

01-266-CD.
LUCILLE M. FLEGAL -vs- CLEARFIELD LODGE NO. 540 OF THE BPOE,
a/k/a CLEARFIELD LODGE NO. 540 OF THE BPOE
OF THE USA

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

LUCILLE M. FLEGAL,

Plaintiff

VS.

NO. 01- 266 -CD

CLEARFIELD LODGE No. 540 of
THE BENEVOLENT AND PROTECTIVE
ORDER OF ELKS, a/k/a
CLEARFIELD LODGE No. 540, OF
THE BENEVOLENT AND PROTECTIVE
ORDER OF ELKS, OF THE UNITED
STATES OF AMERICA,

Defendant

Type of Case: Civil

Type of Pleading:
PRAECIPE FOR ISSUANCE OF
SUMMONS

Filed on Behalf of:
Plaintiff

Counsel of Record for this Party:

R. DENNING GEARHART
Supreme Court No.: 26540

215 E. Locust Street
Clearfield, PA 16830
814-765-1581

FILED

FEB 23 2001

William A. Shaw
Prothonotary

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

LUCILLE M. FLEGAL, Plaintiff

vs.

No. 01- -CD

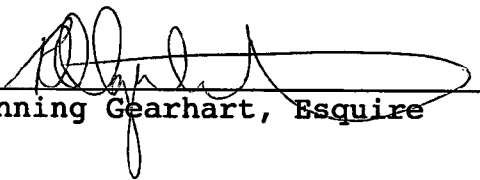
CLEARFIELD LODGE No. 540 of the
BENEVOLENT AND PROTECTIVE ORDER OF
ELKS, a/k/a CLEARFIELD LODGE NO.
540, OF THE BENEVOLENT AND
PROTECTIVE ORDER OF ELKS, OF
THE UNITED STATES OF AMERICA,
Defendant

PRAECIPE

TO WILLIAM A. SHAW, PROTHONOTARY:

Please issue a Writ of Summons against Defendant,
CLEARFIELD LODGE No. 540 of the BENEVOLENT AND PROTECTIVE ORDER
OF ELKS, a/k/a CLEARFIELD LODGE NO. 540, OF THE BENEVOLENT AND
PROTECTIVE ORDER OF ELKS, OF THE UNITED STATES OF AMERICA.

BY:


R. Denning Gearhart, Esquire

Date: 2-23-01

Document
Printed and
for service

Prothonotary

FILED

FEB 23 2001

William A. Shaw
Prothonotary

2 wirts to atty
Pd. \$80.00

MAY 2, 2001 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

W. A. Shaw
Deputy Prothonotary

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

COPY

SUMMONS

Lucille M. Flegal

Vs.

NO.: 2001-00266-CD

**Clearfield Lodge No. 540 of the Benevolent
and Protective Order of Elks, a/k/a Clearfield
Lodge No. 540 of the Benevolent and Protective
Order of Elks, of the United Starts of America**

TO: CLEARFIELD LODGE NO. 540

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

Date: 02/23/2001

William A. Shaw
Prothonotary

Issuing Attorney:

R. Denning Gearhart

Clearfield, PA 16830

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

LUCILLE M. FLEGAL,	:	
	:	
Plaintiff	:	
	:	
VS.	:	NO. 01-266-CD
	:	
CLEARFIELD LODGE NO. 540	:	
OF THE BENEVOLENT AND	:	
PROTECTIVE ORDER OF ELKS a/k/a	:	
CLEARFIELD LODGE NO. 540 OF	:	
THE BENEVOLENT AND PROTECTIVE	:	
ORDER OF ELKS OF THE UNITED	:	
STATES OF AMERICA,	:	
Defendant	:	

PRAECIPE TO REISSUE

TO THE PROTHONOTARY OF SAID COURT:

Please reissue the Write of Summons filed in the above captioned action.


R. DENNING GEARHART, ESQUIRE

Dated: May 1, 2001

FILED

MAY 02 2001
0/2:20/44
William A. Shaw
Prothonotary
10
7.00

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

SUMMONS

Lucille M. Flegal

Vs.

NO.: 2001-00266-CD

Clearfield Lodge No. 540 of the Benevolent
and Protective Order of Elks, a/k/a Clearfield
Lodge No. 540 of the Benevolent and Protective
Order of Elks, of the United Starts of America

TO: CLEARFIELD LODGE NO. 540

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

Date: 02/23/2001



William A. Shaw
Prothonotary

Issuing Attorney:

R. Denning Gearhart

Clearfield, PA 16830

Mar 2, 2001 Document
~~Reinstated~~/Reissued to Sheriff/~~Attorney~~
for service.

~~Deputy~~ Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10964

FLEGAL, LUCILLE M.

01-266-CD

VS.

CLEARFIELD LODGE NO. 540 OF THE BENEVOLENT AND PROTECTIVE O

SUMMONS

SHERIFF RETURNS

NOW MAY 4, 2001 AT 9:50 AM DST SERVED THE WITHIN SUMMONS ON CLEARFIELD
LODGE NO. 540 OF THE BENEVOLENT & PROTECTIVE ORDER OF ELKS, DEFENDANT,
AT THE COURTHOUSE, E. MARKET ST., CLEARFIELD, CLEARFIELD COUNTY,
PENNSYLVANIA BY HANDING TO RONALD HELSEL, SECRETARY OF B.P.O.E
540, A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE
KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: HAWKINS

Return Costs

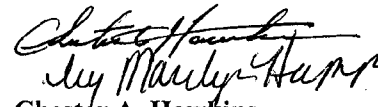
Cost	Description
19.34	SHFF. HAWKINS PAID BY: ATTY.
10.00	SURCHARGE PAID BY: ATTY.

Sworn to Before Me This

4th Day Of MAY 2001

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

So Answers,


Chester A. Hawkins
Sheriff

FILED

MAY 04 2001

6/2:30/01
William A. Shaw
Prothonotary

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

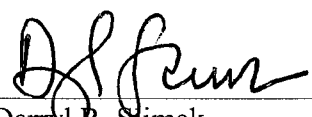
No: 2001 - 00266 - C.D.

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter our appearance on behalf of the Defendant(s), Clearfield Lodge No. 540 of the Benevolent and Protective Order of Elks in the above-captioned matter.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Darryl R. Slimak
Attorneys for Defendant
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: 5-9-01

FILED

MAY 10 2001

12:15 pm.

William A. Shaw
Prothonotary

no cc
yes

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Praecipe for Entry of Appearance on
Behalf of Defendant, in the above-captioned matter was mailed by regular mail, postage prepaid,
at the Post Office, State College, Pennsylvania, on this 9th day of May, 2001, to the attorney(s) of
record:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Darryl R. Shindak
Attorneys for Defendant
LODGE No. 540 B.P.O.E.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

PRAECIPE FOR RULE TO FILE A COMPLAINT

TO THE PROTHONOTARY:

Please issue a Rule on Plaintiff to file her Complaint within twenty (20) days from
service thereof or suffer a judgment of non pros against her.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Darryl R. Slimak
Richard K. Laws
Attorneys for Defendant
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: May 23, 2001

FILED

MAY 24 2001
12:42/4 rule to
William A. Shaw
Prothonotary
Atty Slimak

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

COPY

RULE

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

PROTHONOTARY

Date: _____

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Praecept for Rule to File a Complaint on Behalf of Defendant, in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 23rd day of May, 2001, to the attorney(s) of record:

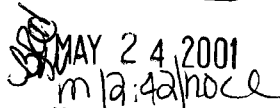
R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Darryl R. Slimak
Richard K. Laws
Attorneys for Defendant
LODGE No. 540 B.P.O.E.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED


MAY 24 2001
m 12:42/noce
William A. Shaw
Prothonotary

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Rule to File a Complaint in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 25th day of May, 2001, to the attorney(s) of record:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Darryl R. Slimak
Richard K. Laws
Attorneys for Defendant
LODGE No. 540 B.P.O.E.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

MAY 29 2001 *gl*
m 12:30 PM
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW
NO. 01-266-CD

LUCILLE M. FLEGAL,
Plaintiff
VS.

CLEARFIELD LODGE NO. 540,
Defendant

COMPLAINT

FILED

JUN 13 2001

013:23/4 cc atty

William A. Shaw
Prothonotary

W. Gearhart

2

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

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

LUCILLE M. FLEGAL,
Plaintiff

vs.

CLEARFIELD LODGE No 540
of THE BENEVOLENT AND
PROTECTIVE ORDER OF ELKS,
a/k/a CLEARFIELD LODGE
No. 540, OF THE
BENEVOLENT AND PROTECTIVE:
ORDER OF ELKS, OF THE
UNITED STATES OF AMERICA,
Defendant

No. 01-266-CD

Type of Case: Civil

Type of Pleading: Complaint

Filed on behalf of:
Plaintiff

Counsel of Record for this Party:
R. Denning Gearhart, Esquire

Supreme Court No.: 26540

215 E. Locust Street
Clearfield, Pennsylvania 16830
(814) 765-1581

FILED

JUN 13 2001

William A. Shaw
Prothonotary

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

LUCILLE M. FLEGAL,	:	
Plaintiff	:	No. 01-266-CD
	:	
-vs-	:	
	:	
CLEARFIELD LODGE No. 540 of THE	:	
BENEVOLENT AND PROTECTIVE ORDER OF	:	
ELKS, a/k/a CLEARFIELD LODGE No.	:	
540, OF THE BENEVOLENT AND	:	
PROTECTIVE ORDER OF ELKS, OF THE	:	
UNITED STATES OF AMERICA, Defendant:	:	

NOTICE TO DEFEND

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 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.

DAVID S. MEHOLICK, COURT ADMINISTRATOR
Clearfield County Court House
Clearfield, PA 16830
(814) 765-2641, Ext. 1303

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

LUCILLE M. FLEGAL, :
Plaintiff : No. 01-266-CD

-vs- :

CLEARFIELD LODGE No. 540 of THE :
BENEVOLENT AND PROTECTIVE ORDER OF :
ELKS, a/k/a CLEARFIELD LODGE No. :
540, OF THE BENEVOLENT AND :
PROTECTIVE ORDER OF ELKS, OF THE :
UNITED STATES OF AMERICA, Defendant:

COMPLAINT

Plaintiff, LUCILLE M. FLEGAL, by and through her
attorney, R. Denning Gearhart, Esquire, and sets forth as
follows her cause of action against Defendant:

1. Plaintiff, LUCILLE M. FLEGAL, is an individual
residing at R. D. #1, Box 280, Clearfield, Clearfield County,
Pennsylvania 16830.

2. Defendant, CLEARFIELD LODGE No. 540 of THE
BENEVOLENT AND PROTECTIVE ORDER OF ELKS, a/k/a CLEARFIELD LODGE
No. 540, OF THE BENEVOLENT AND PROTECTIVE ORDER OF ELKS, OF THE
UNITED STATES OF AMERICA , is believed to be a non profit
corporation, organized and existing under the laws of the
Commonwealth of Pennsylvania, with offices at 301 North Second
Street, Clearfield, Clearfield County, Pennsylvania 16830.

3. On or about February 25, 1999, Defendant was the
owner and in possession of certain premises located at 301 North
Second Street, Clearfield, Clearfield County, Pennsylvania,

including parking lots and walkways.

4. At all relevant times hereto, Defendant was in the exclusive custody, possession and control of said premises and it was Defendant's duty to keep and maintain these premises in a reasonably safe condition for those persons lawfully thereon.

5. On or about February 25, 1999, Plaintiff was an invitee at the aforesaid premises.

6. On or about February 25, 1999, at or about 10:00 p.m., Plaintiff, after eating dinner and playing cards with the Coutery Club, was in the process of leaving the building of Defendant and was in the process of walking on a walkway connecting the building to the parking lot.

7. As Plaintiff was so walking, she slipped on snow and/or ice causing her to fall, suffering severe and permanent injuries, which are hereinafter more fully set forth.

8. The negligence and carelessness of the Defendant consisted, inter alia, of the following:

a. Failure to remove ice and/or snow from the walkway so that the same was not safe to traverse;

b. Failure to apply any anti-skid materials on the walkway so that the same was not safe to traverse;

c. Failure to maintain said walkway in a safe and passable condition;

d. Violation of a Clearfield Borough Ordinance regarding

removal of snow and ice from walkways;

e. Failure to warn Plaintiff as to the existence of the snow and/or ice and the dangerous condition which it caused;

f. Failure to take other necessary precautions to prevent falls from occurring; and

g. Being otherwise negligent and careless under the circumstances.

9. As a direct and proximate result of the negligence and carelessness of the Defendant as aforesaid, Plaintiff was caused to suffer serious and permanent personal injuries, including, but not limited to, post displaced left collis fracture with subsequent carpal tunnel syndrome with severe nerve damage, swelling and bruises.

10. As a direct and proximate result of the injuries sustained, Plaintiff suffered and/or suffers and/or will continue to suffer from physical and/or mental anguish, pain, suffering and inconvenience.

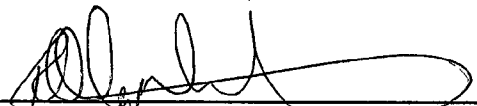
11. As a direct and proximate result of the injuries sustained, Plaintiff has been deprived, and may continue to be deprived, of the ordinary pleasures of life and is unable to engage in many activities which she was previously able to engage in prior to this incident.

12. As a direct and proximate result of the injuries sustained, Plaintiff has been compelled and/or is compelled

and/or may continue to be compelled to expend monies for medical aide, medicines, treatment and the like.

WHEREFORE, Plaintiff claims damages from Defendant for an amount in excess of \$25,000.00.

By:



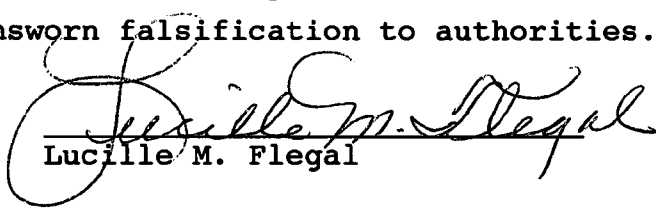
R. Denning Gearhart, Esquire
Attorney for Plaintiff,
Lucille M. Flegal

215 East Locust Street
Clearfield, PA 16830
(814) 765-1581

Dated: June 13, 2001

VERIFICATION

The undersigned verifies that she is the Plaintiff in the within action, and that the statements made in the foregoing Complaint are true and correct to the best of her knowledge, information and belief. The undersigned understands that false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.


Lucille M. Flegal

DATE: June 13th, 2001

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

LUCILLE M. FLEGAL,
Plaintiff

No. 01-266-CD

-vs-

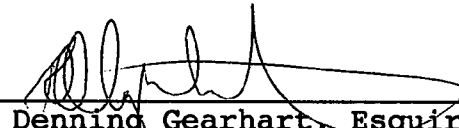
CLEARFIELD LODGE No. 540 of THE
BENEVOLENT AND PROTECTIVE ORDER OF
ELKS, a/k/a CLEARFIELD LODGE No.
540, OF THE BENEVOLENT AND
PROTECTIVE ORDER OF ELKS, OF THE
UNITED STATES OF AMERICA, Defendant:

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy
of the Plaintiff's Complaint to Counsel for Defendant by regular
U. S. mail on the 13th day of June, 2001, as follows:

Darryl R. Slimak, Esquire
Richard K. Laws, Esquire
McQUAIDE BLASKO SCHWARTZ, FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801

By


R. Denning Gearhart, Esquire
Attorney for Plaintiff,
Lucille M. Flegal

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant's Interrogatories and
Request for Production of Documents Directed to Plaintiff (Set One) in the above-captioned
matter was mailed by regular mail, postage prepaid, at the Post Office, State College,
Pennsylvania, on this 25th day of June, 2001, to the attorney(s) of record:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Darryl R. Slimak

Darryl R. Slimak
Richard K. Laws

Attorneys for Defendant
CLEARFIELD ELKS LODGE NO. 540
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

JUN 26 2001

William A. Shaw
Prothonotary

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant's Second Request for
Production of Documents and Tangible Things Directed to Plaintiff in the above-captioned

matter was mailed by regular mail, postage prepaid, at the Post Office, State College,

Pennsylvania, on this 22nd day of June, 2001, to the attorney(s) of record:
25th

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Darryl R. Slimak

Darryl R. Slimak
Richard K. Laws
Attorneys for Defendant
CLEARFIELD ELKS LODGE NO. 540
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

JUN 26 2001
171107 NOCC
William A. Shaw
Prothonotary

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

JURY TRIAL DEMANDED

NOTICE TO PLEAD

TO: LUCILLE M. FLEGAL
c/o R. Denning Gearhart, Esquire

YOU ARE HEREBY notified to file a written response to the enclosed
Defendant's Preliminary Objections to Plaintiff's Complaint within twenty (20) days from the
date of service hereof or a judgment may be entered against you.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Chena L. Glenn-Hart
Chena L. Glenn-Hart
Attorney for Defendant
CLEARFIELD ELKS LODGE No. 540
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: 07-03-01

FILED

JUL 05 2001
William A. Shaw
Prothonotary

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice to Plead in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 3rd day of July, 2001, to the attorney(s) of record:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Chena L. Glenn-Flart

Attorneys for Defendant

CLEARFIELD ELKS LODGE No. 540

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION No. 01-266-CD

LUCILLE M. FLEGAL, Plaintiff

vs.

CLEARFIELD LODGE No. 540, of THE
BENEVOLENT AND PROTECTIVE ORDER
OF ELKS, a/k/a CLEARFIELD LODGE
No. 540, OF THE BENEVOLENT AND
PROTECTIVE ORDER OF ELKS, OF THE
UNITED STATES OF AMERICA,
Defendant

RESPONSE TO PRELIMINARY OBJECTIONS

FILED
17:35

AUG 06 2001

William A. Shaw
Prothonotary

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

COMMERCIAL PRINTING CO., CLEARFIELD, PA

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

LUCILLE M. FLEGAL,

Plaintiff

VS.

NO. 01-266-CD

CLEARFIELD LODGE No. 540
of THE BENEVOLENT AND
PROTECTIVE ORDER OF ELKS,
a/k/a CLEARFIELD LODGE
No. 540, OF THE
BENEVOLENT AND PROTECTIVE
ORDER OF ELKS, OF THE
UNITED STATES OF AMERICA,

Defendant

FILED

AUG 06 2001

William A. Shaw
Prothonotary

CASE NUMBER: 01-266-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: RESPONSE TO PRELIMINARY OBJECTIONS

FILED ON BEHALF OF: Plaintiff

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
215 East Locust Street
Clearfield, PA 16830
(814) 765-1581

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

LUCILLE M. FLEGAL,
Plaintiff

vs.

No. 01-266-CD

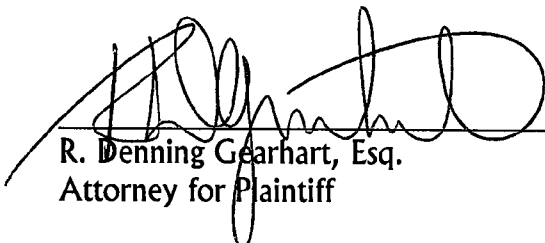
CLEARFIELD LODGE No. 540
of THE BENEVOLENT AND
PROTECTIVE ORDER OF ELKS,
a/k/a CLEARFIELD LODGE
No. 540, OF THE
BENEVOLENT AND PROTECTIVE
ORDER OF ELKS, OF THE
UNITED STATES OF AMERICA,
Defendant

RESPONSE TO PRELIMINARY OBJECTIONS

AND NOW, comes LUCILLE M. FLEGAL, by and through her attorney, R.
Denning Gearhart, Esq., who files a response to the Preliminary Objections filed to the above
as follows:

1. Plaintiff opposes the Preliminary Objections and will be filing an appropriate
Brief consistent with the Rules of Clearfield County.

Respectfully submitted,


R. Denning Gearhart, Esq.
Attorney for Plaintiff

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

LUCILLE M. FLEGAL,
Plaintiff

vs.

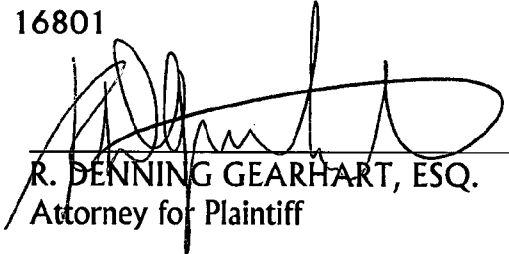
No. 01-266-CD

CLEARFIELD LODGE NO. 540 of THE
BENEVOLENT AND PROTETIVE
ORDER OF ELKS, a/k/a CLEARFIELD
LODGE No. 540, OF THE
BENEVOLENT AND PROTECTIVE
ORDER OF ELKS, OF THE
UNITED STATES OF AMERICA,
Defendant

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the Plaintiff's Response
to Preliminary Objections to the Defendant, through his attorney, by regular U.S. Mail on the
6th Day of August, 2001, as follows:

Richard K. Laws, Esq.
McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801


R. DENNING GEARHART, ESQ.
Attorney for Plaintiff

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No. 2001 - 00266 - C.D.

JURY TRIAL DEMANDED

Type of Pleading:
Notice of Intent to Serve a Subpoena
to Produce Documents and Things
for Discovery Pursuant to Rule
4009.21

Filed on Behalf of Defendant
CLEARFIELD LODGE No. 540

Counsel for Record for This Party:
Darryl R. Slimak, Esquire
I.D. No. 41695
Richard K. Laws, Esquire
I.D. No. 82369
McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED
OCT 09 2001

William A. Shaw
Prothonotary

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

JURY TRIAL DEMANDED

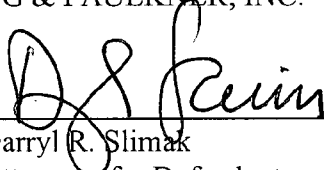
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 5th day of October, 2001, to the attorney(s) of record:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Darryl R. Slimak
Attorneys for Defendant
CLEARFIELD ELKS LODGE No. 540
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED NO CC
M117784
OCT 09 2001
KRX

William A. Shaw
Prothonotary

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

JURY TRIAL DEMANDED

PRAECIPE FOR ARGUMENT

TO THE PROTHONOTARY:

KINDLY SUBMIT THIS MATTER TO THE
COURT FOR ARGUMENT ONLY

1. The matter to be submitted for argument is Defendant's Preliminary Objections to Plaintiff's Complaint.
2. Oral argument is requested.
3. This is not a discovery matter.
4. I certify that notice has been given to all counsel of record and to all unrepresented parties of record of the filing of this Praecipe.

FILED

JUL 03 2001

William A. Shaw
Prothonotary

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: Chena L. Glenn-Hart
Chena L. Glenn-Hart
Attorneys for Defendant
CLEARFIELD ELKS LODGE No. 540
811 University Drive
State College, PA 16801
(814) 238-4926
FAX: (814) 234-5620

Date July 2, 2001

FILED

JUL 03 2001
11:00 AM
William A. Shaw
Prothonotary

AS

CA

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

JURY TRIAL DEMANDED

ORDER

AND NOW, this ____ day of _____, 2001 upon consideration of
Defendant's Preliminary Objections to Plaintiff's Complaint, said Preliminary Objections are
GRANTED. It is further ORDERED that Plaintiff's Complaint is hereby DISMISSED as to all
claims, with prejudice.

BY THE COURT:

J.

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

LUCILLE, M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER
of ELKS a/k/a CLEARFIELD LODGE No.
540 of the BENEVOLENT and
PROTECTIVE ORDER of ELKS, of the
UNITED STATES OF AMERICA,

Defendants.

No. 2001 - 00266 - C.D.

TYPE OF PLEADING:
**Defendant's Preliminary Objections to
Plaintiff's Complaint**

JURY TRIAL DEMANDED

TYPE OF CASE: **CIVIL**

FILED ON BEHALF OF:
DEFENDANT

COUNSEL OF RECORD FOR
THIS PARTY:
Darryl R. Slimak
I.D. #41695
Chena L. Glenn-Hart, Esq.
I.D. No. 82750
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
PH# (814) 238-4926
FAX#(814) 238-9624

FILED

JUL 03 2001

William A. Shaw
Prothonotary

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

JURY TRIAL DEMANDED

DEFENDANT'S PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT

AND NOW, comes the Defendant, by and through its attorney, McQuaide Blasko, and
files the within Preliminary Objections to Plaintiff's Complaint, as follows:

**I. MOTION TO DISMISS PLAINTIFF'S COMPLAINT BASED UPON LACK OF
JURISDICTION AND/OR IMPROPER FORM OF SERVICE**

1. The instant action was commenced on February 23, 2001, by the filing of a Writ of
Summons by Plaintiff, Lucille M. Flegal.

2. In the Complaint, Plaintiff alleges that she slipped and fell on Defendant's property
on February 25, 1999.

3. At the time of Plaintiff's alleged accident as well as through the present Defendant
was and remains a local Clearfield County entity with an address of 301 North Second Street,
Clearfield, Pennsylvania 16830.

4. As discussed more fully herein, Plaintiff made no attempt to effectuate service of the
aforementioned Writ of Summons until the Writ was eventually reissued on May 2, 2001, and,
thereafter, finally served via the Sheriff of Clearfield County on May 4, 2001. (See true and correct

copy of Docket Entries, attached hereto as Exhibit "A").

5. Indeed, the Clearfield County Prothonotary's office has confirmed that, upon issuance of the original Writ of Summons, on May 2, 2001, a notation was made upon the docket that the Writ was to be **returned to Plaintiff's counsel, as opposed to being forwarded to the Sheriff's office for service of process** as the law would recognize for effective service on a local Defendant. See Pa.R.Civ.P. 402 and 405. See also, Exhibit "A," attached hereto.

6. Until May 2, 2001, there is no indication of record that Plaintiff's counsel made any attempts whatsoever to forward the original Writ of Summons to the Sheriff of Clearfield County for service upon the Defendant, or that Plaintiff's counsel took any affirmative acts to notify the Defendant of the commencement of this lawsuit, as required by the Rules of Civil Procedure.

7. To the contrary of that mandated by the Rules of Civil Procedure and related Appellate Court case law, Plaintiff's counsel simply did nothing in terms of effectuating service of process of the Defendant until the original Writ of Summons was eventually reissued and finally served on Defendant on May 4, 2001.

8. Inasmuch as Plaintiff's Complaint concerns allegations of a "slip-and-fall" at Defendant's premises on February 25, 1999, at which time Plaintiff is alleging the existence of dangerous conditions causing her alleged fall, Plaintiff's cause of action arose on February 25, 1999, thus rendering any and all claims against Defendant barred by the applicable statute of limitations on February 25, 2001. See 42 Pa. C.S.A. §5524.

9. The case law of this Commonwealth is well settled that "the mere filing of a Praecipe for a Writ of Summons, without additional **affirmative** action to effect service of the Writ, **does not constitute a good faith effort to notify a Defendant that he is being sued**, and therefore is **not sufficient to toll the statute of limitations and preserve a cause of action.**" See i.e. Feher by

Feher v. Altman, 357 Pa. Super. 50, 515 A.2d 317, 318 (1986); Lamp v. Heyman, 469 Pa. 465, 366 A.2d 882, 885-886 (1976).

10. In this regard, the Appellate Courts have repeatedly held that “it is not necessary the plaintiff’s conduct be such that it constitutes some bad faith act or overt attempt to delay before the Lamp rule will apply,” to the contrary, **“simple neglect and mistake to fulfill the responsibility to see that requirements for service are carried out may be sufficient to bring the rule in Lamp to bear.”** See i.e. Rosenberg v. Nicholson, 408 Pa. Super. 502, 509-510, 597 A.2d 145, 148 (1991); Farinacci v. Beaver County Industrial Development Authority, 510 Pa. 589, 511 A.2d 757, 759 (1986).

11. It must be noted that in cases such as the instant one, i.e. wherein a Writ of Summons is filed, but not timely served, the Appellate Courts have placed the burden specifically **on the plaintiff to affirmatively** show that he has made a “good faith attempt” to have the Writ served. See i.e. Schriver v. Mazziotti, 432 Pa. Super. 276, 638 A.2d 224, 226 (1994); Feher by Feher v. Altman, 357 Pa. Super. 50, 515 A.2d 317, 319 (1986).

12. Defendant respectfully submits that Plaintiff’s failure to timely effectuate service of the original Writ of Summons, demonstrates a total lack of due diligence wherein Plaintiff made no effort to timely and properly notify the Defendant of the existence of the present lawsuit, and falls far short of the “good faith” effort mandated by the Pennsylvania Supreme Court.

13. Plaintiff made no effort to effectuate service of the original Writ of Summons in this case by promptly delivering same to the Sheriff of Clearfield County, but, instead, actively stalled and/or thwarted original service of process by purposefully retaining the original Writ of Summons and doing nothing further until the reissuance thereof on May 2, 2001.

14. Inasmuch as Plaintiff’s inactions in failing to effectuate timely and effective service

of process of the original Writ of Summons fails to toll the Statute of Limitations that expired on February 25, 2001, Defendant respectfully submits that Plaintiff is now precluded from proceeding with the instant claims, as a matter of law.

15. Accordingly, Defendant respectfully requests this Court to dismiss Plaintiff's claims against it, with prejudice, in accordance with the dictates of Lamp, supra, and its extensive progeny, and in light of the fact that any and all of Plaintiff's claims against Defendant are now time barred by the applicable statute of limitations.

WHEREFORE, the Defendant respectfully requests that all of the Plaintiff's claims against it be dismissed, and that Plaintiff's Complaint be dismissed, with prejudice.

Respectfully submitted,

McQUAIDE, BLASKO

By: 

Darryl R. Slinak

Chena L. Glenn-Hart

Attorneys for Defendant

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624

Dated: 07-02-01

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Preliminary Objections to Plaintiff's Complaint in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 2nd day of July, 2001, to the attorney(s) of record:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By:



Chena L. Glenn-Hart

Darryl R. Slimak

Attorneys for Defendant

LODGE No. 540 B.P.O.E.

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624



Date: 06/19/2001

Clearfield County Court of Common Pleas

User: JKENDRICK

Time: 01:16 PM

ROA Report

Page 1 of 1

Case: 2001-00266-CD

Current judge: No Judge

Date	Judge
Lucille M. Flegalvs. Clearfield Lodge No. 540 of the BPOE	
02/23/2001	Filing: Praeipce for Issuance of Summons Paid by: Gearhart, R. Denning (attorney for Flegal, Lucille M.) Receipt number: 1818853 Dated: 02/23/2001 Amount: \$80.00 (Check) Please issue a Writ of Summons against Defendant. by s/R. Denning Gearhart, Esq. (see file for original) Two Writs issued to Attorney No Judge
05/02/2001	Filing: Praeipce to reissue Writ of Summons Paid by: Gearhart, R. Denning (attorney for Flegal, Lucille M.) Receipt number: 1824574 Dated: 05/02/2001 Amount: \$7.00 (Check) Reissued Writ to Sheriff No Judge
05/04/2001	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Judge
05/10/2001	Praeipce for Entry of Appearance on behalf of Clearfield Lodge No. 540 of the Benevolent and Protective Order of Elks. s/Darryl R. Slimak, Esq. Cert of Svc no cc No Judge
05/24/2001	Praeipce for Rule to File a Complaint, filed by s/Darryl R. Slimak Four Rules to Attorney No Judge
	Certificate of Service, Praeipce for Rule to File Complaint on Behalf of Defendant, upon R. Denning Gearhart, filed by s/Darryl R. Slimak No CC No Judge
05/29/2001	Certificate of Service, Filed by D. Slimak. A correct copy of the Rule To File a Complaint was mailed upon R. Gearhart. No cc. No Judge
06/13/2001	Complaint, filed by R. Denning Gearhart. Certificate of Service, a correct copy of Plaintiff's Complaint to Counsel for Defendant to Atty Slimak & Laws. 4 cc Gearhart. No Judge

FILED

JUL 03 2001
11:00/11:00 CC
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

LUCILLE M. FLEGAL

-vs-

No. 01 – 266 – CD

CLEARFIELD LODGE NO. 540 OF THE
BENEVOLENT AND PROTECTIVE
ORDER OF ELKS a/k/a CLEARFIELD
LODGE NO. 540 OF THE
BENEVOLENT AND PROTECTIVE
ORDER OF ELKS, of the UNITED
STATES OF AMERICA

ORDER

NOW, this 29th day of October, 2001, following argument and briefs into Preliminary Objections in the nature of a Motion to Dismiss Plaintiff's Complaint, based on Plaintiff's failure to properly serve Defendant with a copy of the original Writ of Summons, and upon consideration of Pennsylvania Rule of Civil Procedure 401 and the Supreme Court in Lamp v. Heyman, 469 Pa. 465, 366 A.2d 882 (1976), it is the ORDER of this Court that said Preliminary Objections be and are hereby granted and Plaintiff's Complaint dismissed with prejudice.

By the Court,

President Judge

FILED

OCT 29 2001

John A. Shaw
Notary

FILED

OCT 29 2001

William A. Shaw
Prothonotary

1cc atty Stumck

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

JURY TRIAL DEMANDED

CERTIFICATE PREREQUISITE TO SERVICE
OF SUBPOENA PURSUANT TO RULE 4009.22

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant 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 20 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.

FILED

OCT 3 2001

Prothonotary
Dated: October 29, 2001



Darryl R. Shimak
Attorney for Defendant
CLEARFIELD ELKS LODGE No. 540

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Lucille M. Flegal
Plaintiff(s)

Vs.

Clearfield Lodge No. 540 of the BPOE
Defendant(s)

No. 2001-00266-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE
4009.22

TO: 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

McQuaide Blasko Law Office, 811 University Drive, State College, PA 16801

(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: Darryl R. Slimak, Esquire

ADDRESS: 811 University Drive
State College, PA 16801

TELEPHONE: 814-238-4926

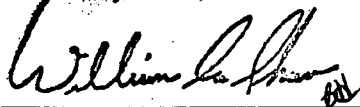
SUPREME COURT ID # 42695

ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division



Deputy

DATE: Wednesday, October 03, 2001
Seal of the Court

Clearfield Hospital

DOCUMENTS TO BE PRODUCED

Any and all medical records, **for as long as you retain same**, pertaining to Lucille M. Flegal (DOB: May 19, 1931; SS#: 176-24-0412), including but not limited to, emergency room records, outpatient surgery records, history/physical examinations, progress notes, consultation reports, operative reports, pathology reports, x-ray/MRI/CT scan reports, laboratory test results, electrodiagnostic study results, physical/occupational/rehabilitation therapy progress notes, prescription records, discharge instructions, any and all correspondence (regardless of source) pertaining to patient's health status, etc.

FILED

OCT 3 2001
MILBANE
Wm. A. Shaw
Prothonotary

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
BENEVOLENT and PROTECTIVE ORDER of
ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No. 2001 - 00266 - C.D.

JURY TRIAL DEMANDED

Type of Pleading:
Subpoena Duces Tecum and Notice
of Records Deposition Directed to
Clearfield Hospital

Filed on Behalf of Defendant
CLEARFIELD LODGE No. 540

Counsel for Record for This Party:
Darryl R. Slimak, Esquire
I.D. No. 41695
Richard K. Laws, Esquire
I.D. No. 82369
McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

OCT 3 2001

William A. Shaw
Prothonotary

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

LUCILLE M. FLEGAL,

Plaintiff,

vs.

CLEARFIELD LODGE No. 540 of the
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ELKS a/k/a CLEARFIELD LODGE No. 540 of
the BENEVOLENT and PROTECTIVE ORDER
of ELKS, of the UNITED STATES of AMERICA,

Defendant.

No: 2001 - 00266 - C.D.

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum and Notice of
Records Deposition Directed to Clearfield Hospital in the above-captioned matter was mailed by
regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 29th day of
October, 2001, to the attorney(s) of record:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Darryl R. Slimak
Attorneys for Defendant
CLEARFIELD ELKS LODGE No. 540
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

OCT 3 9 2001

William A. Shaw
Prothonotary

WAS