
SUPREME COURT ID #                       
ATTORNEY FOR: THE DEFENDANT

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, October 10, 2001  
Seal of the Court



~~Deputy~~

## **EXPLANATION OF REQUIRED RECORDS**

**TO:** CUSTODIAN OF RECORDS FOR:

ALLEGHENY GENERAL HOSPITAL  
320 E. NORTH AVENUE

PITTSBURGH, PA 15212

**RE:** 74531  
EDWARD HARZINSKI

ANY AND ALL ORIGINAL OR PRINTS OF ALL MRI'S, CT SCANS & OTHER FILMS.

Any and all X-Rays pertaining to patient.

**Dates Requested:** up to and including the present.

**Subject :** EDWARD HARZINSKI

R.R. 1, BOX 123, OLANTA, PA 16863

**Social Security #:** 180-60-7970

**Date of Birth:** 11-16-1979



CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of RICHARD J. LANDRY, ESQUIRE  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

MCS on behalf of

DATE: 11/06/2001

RICHARD J. LANDRY, ESQUIRE  
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

HARZINSKI

TERM,

-VS-

CASE NO: 00-1369-CD

BRIGGS

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

CLEARFIELD HOSPITAL	MEDICAL
CLEARFIELD HOSPITAL	X-RAY ONLY
MARK PIASIO, MD	MEDICAL RECORDS & XRAYs
R. S. POLINTAN, M.D.	MEDICAL RECORDS & XRAYs
ALLEGHENY GENERAL HOSPITAL	MEDICAL
ALLEGHENY GENERAL HOSPITAL	X-RAY ONLY
BRIAN ERNSTOFF, M.D.	MEDICAL RECORDS & XRAYs

TO: RICHARD MILGRUB, ESQUIRE  
SAMUEL COHEN, ESQUIRE

MCS on behalf of RICHARD J. LANDRY, ESQUIRE intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 10/16/2001

MCS on behalf of

RICHARD J. LANDRY, ESQUIRE  
Attorney for DEFENDANT

CC: RICHARD J. LANDRY, ESQUIRE - HARZINSKI

Any questions regarding this matter, contact

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900  
DE02-167475 74531-C02

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

Vs.

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

No. 2000-01369-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE  
4009.22

TO: THE CUSTODIAN OF RECORDS FOR: BRIAN ERNSTOFF, M.D.  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce  
the following documents or things:

SEE ATTACHED

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this  
subpoena, together with the certificate of compliance, to the party making this request at the address  
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or  
producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days  
after its service, the party serving this subpoena may seek a court order compelling you to comply with  
it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: RICHARD J. LANDRY, ESQUIRE  
ADDRESS: 323 E. FRONT STREET  
MEDIA, PA 19063  
TELEPHONE: (215) 246-0900  
SUPREME COURT ID # \_\_\_\_\_  
ATTORNEY FOR: THE DEFENDANT

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, October 10, 2001  
Seal of the Court



## **EXPLANATION OF REQUIRED RECORDS**

**TO:** CUSTODIAN OF RECORDS FOR:

BRIAN ERNSTOFF, M.D.  
12TH STREET & TABOR ROAD

PHILADELPHIA, PA 19141

**RE:** 74531  
EDWARD HARZINSKI

ANY AND ALL RECORDS BEFORE & AFTER 10/29/2001, ALSO ANY AND ALL ORIGINAL PRINTS OF ALL MRI'S, CT SCAN AND OTHER FILMS.

Any and all records, correspondence, files and memorandums, handwritten notes, original X-Rays, billing and payment records, relating to any examination, consultation, care or treatment.

**Dates Requested:** up to and including the present.

**Subject :** EDWARD HARZINSKI

R.R. 1, BOX 123, OLANTA, PA 16863

**Social Security #:** 180-60-7970

**Date of Birth:** 11-16-1979

CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of RICHARD J. LANDRY, ESQ.  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

DATE: 12/04/2001

MCS on behalf of  
Richard J. Landry, Esq.  
RICHARD J. LANDRY, ESQ.  
Attorney for DEFENDANT

**FILED**

DEC 10 2001

m12271ncc  
William A. Shaw  
Prothonotary

DE11-295697 74531-L08

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

HARZINSKI

TERM,

-VS-

CASE NO: 00-1369-CD

BRIGGS

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

AMADO B. LUGUE, JR., M.D.      MEDICAL  
THERAPY WORKS                      MEDICAL  
DR. ZIMMERMAN, D.D.S.            MEDICAL

TO: RICHARD MILGRUB, ESQUIRE  
SAMUEL COHEN, ESQUIRE

MCS on behalf of RICHARD J. LANDRY, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 11/12/2001

MCS on behalf of

RICHARD J. LANDRY, ESQ.  
Attorney for DEFENDANT

CC: RICHARD J. LANDRY, ESQ.      - HARZINSKI

Any questions regarding this matter, contact

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900

DE02-170106 74531-C02

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

\*

Vs.

\*

No. 2000-01369-CD

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE  
4009.22

TO: CUSTODIAN OF RECORDS FOR: AMADO B. LUGUE, JR., M.D.

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce  
the following documents or things:

SEE ATTACHED

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this  
subpoena, together with the certificate of compliance, to the party making this request at the address  
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or  
producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days  
after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: RICHARD J. LANDRY, ESQ.

ADDRESS: 323 E. FRONT ST.  
MEDIA, PA 19063

TELEPHONE: 215-246-0900

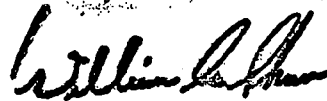
SUPREME COURT ID #

ATTORNEY FOR: DEFENDANT

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division



Deputy

12/04/2001  
DATE: Thursday, November 08, 2001  
Seal of the Court

## **EXPLANATION OF REQUIRED RECORDS**

**TO:** CUSTODIAN OF RECORDS FOR:

AMADO B. LUGUE, JR., M.D.  
500 TURNPIKE AVENUE

CLEARFIELD, PA 16830

**RE:** 74531  
EDWARD HARZINSKI

Any and all records, correspondence, files and memorandums, handwritten notes, billing and payment records, relating to any examination, consultation, care or treatment.

**Dates Requested:** up to and including the present.

**Subject :** EDWARD HARZINSKI

R.R. 1, BOX 123, OLANTA, PA 16863

**Social Security #:** 180-60-7970

**Date of Birth:** 11-16-1979



CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of RICHARD J. LANDRY, ESQ.  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

MCS on behalf of

DATE: 12/04/2001

RICHARD J. LANDRY, ESQ.  
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

AMADO B. LUGUE, JR., M.D.	MEDICAL
THERAPY WORKS	MEDICAL
DR. ZIMMERMAN, D.D.S.	MEDICAL

TO: SAMUEL COHEN, ESQUIRE  
RICHARD MILGRUB, ESQUIRE

MCS on behalf of RICHARD J. LANDRY, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 11/12/2001

MCS on behalf of

RICHARD J. LANDRY, ESQ.  
Attorney for DEFENDANT

CC: RICHARD J. LANDRY, ESQ. - HARZINSKI

Any questions regarding this matter, contact

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

Vs.

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

No. 2000-01369-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE  
4009.22

TO: CUSTODIAN OF RECORDS FOR: THERAPY WORKS  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce  
the following documents or things:

SEE ATTACHED

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this  
subpoena, together with the certificate of compliance, to the party making this request at the address  
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or  
producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days  
after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: RICHARD J. LANDRY, ESQ.

ADDRESS: 323 E. FRONT ST.  
MEDIA, PA 19063

TELEPHONE: 215-246-0900


SUPREME COURT ID # \_\_\_\_\_

ATTORNEY FOR: DEFENDANT

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: <sup>12/04/2001</sup> Thursday, November 08, 2001  
Seal of the Court

  
Deputy

## **EXPLANATION OF REQUIRED RECORDS**

**TO: CUSTODIAN OF RECORDS FOR:**

**THERAPY WORKS**

**CLEARFIELD, PA**

**RE: 74531  
EDWARD HARZINSKI**

Any and all records, correspondence, files and memorandums, handwritten notes, billing and payment records, relating to any examination, consultation, care or treatment.

**Dates Requested: up to and including the present.**

**Subject : EDWARD HARZINSKI**

**R.R. 1, BOX 123, OLANTA, PA 16863**

**Social Security #: 180-60-7970**

**Date of Birth: 11-16-1979**

CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of RICHARD J. LANDRY, ESQ.  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

MCS on behalf of

DATE: 12/04/2001

RICHARD J. LANDRY, ESQ.  
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA

IN THE MATTER OF:

HARZINSKI

COURT OF COMMON PLEAS

TERM,

-VS-

CASE NO: 00-1369-CD

BRIGGS

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

AMADO B. LUGUE, JR., M.D. MEDICAL  
THERAPY WORKS MEDICAL  
DR. ZIMMERMAN, D.D.S. MEDICAL

TO: SAMUEL COHEN, ESQUIRE  
RICHARD MILGRUB, ESQUIRE

MCS on behalf of RICHARD J. LANDRY, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

**DATE: 11/12/2001**

MCS on behalf of

**RICHARD J. LANDRY, ESQ.**  
**Attorney for DEFENDANT**

CC: RICHARD J. LANDRY, ESQ. - HARZINSKI

**Any questions regarding this matter, contact**

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

\*

Vs.

\*

No. 2000-01369-CD

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE  
4009.22

TO: CUSTODIAN OF RECORDS FOR: DR. ZIMMERMAN, D.D.S.  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce  
the following documents or things:

SEE ATTACHED

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this  
subpoena, together with the certificate of compliance, to the party making this request at the address  
listed above. You have the right to seek in advance the reasonable cost of preparing the copies or  
producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days  
after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: RICHARD J. LANDRY, ESQ.

ADDRESS: 323 E. FRONT ST.

MEDIA, PA 19063

TELEPHONE: 215-246-0900

SUPREME COURT ID # \_\_\_\_\_

ATTORNEY FOR: DEFENDANT

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division



Deputy

12/04/2001  
DATE: Thursday, November 08, 2001  
Seal of the Court

## **EXPLANATION OF REQUIRED RECORDS**

**TO:** CUSTODIAN OF RECORDS FOR:

DR. ZIMMERMAN, D.D.S.

CLEARFIELD, PA

**RE:** 74531  
EDWARD HARZINSKI

Any and all records, correspondence, files and memorandums, handwritten notes, billing and payment records, relating to any examination, consultation, care or treatment.

**Dates Requested:** up to and including the present.

**Subject :** EDWARD HARZINSKI

R.R. 1, BOX 123, OLANTA, PA 16863

**Social Security #:** 180-60-7970

**Date of Birth:** 11-16-1979



CERTIFICATE

PREREQUISITE TO SERVICE OF A SUBPOENA

PURSUANT TO RULE 4009.22

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of RICHARD J. LANDRY, ESQ.  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

DATE: 01/22/2002

MCS on behalf of

Richard J. Landry, Esq.  
Attorney for DEFENDANT

**FILED**

JAN 28 2002

m/239pm ocl  
William A. Shaw  
Prothonetary

DE11-305582 74531-L11

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

HARZINSKI

-VS-

BRIGGS

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

DR. ELKINS

MEDICAL

TO: SAMUEL COHEN, ESQUIRE

RICHARD MILGRUB, ESQUIRE

MCS on behalf of RICHARD J. LANDRY, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 12/31/2001

MCS on behalf of

RICHARD J. LANDRY, ESQ.  
Attorney for DEFENDANT

CC: RICHARD J. LANDRY, ESQ. - HARZINSKI

Any questions regarding this matter, contact

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

Vs.

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

No. 2000-01369-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE  
4009.22

TO: CUSTODIAN OF RECORDS FOR: DR. ELKINS  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

SEE ATTACHED

MCS GROUP INC., 1601 MARKET ST., #800, PHILA, PA 19103  
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

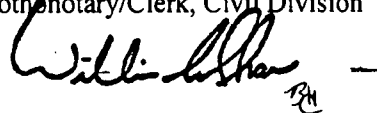
NAME: RICHARD J. LANDRY, ESQ.  
ADDRESS: 323 E. FRONT ST.  
MEDIA, PA 19063  
TELEPHONE: 215-246-0900  
SUPREME COURT ID #                       
ATTORNEY FOR: DEFENDANT

BY THE COURT:

01/22/2002

DATE: Monday, December 24, 2001  
Seal of the Court

William A. Shaw  
Prothonotary/Clerk, Civil Division



Deputy

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

## **EXPLANATION OF REQUIRED RECORDS**

**TO:** CUSTODIAN OF RECORDS FOR:

DR. ELKINS

CLEAR WATER,, PA 16830

**RE:** 74531

EDWARD HARZINSKI

Any and all records, correspondence, files and memorandums, handwritten notes, billing and payment records, relating to any examination, consultation, care or treatment.

**Dates Requested:** up to and including the present.

**Subject :** EDWARD HARZINSKI

R.R. 1, BOX 123, OLANTA, PA 16863

**Social Security #:** 180-60-7970

**Date of Birth:** 11-16-1979

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
CIVIL TRIAL LISTING

CERTIFICATE OF READINESS

TO THE PROTHONOTARY

CASE NUMBER	TYPE TRIAL REQUESTED	DATE PRESENTED	ESTIMATED TRIAL TIME
00-1369-CD	(X) Jury ( ) Non-Jury		
Date Complaint	( ) Arbitration		
Filed: 11/6/00			<u>5</u> Days

PLAINTIFF(S)

EDWARD A. HARZINSKI

DEFENDANT(S)

CHESTER L. BRIGGS, individually

ADDITIONAL DEFENDANT(S)

CHESTER L. BRIGGS, as agent for HUEYS  
EXCAVATING, and HUEYS EXCAVATING

JURY DEMAND FILED BY:

Plaintiff

Check Block if  
a Minor is a  
Party to the  
Case

DATE JURY DEMAND FILED:

7/22/02

DEC 6 9 2002

AMOUNT AT ISSUE CONSOLIDATION DATE CONSOLIDATION ORDERED

more than  
\$ arbitration limits( ) yes (X) no

William A. Shaw  
Prothonotary

No CEM copy to C/A

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.

Samuel Cohen, Esquire  
Richard H. Milgrub, Esquire

215-836-0400  
814-765-1717

FOR THE PLAINTIFF

TELEPHONE NUMBER

John J. Donnelly  
FOR THE DEFENDANT

610-892-7600  
TELEPHONE NUMBER

FOR ADDITIONAL DEFENDANT

TELEPHONE NUMBER

**FILED**

**DEC 09 2002**

**William A. Shaw  
Prothonotary**

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS,  
individually, CHESTER L.  
BRIGGS, as agent for  
HUEYS EXCAVATING, and  
HUEYS EXCAVATING,  
Defendants

Case No. 00-1369-CD

Type of Action:

Personal Injury

Type of Pleading:

Praecipe to Place Case on  
Trial List

Filed on Behalf of:

Plaintiff

Counsel of Record for this  
Party:

Richard H. Milgrub, Esquire  
Supreme Court I.D. 19865

211 North Second Street  
Clearfield, PA 16830  
(814) 765-1717

**FILED**

DEC 09 2002

6712:40h  
William A. Shaw  
Prothonotary

no c/c

COPY TO C/A

*[Signature]*

THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

109 NORTH BRADY STREET  
DUBOIS, PA 15801

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

EDWARD A. HARZINSKI,  
Plaintiff

-vs-

CHESTER L. BRIGGS,  
individually, CHESTER L.  
BRIGGS, as agent for  
HUEYS EXCAVATING, and  
HUEYS EXCAVATING,  
Defendants

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No. 00-1369-CD

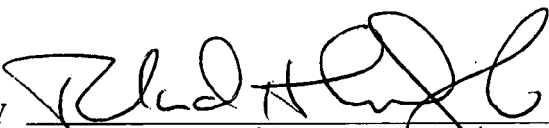
PRAECIPE TO PLACE THE CASE OF THE TRIAL LIST

TO THE PROTHONOTARY:

Please place the above-captioned case on the next  
regularly-scheduled Trial List.

Date: 12/9/02

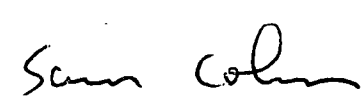
By

  
Richard H. Milgrub, Esquire

Date:

12/9/02

By

  
Samuel Cohen, Esquire

THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

109 NORTH BRADY STREET  
DUBOIS, PA 15801



<p><b>RICHARD H. MILGRUB</b> <i>Attorney &amp; Counselor at Law</i> 211 NORTH SECOND STREET CLEARFIELD, PENNSYLVANIA 16830</p>			
--	--	--	--

**FILED**

DEC 09 2002

William A. Shaw  
Prothonotary

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

EDWARD A. HARZINSKI

Plaintiff,

NO. 00-1369-00

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

Type of Action:  
Personal Injury

Type of Pleading  
Defendants' Motion to Strike the Case  
from the Trial List

Filed on behalf of Defendants,  
Chester L. Briggs, individually and  
Chester L. Briggs, as agent for  
Hueys Excavating, and Hueys  
Excavating

Counsel of Record for this Party

Richard J. Landry, Esquire  
I.D. No.: 28522

Donnelly & Associates, P.C.  
323 East Front Street  
Media, PA 19063  
(610) 892-7600

**FILED**

DEC 30 2002

William A. Shaw  
Prothonotary

**DONNELLY & ASSOCIATES, P.C.**  
**BY: RICHARD J. LANDRY, ESQUIRE**  
**ATTORNEY I.D. #28522**  
322 East Front Street  
Media, Pa. 19063  
(610) 892-7600

**ATTORNEY FOR DEFENDANTS**  
**CHESTER L. BRIGGS, individually**  
**and CHESTER L. BRIGGS as agent**  
**for HUEYS EXCAVATING and**  
**HUEYS EXCAVATING**

---

EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

---

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2003, upon consideration of Defendants'  
Motion to Strike this Matter from the Trial List and any answer thereto, it is hereby ORDERED  
and DECREED that this matter shall be stricken from the trial list.

BY THE COURT:

---

J.

**DONNELLY & ASSOCIATES, P.C.**  
**BY: RICHARD J. LANDRY, ESQUIRE**  
**ATTORNEY I.D. #28522**  
322 East Front Street  
Media, Pa. 19063  
(610) 892-7600

**ATTORNEY FOR DEFENDANTS**  
**CHESTER L. BRIGGS, individually**  
**and CHESTER L. BRIGGS as agent**  
**for HUEYS EXCAVATING and**  
**HUEYS EXCAVATING**

---

EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

---

**MOTION TO STRIKE THE CASE FROM THE TRIAL LIST**

Defendants, Chester L. Briggs, individually, and Chester L. Briggs as agent for Hueys Excavating and Hueys Excavating, by their undersigned attorneys, Donnelly & Associates, hereby requests that the Court enter an Order pursuant to 46 J.D.R.C.P. 212.2(b) striking this case from the trial list and in support thereof avers as follows:

1. This case should not be placed on the trial list because discovery has not been completed. Specifically, Defendants are in the process of scheduling a vocational expert to examine the Plaintiff in response to the vocational report of Plaintiff's expert, Harold V. Kulman. Plaintiff's attorney, Samuel Cohen, co-counsel to Richard H. Milgrub, has agreed that Plaintiff will submit to this examination.

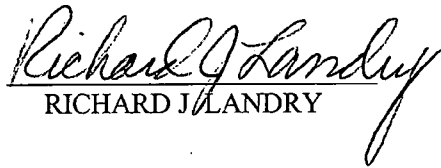
2. This case is also not ready for trial because the parties are presently in the process of scheduling a mediation of this matter with mediator, Harris Bock, where it is planned

that Plaintiff, himself, and the adjuster for Defendants' insurance carrier, Meridian Insurance Company, will personally attend.

3. This case has never been listed for trial previously.

4. Because discovery has not been completed and because a mediation of this matter is being scheduled, this case is not ready to be listed for trial and so should be stricken from the trial list.

DONNELLY & ASSOCIATES, P.C.

By:   
RICHARD J. LANDRY

DONNELLY & ASSOCIATES, P.C.  
BY: RICHARD J. LANDRY, ESQUIRE  
ATTORNEY I.D. #28522  
322 East Front Street  
Media, Pa. 19063  
(610) 892-7600

ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
and CHESTER L. BRIGGS as agent  
for HUEYS EXCAVATING and  
HUEYS EXCAVATING

---

EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

---

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' MOTION TO STRIKE  
THIS MATTER FROM THE TRIAL LIST**

46 J.D.R.C.P. 212.2(b) provides that the Court may, upon Motion of a party objecting to the case being listed for trial, strike the case from the trial list. Because discovery has not been completed – Defendants are in the process of scheduling a vocational expert examination in response to Plaintiff's vocational expert report – and because the parties are in the process of scheduling a mediation of this matter before mediator, Harris Bock, which will be attended by Plaintiff and the adjuster for Defendants' insurance carrier, this matter is not ready for trial and so should be stricken from the trial list pursuant to the rule 46 J.D.R.C.P. 212.2(b).

WHEREFORE, Defendants respectfully request that this Court strike this matter from the trial list pursuant to 46 J.D.R.C.P. 212.2(b).

DONNELLY & ASSOCIATES, P.C.

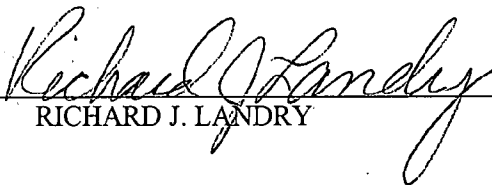
By:   
RICHARD J. LANDRY

VERIFICATION

I, RICHARD J. LANDRY, ESQUIRE, the attorney for the defendants, Allstate Insurance Company, hereby verify that I have personal knowledge of the facts set forth in the foregoing Motion to Compel Depositions, and that said facts are true and correct to the best of my knowledge, information and belief.

I understand the statements in said Response are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

BY:

  
RICHARD J. LANDRY

DONNELLY & ASSOCIATES, P.C.  
BY: RICHARD J. LANDRY, ESQUIRE  
ATTORNEY I.D. #28522  
322 East Front Street  
Media, Pa. 19063  
(610) 892-7600

ATTORNEY FOR DEFENDANTS  
CHESTER L. BRIGGS, individually  
and CHESTER L. BRIGGS as agent  
for HUEYS EXCAVATING and  
HUEYS EXCAVATING

EDWARD A. HARZINSKI

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

Plaintiff,

CIVIL DIVISION  
NO. 00-1369-CO

vs.

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for  
HUEYS EXCAVATING, and HUEYS  
EXCAVATING

Defendants,

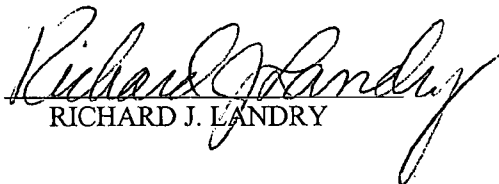
**CERTIFICATE OF SERVICE**

RICHARD J. LANDRY., ESQUIRE, attorney for defendants, hereby certifies that a true  
and correct copy of defendant's Motion to Compel Depositions was served upon all counsel of  
record by United States First Class Mail.

DONNELLY & ASSOCIATES, P.C.

Date: 12-27-02

By:

  
RICHARD J. LANDRY



CP

<b>FILED</b> DEC 30 7 30Z M 19:33 84 William A. Shaw Prothonotary			
DONNELLY & ASSOCIATES, P.C. ATTORNEYS AT LAW 323 East Front Street Media, Pennsylvania 19063 Phone: (610) 892-7600 Fax: (610) 892-7699			

100 Amy Landry  
CP

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

EDWARD A. HARZINSKI

-vs-

No. 00 - 1369 - CD

CHESTER L. BRIGGS, individually, and  
CHESTER L. BRIGGS as agent for HUEYS:  
EXCAVATING, and HUEYS  
EXCAVATING

**ORDER**

NOW, this 2<sup>nd</sup> day of January, 2003, it is the ORDER of this Court that the above-captioned matter is hereby continued and the Court Administrator directed to place this matter on the Call of the Civil List for April 1, 2003, based upon defense counsel's representation that a vocational examination will take place on the 27<sup>th</sup> day of January, 2003, and that a Mediation before Harris Bock, Esquire, will take place on February 29, 2003. Absolutely no further continuances will be granted.

By the Court,

President Judge

**FILED**

JAN 02 2003

William A. Shaw  
Prothonotary

FILED

ICC Atty Cohen

0/3:15 ~~RD~~ ICC Atty M. Grab

JAN 02 2003

ICC Atty Landrey (Donnelly & Assoc)

William A. Shaw  
Prothonotary



CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

EDWARD HARZINSKI

-VS-

BRIGGS, ET AL.

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of RICHARD J. LANDRY, ESQ.  
certifies that

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) The parties have waived the twenty-day notice provided in Rules 4009.21 and 4009.22 and,
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

DATE: 01/21/2003

MCS on behalf of  
Richard J. Landry, Esq.  
RICHARD J. LANDRY, ESQ.  
Attorney for DEFENDANT

FILED

JAN 27 2003

William A. Shaw  
Prothonetary

DE12-222610 74531-L12



1601 Market Street, Suite 800, Philadelphia Pennsylvania 19103  
(215) 246 - 0900 Fax Number (215) 246 - 0959

**URGENT!!!!!!**

**URGENT!!!!!!**

**URGENT!!!!!!**

JANUARY 21, 2003

EDWARD HARTZINSKI  
EDWARD HARTZINSKI Vs BRIGGS, ET AL.

DONNELLY & ASSOCIATES  
RICHARD J. LANDRY, ESQ. - (610) 892-7699

We have been requested by the above-mentioned counsel to obtain material on an expedited basis from the below listed custodians. In order to comply with this request we must have your signature indicating that you waive the twenty-day notice period provided in Rules 4009.21 and 4009.22. Please fax this form to us immediately at (215) 246-0959 with your signature so that we may comply with this request.

Your cooperation would be greatly appreciated.

Sincerely,

SAKINAH PRICE

Custodians:

CURWENSVILLE AREA SCHOOL DIST. - SCHOLASTIC  
D.C. GORLICH EXPLOSIVE CO. - EXPLOIMENT

Counsel:

RICHARD MILGRUB, ESQUIRE (814) 765-4410  
I agree to waive waiting period Richard Milgrub Date: 1/21/03  
Copies: Yes ☒ No ☐ I agree to pay the invoice provided with the documents.

I do not agree to waive rule: \_\_\_\_\_ Date: \_\_\_\_\_

SAMUEL COHEN, ESQUIRE (215) 636-0403  
I agree to waive waiting period \_\_\_\_\_ Date: \_\_\_\_\_  
Copies: Yes ☐ No ☐ I agree to pay the invoice provided with the documents

I do not agree to waive rule: \_\_\_\_\_ Date: \_\_\_\_\_

RRW1-138323 74531-C02

01/21/2003 11:03

NO.456 0001



1601 Market Street, Suite 800, Philadelphia Pennsylvania 19103  
(215) 246-0900 Fax Number (215) 246-0959

**URGENT!!!!****URGENT!!!!****URGENT!!!!**

JANUARY 21, 2003

EDWARD HARKINSKI  
EDWARD HARKINSKI vs BRIGGS, ET AL.

DONNELLY & ASSOCIATES  
RICHARD J. LANDRY, ESQ. - (610) 892-7699

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Custodians:

CUMMINGSVILLE AREA SCHOOL DIST. - SCHOLASTIC  
D.C. GORLICH EXPLOSIVE CO. - EMPLOYMENT

Counsel:

RICHARD MITCHELL, ESQUIRE (814) 765-4410

I agree to waive waiting period \_\_\_\_\_ Date: \_\_\_\_\_

Copies: Yes ☐ No ☐ I agree to pay the invoice provided with the documents.

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SAMUEL COHEN, ESQUIRE (215) 636-0403

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I do not agree to waive rule: \_\_\_\_\_ Date: \_\_\_\_\_

RRW1-138323 74531-C02

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

EDWARD HARZINSKI

-VS-

BRIGGS, ET AL.

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

CURWENSVILLE AREA SCHOOL DIST. SCHOLASTIC  
D.C. GUELICH EXPLOSIVE CO. EMPLOYMENT

TO: RICHARD MILGRUB, ESQUIRE  
SAMUEL COHEN, ESQUIRE

MCS on behalf of RICHARD J. LANDRY, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 01/21/2003

MCS on behalf of

RICHARD J. LANDRY, ESQ.  
Attorney for DEFENDANT

CC: RICHARD J. LANDRY, ESQ. - HARZINSKI

Any questions regarding this matter, contact

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

Vs.

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

No. 2000-01369-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: CUSTODIAN OF RECORDS FOR: CURWENSVILLE AREA SCHOOL DISTRICT  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to  
produce the following documents or things: SEE ATTACHED  
MCS GROUP INC., 1601 MARKET STREET, SUITE 800, PHILADELPHIA PA 19103

(Address)

You may deliver or mail legible copies of the documents or produce things requested by  
this subpoena, together with the certificate of compliance, to the party making this request at the  
address listed above. You have the right to seek in advance the reasonable cost of preparing the  
copies or producing the things sought.

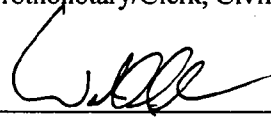
If you fail to produce the documents or things required by this subpoena within twenty  
(20) days after its service, the party serving this subpoena may seek a court order compelling you  
to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: RICHARD J. LANDRY, ESQ.  
ADDRESS: 323 E. FRONT STREET  
MEDIA PA 19063  
TELEPHONE: (215) 246-0900  
SUPREME COURT ID #                       
ATTORNEY FOR: THE DEFENDANT

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

  
Deputy

**JAN 23 2003**

DATE: Tuesday, January 14, 2003  
Seal of the Court

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA



## **EXPLANATION OF REQUIRED RECORDS**

**TO: CUSTODIAN OF RECORDS FOR:**

**CURWENSVILLE AREA SCHOOL DIST.  
650 BEECH STREET**

**CURWENSVILLE, PA 16833**

**RE: 74531  
EDWARD HARZINSKI**

**SUBJECT GRADUATED 1998.**

Entire scholastic file, including but not limited to files, memoranda, correspondence, notes, records relating to attendance, student history and/or transfers, grades, merits, awards, disciplinary, medical/physicals, including any and all such items as may be stored in a computer database or otherwise in electronic form, pertaining to:

**Dates Requested: up to and including the present.**

**Subject : EDWARD HARZINSKI**

**R.R. 1, BOX 123, OLANTA, PA 16863**

**Social Security #: 180-60-7970**

**Date of Birth: 11-16-1979**

CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

EDWARD HARZINSKI

-VS-

BRIGGS, ET AL.

COURT OF COMMON PLEAS

TERM,

CASE NO: 00-1369-CD

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- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

MCS on behalf of

DATE: 01/21/2003

RICHARD J. LANDRY, ESQ.  
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

EDWARD HARZINSKI

TERM,

-VS-

CASE NO: 00-1369-CD

BRIGGS, ET AL.

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

CURWENSVILLE AREA SCHOOL DIST. SCHOLASTIC  
D.C. GUELICH EXPLOSIVE CO. EMPLOYMENT

TO: SAMUEL COHEN, ESQUIRE  
RICHARD MILGRUB, ESQUIRE

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DATE: 01/21/2003

MCS on behalf of

RICHARD J. LANDRY, ESQ.  
Attorney for DEFENDANT

CC: RICHARD J. LANDRY, ESQ. - HARZINSKI

Any questions regarding this matter, contact

THE MCS GROUP INC.  
1601 MARKET STREET  
#800  
PHILADELPHIA, PA 19103  
(215) 246-0900

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Edward A. Harzinski  
Plaintiff(s)

Vs.

Chester L. Briggs  
Hueys Excavating  
Defendant(s)

No. 2000-01369-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: CUSTODIAN OF RECORDS FOR: D.C. GUELICH EXPLOSIVE CO.  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to  
produce the following documents or things: SEE ATTACHED  
MCS GROUP INC., 1601 MARKET STREET, SUITE 800, PHILADELPHIA PA 19103

(Address)

You may deliver or mail legible copies of the documents or produce things requested by  
this subpoena, together with the certificate of compliance, to the party making this request at the  
address listed above. You have the right to seek in advance the reasonable cost of preparing the  
copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty  
(20) days after its service, the party serving this subpoena may seek a court order compelling you  
to comply with it.

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NAME: RICHARD J. LANDRY, ESQ.  
ADDRESS: 323 E. FRONT STREET  
MEDIA PA 19063  
TELEPHONE: (215) 246-0900  
SUPREME COURT ID #                       
ATTORNEY FOR: THE DEFENDANT

BY THE COURT:

**JAN 23 2003**

DATE: Tuesday, January 14, 2003  
Seal of the Court

William A. Shaw  
Prothonotary/Clerk, Civil Division

  
Deputy

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

## **EXPLANATION OF REQUIRED RECORDS**

**TO: CUSTODIAN OF RECORDS FOR:**

**D.C. GUELICH EXPLOSIVE CO.  
RD 3, BOX 125 A  
ERIE PIKE**

**CLEARFIELD, PA 16830**

**RE: 74531  
EDWARD HARZINSKI**

**EMPLOYED STARTED 1998.**

**Any and all employment records, applications, files, memoranda, compensation, time and attendance records, personnel records, payroll and salary reports and all medical records as an employee, including any and all such items as may be stored in a computer database or otherwise in electronic form, pertaining to:**

**Dates Requested: up to and including the present.**

**Subject : EDWARD HARZINSKI**

**R.R. 1, BOX 123, OLANTA, PA 16863**

**Social Security #: 180-60-7970**

**Date of Birth: 11-16-1979**

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

EDWARD HARZINSKI,

Plaintiff

-vs-

CHESTER L. BRIGGS,  
individually, and  
CHESTER L. BRIGGS, as agent  
for HUEY'S EXCAVATING, and  
HUEY'S EXCAVATING,

Defendants

No. 00-1369 CD

Type of Action:  
Personal Injury

Type of Pleading:  
Praecipe to Settle  
and Discontinue

Filed on Behalf of:  
Plaintiff

Counsel of Record for this  
Party:

Samuel Cohen, Esquire  
Supreme Court I.D. 27544

117 South 17th Street  
Suite 2010  
Philadelphia, PA 19103

Richard H. Milgrub, Esquire  
Supreme Court I.D. 19865

211 North Second Street  
Clearfield, PA 16830  
(814) 765-1717

**FILED**

MAR 17 2003

William A. Shaw  
Prothonotary

22

*with me*

*8/15/18*

*Q. 2/25/18*

*6/15/18*

**FILED**

MAR 17 2003

0/3:22

William A. Shaw  
Prosecutor

*WAS*

*Rec'd  
7:00*

*1 cc to att*

9  
IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Edward A. Harzinski

Vs. .  
Chester L. Briggs  
Hueys Excavating

No. 2000-01369-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 03/17/03, marked:

Discontinuance

Record costs in the sum of \$87.00 have been paid in full by Milgrub, Richard, Esq..

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 17th day of March A.D. 2003.

  
\_\_\_\_\_  
William A. Shaw, Prothonotary

CC-1