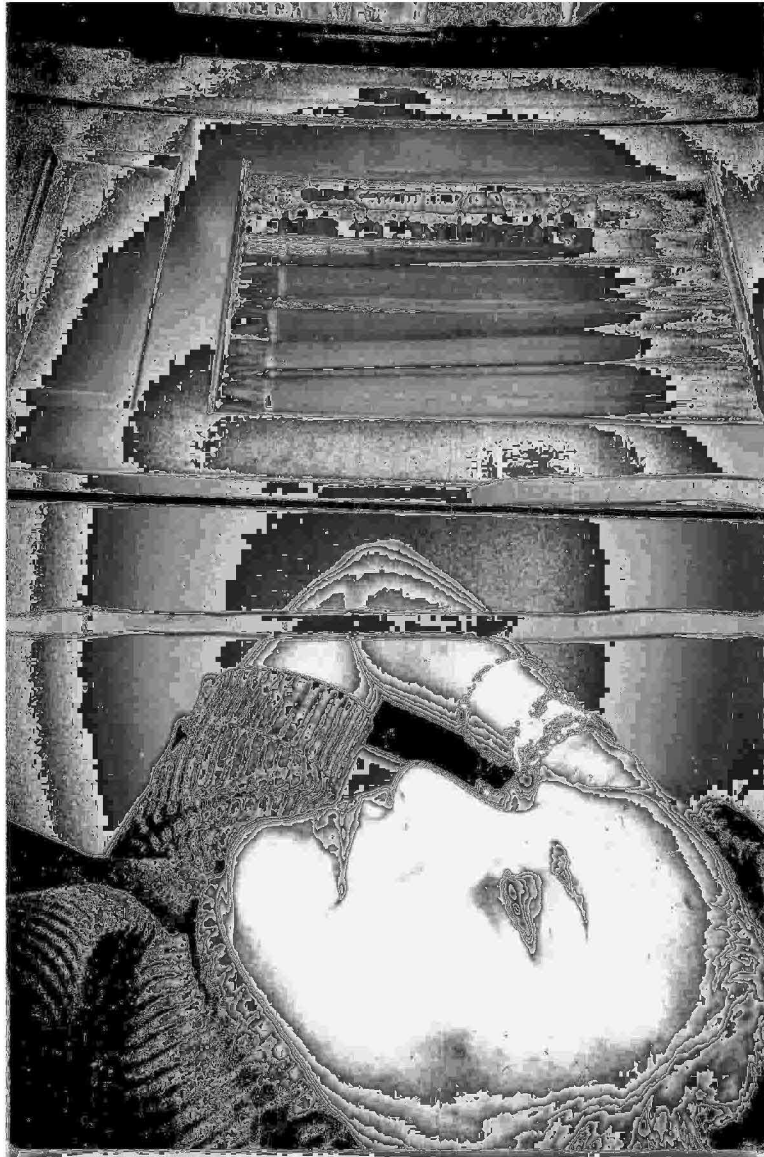


01-422-CD
PAULA SHOMO -vs- CATHERINE GREENAWALT et al























[illegible]

VS

* No. 01 - 422 - C.D.

* **Type of Case:** Civil

* **Type of Pleading:** Praecipe For
* Writ of Summons

* Filed on Behalf of: Plaintiff

* Counsel of Record for this Party:
* CHRIS A. PENTZ, Esquire

* Supreme Court I.D. # 39232
* 211 ½ East Locust Street
* P. O. Box 552
* Clearfield PA 16830
* 814 765-4000

William A. Shaw
Prothonotary

20

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

PAULA SHOMO,

Plaintiff

vs.

No. 2001 - 422 - C.D.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.,

Defendants

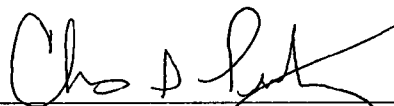
PRAECIPE FOR WRIT OF SUMMONS

To The Prothonotary:

Kindly issue a Writ of Summons in the above-captioned
action against the following:

Catherine Greenawalt
711 Good Street
Houtzdale Pa 16651

Electric Avenue Banquet & Function Hall, Inc.
R. R. # 1 Box 668E
Houtzdale PA 16651


Chris A. Pentz
Attorney for Plaintiff

FILED

MAR 27 2001
03511 Crt
William A. Shaw
Prothonotary

*Writ of Summons
to Sheriff*

Fold Here

CHRIS A. PENTZ
ATTORNEY AT LAW
211 1/2 EAST LOCUST ST. P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

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

COPY

SUMMONS

Paula Shomo

Vs.

NO.: 2001-00422-CD

**Cathrine Greenawalt and
Electric Avenue Banquet and Function Hall, Inc.**

TO: CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET AND FUNCTION HALL, INC.

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: 03/27/2001

William A. Shaw
Prothonotary

Issuing Attorney:

Chris A Pentz , Esquire
P.O. Box 552
Clearfield, PA 16830

2

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10836

SHOMO, PAULA

01-422-CD

VS.

GREENAWALT, CATHERINE al

PRAECIPE & SUMMONS

SHERIFF RETURNS

NOW APRIL 3, 2001 AT 1:49 PM DST SERVED THE WITHIN PRAECIPE & SUMMONS
ON ELECTRIC AVENUE BANQUET & FUNCTION HALL, INC., DEFENDANT AT
EMPLOYMENT, RR#1, BOX 668E, HOUTZDALE, CLEARFIELD COUNTY,
PENNSYLVANIA BY HANDING TO JUSTIN POWELL, OWNER, A TRUE AND
ATTESTED COPY OF THE ORIGINAL PRAECIPE & SUMMONS AND MADE KNOWN
TO HIM THE CONTENTS THEREOF.
SERVED BY: DAVIS/MORGILLO

NOW APRIL 4, 2001 AT 6:05 PM DST SERVED THE WITHIN PRAECIPE & SUMMONS
ON CATHERINE GREENAWALT, DEFENDANT AT RESIDENCE, 709 GOOD ST.,
HOUTZDALE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO
BETSY MCCONNEL, MOTHER, A TRUE AND ATTESTED COPY OF THE ORIGINAL
PRAECIPE & SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: SNYDER

Return Costs

Cost	Description
37.06	SHFF. HAWKINS PAID BY: ATTY.
20.00	SURCHARGE PAID BY: ATTY.

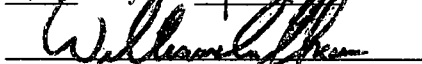
FILED

APR 10 2001
01:42pm
William A. Shaw
Prothonotary

926

Sworn to Before Me This

10th Day of April 2001



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

So Answers,


Chester A. Hawkins
Sheriff

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
Entry of Appearance

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

JUL 15 2002
mja:061 no cc
William A. Shaw
Prothonotary
Copy Ca

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

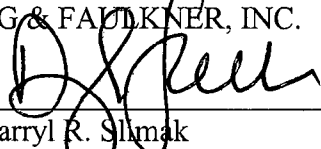
No. 2001 - 00422 - C.D.

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter our appearance on behalf of the Defendant ELECTRIC AVENUE
BANQUET & FUNCTION HALL, INC. in the above-captioned matter.

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

By: 

Darryl R. Sllmak
Attorneys for Defendant
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: July 12, 2002

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

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No. 2001 - 00422 - C.D.

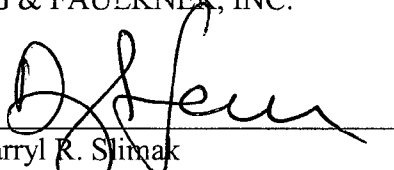
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Praecipe for Entry of Appearance on
Behalf of Defendant Electric Avenue Banquet & Function Hall, Inc., in the above-captioned
matter was mailed by regular mail, postage prepaid, at the Post Office, State College,
Pennsylvania, on this 12th day of July, 2002, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: _____


Darryl R. Slimak
Attorneys for Defendant
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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Praecipe for Rule to File
a Complaint*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

JUL 15 2002

mjb/nocc
William A. Shaw
Prothonotary

Rule to Att

Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVE. BANQUET
811 University Drive
State College, PA 16801

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

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No. 2001 - 00422 - C.D.

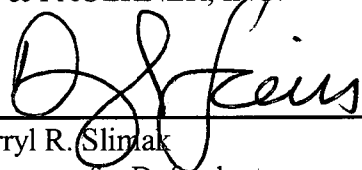
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Praeipie for Rule to File Complaint, in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 12th day of July, 2002, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: _____


Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET
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

COPY

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

RULE

To: PAULA SHOMO
c/o Chris A. Pentz, Esquire

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

Dated: 7/15/02

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

PAULA J. SHOMO,
Plaintiff

vs

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.,
Defendants

No. 01-422-C.D.

Type of Case: Civil

Type of Pleading: Complaint

Filed on Behalf of: Plaintiff

Counsel of Record for this Party:

CHRIS A. PENTZ, Esquire

Supreme Court I.D. # 39232

211 ½ East Locust Street

P. O. Box 552

Clearfield PA 16830

814 765-4000

FILED

JUL 17 2002

0134212ccatty Pentz
William A. Shaw
Prothonotary
E
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAULA J. SHOMO,
Plaintiff,

vs

No. 01-422-C.D.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET AND
FUNCTION HALL, INC.,
Defendants

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 PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

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

Prothonotary Office
Clearfield County Courthouse
Clearfield, Pennsylvania 16830
(814) 765-2641

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

PAULA J. SHOMO,
Plaintiff,

vs

No. 01-422-C.D.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET AND
FUNCTION HALL, INC.,
Defendants

COMPLAINT

1. The Plaintiff is Paula J. Shomo, sui juris, residing at 114 South Fourth Street, Clearfield, Pennsylvania 16830.

2. The Defendants are Catherine Greenawalt, sui juris, residing at 711 Good Street, Houtzdale, Pennsylvania 16651 and Electric Avenue Banquet And Function Hall, Inc., believed to be a Pennsylvania Corporation, with it's principal place of business being R. R. # 1 Box 668E, Houtzdale, Pennsylvania 16651.

3. At all relevant times set forth in this Complaint, the Defendant, Electric Avenue Banquet And Function Hall, Inc., operated a business for the retail sale of alcoholic beverages under Pennsylvania Liquor License # H-5723 in Woodward Township, Clearfield County, Pennsylvania.

4. On March 27, 1999, at approximately 1:00 A.M., the Plaintiff, Paula J. Shomo, was a patron at the Defendant, Electric Avenue Banquet And Function Hall, Inc.'s establishment.

COUNT I

PAULA J. SHOMO VS CATHERINE GREENAWALT

5. Paragraphs 1 through 4 are incorporated herein by

reference as though set forth in full.

6. On the date, time and place aforesaid, the Plaintiff, Paula J. Shomo was approached by Defendant Catherine Greenawalt and was intentionally and knowingly struck in the forehead with a beer bottle by Defendant Catherine Greenawalt.

7. As a direct and proximate result of the allegations set forth in Paragraph 6 above, the Plaintiff, Paula J. Shomo, suffered the following injuries:

- a. Contusions to face, neck, and scalp
- b. Swelling in head and neck
- c. Laceration to forehead
- d. Concussion

8. The Plaintiff, Paula J. Shomo, suffered permanent physical impairment in the nature of a lump on her forehead and chronic headaches as a direct and proximate result of being struck with the beer bottle.

9. The Plaintiff, Paula J. Shomo, as a direct and proximate result of the aforesaid injuries, missed 14 days of work.

10. The Plaintiff, Paula J. Shomo, claims a reasonable amount for the following:

- a. Pain and suffering
- b. Privation and inconvenience
- c. Permanent physical impairment
- d. Loss of income
- e. Medical expenses
- f. All other damages allowable by law

WHEREFORE, Plaintiff, Paula J. Shomo, demands judgment against the Defendant, Catherine Greenawalt, in excess of \$20,000.00, including but not limited to, punitive damages. Jury trial demanded.

COUNT II
PAULA J. SHOMO vs ELECTRIC AVENUE BANQUET AND
FUNCTION HALL, INC.

11. Paragraphs 1 through 10 are incorporated herein by reference as though set forth in full.

12. The Defendant, Catherine Greenawalt had been served alcohol by the Defendant Electric Avenue Banquet And Function Hall, Inc.'s agents or employees while Defendant Catherine Greenawalt was visibly intoxicated in violation of 47 P.S. § 4-493(1) on the date, time and place aforesaid.

13. On the date, time and place aforesaid, the Defendant, Electric Avenue Banquet and Function Hall, Inc., had approximately two hundred (200) patrons at their establishment.

14. On the date, time and place aforesaid, the Defendant, Electric Avenue Banquet and Function Hall, Inc. had only two (2) security persons present.

15. On the date, time and place aforesaid, the Plaintiff did not see and was not assisted by any of the security personnel.

16. The Plaintiff believes and therefore avers that the Defendant, Electric Avenue Banquet and function Hall, Inc. failed to provide appropriate training to security personnel.

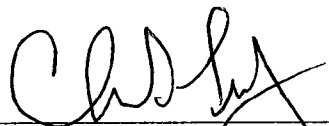
17. As a direct result of the allegations set forth in Paragraphs 11 through 16 above the Plaintiff, Paula J. Shomo suffered the following injuries:

- a. Contusions to face, neck, and scalp
- b. Swelling in head and neck
- c. Laceration to forehead
- d. Concussion

18. Also, the Plaintiff, Paula J. Shomo, suffered permanent physical impairment in the nature of a lump on her forehead and chronic headaches as a direct and proximate result of being struck with the beer bottle.

WHEREFORE, Plaintiff, Paula J. Shomo, demands judgment against the Defendant, Electric Avenue Banquet And Function Hall, Inc. in excess of \$20,000.00. Jury trial demanded.

Respectfully submitted this 17th day of July, 2002.

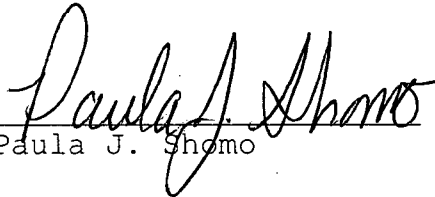
A handwritten signature in cursive script, appearing to read "Chris A. Pentz", written over a horizontal line.

Chris A. Pentz, Esquire
Attorney for Plaintiff

VERIFICATION

I, PAULA J. SHOMO, verify that the statements made in this 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.

07/17/02
Date


Paula J. Shomo

CHRIS A. PENTZ
ATTORNEY AT LAW
211 1/2 EAST LOCUST ST. P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

_____ Fold Here _____

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Certificate of Service Pertaining to
Service of Rule to File a Complaint*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

JUL 18 2002

m/11.20/10cc

William A. Shaw
Prothonotary

Ret

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

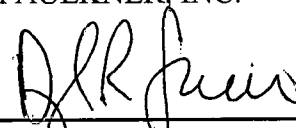
CERTIFICATE OF SERVICE

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 16th day of July, 2002, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: _____


Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET
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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

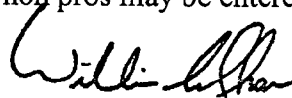
Defendants.

No. 2001 - 00422 - C.D.

RULE

To: PAULA SHOMO
c/o Chris A. Pentz, Esquire

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

Dated: 7/15/02

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

PAULA SHOMO,
Plaintiff

vs

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,
Defendants

No. 01- 422 -C.D.

Type of Case: Civil

Type of Pleading: Certificates of
Service

Filed on Behalf of: Plaintiff

Counsel of Record for this Party:
CHRIS A. PENTZ, Esquire

Supreme Court I.D. # 39232
211 ½ East Locust Street
P. O. Box 552
Clearfield PA 16830
814 765-4000

FILED

JUL 26 2002

William A. Shaw
Prothonotary

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

PAULA SHOMO,
Plaintiff

vs

No. 2001-422-C.D.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,
Defendants

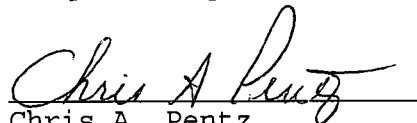
CERTIFICATE OF SERVICE

This is to certify that a certified copy of
Plaintiff's Complaint was served upon:

Darryl R. Slimak, Esquire
Attorney for Defendant, Electric Avenue
811 University Drive
State College PA 16801

Service was made by regular mail and certified mail with
Form 3811, Article # 7099 3400 0016 7883 3280 attached hereto, postage
prepaid, from the U.S. Post Office at Clearfield PA 16830.

Service was made the 23rd day of July, 2001.


Chris A. Pentz
Attorney for Plaintiff

SENDER: COMPLETE THIS SECTION

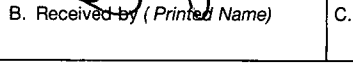
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Attorney Darryl R. Slimak
811 University Drive
State College PA 16801

COMPLETE THIS SECTION ON DELIVERY

- A. Signature

X 
B. Received by (Printed Name)
C. Date of Delivery
7/23/01
D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☒ Yes

2. Article Number

(Transfer from service label)

7099 3400 0016 7883 3280

Shomo

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

PAULA SHOMO,
Plaintiff

vs

No. 2001-422-C.D.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,
Defendants

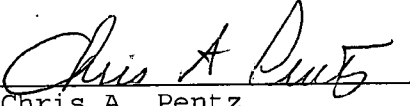
CERTIFICATE OF SERVICE

This is to certify that a certified copy of
Plaintiff's Complaint was served upon:

Ms. Catherine Greenawalt
711 Good Street
Houtzdale PA 16651

Service was made by regular mail and certified mail with
Form 3811, Article # 7099 3400 0016 7883 3297 attached hereto, postage
prepaid, from the U.S. Post Office at Clearfield PA 16830.

Service was made the 23rd day of July, 2001.


Chris A. Pentz
Attorney for Plaintiff

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature  B. Received by (Printed Name) C. Date of Delivery 7-23-02 D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☒ No
1. Article Addressed to: Ms. Catherine Greenawalt 711 Good Street Houtzdale PA 16651	3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. 4. Restricted Delivery? (Extra Fee) ☒ Yes
2. Article Number (Transfer from service label) 7099 3400 0016 7883 3297	

CHRIS A. PENTZ
ATTORNEY AT LAW
211 1/2 EAST LOCUST ST. P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Fold Here

William A. Shaw
Prothonotary

FILED
01/10:50
JUL 26 2002

NO
CC

KEB

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Defendant Electric Avenue Banquet
and Function Hall, Inc.'s Answer
with New Matter to Plaintiff's
Complaint*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

AUG 05 2002

m 11:26/1000
William A. Shaw
Prothonotary

[Signature]

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

**DEFENDANT ELECTRIC AVENUE BANQUET
AND FUNCTION HALL, INC.'S ANSWER WITH
NEW MATTER TO PLAINTIFF'S COMPLAINT**

AND NOW comes Defendant, ELECTRIC AVENUE BANQUET and FUNCTION HALL, INC., by and through its attorneys, McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc., and files the within Answer with New Matter to the Plaintiff's Complaint:

1-3. Admitted.

4. The averments of Complaint paragraph 4 are denied as stated to the extent same contain legal conclusions and/or are ambiguous. It is admitted only that on or about said date and time, Paula Shomo was present at the Electric Avenue Banquet and Function Hall, Inc.'s premises. The averments are otherwise denied pursuant to and consistent with Pa. R.C.P. No. 1029(e), and as legal conclusions to which no further or more specific response is required under the Rules of Civil Procedure.

COUNT I - SHOMO v. GREENAWALT

5-10. The averments of Complaint paragraphs 5 through 10, inclusive, appear to be directed at a Defendant other than answering Defendant, and therefore no response thereto is required under the Rules of Civil Procedure. To the extent directed to answering Defendant, it is admitted only that Greenawalt did strike Shomo with a beer bottle. The averments are otherwise deemed denied pursuant to and consistent with Pa. R.C.P. No. 1029(e).

WHEREFORE, Defendant Electric Avenue Banquet and Function Hall, Inc. demands entry of judgment in its favor and that the Complaint against it be dismissed, with prejudice.

COUNT II - SHOMO v. ELECTRIC AVENUE

11. In response to Complaint paragraph 11, answering Defendant incorporates herein by reference its foregoing responses as though set forth at length.

12. The averments of Complaint paragraph 12 are deemed denied pursuant to and consistent with Pa. R.C.P. No. 1029(e), and proof thereof demanded at the time of trial of this matter. Said averments are further denied and/or no response thereto is required under the Rules of Civil Procedure, in that same constitute legal conclusions.

13. The averments of Complaint paragraph 13 are denied in that after reasonable investigation, answering Defendant has insufficient information or knowledge to specifically state the number of patrons present as alleged. It is nevertheless averred that the number of patrons was well within the occupancy capacity of the premises and believed to likely have been less than the number alleged.

14. The averments of Complaint paragraph 14 are specifically denied. To the contrary, as regards security, there were three "bouncer" security personnel and three bartenders present who were in the premises.

15. The averments of Complaint paragraph 15 are denied pursuant to and consistent with Pa. R.C.P. No. 1029(e), and in that what Plaintiff did or did not see is not within the answering Defendant's knowledge. It is further averred, to the contrary of the averments, that personnel of Electric Avenue Banquet and Function Hall, Inc. did respond to the event when it occurred, but were not in a position to be able to stop the intentional assault as alleged.

16-18. The averments of Complaint paragraphs 16 through 18, inclusive, are denied as incorrect legal conclusions to which no further or more specific response is required under the Rules of Civil Procedure, and said averments are further denied pursuant to and consistent with Pa. R.C.P. No. 1029(e) and proof thereof is demanded at the trial of this matter.

WHEREFORE, Defendant Electric Avenue Banquet and Function Hall, Inc. demands entry of judgment in its favor and that the Complaint against it be dismissed, with prejudice.

NEW MATTER

19. Answering Defendant Electric Avenue Banquet and Function Hall, Inc., hereby cross claims for contribution and/or indemnity against Defendant Cathrine Greenawalt, on the bases set forth in Plaintiff's original Complaint, if established at the trial of this matter.

20. It is averred that if any party is liable to Plaintiff, then Cathrine Greenawalt is solely liable to same and/or liable over to joining party in Plaintiff's cause of action and/or jointly and severally liable with joining party in Plaintiff's cause of action. All negligence and causal responsibility of the answering Defendant is specifically denied.

21. To the extent Plaintiff was contributorily/comparatively negligent and a substantial factor in causing her own injuries and damages, and/or assumed the risk of harm under the circumstances or otherwise precipitated or participated in the incident resulting in injury as alleged, Plaintiff's claim is barred in whole or in part.

22. To the extent Plaintiff failed to mitigate her damages in any respect, her claims should be reduced and barred accordingly.

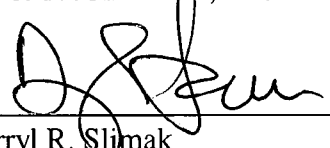
23. Plaintiff alleges that the injury and incident in question occurred on March 27, 1999. The docket entries in this matter indicate that the claim was not commenced until Writ of Summons was filed on March 27, 2001. Pending further investigation, in order to preserve the issue, should it be determined that Plaintiff commenced this action more than two years after the cause of action arose, then the claim is barred as a matter of law by Title 42 Pa. C.S.A. § 5524.

WHEREFORE, Defendant Electric Avenue Banquet and Function Hall, Inc. demands entry of judgment in its favor and that the Complaint against it be dismissed, with prejudice.

Respectfully submitted,

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

By: _____

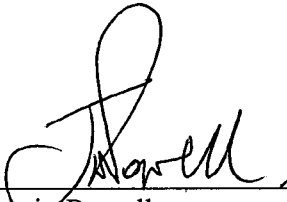

Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: _____

8/2/02

VERIFICATION

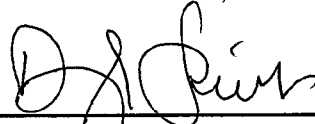
The undersigned verifies that he is authorized to make this verification on behalf of ELECTRIC AVENUE BANQUET and FUNCTION HALL, INC.; and that the statements made in the foregoing **DEFENDANT ELECTRIC AVENUE BANQUET AND FUNCTION HALL, INC.'S ANSWER WITH NEW MATTER TO PLAINTIFF'S COMPLAINT** are true and correct to the best of his knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. §4904, related to unsworn falsification to authority.

 PRESIDENT.
Justin Powell

Cathrine Greenawalt
711 Good Street
Houtzdale, PA 16651

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

By: _____



Darryl R. Slimak

Attorneys for Defendant

ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624

013-45170CL
William A. Shaw
Prothonotary

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

PAULA J. SHOMO,
Plaintiff

vs

no. 01-422-C.D.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,
Defendants

PLAINTIFF'S REPLY TO NEW MATTER

19. Paragraph 19 - No response required.

20. Paragraph 20 - Conclusions of law to which no
response is required.

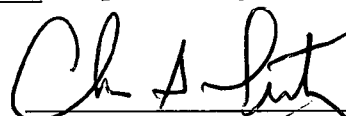
21. Paragraph 21 - Conclusions of law to which no
response is required.

22. Paragraph 22 - Conclusions of law to which no
response is required.

23. Paragraph 23 - Conclusions of law to which no
response is required.

WHEREFORE, Plaintiff demands judgment as set forth in
her Complaint.

Respectfully submitted this 14 day of August, 2002.


Chris A. Pentz
Attorney for Plaintiff
211 1/2 East Locust Street
Clearfield PA 16830
814 765-4000

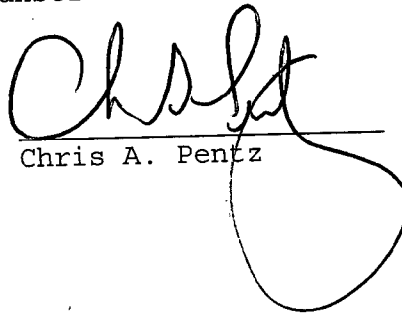
VERIFICATION

I, Chris A. Pentz, have read the foregoing Reply to new matter. 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 falsifications to authorities, which provides that if I knowingly make 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.

Dated: 8-14-02


Chris A. Pentz

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

PAULA SHOMO,

Plaintiff

vs

No. 2001-422-C.D.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,
Defendants

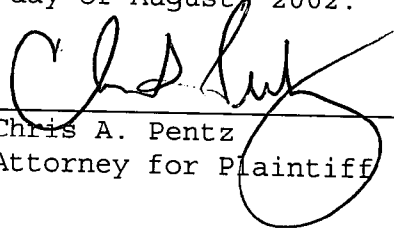
CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of
Plaintiff's Reply to New Matter was served upon:

Darryl R. Slimak, Esquire
Attorney for Defendant, Electric Avenue
811 University Drive
State College PA 16801

Service was made by regular mail from the U.S. Post Office at
Clearfield PA 16830.

Service was made the 14 day of August, 2002.


Chris A. Pentz
Attorney for Plaintiff

CHRIS A. PENTZ
ATTORNEY AT LAW
211 1/2 EAST LOCUST ST. P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Fold Here

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

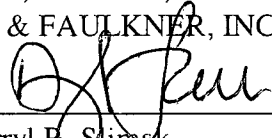
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Electric Avenue Banquet's First Set of Interrogatories and Request for Production of Documents Directed to Plaintiff in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 17th day of December, 2002 to the parties/attorney(s) of record:

Chris A. Pentz, Esquire
211 ½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: _____



Darryl R. Slimek
Attorneys for Defendant
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

DEC 18 2002

William A. Shaw
Prothonotary

11-10-02

11-10-02

11-10-02

FILED

DEC 18 2002

William A. Shaw
Prothonotary

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11-10-02

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Electric Avenue Banquet'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 17th day of December, 2002, to the parties/attorney(s) of record:

Chris A. Pentz, Esquire
211 ½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: _____


Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

DEC 18 2002

William A. Shaw
Prothonotary

FILED

NO
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DEC 18 2002

William A. Shaw
Prothonotary

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

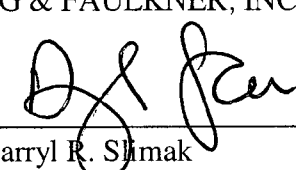
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Electric Avenue Banquet's
Expert Interrogatories Directed to Plaintiff in the above-captioned matter was mailed by regular
mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 17th day of
December, 2002, to the attorney(s) of record:

Chris A. Pentz, Esquire
211 ½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: _____


Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET AND
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

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William A. Shaw
Prothonotary

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William A. Shaw
Prothonotary

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Subpoena to Attend and Testify
and Notice of Oral Deposition and
Request for Production of
Documents Directed to Paula Shomo*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 06 2003
m/1:10/w
William A. Shaw
Prothonotary
no c/c
[Signature]

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

CERTIFICATE OF SERVICE

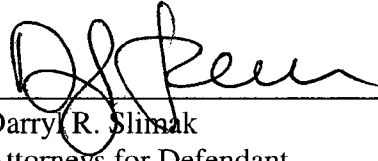
I hereby certify that a true and correct copy of the Notice of Deposition, Subpoena to Attend and Testify, and Request for Production of Documents Directed to Paula Shomo in the above-captioned matter were mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 6th day of February, 2003, to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
Clearfield, PA 16830

Catherine Greenawalt
#0G8187
SCI - Cambridge Springs
451 Fullerton Avenue
Cambridge Springs, PA 16403

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

By: _____



Darryl R. Slimak

Attorneys for Defendant

ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624

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FEB 06 2003

William A. Shaw
Prothonotary

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Motion to Compel Filed on Behalf
of Defendant Electric Avenue
Banquet and Function Hall, Inc.*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 4169*

*Richard K. Laws, Esquire
Pa. Supreme Court I.D. No. 82359*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
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State College, PA 16801
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Fax: (814) 238-9624

FILED

FEB 12 2003

William A. Shaw
Prothonotary

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

**MOTION TO COMPEL FILED ON BEHALF OF DEFENDANT
ELECTRIC AVENUE BANQUET and FUNCTION HALL, INC.**

AND NOW comes Moving Defendant by and through their undersigned attorneys and
file the within Motion to Compel, as follows:

1. The instant case was commenced (following service of an executed Rule) by
Complaint filed on July 19, 2002, where after the pleadings were closed as to Moving Defendant
on August 14, 2002, with the filing of Plaintiff's Reply to New Matter.
2. On December 17, 2002, Moving Defendant served Plaintiff with Interrogatories
(including Expert Interrogatories) and Requests for Production of Documents, which sought
basic information regarding Plaintiff's claim and other information and documents regarding the
facts of the case at hand. (See Exhibit "A").
3. By January 17, 2003, Plaintiff had failed to file responses to Moving Defendant's
discovery requests, thus placing Plaintiff in direct violation of the Rules of Civil Procedure
which required such responses to filed within thirty (30) days of service.

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4. As of the date of this Motion, Plaintiff has not filed long overdue discovery responses, nor has Plaintiff provided any indications that said responses will ever be forthcoming.

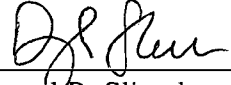
5. Pursuant to Pennsylvania Rule of Civil Procedure 4019(a)(1), the Court may make an appropriate order if "(i) a party fails to serve answers, sufficient answers or objections to written interrogatories under Rule 4005" or "(viii) a party or person otherwise fails to make discovery or to obey an order of court respecting discovery."

6. When acting under Pa. R.C.P. 4019(a), the court may make "an order refusing to allow the disobedient party to support or oppose designated claims or defenses, or **prohibiting him from introducing in evidence designated documents, things or testimony**, or from introducing testimony of physical or mental condition." Pa. R.C.P. 4019(c)(2).

7. Accordingly, Defendant respectfully requests that this Honorable Court issue an Order requiring Plaintiff to provide complete answers and/or responses, without objections, to the discovery requests attached as Exhibit "A," within twenty (20) days, or be precluded from introducing into evidence at trial any witness, information, or document sought by said discovery requests, and be subject to any other such sanctions which this Court deems appropriate, including dismissal of the action.

WHEREFORE, Defendant respectfully requests that this Honorable Court issue an Order requiring Plaintiff to provide complete answers and/or responses, without objections, to the discovery requests attached as Exhibit "A," within twenty (20) days, or be precluded from introducing into evidence at trial any witness, information, or document sought by said discovery requests, and be subject to any other such sanctions which this Court deems appropriate, including dismissal of the action.

1
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 
Darryl R. Slimak
Richard K. Laws
Attorneys for Defendants
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: February 10, 2003

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

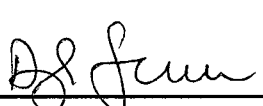
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Motion to Compel Filed on Behalf of Defendant Electric Avenue Banquet and Function Hall, Inc. in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 10th day of February, 2003, to the attorney(s) of record:

Chris A. Pentz, Esquire
211 ½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: _____


Darryl R. Slimak
Richard K. Laws
Attorneys for Defendant
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.
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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Defendant Electric Avenue
Banquet's First Set of
Interrogatories and Request for
Production of Documents Directed
to Plaintiff*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

**DEFENDANT ELECTRIC AVENUE BANQUET'S FIRST SET
OF INTERROGATORIES AND REQUEST FOR PRODUCTION
OF DOCUMENTS DIRECTED TO PLAINTIFF**

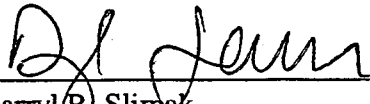
TO: PAULA SHOMO
c/o Chris A. Pentz, Esquire

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 Defendant 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.

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

By: _____



Darryl R. Slimak

Attorneys for Defendant

ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624

Dated: December 17, 2002

DEFINITIONS

A. "You" and/or "Your" means Plaintiff, her agents and employees and others acting on her behalf with regard to asserting the cause of action set forth in Plaintiff's Complaint in the above captioned case.

B. "Document" shall mean any writing (whether handwritten, typed, printed or otherwise made), drawing, graph, chart, photograph, phonograph record, or electronic or mechanical matter (including microfilm of any kind or nature, tape or recording), or other data compilations from which information can be obtained (translated, if necessary, by Defendant, though detection devices into reasonably usable form), and shall include, without limiting the generality of the foregoing, all records, correspondence, telegrams, teletypes, agreements, studies, reports, drafts, memoranda, and computer printouts.

C. As used herein "identify," when used in reference to an individual, means her full name and present or last known residence and business address, her present or last known position or title and business affiliation, and her position at the time in question.

D. "Health care provider" means a person, corporation, facility, institution or other entity who provided health care or professional services as a physician, including a medical doctor and a doctor of osteopathy and a doctor of podiatry, hospital, nursing home, health maintenance organization, or an officer, employee or agent of any of them acting in the course and scope of her employment.

When the Interrogatories request that documents be identified, an identification of it should include at least the following: author, addressee, type of document, dater, subject

matter, and the name and address of the person or party presently having custody of the document and any known copies of it.

INSTRUCTIONS FOR ANSWERING INTERROGATORIES

A. In accordance with Pa. R.C.P. Rule 4005, the original copy of these written Interrogatories has 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).

INTERROGATORIES

1. State your full name, age, date and place of birth, and Social Security number.

ANSWER:

2. State your present residence address, and the period during which you have resided at said address, and telephone number.

ANSWER:

3. State your residence address at the time of the incident referred to in the Complaint.

ANSWER:

4. Are you married at the present time?

ANSWER:

5. If so, state:

- (a) your spouse's full name;
- (b) his address;
- (c) date and place of your marriage;
- (d) is your spouse currently living with you;
- (e) if not, when did the separation occur;

- (f) your spouse's present address (if different from your own)

ANSWER:

6. State each place of employment at the time of the incident referred to in the Complaint, and if you are still engaged in such employment.

ANSWER:

7. If not, state:

- (a) when you ceased working in such employment;
- (b) your present business or occupation, the date you entered it and your present income from such business.
- (c) any other business or occupation prior to your present one and after the date set forth in the Answer to paragraph (a) above.

ANSWER:

8. Have you lost any time from your business or occupation since the incident referred to in the Complaint? If so, state:

- (a) the cause of such loss of time;
- (b) the number of days lost and the dates;
- (c) the amount of any income or wages lost

ANSWER:

9. If employed at the time of the incident referred to in the Complaint, state for each place of employment:

- (a) the name and address of the employer;
- (b) position held and nature of work being performed;
- (c) hours worked per week;
- (d) weekly wages, earnings, income or profit;
- (e) the name of your immediate boss, foreman or superior;
- (f) whether a physical examination was required and if so, state the date, place and person giving the examination;
- (g) for each employer, whether or not you made any representations in writing or answered in writing any questions concerning your physical condition.

ANSWER:

10. Are you now receiving or have you ever received any disability pension, income or insurance or any Workers' Compensation from any agency, company, person, corporation, state or government?

ANSWER:

11. If so, state:

- (a) the nature of any such payment;
- (b) dates you received such income;
- (c) for what injuries or disability you received it, and how such injury occurred or disability arose;
- (d) by whom paid;

(e) whether you now have any present disability as a result of such injuries or disability;

(f) if so, the nature and extent of such disability;

(g) whether you had any disability at the time of the incident referred to in the Complaint;

(h) if so, the nature and extent of such disability.

ANSWER:

12. Have you made claim for any benefits under any medical pay coverage or policy of insurance relating to injuries arising out of the incident alleged in the Complaint?

ANSWER:

13. If so, state:

(a) the name of the insurance company or organization to whom said claim was made;

(b) the date of the claim or application;

(c) the claim number or policy number;

ANSWER:

14. Have you ever made claim for any benefits under any insurance policy, or against any person, firm or corporation for personal injuries or physical condition which you have not heretofore listed in your Answers to these Interrogatories?

ANSWER:

15. If so, state:

- (a) the injury or condition for which such claim was made;
- (b) the name and address of the person, firm or corporation to whom or against whom it was made;
- (c) the date it was made;
- (d) the nature and amount of any payment received therefore.

ANSWER:

16. State in detail the manner in which you assert that the incident referred to in the Complaint occurred. As a part of your description, please include (but do not limit your explanation to) the number of times you contend Defendant Greenawalt struck you, the manner in which she struck you, whether you allege that Defendant Greenawalt struck you with any object, and your precise actions and location over the hour immediately before Defendant Greenawalt struck you.

ANSWER:

17. Before being struck as alleged in the Complaint, did you have any physical contact or verbal interaction whatsoever with Defendant Greenawalt? If so, please fully describe each such contact or interaction, and state by whom the contact or interaction was initiated.

ANSWER:

18. If you believe you are able to do so, please provide a full and complete, detailed account of your observations of Ms. Greenawalt's actions, behavior, speech and ambulation up to the time Ms. Greenawalt struck you.

ANSWER:

19. After the incident referenced in your Complaint began, what measures were taken to stop Defendant Greenawalt or otherwise control the situation?

ANSWER:

20. Please identify all employees of the Electric Avenue Banquet and Function Hall who were present at the time of the alleged incident in your Complaint, whether or not working at the time.

ANSWER:

21. Do you contend that any individuals other than Defendant Greenawalt struck you during the alleged incident at the Electric Avenue Banquet and Function Hall on the date in question?

ANSWER:

22. At any time before the incident with Ms. Greenawalt occurred, had you or anyone else to your knowledge, alerted staff at Electric Avenue Banquet and Function Hall to any particular matter or to take any specific action?

(a) If so, please explain in detail.

ANSWER:

23. Did you consume any alcoholic beverage of any type, or any sedative, tranquilizer or other drug, medicine or pill during the 48 hours immediately preceding the incident referred to in the Complaint?

ANSWER:

24. If so, state:

- (a) the nature, amount, and type of item consumed;
- (b) the amount of time over which consumed;
- (c) the names and addresses of any and all persons who have any knowledge as to the purchase and/or consumption of the(se) items;
- (d) state whether or not you were intoxicated at the time of the incident involving Ms. Greenawalt, or feeling any effects of the alcohol or other substances you had taken, and explain same in detail.

ANSWER:

25. State whether you have made any statement or statements in any form to any person regarding any of the events or happenings referred to in the Complaint.

ANSWER:

26. If so, state:

- (a) the name(s) and address(es) of the person(s) to whom such statements were made;
- (b) the dates(s) such statement(s) were made;
- (c) the form of the statement(s), whether written, oral, by recording device or to a stenographer;
- (d) whether such statement(s), if written, were signed;
- (e) the name(s) and address(es) of the person(s) presently having custody of such statement(s)

ANSWER:

27. State the full name and last known address, giving the street, street number, city and state of every witness known to you or to your attorneys who has any knowledge regarding the facts and circumstances surrounding the happening of the incident referred to in the Complaint or any injuries suffered, including but not limited to eye witnesses to such event, as well as medical witnesses and other persons having any knowledge thereof.

ANSWER:

28. If any of the witnesses listed in the preceding Interrogatory or whom you propose to use at trial are related to you or to each other, state the nature of such relationship.

ANSWER:

29. State the full name and last known address, giving the street, street number, city and state, of every witness known to your or to your attorneys who claims to have seen or heard any of the Defendants, or representative(s) thereof, make any statement(s) pertaining to any of the vents or happenings alleged in the Complaint.

ANSWER:

30. Supply the following information with respect to each individual whose name you have given in the Answer to the preceding Interrogatory:

- (a) the location(s) where the Defendant(s) made any such statement(s);
- (b) the name and address of the person(s) in whose presence the Defendant(s) made any such statement(s);
- (c) the time and date upon which the Defendant(s) made any such statements(s);
- (d) the full name and address of any other person(s) who was present at the time and place the Defendant(s) made such statement(s);

(e) whether you or anyone acting on your behalf obtained statement(s) in any form from any person(s) who claim to be able to testify to the statement(s) made by Defendant(s).

ANSWER:

31. If the answer to Interrogatory 28, paragraph (e) is in the affirmative, then state:

(a) the name(s) and address(es) of the person(s) from whom any such statement(s) was/were taken;

(b) the date upon which said statement(s) was/were taken;

(c) the name(s) and address(es) of the employer(s) of the person(s) who took such statement(s);

(d) the name(s) and address(es) of the person(s) having custody of such statement(s);

e. whether such statement(s) were written, oral, by recording device or by court reporter or stenographer.

ANSWER:

32. State whether you, your attorney, your insurance carrier or anyone acting on your or their behalf obtained statements in any form from any persons regarding any of the events or happenings that occurred at the scene of the incident referred to in the Complaint immediately before, at the time of, or immediately after the incident.

ANSWER:

33. If so, state:

(a) the name(s) and address(es) of the person(s) from whom any such statement(s) was/were taken;

- (b) the dates on which such statement(s) was/were taken;
- (c) the name(s) and address(es) of the persons and employer(s) of such person(s) who took such statement(s);
- (d) the name(s) and address(es) of the person(s) having custody of such statement(s);
- (e) whether such statement(s) was/were written, by recording device, by court reporter or stenographer.

ANSWER:

34. Please state the name and address of each non-expert witness to be called at the trial of this matter, and the substance of their testimony.

ANSWER:

35. If you received any treatment with respect to the injuries allegedly suffered state:

- (a) The name and address of each hospital and health care provider by or at which you were treated or admitted;
- (b) The dates on which said treatment was rendered, including the dates of entry into and discharge from said hospital or hospitals;
- (c) Summary of services rendered;
- (d) Itemize the charges rendered by each of the hospitals listed above;
- (e) List the amounts billed by each hospital;
- (f) List amounts paid to each hospital by third party payers, including Plaintiff's medical insurance carrier(s);
- (g) List amounts paid out of Plaintiff's pocket to each hospital;

- (h) List amounts paid by Medicare, Medicaid, Public Welfare, Public Assistance, Workers' Compensation, or any other public source to each hospital;
- (I) Please identify any Department of Public Welfare Medical Assistance liens, Medicare/Medicaid liens, liens from any public source, Workers' Compensation liens, or any other applicable liens;
- (j) Attach copies of all actual medical bills from each hospital;
- (k) State the name and address of each health care provider who has examined or treated Plaintiff or conferred with you with respect to the injuries alleged;
- (l) Itemize the cost and expenses of such examinations or treatments by the health care providers listed above;
- (m) Summary the services rendered;
- (n) List amounts billed by each health care provider;
- (o) List amounts paid to each health care provider by third party payers, including Plaintiff's medical insurance carrier(s);
- (p) List amounts paid out of Plaintiff's pocket to each health care provider;
- (q) List amounts paid by Medicare, Medicaid, Public Welfare, Public Assistance, Workers' Compensation, or any other public source to each health care provider;
- (r) Please identify any Department of Public Welfare Medical Assistance liens, Medicare/Medicaid liens, liens from any public source, Workers' Compensation liens, or any other applicable liens;
- (s) Attach copies of all actual medical bills from all health care providers.

ANSWER:

36. Since the date of the incident referred to in the Complaint, have you been treated by or examined by, or have you conferred with or consulted with, any other doctor or medical practitioner of any type whatsoever whose name you have not heretofore supplied?

ANSWER:

37. If so, state:

(a) the name and address of each doctor of medical practitioner of any type whatsoever who has examined, treated, conferred, or consulted with you and the date of same;

(b) the condition for which said care or treatment or attention was rendered;

ANSWER:

38. If you are still receiving medical services or treatment of any nature whatsoever, state:

(a) the name(s) of the person(s) attending you;

(b) the approximate frequency of said treatment or service;

(c) the date you last received said treatment or service.

ANSWER:

39. State the dates during which you were confined following the incident alleged in your Complaint:

(a) to your bed;

(b) to your home

ANSWER:

40. Were you an insured or beneficiary under any policy of insurance under which you received benefits or reimbursement for medical expenses resulting from the injuries sustained in the incident alleged in your Complaint?

ANSWER:

41. If so, state:

(a) the name and address of the company paying the benefits;

(b) whether the company required you to assign to it any rights of recovery you may have against others.

ANSWER:

42. Have you been paid any benefits under any policy for lost wages as a result of the incident referred to in the Complaint?

ANSWER:

43. If so, state the total amount of benefits you have received for lost wages from the date of the incident to the present.

ANSWER:

44. Identify fully and completely each and every document which you intend to introduce into evidence at the trial of this case.

ANSWER:

45. Identify each and every demonstrative exhibit, picture, object, model, movie, tape or other document which you intend to refer to during any witness(es)' testimony at the trial of this case and for each, identify the witness(es) whom you intend to question concerning said exhibit.

ANSWER:

46. Itemize all your medical and related expenses and income loss which you allege resulted from or are directly chargeable to the cause of action set forth in your Amended Complaint.

ANSWER:

47. Have you received any statement, bill, invoice or other written evidence of the expenses referred to above?

ANSWER:

48. If so, and, if you will do so without a motion to produce, attach a copy of each statement, receipt or other record to your Answers to these Interrogatories.

ANSWER:

49. For each of the five (5) years prior to the date of the cause of action which is the basis of this lawsuit, state your annual gross earnings.

ANSWER:

50. Did you ever file a federal or state income tax return during the five (5) years prior to the date of the cause of action which is the basis of this lawsuit?

ANSWER:

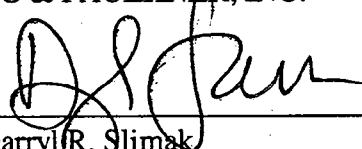
51. If so, will you, without a motion to produce, attach a copy of each federal and state income tax return for the prior five (5) years.

ANSWER:

Respectfully submitted,

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

By: _____


Darryl R. Slimak

Attorneys for Defendant

ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624

Dated: December 17, 2002

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

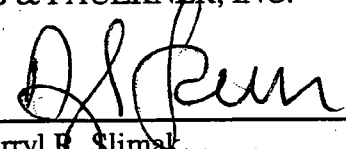
No. 2001 - 00422 - C.D.

REQUEST FOR PRODUCTION OF DOCUMENTS (SET ONE)

Defendant, ELECTRIC AVENUE BANQUET and FUNCTION HALL, INC., pursuant to Rule 4009 of the Pennsylvania Rules of Civil Procedure, hereby requests that Plaintiff produce for inspection and copying, all documents identified in the Answers to the foregoing Interrogatories and all documents reviewed by Plaintiff or anyone acting on behalf of Plaintiff in the preparation of Answers to the foregoing Interrogatories.

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

By: _____


Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: December 17, 2002

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

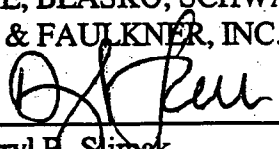
No. 2001 - 00422 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Electric Avenue Banquet's First Set of Interrogatories and Request for Production of Documents Directed to Plaintiff in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 17th day of December, 2002 to the parties/attorney(s) of record:

Chris A. Pentz, Esquire
211 ½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: 

Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.
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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Defendant Electric Avenue
Banquet's Expert Interrogatories
Directed to Plaintiff*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

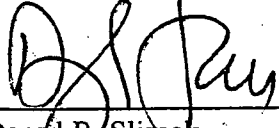
**DEFENDANT ELECTRIC AVENUE BANQUET'S EXPERT
INTERROGATORIES DIRECTED TO PLAINTIFF**

TO: PAULA SHOMO
c/o Chris A. Pentz, Esquire

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 Expert Interrogatories provided by Defendant Electric Avenue Banquet and Function Hall, Inc. 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.

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

By: 

Darryl R. Slimak

Attorneys for Defendant

ELECTRIC AVENUE BANQUET AND
FUNCTION HALL, INC.

811 University Drive

State College, PA 16801

(814) 238-4926

Fax: (814) 238-9624

Dated: 12/17/02

Definitions

A. "You" and/or "your" means Plaintiff, her agents and employees and others acting on her behalf with regard to asserting the cause of action to be set forth in Plaintiff's Complaint in the above-captioned case.

B. "Document" shall mean any writing (whether handwritten, typed, printed or otherwise made), drawing, graph, chart, photograph, phonograph record, or electronic or mechanical matter (including microfilm of any kind or nature, tape or recording), or other data compilations from which information can be obtained (translated, if necessary, by Defendant, through detection devices into reasonably usable form), and shall include, without limiting the generality of the foregoing, all records, correspondence, telegrams, teletypes, agreements, studies, reports, drafts, memoranda, and computer print outs.

C. As used herein "identify", when used in reference to an individual, means his full name and present or last known residence and business address, his present or last known position or title and business affiliation, and his position at the time in question.

D. "Health care provider" means a person, corporation, facility, institution or other entity licensed or approved by the Commonwealth to provide health care or professional medical related services, including but not limited to a medical doctor, a doctor of osteopathy, a doctor of podiatry; chiropractor, nurses, hospital; nursing home; health maintenance organization; or an officer, employee or agent of any of them acting in the course and scope of his employment.

Where the Interrogatories request that documents be identified, an identification of it should include at least the following: author, addressee, type of document, date, subject matter, and the name and address of the person or party presently having custody of the document and any known copies of it.

Instructions for Answering Interrogatories

A. In accordance with Pa. R.C.P. Rule 4005, the original copy 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 sufficient space to answer an Interrogatory, the remainder of the answer shall follow on a supplemental sheet.

C. Please serve these answers to Interrogatories in accordance with the Rules of Civil Procedure.

Interrogatories

1. For each expert witness you intend to call at the trial of this case, please list:
 - (a) name, business address and home address;
 - (b) date of birth, technical school(s) attended; date(s) of attendance; date(s) of graduation and degree(s) obtained;
 - (c) the specialty(ies) in which the witness has received certification by any board(s) or professional organization(s), the date(s) of such certification, and the identify of the board(s) issuing such certification(s);
 - (d) all professional societies, academies, associations or other organized professional groups of which this expert is a member;
 - (e) all states in which the witness has ever been licensed and the states in which the witness is currently licensed;
 - (f) whether any state board of licensure has ever revoked or suspended the witness' license and if so, the date of such revocation or suspension and the name of the state board of licensure imposing such revocation or suspension;
 - (g) whether any professional or governmental agency or body has ever had occasion to investigate the witness pursuant to any complaint calling into question the professional conduct or professional ethics of the witness and if so, the name of such investigative body, the date of investigation, and the outcome or disposition of such investigation;
 - (h) all lawsuits in which this expert has ever testified as an expert witness, and for each, whether he/she testified on behalf of the plaintiff or defendant, the court term and number of each action, and the area of expertise to which this expert testified in each case;
 - (i) all textbooks, treatises, papers, articles, or other writings which this witness has ever authored, and for each the name of the article/publication, citation of the publication and date of publication;
 - (j) if the witness is not self-employed, state each address where the witness is employed.

ANSWER:

2. For each such expert witness you intend to call at the trial of this case, state the subject matter on which the expert is expected to testify.

ANSWER:

3. For each such expert witness, state the substance of each and every fact which each expert is expected to utilize during his/her testimony.

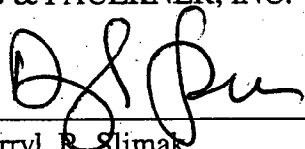
ANSWER:

4. For each such expert witness, state the substance of each and every opinion to which the expert is expected to testify and for each opinion give a complete statement of the ground for such opinion.

ANSWER:

Respectfully submitted,

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

By: 

Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET AND
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: 12/17/02

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

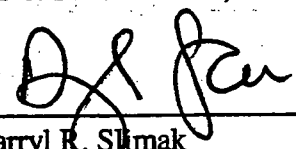
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Electric Avenue Banquet's
Expert Interrogatories Directed to Plaintiff in the above-captioned matter was mailed by regular
mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 17th day of
December, 2002, to the attorney(s) of record:

Chris A. Pentz, Esquire
211 ½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: _____


Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET AND
FUNCTION HALL, INC.
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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Defendant Electric Avenue
Banquet's Second Request for
Production of Documents and
Tangible Things Directed to Plaintiff*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

DEFENDANT ELECTRIC AVENUE BANQUET'S SECOND
REQUEST FOR PRODUCTION OF DOCUMENTS AND
TANGIBLE THINGS DIRECTED TO PLAINTIFF

TO: PAULA SHOMO
c/o Chris A. Pentz, Esquire

AND NOW COMES, Defendant, ELECTRIC AVENUE BANQUET and FUNCTION HALL, INC., by and through its attorneys, McQUAIDE, BLASKO, SCHWARTZ, FLEMING & FAULKNER, INC., hereby requests Plaintiff to produce the documents and tangible things described below, pursuant to Rule 4009 of the Pennsylvania Rules of Civil Procedure for inspection and/or photocopying by Defendant, its attorneys and/or agents. The documents and tangible things shall be produced at the offices of McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc., 811 University Drive, State College, Pennsylvania within thirty (30) days of the date of this Request, or at such other time and place that the parties may mutually agree. In responding to this request, you (as hereinafter defined) shall utilize the definitions and follow the instructions hereinafter set forth, each of which shall be deemed to be a material part of each request.

INSTRUCTIONS

1. With respect to each of the following requests, you shall identify and/or produce all documents which are known to you or which can be located or discovered by you through diligent effort on the part of you, your employees, representatives, attorneys or accountants, including but not limited to, all documents which are in the business or personal files of your employees, in the possession of your representatives, attorneys or accountants, or accessible to you, your employees, or your representatives, attorneys or accountants.

2. The following requests shall be deemed to be continuing so as to require further and supplemental production of documents by you in accordance with Rule 407.4 of the Pennsylvania Rules of Civil Procedure.

3. If any documents requested herein or fairly comprised within the scope of the following requests have been lost or destroyed, you shall provide in lieu of a true and correct copy thereof a list of each document so lost or destroyed together with the following information: (1) the date of origin; (2) a brief description of such document; (3) the author of such document; (4) the date upon which the document was lost or destroyed; and, (5) a brief statement of the manner in which the document was lost or destroyed.

4. In the event you refuse to produce any document requested on grounds of any claimed privilege from discovery, state each ground for such claimed privilege, describe the document withheld by date, author, recipients (including all persons who were shown or received a copy), and give a general description of the subject matter of the document.

5. In the event that more than one copy of a document exists, the original shall be produced as well as every copy on which appears any notation or marking of any sort not

appearing on the original.

6. For any documents which are stored or maintained in files in the normal course of business, such documents shall be produced in such files, or in such a manner as to preserve and indicate the file from which such documents were taken.

DEFINITIONS

1. "You" and "Your" shall mean Plaintiff as well as her agents, attorneys, employees, accountants, consultants, independent contractors, and any other individual or entity associated or affiliated with her or purporting to act on her behalf with respect to the matter in question.
2. "Document" shall mean all written or printed matter of any kind in your possession, custody or control, which is either known to you or can be located or discovered by diligent effort, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise, including without limitation, correspondence, memoranda, notes, speeches, press releases, diaries, calendars, agenda, statistics, letters, telegrams, minutes, contracts, purchase orders, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, inter-office and intra-office communications, offers, bulletins, printed matter, computer printouts, teletypes, telefax, invoices, work sheets, work papers, records of telephone calls or other communications or conversations, and all drafts, alterations, modifications, changes or amendments of any of the foregoing graphic or aural records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, video tapes, records and motion pictures) and electric or mechanical records of representations of any kind (including without limitation, tapes, cassettes, discs, and recordings).
3. "Relating to" shall include pertaining to, recording, evidencing, containing, setting forth, reflecting, showing, disclosing, describing, explaining, summarizing, concerning or referring to, whether directly or indirectly.

4. The conjunctions "and" and "or" shall be interpreted to mean "and/or," and shall not be interpreted to exclude any information otherwise within the scope of any request.

5. "Person" shall mean any individual, firm, partnership, corporation, association, business or governmental entity or subdivision, agency, department, and any "person" acting by or through, directly or indirectly, any other "person" as well as any "person" by whom such "person" was controlled with respect to the matter in question.

REQUESTS

1. All photographs in the possession, custody or control of the Plaintiff, counsel for Plaintiff, or any other person or entity acting on behalf of the Plaintiff, including any insurers for the Plaintiff, showing, representing or purporting to show any locales, instrumentalities, persons, and any and all other matters related to the subject matters of this litigation. Please include recent photographs of Plaintiff, with and without depiction of the injuries alleged.

ANSWER:

2. All diagrams, sketches, drawings, plans, measurements or blueprints in the possession, custody or control of Plaintiff, counsel for Plaintiff, or any other person or entity acting on behalf of said Plaintiff, including any insurer of said Plaintiff, showing, representing, or purporting to show any of the instrumentalities, locales, persons or other matters involved in the incident which forms the basis of Plaintiffs' Complaint.

ANSWER:

3. All statements, signed statements, transcripts of recorded statements or interviews, recorded statements if not transcribed or any statement of recorded statements if not transcribed verbatim taken of any parties, persons, or witnesses as part of an investigation of the happening or cause of the incident in question, conducted by, or in possession of Plaintiff, Plaintiff's attorney, insurers, or anyone else acting on behalf of Plaintiff.

ANSWER:

4. All expert opinion, expert reports, expert summaries, or other writings of experts in the possession, custody or control of Plaintiff, or its attorneys or insurers, which relate to the subject matter of this litigation and the incident in question.

ANSWER:

5. All documents prepared by Plaintiff or by any insurers, representatives, agents or anyone acting on behalf of Plaintiff, except her attorneys, during an investigation of any aspect of the incident in question. Such documents shall include any documents made or prepared up through the present time, with the exclusion of the mental impressions, conclusions, or opinions respecting the value or merit of a claim or defense or respecting strategy or tactics.

(NOTE: As referred to herein, "documents" includes written, printed, typed, recorded, or graphic matter, however produced or reproduced, including correspondence, telegrams, other written communications, data processing storage units, tapes, contracts, agreements, notes, memoranda, analyses, projections, indices, work papers, studies, reports, surveys, diaries, calendars, films, photographs, diagrams, drawings, minutes of meeting or any other writing including copies of the foregoing, regardless of whether the parties to whom this request is addressed is now in the possession, custody or control of the original) now in the possession, custody or control of Plaintiff, his former or present counsel, agents, employees, officers, insurers, or any other person acting on Plaintiff's behalf.)

ANSWER:

6. If not otherwise covered by the above Requests, the complete claims/investigation /subrogation file(s) of any insurers, investigators, or other agents of Plaintiff, dealing with the incident in question, with the exclusion of the mental impressions, conclusions, or opinions respecting the value or merit of a claim or defense, or respecting strategy or tactics.

ANSWER:

7. All documents in the possession, custody or control of Plaintiff, Plaintiff's counsel, insurers, or anyone else acting on Plaintiff's behalf, dealing in any way with the injuries, damages and losses allegedly sustained by Plaintiff. This should include, but not be limited to, all medical bills, medical records, medical reports, correspondence and any and all documents relating to medical treatment, hospitalization, medication, appliances, lost wages, etc.

ANSWER:

8. All documents in the possession, custody or control of Plaintiff, Plaintiff's counsel, insurers, investigators or anyone else acting on Plaintiff's behalf, dealing in any way with any criminal investigation of the incident alleged in Plaintiff's Complaint. These documents should include, but not be limited to, a police report, any statements by Defendant or any witnesses, and any transcripts of criminal proceedings or any portion thereof.

ANSWER:

9. All documents in the possession, custody or control of Plaintiff, Plaintiff's counsel, insurers, investigators or anyone else acting on Plaintiff's behalf, dealing in any way with any report and/or investigation of the incident referenced in Plaintiff's Complaint.

ANSWER:

10. All federal and state tax returns, W-2 forms, 1099's and supporting schedules and documents, along with any amendments or supplements thereto, filed by you or on your behalf for the last seven years.

ANSWER:

Respectfully submitted,

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

By: _____


Darryl R. Slimak

Attorneys for Defendant
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: 12/17/02

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

PAULA SHOMO,

Plaintiff,

vs.

CATHRINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

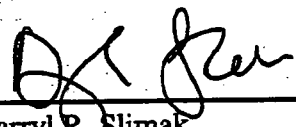
No. 2001 - 00422 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Electric Avenue Banquet'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 17th day of December, 2002, to the parties/attorney(s) of
record:

Chris A. Pentz, Esquire
211 ½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: 

Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

7/1:24261
FEB 12 2003

NO
cc

William A. Shaw
Notary Public

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Order re Defendant Electric Avenue
Banquet & Function Hall, Inc.'s
Motion to Compel Discovery
Responses From Plaintiff*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 18 2003

**William A. Shaw
Prothonotary**

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

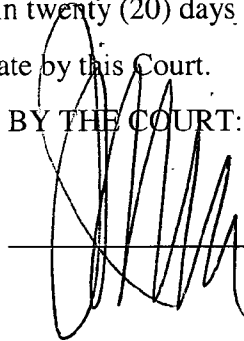
Defendants.

No. 2001 - 00422 - C.D.

ORDER

AND NOW, this 8th day of February, 2003, upon consideration of Defendant Electric Avenue Banquet and Function Hall, Inc.'s Motion to Compel, said Motion is hereby GRANTED. It is further ORDERED that Plaintiff, Paula Shomo, shall provide full and complete answers and/or responses, without objection, to Defendant's Interrogatories and Requests for Production of Documents within twenty (20) days of the entry of this Order, or she shall suffer sanctions deemed to be appropriate by this Court.

BY THE COURT:



J.

FILED

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01/21/25
FEB 18 2003

Atty Shmax
6/25

William A. Shaw
Prothonotary

PAULA SHOMO,

No. 2001 - 00422 - C.D.

VS.

Type of Pleading:
*Certificate of Service Pertaining to
 Service of Court Order Granting
 Defendant Electric Avenue
 Banquet & Function Hall, Inc.'s
 Motion to Compel Discovery From
 Plaintiff*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

FEB 21 2003

William A. Shaw
Prothonotary

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

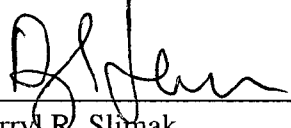
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Court Order Granting Defendant Electric Avenue Banquet & Function Hall, Inc.s' Motion to Compel Discovery From Plaintiff in the above-captioned matter was hand delivered and mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 21st day of February, 2003 to the attorney(s) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: _____


Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

M 11:30 AM
FEB 21 2003

William A. Shaw
Prothonotary

NO
CC

cc
JES

17

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Certificate of Service Regarding
Notice of Intent to Serve a Subpoena*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

APR 02 2003

m/11:20/143
William A. Shaw
Prothonotary

NO CEN

RET

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

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 1st day of April, 2003, to the attorney(s) of record:

Chris A. Penz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: _____


Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

APR 02 2003

**William A. Shaw
Prothonotary**

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Certificate Prerequisite and
Certificate of Service re Subpoena to
Produce Documents and Things
Directed to Dutch Pantry Family*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

APR 24 2003

William A. Shaw
Prothonotary



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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

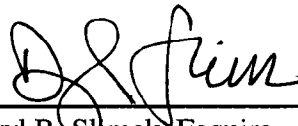
Defendants.

No. 2001 - 00422 - C.D.

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 Electric Avenue Banquet & Function Hall, Inc. 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.



Darryl R. Simak, Esquire
Attorney for Defendant
ELECTRIC AVENUE BANQUET

Dated: April 23, 2002

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Paula Shomo
Plaintiff(s)

Vs.

Cathrine Greenawalt and
Electric Avenue Banquet and Function Hall,
Inc.
Defendant(s)

*

*

*

No. 2001-00422-CD

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

TO: DUTCH PANTRY FAMILY RESTAURANTS
(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 Offices, 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

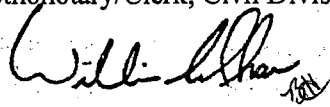
SUPREME COURT ID # 41695

ATTORNEY FOR: Defendant Electric Avenue Banquet & Function Hall, Inc.

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Monday, March 31, 2003
Seal of the Court


Deputy

Dutch Pantry Family Restaurants

DOCUMENTS TO BE PRODUCED

Any and all personnel/employment records on PAULA J. SHOMO, including but not limited to, application for employment, pre-employment physical examination, annual evaluations, wage scale, hours worked, absences due to sickness, absences due to vacations, absences for other reasons, sick days accumulated/used, vacation days accumulated/used, any and all correspondence pertaining to Paula J. Shomo, and any and all Workers' Compensation documents, etc.

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

PAULA SHOMO,

Plaintiff,

VS.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Subpoena Duces Tecum Directed to Dutch Pantry Family Restaurants in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 23rd day of April, 2003, to the attorney(s) of record:

Chris A. Penz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

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

By: 
Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

NOV 11 1932

cc

William A. Shaw
Proctor

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
Praecipe to List for Trial

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED

JUL 23 2003

William A. Shaw
Prothonotary

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

PRAECIPE TO LIST FOR TRIAL

TO THE PROTHONOTARY:

Please place the above captioned matter on the next trial list for the next term of Civil Court. I hereby certify that no motions are outstanding and that the discovery has been completed and the case is ready for trial. I further certify that Notice of Praecipe has been given to the attorney of record representing the other parties pursuant to the attached Certificate of Service.

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

By: _____


Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: July 22, 2003

Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

FILED NO CC

M/1/11 ~~2011~~ copy to C/A
JUL 23 2003

~~2011~~

William A. Shaw
Prothonotary

William A. Shaw
Prothonotary/Clerk of Courts

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

PAULA SHOMO

NO. 01-0422-CD

V.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.

ORDER

AND NOW, this 23rd day of January, 2004, following Pre-Trial Conference, upon Agreement of the parties through counsel, it is the ORDER of this Court that this matter shall be continued until April 1, 2004.

No further continuances shall be granted.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED

JAN 26 2004

William A. Shaw
Prothonotary

FILED

JAN 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

01/24/04 10:00 AM

JAN 26 2004

William A. Shaw

Prothonotary/Clerk of Courts

*Attorney General
Honorable Lawrence
H. Breyer
KQJ
Harrisburg, PA 17145*

2-11

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17145

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

PAULA SHOMO

V.

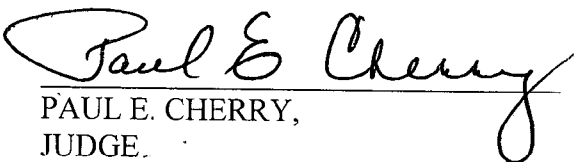
NO. 01-422-CD

CATHERINE GREENAWALT, and
ELECTRIC AVENUE BANQUET
and FUNCTION HALL, INC.

ORDER

AND NOW, this 15th day of April, 2004, this being the date scheduled for Pre-Trial Conference, upon consideration of the request for continuance by counsel for the Plaintiff of this matter until the next term of Court, it is the ORDER of this Court that this matter be and is hereby continued until the next term of Court.

BY THE COURT,


PAUL E. CHERRY,
JUDGE.

FILED

APR 15 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

1cc Atty Pentz

0/3:07/64
APR 15 2004

1cc C. Greenawald

William A. Shaw

Q 711 Good St.

Prothonotary, Clerk of Courts

180 Houtzdale, PA 16805

1cc Atty Slimak

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

PAULA SHOMO,
Plaintiff

VS

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,
Defendants

No. 2001-422-C.D.

* Type of Case: Civil

* Type of Pleading: Certificate of
Service-

* Filed on Behalf of: Plaintiff

* Counsel of Record for this Party:
* CHRIS A. PENTZ, Esquire

* Supreme Court I.D. # 39232
* 207 East Market Street
* P. O. Box 552
* Clearfield PA 16830
* 814 765-4000

FILED

MAY 07 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

PAULA J. SHOMO,
Plaintiff

vs

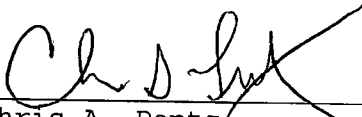
No. 2001-422-C.D.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,
Defendants

CERTIFICATE OF SERVICE

I do hereby certify that on the 3rd day of March,
2004, I mailed a certified copy of Notice of Default by first
class mail, postage prepaid, to:

Ms. Catherine Greenawalt
06-8187
Quehanna Boot camp
H.C. - Box 32
Karthaus PA 16845


Chris A. Pentz
Attorney for Plaintiff

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

PAULA J. SHOMO,
Plaintiff

vs

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,
Defendants

*

*

*

*

*

*

No. 01-422-C.D.

NOTICE OF DEFAULT

To: CATHERINE GREENAWALT:

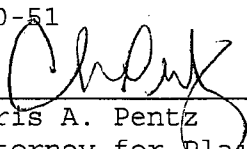
Date of Notice:

3-3-04

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE
ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN
DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED
AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE PROPERTY OR OTHER
IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT
ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO
OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET

LEGAL HELP: Office of Court Administrator
Clearfield County Courthouse
One North Second Street
Clearfield PA 16830
814 765-2641 Ext. 50-51


Chris A. Pentz
Attorney for Plaintiff

CHRIS A. PENTZ
ATTORNEY AT LAW
207 East Market Street
CLBARRFIELD, PENNSYLVANIA 16830

Fold Here

FILED

0/3:45-84
MAY 07 2004

16
cc
61
KED

William A. Shaw
Prothonotary/Clerk of Courts

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

PAULA J. SHOMO,
Plaintiff,

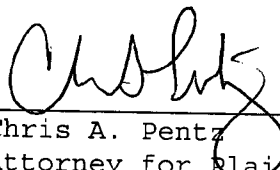
vs

No. 2001-422-CD

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,
DefendantAS

To the Prothonotary:

Please enter Default Judgment against the Defendant,
Catherine Greenawalt, in favor of the Plaintiff, Paula J. Shomo,
in an unliquidated amount plus interest, costs and such other relief
as deemed appropriate.


Chris A. Pentz
Attorney for Plaintiff

FILED

MAY 07 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

Atty Naddes

6/3/45

pd. 20.00

MAY 07 2004

Notice to Def.

William A. Shaw

Prothonotary/Clerk of Courts

Statement to Atty

[Signature]

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

PAULA J. SHOMO,
Plaintiff

vs

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,
Defendants

*

*

*

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*

*

No. 01-422-C.D.

NOTICE OF DEFAULT

To: CATHERINE GREENAWALT:

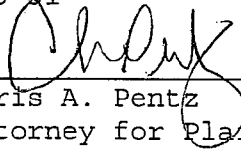
Date of Notice:

3-3-04.

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE
ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN
DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED
AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE PROPERTY OR OTHER
IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT
ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO
OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET

LEGAL HELP: Office of Court Administrator
Clearfield County Courthouse
One North Second Street
Clearfield PA 16830
814 765-2641 Ext. 50-51


Chris A. Pentz
Attorney for Plaintiff

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

COPY

PAULA J. SHOMO.

No. 2001-422-CD

vs.

CATHERINE GREENAWALT AND

ELECTRIC AVENUE BANQUET and

FUNCTION HALL, INC..

NOTICE is given that a JUDGMENT in the above captioned matter
has been entered against you in the amount of \$ an unliquidated amount
plus interest, costs and such other relief as deemed appropriate.

on May 7, 2004

William Shaw, Prothonotary

by _____
Deputy

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY,
PENNSYLVANIA
STATEMENT OF JUDGMENT

COPY

Paula Shomo
Plaintiff(s)

No.: 2001-00422-CD

Real Debt: unliquidated amount

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Cathrine Greenawalt
Electric Avenue Banquet and Function Hall, Inc.
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: May 7, 2004

Expires: May 7, 2009

Certified from the record this 7th day of May, 2004.

William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on _____, _____, of defendant full satisfaction of this Judgment,
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

COPY

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

Paula Shomo
Plaintiff(s)

Docket:

No.: 2001-00422-CD

Real Debt: unliquidated amount against
Catherine Greenawalt ONLY

Atty's Comm:

Vs.

Costs: \$

Int. From:

Cathrine Greenawalt
Electric Avenue Banquet and Function Hall, Inc.
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: May 7, 2004

Expires: May 7, 2009

Certified from the record this 10th day of May, 2004.

William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on _____, _____, of defendant full satisfaction of this Judgment,
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

William A. Shaw
Prothonotary/Clerk of Courts

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

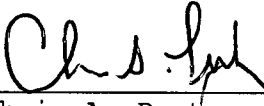
Paula J. Shomo,	)	
Plaintiff	)	
	)	
vs	)	No. 01-422-C.D.
	)	
Catherine Greenawalt and	)	
Electric Avenue Banquet and	)	
Function Hall, Inc.,	)	
Defendants	)	

PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY:

Please mark the record in the above captioned
matter settled and discontinued with prejudice as to Defendant,
Electric Avenue Banquet and Function Hall, Inc.

Date: 6-2-04



Chris A. Pentz
Attorney for Plaintiff

_____ Fold Here _____

CHRIS A. PENTZ
ATTORNEY AT LAW
207 East Market Street
CLEARFIELD, PENNSYLVANIA 16830

FILED
JUL 26 2004
William A. Spaw
Prothonotary Clerk of Courts

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

CIVIL DIVISION

Paula Shomo

Vs.

No. 2001-00422-CD

**Cathrine Greenawalt and
Electric Avenue Banquet and Function Hall, Inc.**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on July 26, 2004, marked:

Settled and Discontinued with Prejudice as to Defendant Electric Avenue Banquet and Function Hall, Inc. ONLY

Record costs in the sum of \$100.00 have been paid in full by Chris A. Pentz, Esq..

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 26th day of July A.D. 2004.

William A. Shaw, Prothonotary

CA

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

PAULA SHOMO

V.

CATHERINE GREENAWALT

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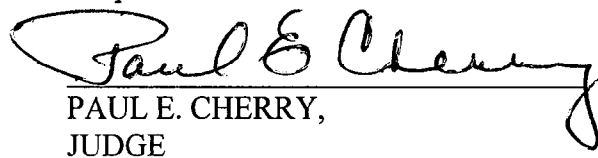
NO. 01-422-CD

ORDER

AND NOW, this 2nd day of August, 2004, it is the ORDER of this Court that Pre-Trial Conference is scheduled with regard to this matter for Monday, August 16, 2004, beginning at 9:00 A.M. in Judge's Chambers, Clearfield County Courthouse, 230 East Market Street, Clearfield, Pennsylvania.

It is the further ORDER of this Court that the Prothonotary of Clearfield County shall serve a copy of this Order upon defendant at the address provided by the Court.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED 

AUG 05 2004

William A. Shaw
Prothonotary/Clerk of Courts

Service upon defendant at: 709 Good Street
Houtzdale, Pennsylvania 16651

William A. Shaw
Prothonotary/Clerk of Courts

FILED
O/S: 13/84
AUG 05 2004
100 Def. - above address

Service upon defendant at: 709 Good Street
Houtzdale, Pennsylvania 16651

Bonnie -
The address for
service of defendant
is on check
of original
Order.

Thomas, Dawn

GA

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

PAULA SHOMO

: NO. 01-422-CD

V.

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:
:

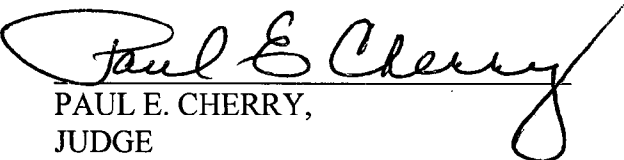
CATHERINE GREENAWALT

ORDER

AND NOW, this 16TH day of August, 2004, following Pre-Trial Conference, it is
the ORDER of this Court:

1. This matter shall be transferred from the Jury Trial List to the Non-Jury Trial List.
2. Non-Jury Trial in this matter is scheduled for December 13, 2004 at 9:00 A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED

AUG 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

0/2:2307
Aug 19 2004

ELAS

William A. Shaw

Prothonotary/Clerk of Courts

ICC Atty Gen + c

ICC Def - 709 Good Street

Houtzdale, PA 16851

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

PAULA SHOMO,

Plaintiff

vs

SUSAN TURNER-BETTS,

Defendant

No. 01-422-CD

PLAINTIFFS' PRETRIAL STATEMENT

I. BRIEF STATEMENT OF THE CASE.

Plaintiff was a business invitee at Defendant Electric Avenue's liquor licensed establishment on March 27, 1999 located in Clearfield County. Plaintiff was approached by Defendant Greenawalt and without provocation was intentionally struck by Defendant Greenawalt in the forehead. Defendant Greenawalt used a beer bottle to strike Plaintiff. Plaintiff suffered contusions to her face, neck, and scalp; swelling in neck and head; laceration to forehead; concussion; chronic headaches; and a permanent bump on her forehead as a result of being struck on the head. Plaintiff was visibly intoxicated at the time of the incident. Defendant Greenawalt was served alcohol by Defendant Electric Avenue while visibly intoxicated. Defendant Electric Avenue failed to provide a sufficient number of properly trained security at its establishment.

II. UNUSUAL QUESTIONS OF LAW.

It is believed that Defendant Greenawalt is incarcerated as a result of this incident.

III WITNESSES.

1. Plaintiff (liability and damages)
2. Defendants and its agents (liability)
3. Georgia Shomo, 114 South 4th Street, Clearfield, PA.
(damages)
4. Individuals as set forth in discovery. (liability and
damages)
5. Any witnesses as listed in Defendants' PreTrial Statements.
(liability and damages)

IV. MEDICAL REPORTS.

None.

V. EXPERT REPORTS

None.

VI. Special Damages.

None.

VII. Exhibits.

None

VIII Photographs, Plots or Plans.

See photographs attached.

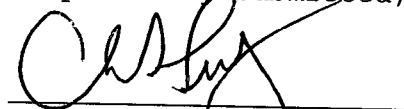
IX. Estimated Length of Time of Trial.

one (1) days.

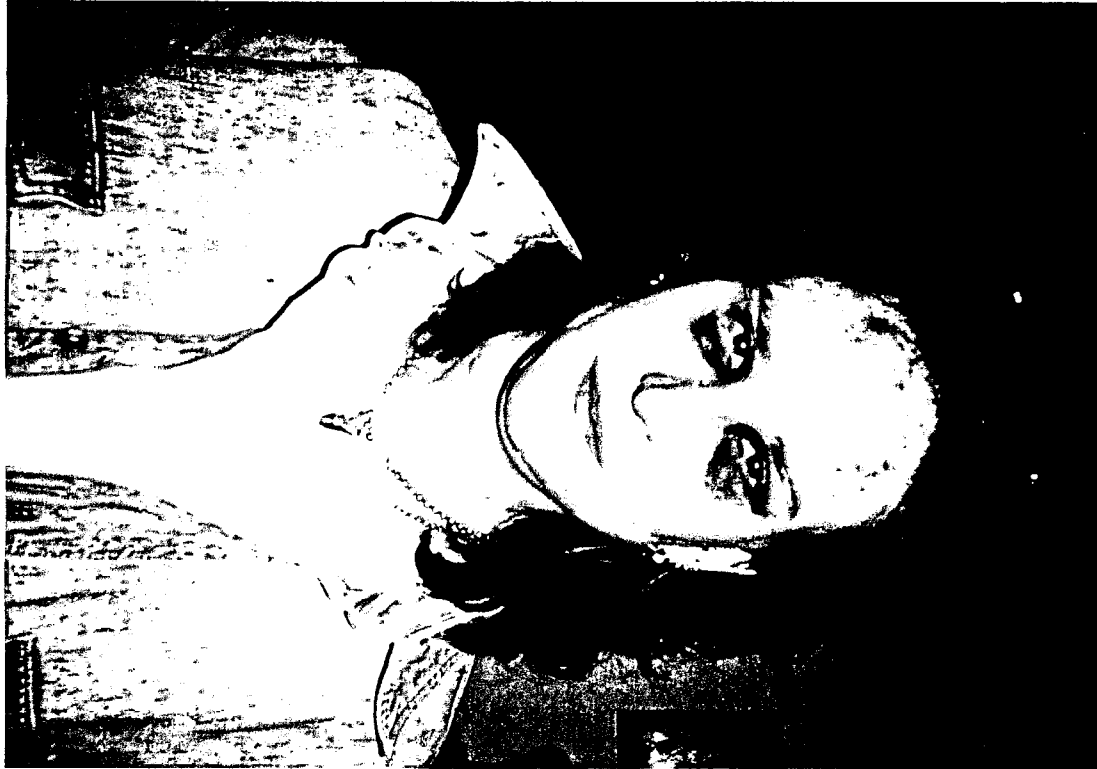
X. List of Proposed Stipulations.

None.

Respectfully submitted,



Chris A. Pentz
Attorney for Plaintiffs







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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Pre-Trial Memorandum Submitted
on Behalf of Defendant Electric
Avenue Banquet*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

*Richard K. Laws, Esquire
Pa. Supreme Court I.D. No. 82369*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

RECEIVED

JAN 16 2004

COURT ADMINISTRATOR'S
OFFICE

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

PRE-TRIAL MEMORANDUM SUBMITTED ON BEHALF OF
DEFENDANT ELECTRIC AVENUE BANQUET

I. Brief Factual Statement

Within her Complaint, the Plaintiff contends that on March 27, 1999, at approximately 1:00 a.m., she was a patron at Electric Avenue Banquet and Function Hall, Inc. (hereinafter "Electric Avenue"). (See Complaint at ¶¶5-6). At that time, she contends that she was struck in the forehead with a beer bottle by Defendant Greenawalt. (Id.). Plaintiff claims damages consisting of contusions to the face, neck and scalp and a laceration to the forehead as a result of Defendant Greenawalt's actions. (Id. at ¶7). As to Defendant Electric Avenue, Plaintiff sets forth a claim for serving visibly intoxicated persons and for failing to provide appropriate training to security personnel. (Id. at ¶¶ 12-16).

Defendant Electric Avenue filed a timely Answer to the foregoing allegations wherein same were denied as was any legal responsibility for the damages claimed by the Plaintiff. This Defendant will submit evidence at trial demonstrating that Defendant Greenawalt was solely responsible for the altercation between herself the Plaintiff and that the incident occurred so

quickly so as to preclude any reasonable or effective intervention by the Defendant's employees. Finally, evidence will demonstrate that the Defendant and its employees did not serve any visibly intoxicated patrons on the night in question, specifically including Plaintiff or Ms. Greenawalt. Likewise, it will be Defendant's position that the intentional and unforeseeable actions of Defendant Greenawalt were a supervening and/or intervening cause in relationship to any arguable actions or inactions of the Defendant and/or its employees.

In an attempt to support her claims, Plaintiff has effectively done nothing. No discovery has been served on either of the Defendants and no depositions have been taken. In this regard, the only deposition completed has been that of Plaintiff accomplished by the undersigned counsel on February 21, 2003. At the time of her deposition, the Plaintiff testified that she arrived at the Electric Avenue Banquet facility at approximately 11:30 to 12:00 p.m. on March 28, 1999. (See Plaintiff depo. trans. at pp. 17, 20). While at the facility, the Plaintiff recalled having a beer and nearly finished a mixed drink prior to the altercation at issue. (Id. at pp. 20).

Notably, the Plaintiff indicated that she did not feel intoxicated at the time of the altercation and was not in position to observe whether Defendant Greenawalt was intoxicated and/or appeared as such at the time in that she had not seen the Defendant drink any alcoholic beverages throughout the evening. (Id. at pp. 15, 55, 57, 60). Likewise, the Plaintiff had never seen the facilities bartender, Hannah Shimmel, ever serve visibly intoxicated patrons before and had never made any complaints in this regard. (Id. at p. 61).

The Plaintiff testified that her criticisms as to the Banquet facility involved its failure to have more staff present on the night in question and/or that the facility was over-occupied at the time. (Id. at p. 64). Despite such contentions, the Plaintiff has produced no evidence to support a claim of over-occupancy and candidly admitted that the incident at issue occurred "very

quickly” and/or “so fast,” i.e. “within a couple seconds,” so as effectively preclude any intervention by the Defendant’s employees regardless of staffing issues. (Id. at pp. 26, 30, 65, 71, 79).

As a result of the foregoing, Defendant Electric Avenue respectfully submits that it bears no legal responsibility for the Plaintiff’s claimed damages. Nevertheless, in an effort to have the matter amicably concluded a settlement offer of \$5,000 (defense costs) has repeatedly been offered to Plaintiff’s counsel, who until rather recently made no effort to respond to same. During a recent telephone conference, Plaintiff’s counsel indicated that he has had trouble communicating with his client who now lives out of state, but that he would attempt to contact the Plaintiff and respond to Defendant’s offer. Defense counsel has not heard from Plaintiff’s counsel in this regard. Thus, jury trial will likely prove necessary.

II. Exhibits

1. Deposition Transcript of the Plaintiff;
2. All pleadings and discovery responses from Plaintiff (both verified and non-verified);
3. Photographs of Defendant facility;
4. Records from Plaintiff’s then employer Dutch Panty Restaurant;
5. Plaintiff’s tax returns and/or filings from 1995 through 2000;
6. Documents obtained from Pennsylvania Liquor Control Board, including Responsible Alcohol Management Program Certification(s);
7. Certified copy and/or record of Defendant Greenawalt’s criminal conviction; and,
8. Plaintiff’s medical records.

Defendant reserves the right to utilize any Exhibits referenced on the remaining Pre-Trial Statements submitted and/or to amend this list as necessary.

III. Witnesses

1. Justin Powell - Owner of Defendant facility (liability);
2. Hannah Shimmell - Bartender at Defendant facility (liability and damages);
3. Shannon Churner - Bartender at Defendant facility (liability and damages);
4. Roy Maines, Jr. - Bouncer at Defendant facility (liability);
5. Dan Cutler - Bouncer at Defendant facility (liability);
6. Jeffrey Shimmell - Witness (liability);
7. Tracy Brubaker - Plaintiff's Manager at Dutch Pantry Restaurant; and,
8. Gretta Straw - Plaintiff's Assistant Manger at Dutch Pantry Restaurant.

Defendant reserves the right to call all parties to this case and/or to call any witnesses identified on the remaining Pre-Trial Statements submitted and/or to amend this list as necessary.

IV. Legal Theory of Defense

Under Pennsylvania Law, it is not enough for an injured plaintiff to produce evidence that alcoholic beverages were served to patrons. Civil liability is imposed upon the tavern keeper who has served alcoholic beverages to a patron only when the patron was visibly intoxicated and, as a consequence, the patron or another person has been injured. See i.e. Holpp v. Fez, Inc., 440 Pa.Super. 512, 656 A.2d 147 (1995). Even if a patron is intoxicated at the time he or she is injured or causes injury to another, the tavern keeper who served the alcoholic beverages to the patron will not be held civilly liable unless the patron was served at a time when he or she was visibly intoxicated. Id. Moreover, the mere breach of the statutory duty to refrain from

serving alcohol to visibly intoxicated persons does not alone establish liability. To the contrary, the plaintiff must also show that the breach was a proximate cause and the cause in fact of the injury. See i.e. Reilly v. Tiergarten, Inc., 430 Pa.Super. 10, 15, 633 A.2d 208, 210 (1993); Majors v. Brodhead Hotel, 416 Pa. 265, 271, 205 A.2d 873, 877 (1965)(defendant cannot be found to have proximately caused injury where his negligent conduct of serving alcohol to minor was not a substantial factor in causing the injury). Even if a patron has been served alcoholic beverages while visibly intoxicated, there will be no civil liability imposed upon the tavern keeper unless the injuries to the patron or a third person were proximately caused by the patron's intoxication. See i.e. Smith v. Clark, 411 Pa. 142, 190 A.2d 441, 442 (1963).

In the present case, Plaintiff will be unable to present any evidence to sustain the foregoing prima facie burdens. To the contrary, the evidence will show that Defendant Greenawalt was solely responsible for the altercation between herself and the Plaintiff and/or that the incident occurred so quickly so as to preclude any reasonable or effective intervention by the Defendant's employees. Finally, evidence will demonstrate that the Defendant and its employees did not serve any visibly intoxicated patrons on the night in question, specifically including the Plaintiff or Ms. Greenawalt, and that all intentional and criminal actions of Defendant Greenawalt were a supervening and/or intervening cause in relationship to any arguable actions or inactions of the Defendant and/or its employees. Notably, the foregoing points were essentially conceded by the Plaintiff within the deposition testimony that she provided in this case.

V. Brief Description of Damages

Plaintiff alleges damages in the nature of contusions to the face, neck and scalp; swelling of the head and neck; laceration to the forehead and concussion. No medical report has been submitted in said regard, nor has a medical expert witness been identified.

Pursuant to records obtained, Plaintiff and/or her providers were reimbursed \$2,251.38 by the Pennsylvania Crimes Victims Compensation Program and has no out of pocket expenses. The Plaintiff also missed a total of 32 hours of work from Dutch Pantry (per subpoenaed records) wherein she was earning \$2.83 per hour.

VI. Evidentiary Problems / Stipulations

Defendant will request a stipulation as to the authenticity and/or admissibility of records subpoenaed from Dutch Pantry Restaurant. As far as evidentiary problems, Defendant does not presently foresee any significant issues. It is anticipated that a motion for directed verdict and/or non-suit will be made at the appropriate time based on Plaintiff's failure and/or inability to sustain her claims as to this Defendant, as a matter of law.

VIII. Special Points for Charge

Defendant's Proposed Points are attached. Defendant requests that it be permitted to supplement same based upon Plaintiff's Pre-Trial Memorandum and/or upon discovering the witnesses and/or theories that Plaintiff intends to present at trial.

IX. Estimated Time for Trial

Two to three days.

Respectfully submitted,
McQUAIDE BLASKO

By: 

Darryl R. Slimak
I.D. No. 41695
Richard K. Laws
I.D. No.: 82369
811 University Drive
State College, PA 16801
(814) 238-4926
Attorneys for Defendant
Electric Avenue Banquet

Dated: 1/15/04

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Pre-Trial Memorandum Submitted on Behalf of Defendant Electric Avenue Banquet and Proposed Points for Charge of Defendant Electric Avenue Banquet in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 15th day of January, 2004, to the attorney(s)/party(ies) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

Catherine Greenawalt
#0G8187
SCI - Cambridge Springs
451 Fullerton Avenue
Cambridge Springs, PA 16403-1238

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

By: 

Darryl R. Slimak
Richard K. Laws
Attorneys for Defendant
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Proposed Points for Charge
of Defendant Electric
Avenue Banquet*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

*Richard K. Laws, Esquire
Pa. Supreme Court I.D. No. 82369*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

PROPOSED POINTS FOR CHARGE OF
DEFENDANT ELECTRIC AVENUE BANQUET

DEFENDANT'S PROPOSED POINT FOR CHARGE # 1.

Under all the evidence and the law applicable to this case, I direct, as a matter of law, that you return a verdict in favor of Defendant Electric Avenue Banquet and against Plaintiff.

ACCEPTED

REFUSED

COVERED

MODIFIED

DEFENDANT'S PROPOSED POINT FOR CHARGE # 2.

In civil cases such as this one, Plaintiff has the burden of proving those contentions which entitle her to relief.

When a party has the burden of proof on a particular issue, their contention on that issue must be established by a fair preponderance of the evidence. The evidence establishes a contention by a fair preponderance of the evidence if you are persuaded that it is more probably accurate and true than not.

To put it another way, think, if you will, of an ordinary balance scale, with a pan on each side. Onto one side of the scale, place all of the evidence favorable to the plaintiff; onto the other, place all of the evidence favorable to the defendant. If, after considering the comparable weight of the evidence, you feel that the scales tip, ever so slightly or to the slightest degree, in favor of the plaintiff, your verdict must be for the plaintiff. If the scales tip in favor of the defendant, or are equally balanced, your verdict must be for the defendant.

Pennsylvania Suggested Standard Jury Instruction
No. 5.50 (1981); Collins v. Hand, 431 Pa. 378, 246
A.2d 398, 401 (1968); Donaldson v. Maffucci, 397
Pa. 548, 156 A.2d 835, 838 (1959); MacDonald v.
U.S., 767 F. Supp. 1295 (M.D. Pa. 1991), affirmed,
983 F.2d 1051.

ACCEPTED	_____
REFUSED	_____
COVERED	_____
MODIFIED	_____

DEFENDANT'S PROPOSED POINT FOR CHARGE # 3.

The fact that Defendant Greenawalt assaulted Plaintiff Shomo and/or the mere happening of such an incident is not any evidence of negligence on the part of Defendant.

Mohler v. Jeke, 407 Pa. Super. 478, 595 A.2d 1247 (1991); Churilla v. Barner, 269 Pa. Super. 100, 409 A.2d 83 (1979); Taylor v. Fardink, 231 Pa. Super. 259, 331 A.2d 797 (1974).

ACCEPTED
REFUSED
COVERED
MODIFIED

DEFENDANT'S PROPOSED POINT FOR CHARGE # 4.

Sometimes the happening of an accident is unavoidable and happens or occurs without a defendant being negligent. On the other hand, the fact that an accident occurs does not of itself prove that there was negligence on the part of Defendant.

You must determine the true facts in light of the law as I have given it to you as respects the matters of negligence, to determine whether Defendant was negligent. If after doing so you conclude that Defendant was not negligent and that the accident was unavoidable, that is within the exercise of the reasonable duty of care as required and defined by you, Defendant did not cause the happening of this accident, then Plaintiff cannot recover against it.

Kenworthy v. Burghart, 241 Pa. Super. 267, 361 A.2d 335 (1976).

ACCEPTED
REFUSED
COVERED
MODIFIED

DEFENDANT'S PROPOSED POINT FOR CHARGE # 5.

An tavern keeper is not an insurer or guarantor of the safety of its patrons.

Rabutino v. Freedom State Realty, Co., Inc., 809
A.2d 933, 939 (Pa. Super. 2002); Restatement
(Second) of Torts § 344, Comment f.

ACCEPTED: _____
REFUSED: _____
COVERED: _____
MODIFIED: _____

DEFENDANT'S PROPOSED POINT FOR CHARGE # 6.

No duty exists on the part of the Defendant toward Plaintiff solely because Plaintiff was a patron at Electric Avenue Banquet. That is, you may not find Defendant negligent simply because Plaintiff was a patron of Electric Avenue Banquet.

See Rabutino v. Freedom State Realty, Co., Inc.,
809 A.2d 933, 939 (Pa. Super. 2002); Restatement
(Second) of Torts § 344, Comment f.

ACCEPTED: _____
REFUSED: _____
COVERED: _____
MODIFIED: _____

DEFENDANT'S PROPOSED POINT FOR CHARGE # 7.

Under the facts and circumstances of this case, Defendant is under no duty exercise any care toward Plaintiff until Defendant knew or has reason to know that the acts of the third person were occurring, or were about to occur.

Rabutino v. Freedom State Realty, Co., Inc., 809
A.2d 933, 939 (Pa. Super. 2002); Restatement
(Second) of Torts § 344, Comment f.

ACCEPTED: _____
REFUSED: _____
COVERED: _____
MODIFIED: _____

DEFENDANT'S PROPOSED POINT FOR CHARGE # 8.

A law of the Commonwealth of Pennsylvania in effect at the time of this accident provided, in part, that it is unlawful:

For any licensee or the board, or any employe, servant or agent of such licensee or of the board, or any other person, to sell, furnish or give any liquor or malt or brewed beverages, or to permit any liquor or malt or brewed beverages to be sold, furnished or given, to any person visibly intoxicated...

Under Pennsylvania Law, it is not enough for an injured plaintiff to produce evidence that alcoholic beverages were served to patrons. Civil liability is imposed upon the tavern keeper who has served alcoholic beverages to a patron only when the patron was visibly intoxicated and, as a consequence, the breach was a proximate cause and the cause in fact of the injury. Even if a patron has been served alcoholic beverages while visibly intoxicated, there will be no civil liability imposed upon the tavern keeper unless the injuries to the patron or a third person were proximately caused by the patron's intoxication.

See Holpp v. Fez, Inc., 440 Pa.Super. 512, 656 A.2d 147 (1995); Reilly v. Tiergarten, Inc., 430 Pa.Super. 10, 15, 633 A.2d 208, 210 (1993); Majors v. Brodhead Hotel, 416 Pa. 265, 271, 205 A.2d 873, 877 (1965); 47 P.S. § 4-493 (1) (emphasis added).

ACCEPTED: _____
REFUSED: _____
COVERED: _____
MODIFIED: _____

DEFENDANT'S PROPOSED POINT FOR CHARGE # 9

In order for Plaintiff to recover against Defendant, the Plaintiff must prove that the negligent conduct of Defendant was a substantial factor in bringing about the injury. This is what the law recognizes as legal cause. A substantial factor is an actual, real factor, although the result may be unusual or unexpected, but it is not a factor having no connection or only an insignificant connection to the injury, or an imaginary or fanciful factor.

A particular defendant may not be held liable, even if she is found to be negligent, if her negligence was not a substantial factor in bringing about harm to the plaintiff. Similarly, if other causes would have produced the harm independent of a particular defendant's negligence, that defendant is not liable.

Jones v. Montefiore Hospital, 494 Pa. 410, 431 A.2d 920, 923 (1981); Majors v. Broadhead Hotel, 416 Pa. 265, 205 A.2d 873, 878 (1965).

ACCEPTED

REFUSED

COVERED

MODIFIED

DEFENDANT'S PROPOSED POINT FOR CHARGE # 10

If you find that Plaintiff would have suffered the alleged harm regardless of the conduct of Defendant, then Defendant's conduct would not be a substantial factor in bringing about any harm to Plaintiff, and your verdict must be in favor of Defendant.

Hamil v. Bashline, 481 Pa. 256, 392 A.2d 1280
(1978).

ACCEPTED
REJECTED
COVERED
MODIFIED

DEFENDANT'S PROPOSED POINT FOR CHARGE # 11

You are not permitted to determine your verdict based on sympathy for a party or guesswork, speculation, or conjecture.

Laubach v. Haigh, 433 Pa. 487, 252 A.2d 682, 683 (1969); Engle v. Spino, 425 Pa. 254, 228 A.2d 745, 747 (1967); Satovich v. Lee, 385 Pa. 133, 122 A.2d 212, 215 (1956); Gordon v. Trovato, 234 Pa. Super. 279, 338 A.2d 653, 657 (1975).

ACCEPTED
REFUSED
COVERED
MODIFIED

DEFENDANT'S PROPOSED POINT FOR CHARGE # 12

You cannot speculate as to the proximate cause of the injuries of which Plaintiff complains. Plaintiff has the burden of proving that the injuries complained of were caused by the allegedly negligent acts or omissions of Defendant, and if you are left to speculate or guess as to whether Plaintiff's claimed injuries were the result of the allegedly negligent acts or omissions of Defendant, you must find in favor of Defendant.

Cwiakala v. Paal, 427 Pa. 322, 235 A.2d 145, 146-47 (1967); Laubach v. Haigh, 433 Pa. 487, 252 A.2d 682, 683 (1969); Gordon v. Trovato, 234 Pa. Super. 279, 338 A.2d 653, 657 (1975).

ACCEPTED: _____
REFUSED: _____
COVERED: _____
MODIFIED: _____

DEFENDANT'S PROPOSED POINT FOR CHARGE # 13

Only if you find liability should you then go on to consider the second aspect of this case, which is the element of damages. It is the obligation of the Court to offer instructions concerning damages. These instructions, and any other references to damages, are not an indication of a belief by this Court as to whether damages should be awarded, or what factors you should consider. You may only consider the subject of damages if you first determine that Defendant was negligent and that Defendant is liable to Plaintiff for the injuries claimed. If you find that Defendant is not liable, then you should not consider the issue of damages.

Collins v. Hand, 431 Pa. 378, 246 A.2d 398, 401 (1968); Incollingo v. Ewing, 444 Pa. 263, 282 A.2d 206 (1971).

ACCEPTED: _____
REFUSED: _____
COVERED: _____
MODIFIED: _____

DEFENDANT'S PROPOSED POINT FOR CHARGE # 14.

You may award only compensatory damages in this case. Compensatory damages must be calculated in an amount which you believe will fairly and adequately compensate the plaintiffs for the physical and financial injury they have sustained as a result of the negligence of Defendant. However, compensatory damages are not intended to punish Defendant or to deter certain future conduct of the Defendant. Therefore, you may not add any additional amount of money out of consideration of punishment or deterrence.

PA Suggested Standard Civil Jury
Instructions No. 6.00;
Feingold v. Southeastern Pennsylvania
Transportation Authority, 339 Pa. Super.
15, 488 A.2d 284 (1985).

ACCEPTED: _____
REFUSED: _____
COVERED: _____
MODIFIED: _____

DEFENDANT'S PROPOSED POINT FOR CHARGE # 15.

The Plaintiff has the burden of proving each and every element of damage which she seeks. It is not up to the Defendant to disprove an element of damage.

Kmiotek v. Anast, 350 Pa. 593, 39 A.2d 923 (1944).

ACCEPTED

REJECTED

COVERED

MODIFIED

DEFENDANT'S PROPOSED POINT FOR CHARGE # 16.

If you find any element of those damages to be unrealistic or not properly proven, then you cannot return a verdict for Plaintiff which includes any such element. All claimed losses need not be accepted by you. Only those losses that are fair, reasonable, and necessary need be accepted. Those that are doubtful or speculative must be rejected by you.

Martin v. Soblotney, 502 Pa. 418, 466 A.2d 1022, 1024 (1983); Piwoz v. Iannacone, 406 Pa. 588, 178 A.2d 707, 711 (1972); Gordon v. Trovato, 234 Pa. Super. 279, 338 A.2d 653, 654 (1975); Esposito v. Henderson, 185 Pa. Super. 479, 137 A.2d 900, 902 (1958); McDonald v. United States, 555 F.Supp. 935, 962 (M.D.Pa. 1983).

ACCEPTED: _____
REFUSED: _____
COVERED: _____
MODIFIED: _____

DEFENDANT'S PROPOSED POINT FOR CHARGE # 17.

The Plaintiff must prove that each of her injuries and damages were with reasonable certainty caused by Defendant's negligence. The mere "possibility" that the claimed injuries and damages could be related to the Defendant's negligence is not sufficient proof of causation. In such a situation, the Plaintiff has not met her burden of proof on the item of injury or damage at issue, and you may not award Plaintiff any damages for such items.

Gordon v. Trovato, 234 Pa. Superior Ct. 279, 338 A.2d 653 (1975); Rice v. Hill, 315 Pa. 166, 172 A. 289 (1934); Lorch v. Eglin, 369 Pa. 314, 85 A.2d 841 (1952); Baccare v. Mennella 246 Pa. Superior Ct. 53, 369 A.2d 806 (1976); American Air Filter Co., Inc. v. McNichol, 527 F.2d 1297 (3rd Cir. 1975).

ACCEPTED
REJECTED
COVERED
MODIFIED

DEFENDANT'S PROPOSED POINT FOR CHARGE # 18.

The issues of whether the Plaintiff has really suffered or sustained any of the damages she claims, and whether any of these damages were actually caused by the Defendant, is for you, the jury, to decide.

Holland v. Zelnick, 329 Pa. Superior Ct. 469, 478 A.2d 885 (1984); Broadhead v. Brentwood Ornamental Iron Company, Inc., 435 Pa. 7, 255 A.2d 120 (1969); Morgan v. Philadelphia Electric Co., 299 Pa. Superior Ct. 545, 445 A.2d 1263 (1982).

ACCEPTED
REJECTED
COVERED
MODIFIED

DEFENDANT'S PROPOSED POINT FOR CHARGE # 19.

You will now retire to consider all of the evidence received in this trial in the light of the various factors I have presented to you and apply the law as I have given it to the facts as found by you.

If you find that Defendant Electric Avenue Banquet was negligent, and that Defendant's conduct was a substantial factor in bringing about harm to Plaintiff, your verdict must be in favor of the Plaintiff and against Defendant.

If you find that Defendant was not negligent, or that Defendant's negligence was not a substantial factor in bringing about harm to the Plaintiff, your verdict must be for Defendant.

If your verdict is in favor of Plaintiff, you must then determine what damages Plaintiff was and will be caused to suffer by reason of Defendant's negligence and return a verdict for the Plaintiff in that amount.

ACCEPTED

REFUSED

COVERED

MODIFIED

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Pre-Trial Memorandum Submitted on Behalf of Defendant Electric Avenue Banquet and Proposed Points for Charge of Defendant Electric Avenue Banquet in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 15th day of January, 2004, to the attorney(s)/party(ies) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

Catherine Greenawalt
#0G8187
SCI - Cambridge Springs
451 Fullerton Avenue
Cambridge Springs, PA 16403-1238

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

By: 

Darryl R. Slimak
Richard K. Laws
Attorneys for Defendant
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926



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MCQUAIDE BLASKO

ATTORNEYS AT LAW

811 University Drive, State College, Pennsylvania 16801-6699
Additional offices in Hershey and Hollidaysburg

(814) 238-4926 FAX (814) 234-5620
www.mcquaideblasko.com

January 15, 2004

David S. Meholick
Court Administrator
County of Clearfield
230 East Market Street
Clearfield, PA 16830

Re: Paul Shomo vs. Catherine Greenawalt, et al.
No.: 2001 - 00422 - C.D.

Dear Mr. Meholick:

Enclosed herewith please find a Pre-Trial Memorandum Submitted on Behalf of Defendant Electric Avenue Banquet and Proposed Points for Charge of Defendant Electric Avenue Banquet along with a Certificate of Service with regards to the above-captioned matter. Thank you.

Very truly yours,

McQUAIDE BLASKO

By:

Richard K. Laws

RECEIVED

JAN 16 2004

COURT ADMINISTRATORS
OFFICE

RKL:bap

Enclosures

cc: Chris A. Pentz, Esquire
Catherine Greenawalt

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

State College Office: John W. Blasko Thomas E. Schwartz R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slimak Mark Righter Daniel E. Bright
Paul J. Tomczuk Janine C. Gismondi John A. Snyder April C. Simpson Allen P. Neely Pamela A. Ruest Katherine V. Oliver Katherine M. Allen Wayne L. Mowery, Jr.
Ashley Hines Kranich Chena L. Glenn-Hart Richard K. Laws Livinia N. Jones Cristin R. Barnes Matthew T. Rogers Frederick R. Battaglia Anthony A. Simon

Hershey Office: Grant H. Fleming Maureen A. Gallagher Michael J. Mohr Jonathan B. Stepanian Britt D. Russell

Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

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April 6, 2004



Honorable Paul E. Cherry
Judge's Chambers
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

In re: Paula Shomo vs. Catherine Greenawalt and Electric Avenue
Banquet and Function Hall, Inc.

Docket No: 2001 - 00422 - C.D.

Dear Judge Cherry:

I represent Defendant Electric Avenue Banquet and Function Hall, Inc. in the above referenced case. This letter will confirm a conversation with The Honorable Judge Frederic Ammerman and Attorney Chris Pentz at the recent Call of the List, in your absence. I understand the Pre-Trial Conference is scheduled for April 15th. As was discussed at the Call of the List, I was not intending to be present at same because Plaintiff and my client, Electric Avenue Banquet and Function Hall, Inc. have settled. I expect the release to be signed shortly. There is no cross claim (or any pleadings) by remaining Defendant, Catherine Greenawalt. And, Attorney Pentz has, on behalf of Plaintiff, agreed to release my client from further proceedings and remove same from the caption. I would ask that a specific Order of discontinuance as to my client be entered in this regard pursuant to Pa. R.C.P. No. 229. Please note that I will be available by telephone should the Court need to contact me during the Pre-Trial Conference.

I thank you for your consideration of this matter.

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

State College Office: John W. Blasko Thomas E. Schwartz R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slimak Mark Righter Daniel E. Bright
Paul J. Tomczuk Janine C. Gismondi John A. Snyder April C. Simpson Allen P. Neely Pamela A. Ruest Katherine V. Oliver Katherine M. Allen Wayne L. Mowery, Jr.
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Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

Honorable Paul E. Cherry

April 6, 2004

Page 2

Very truly yours,

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

By:


Darryl R. Slimak

DRS/klb

cc: Chris Pentz, Esq.

Justin Powell - Electric Avenue Banquet

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Pre-Trial Memorandum Submitted
on Behalf of Defendant Electric
Avenue Banquet*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695

Richard K. Laws, Esquire
Pa. Supreme Court I.D. No. 82369*

McQuaide, Blasko, Schwartz,
Fleming & Faulkner, Inc.
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RECEIVED

MAR 24 2004

COURT ADMINISTRATOR'S
OFFICE

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

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No. 2001 - 00422 - C.D.

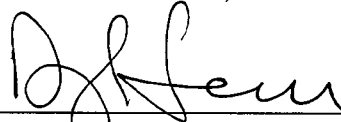
PRE-TRIAL MEMORANDUM SUBMITTED ON BEHALF OF
DEFENDANT ELECTRIC AVENUE BANQUET

Plaintiff Paula Shomo and Defendant Electric Avenue Banquet & Function Hall, Inc. have settled their case and final closing documents are being prepared in this regard. This should be completed well before jury selection. The case is to proceed thereafter only against Catherine Greenawalt. It is respectfully requested that an Order of Court be entered confirming same and removing Electric Avenue Banquet & Function Hall, Inc. as a party Defendant from the caption of the case and any further proceedings.

Respectfully submitted,

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

By: _____

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

Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVE. BANQUET
and FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926
Fax: (814) 238-9624

Dated: March 23, 2004

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

CERTIFICATE OF SERVICE

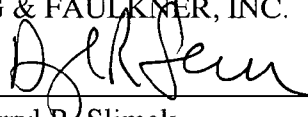
I hereby certify that a true and correct copy of the Pre-Trial Memorandum Submitted on Behalf of Defendant Electric Avenue Banquet in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 23rd day of March, 2004, to the attorneys of record:

Chris A. Pentz, Esquire
211½ East Locust Street, P. O. Box 552
Clearfield, PA 16830

Catherine Greenawalt
#0G8187
SCI - Cambridge Springs
451 Fullerton Avenue
Cambridge Springs, PA 16403-1238

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

By: _____


Darryl R. Slimak
Attorneys for Defendant
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.
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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

Type of Pleading:
*Pre-Trial Memorandum Submitted
on Behalf of Defendant Electric
Avenue Banquet*

Filed on Behalf of Defendant
*Electric Avenue Banquet and
Function Hall, Inc.*

Counsel of Record for This Party
*Darryl R. Slimak, Esquire
Pa. Supreme Court I.D. No. 41695*

*Richard K. Laws, Esquire
Pa. Supreme Court I.D. No. 82369*

McQuaide, Blasko, Schwartz,
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State College, PA 16801
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

PRE-TRIAL MEMORANDUM SUBMITTED ON BEHALF OF
DEFENDANT ELECTRIC AVENUE BANQUET

I. Brief Factual Statement

Within her Complaint, the Plaintiff contends that on March 27, 1999, at approximately 1:00 a.m., she was a patron at Electric Avenue Banquet and Function Hall, Inc. (hereinafter "Electric Avenue"). (See Complaint at ¶¶5-6). At that time, she contends that she was struck in the forehead with a beer bottle by Defendant Greenawalt. (Id.). Plaintiff claims damages consisting of contusions to the face, neck and scalp and a laceration to the forehead as a result of Defendant Greenawalt's actions. (Id. at ¶7). As to Defendant Electric Avenue, Plaintiff sets forth a claim for serving visibly intoxicated persons and for failing to provide appropriate training to security personnel. (Id. at ¶¶ 12-16).

Defendant Electric Avenue filed a timely Answer to the foregoing allegations wherein same were denied as was any legal responsibility for the damages claimed by the Plaintiff. This Defendant will submit evidence at trial demonstrating that Defendant Greenawalt was solely responsible for the altercation between herself the Plaintiff and that the incident occurred so

quickly so as to preclude any reasonable or effective intervention by the Defendant's employees. Finally, evidence will demonstrate that the Defendant and its employees did not serve any visibly intoxicated patrons on the night in question, specifically including Plaintiff or Ms. Greenawalt. Likewise, it will be Defendant's position that the intentional and unforeseeable actions of Defendant Greenawalt were a supervening and/or intervening cause in relationship to any arguable actions or inactions of the Defendant and/or its employees.

In an attempt to support her claims, Plaintiff has effectively done nothing. No discovery has been served on either of the Defendants and no depositions have been taken. In this regard, the only deposition completed has been that of Plaintiff accomplished by the undersigned counsel on February 21, 2003. At the time of her deposition, the Plaintiff testified that she arrived at the Electric Avenue Banquet facility at approximately 11:30 to 12:00 p.m. on March 28, 1999. (See Plaintiff depo. trans. at pp. 17, 20). While at the facility, the Plaintiff recalled having a beer and nearly finished a mixed drink prior to the altercation at issue. (Id. at pp. 20).

Notably, the Plaintiff indicated that she did not feel intoxicated at the time of the altercation and was not in position to observe whether Defendant Greenawalt was intoxicated and/or appeared as such at the time in that she had not seen the Defendant drink any alcoholic beverages throughout the evening. (Id. at pp. 15, 55, 57, 60). Likewise, the Plaintiff had never seen the facilities bartender, Hannah Shimmel, ever serve visibly intoxicated patrons before and had never made any complaints in this regard. (Id. at p. 61).

The Plaintiff testified that her criticisms as to the Banquet facility involved its failure to have more staff present on the night in question and/or that the facility was over-occupied at the time. (Id. at p. 64). Despite such contentions, the Plaintiff has produced no evidence to support a claim of over-occupancy and candidly admitted that the incident at issue occurred "very

quickly” and/or “so fast,” i.e. “within a couple seconds,” so as effectively preclude any intervention by the Defendant’s employees regardless of staffing issues. (Id. at pp. 26, 30, 65, 71, 79).

As a result of the foregoing, Defendant Electric Avenue respectfully submits that it bears no legal responsibility for the Plaintiff’s claimed damages. Nevertheless, in an effort to have the matter amicably concluded a settlement offer of \$5,000 (defense costs) has repeatedly been offered to Plaintiff’s counsel, who until rather recently made no effort to respond to same. During a recent telephone conference, Plaintiff’s counsel indicated that he has had trouble communicating with his client who now lives out of state, but that he would attempt to contact the Plaintiff and respond to Defendant’s offer. Defense counsel has not heard from Plaintiff’s counsel in this regard. Thus, jury trial will likely prove necessary.

II. Exhibits

1. Deposition Transcript of the Plaintiff;
2. All pleadings and discovery responses from Plaintiff (both verified and non-verified);
3. Photographs of Defendant facility;
4. Records from Plaintiff’s then employer Dutch Panty Restaurant;
5. Plaintiff’s tax returns and/or filings from 1995 through 2000;
6. Documents obtained from Pennsylvania Liquor Control Board, including Responsible Alcohol Management Program Certification(s);
7. Certified copy and/or record of Defendant Greenawalt’s criminal conviction; and,
8. Plaintiff’s medical records.

Defendant reserves the right to utilize any Exhibits referenced on the remaining Pre-Trial Statements submitted and/or to amend this list as necessary.

III. Witnesses

1. Justin Powell - Owner of Defendant facility (liability);
2. Hannah Shimmell - Bartender at Defendant facility (liability and damages);
3. Shannon Churner - Bartender at Defendant facility (liability and damages);
4. Roy Maines, Jr. - Bouncer at Defendant facility (liability);
5. Dan Cutler - Bouncer at Defendant facility (liability);
6. Jeffrey Shimmell - Witness (liability);
7. Tracy Brubaker - Plaintiff's Manager at Dutch Pantry Restaurant; and,
8. Gretta Straw - Plaintiff's Assistant Manger at Dutch Pantry Restaurant.

Defendant reserves the right to call all parties to this case and/or to call any witnesses identified on the remaining Pre-Trial Statements submitted and/or to amend this list as necessary.

IV. Legal Theory of Defense

Under Pennsylvania Law, it is not enough for an injured plaintiff to produce evidence that alcoholic beverages were served to patrons. Civil liability is imposed upon the tavern keeper who has served alcoholic beverages to a patron only when the patron was visibly intoxicated and, as a consequence, the patron or another person has been injured. See i.e. Holpp v. Fez, Inc., 440 Pa.Super. 512, 656 A.2d 147 (1995). Even if a patron is intoxicated at the time he or she is injured or causes injury to another, the tavern keeper who served the alcoholic beverages to the patron will not be held civilly liable unless the patron was served at a time when he or she was visibly intoxicated. Id. Moreover, the mere breach of the statutory duty to refrain from

serving alcohol to visibly intoxicated persons does not alone establish liability. To the contrary, the plaintiff must also show that the breach was a proximate cause and the cause in fact of the injury. See i.e. Reilly v. Tiergarten, Inc., 430 Pa.Super. 10, 15, 633 A.2d 208, 210 (1993); Majors v. Brodhead Hotel, 416 Pa. 265, 271, 205 A.2d 873, 877 (1965)(defendant cannot be found to have proximately caused injury where his negligent conduct of serving alcohol to minor was not a substantial factor in causing the injury). Even if a patron has been served alcoholic beverages while visibly intoxicated, there will be no civil liability imposed upon the tavern keeper unless the injuries to the patron or a third person were proximately caused by the patron's intoxication. See i.e. Smith v. Clark, 411 Pa. 142, 190 A.2d 441, 442 (1963).

In the present case, Plaintiff will be unable to present any evidence to sustain the foregoing prima facie burdens. To the contrary, the evidence will show that Defendant Greenawalt was solely responsible for the altercation between herself and the Plaintiff and/or that the incident occurred so quickly so as to preclude any reasonable or effective intervention by the Defendant's employees. Finally, evidence will demonstrate that the Defendant and its employees did not serve any visibly intoxicated patrons on the night in question, specifically including the Plaintiff or Ms. Greenawalt, and that all intentional and criminal actions of Defendant Greenawalt were a supervening and/or intervening cause in relationship to any arguable actions or inactions of the Defendant and/or its employees. Notably, the foregoing points were essentially conceded by the Plaintiff within the deposition testimony that she provided in this case.

V. Brief Description of Damages

Plaintiff alleges damages in the nature of contusions to the face, neck and scalp; swelling of the head and neck; laceration to the forehead and concussion. No medical report has been submitted in said regard, nor has a medical expert witness been identified.

Pursuant to records obtained, Plaintiff and/or her providers were reimbursed \$2,251.38 by the Pennsylvania Crimes Victims Compensation Program and has no out of pocket expenses. The Plaintiff also missed a total of 32 hours of work from Dutch Pantry (per subpoenaed records) wherein she was earning \$2.83 per hour.

VI. Evidentiary Problems / Stipulations

Defendant will request a stipulation as to the authenticity and/or admissibility of records subpoenaed from Dutch Pantry Restaurant. As far as evidentiary problems, Defendant does not presently foresee any significant issues. It is anticipated that a motion for directed verdict and/or non-suit will be made at the appropriate time based on Plaintiff's failure and/or inability to sustain her claims as to this Defendant, as a matter of law.

VIII. Special Points for Charge

Defendant's Proposed Points are attached. Defendant requests that it be permitted to supplement same based upon Plaintiff's Pre-Trial Memorandum and/or upon discovering the witnesses and/or theories that Plaintiff intends to present at trial.

IX. Estimated Time for Trial

Two to three days.

Respectfully submitted,
McQUAIDE BLASKO

By: 

Darryl R. Slimak
I.D. No. 41695
Richard K. Laws
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811 University Drive
State College, PA 16801
(814) 238-4926
Attorneys for Defendant
Electric Avenue Banquet

Dated: 1/15/04

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

PAULA SHOMO,

Plaintiff,

vs.

CATHERINE GREENAWALT and
ELECTRIC AVENUE BANQUET and
FUNCTION HALL, INC.,

Defendants.

No. 2001 - 00422 - C.D.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Pre-Trial Memorandum Submitted on Behalf of Defendant Electric Avenue Banquet and Proposed Points for Charge of Defendant Electric Avenue Banquet in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 15th day of January, 2004, to the attorney(s)/party(ies) of record:

Chris A. Pentz, Esquire
211½ East Locust Street
PO Box 552
Clearfield, PA 16830

Catherine Greenawalt
#OG8187
SCI - Cambridge Springs
451 Fullerton Avenue
Cambridge Springs, PA 16403-1238

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

By: 

Darryl R. Slimak
Richard K. Laws
Attorneys for Defendant
ELECTRIC AVENUE BANQUET &
FUNCTION HALL, INC.
811 University Drive
State College, PA 16801
(814) 238-4926



①

MCQUAIDE BLASKO

ATTORNEYS AT LAW

811 University Drive, State College, Pennsylvania 16801-6699
Additional offices in Hershey and Hollidaysburg

(814) 238-4926 FAX (814) 234-5620
www.mcquaideblasko.com

March 23, 2004

David S. Meholic
Court Administrator
Clearfield County Courthouse
230 East Market Street Suite 228
Clearfield, PA 16830

In re: Paula Shomo vs. Catherine Greenawalt and Electric Avenue
Banquet & Function Hall, Inc.
Docket No: 2001-00422-C.D.

Dear Mr. Meholic:

Enclosed herewith is Defendant Electric Avenue Banquet & Function Hall, Inc.'s Pre-Trial Statement, along with a Certificate of Service thereto.

Very truly yours,

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

By:

Darryl R. Slimak

DRS/klb

Enclosure

cc: Chris A. Pentz, Esq. w/enc
Catherine Greenawalt w/enc

RECEIVED

MAR 24 2004

COURT ADMINISTRATOR'S
OFFICE

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John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

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

PAULA SHOMO

NO. 01-422-CD

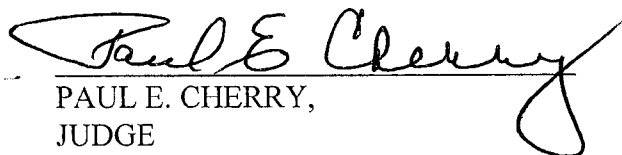
V.

CATHERINE GREENAWALT

ORDER

AND NOW, this 13th day of December, 2004, this being the date set for Non-Jury Trial, Defendant having failed to appear despite receiving due and proper notice, upon presentation of the issues, it is the ORDER of this Court that Judgment be entered in favor of Plaintiff, Paula Shomo and against Defendant, Catherine Greenawalt in the amount of Twelve Thousand Five Hundred (\$12,500.00) Dollars.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED
10/3/39/01
DEC 14 2004

William A. Shaw
Prothonotary/Clerk of Courts

Ebk
2cc
Atty Pentz
1cc Def.-

709 Good Street
Houtzdale PA
14801