

01-1616-CD
WILLIAM H. SINGELY " " VS. GEORGE DOBSON et al

FILED

10/23/01
SEP 27 2001
Atty pd \$0.00

No cc
William A. Shaw
Prothonotary

3 Writs issued to Atty

MARK S. WEAVER
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 170
CLEARFIELD, PA 16830

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

WILLIAM H. SINGELY,

Plaintiff,

vs.

No. 01-1616-C

GEORGE AND DIANE DOBSON d/b/a
DOBSON'S AUTO WASH

Defendants.

PRAECIPE FOR WRIT OF SUMMONS

TO THE PROTHONOTARY:

Kindly issue a Writ of Summons in the above-captioned action.

Date: 9-27-01



Mark S. Weaver
Attorney I.D. #63044
P.O. Box 170
211 1/2 East Locust Street
Clearfield, PA 16830
(814) 768-9696

FILED

SEP 27 2001

William A. Shaw
Prothonotary

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

WILLIAM H. SINGELY, :
: Plaintiff, :
: :
vs. : No.
: :
GEORGE AND DIANE DOBSON d/b/a :
DOBSON'S AUTO WASH :
: :
Defendants. :
:

WRIT OF SUMMONS

TO GEORGE AND DIANE DOBSEN:
d/b/a DOBSEN'S AUTO WASH

You are hereby notified that William H. Singely has commenced an action against you.

Date: _____

Prothonotary

COPY

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

SUMMONS

William Singely

Vs.

NO.: 2001-01616-CD

**George Dobson
Diane Dobson
Dobson's Auto Wash**

**TO: GEORGE DOBSON
DIANE DOBSON
DOBSON'S AUTO WASH**

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: 09/27/2001

William A. Shaw
Prothonotary

Issuing Attorney:

Mark S. Weaver
P.O. Box 170
Clearfield, PA 16830

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 11589

SINGELY, WILLIAM

01-1616-CD

VS.

DOBSON, GEORGE and DIANE d/b/a DOBSON'S AUTO WASH

SUMMONS

SHERIFF RETURNS

NOW OCTOBER 2, 2001, THOMAS KONTES, SHERIFF OF ELK COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS ON GEORGE DOBSON and DIANE DOBSON d/b/a DOBSON'S AUTO WASH, DEFENDANTS.

NOW OCTOBER 10, 2001 SERVED THE WITHIN SUMMONS ON GEORGE DOBSON and DIANE DOBSON d/b/a DOBSON'S AUTO WASH, DEFENDANTS BY DEPUTIZING THE SHERIFF OF ELK COUNTY. THE RETURN OF SHERIFF KONTES IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED BOTH COPIES ON GEORGE DOBSON.

Return Costs

Cost	Description
33.68	SHFF. HAWKINS PAID BY: ATTY.
32.60	SHFF. KONTES PAID BY: ATTY.
20.00	SURCHARGE PAID BY: ATTY
<u>86.28</u>	

FILED

NOV 02 2001

019.300

William A. Shaw
Prothonotary

Sworn to Before Me This

2nd Day of November, 2001

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

So Answers,

Chester Hawkins
by Marilyn Harr
Chester A. Hawkins
Sheriff

11589

Affidavit of Service

William Singely
vs.
George Dobson, Diane Dobson d/b/a
Dobson's Auto Wash

No. 1616 Term, 20 01

Returnable within _____ days
from date of service hereof.

NOW October 10, 20 01 at 2:09 o'clock P.M.

served the within Writ of Summons on George Dobson, Diane
Dobson d/b/a Dobson's Auto Wash
at 133 Cherry Rd., Kersey, Elk County, PA

by handing to George Dobson, husand,
two copies
~~copy~~ * true and attested of the original Writ of Summons and made
known to him the contents thereof. Sheriff's Costs - \$32.60 PAID

Sworn to before me this 15th

day of October A.D. 20 01
Thomas C. Kowalewski
My Commission Expires January 5, 2004 Deputy Prothonotary

So answers,

Thomas C. Kowalewski

Sheriff

Earl C. Pontious

Deputy

118.11-010



Sheriff's Office Clearfield County

OFFICE (814) 765-2641
AFTER 4:00 P.M. (814) 765-1533
CLEARFIELD COUNTY FAX
(814) 765- 5915

CHESTER A. HAWKINS
SHERIFF

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

DARLENE SHULTZ
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

MARGARET PUTT
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WILLIAM SINGELY

TERM & NO. 01-1616-CD

vs

SERVE BY: 10/27/01

GEORGE & DIANE DOBSON d/b/a
DOBSON'S AUTO WASH

or
HEARING DATE:

DOCUMENT TO BE SERVED:

SUMMONS

MAKE REFUND PAYABLE TO: MARK S. WEAVER, Attorney

SERVE: GEORGE DOBSON d/b/a DOBSON'S AUTO WASH and
DIANE DOBSON d/b/a DOBSON'S AUTO WASH

ADDRESS: 133 Cherry Road, Kersey, Pa. 15846

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF of **ELK** County Pennsylvania to execute this writ.

This Deputation being made at the request and risk of the Plaintiff this 2nd day of October 2001.

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

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

WILLIAM SINGLEY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH

Defendants,

Type of Action:
Personal Injury

Type of Pleading
Entry of Appearance

Filed on behalf of Defendants,
George Dobson, Diane Dobson d/b/a
Dobson's Auto Wash

Counsel of Record for this Party

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

Donnelly & Associates, P.C.
323 East Front Street
Media, PA 19063
(610) 892-7600

FILED

MAY 13 2002
M/ 8:30 am
William A. Shaw
Prothonotary
KPS

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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

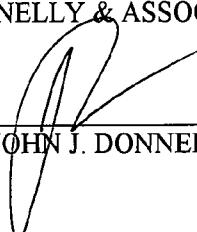
PRAECIPE TO ENTER APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance as attorney for the Defendants, GEORGE DOBSON, DIANE DOBSON d/b/a DOBSON'S AUTO WASH, in the above-captioned Civil Action.

DONNELLY & ASSOCIATES, P.C.

By:


JOHN J. DONNELLY, ESQUIRE

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

WILLIAM SINGLEY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH

Defendants,

Type of Action:
Personal Injury

Type of Pleading
Praecipe for Rule to File Complaint

Filed on behalf of Defendants,
George Dobson, Diane Dobson d/b/a
Dobson's Auto Wash

Counsel of Record for this Party

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

Donnelly & Associates, P.C.
323 East Front Street
Media, PA 19063
(610) 892-7600

FILED

MAY 10 2002

William A. Shaw
Prothonotary

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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

PRAECIPE FOR RULE TO FILE COMPLAINT

TO THE PROTHONOTARY:

Please enter a Rule upon Plaintiff, William Singely, to file a Complaint within twenty (20) days from the service of the Rule or suffer the entry of a Judgment of Non Pros.

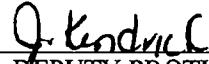
DONNELLY & ASSOCIATES, P.C.

By: 

JOHN J. DONNELLY, JR.
Attorney for Defendants
George Dobson, Diane Dobson
d/b/a Dobson's Auto Wash

RULE TO FILE COMPLAINT

AND NOW, to wit this 10th day of May, 2002 a Rule is hereby granted upon Plaintiff, William Singely, to file a Complaint herein within twenty (20) days from the service hereof or suffer the entry of a Judgment of Non Pros for failure to do so.


J. Kendry C.
DEPUTY PROTHONOTARY

FILED

MAY 10 2002

Milliaol McCatty Donnelly
William A. Shaw
Prothonotary

W/ Rule to File Comp.

✓
GHD

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

WILLIAM SINGLEY

Plaintiff,

v.

No. 2001-01616-CD

GEORGE and DIANE DOBSON,
t/d/b/a DOBSON'S AUTO WASH

Defendant

Type of Action:
Personal Injury

Type of Pleading:
Complaint

Filed on behalf of Plaintiff,
William Singley

Counsel of Record for this Party:

Mark S. Weaver
Attorney ID # 63044

The Mazza Law Group, P.C.
1315 South Allen Street, Suite 302
State College, PA 16801
(814) 237-6255

JURY TRIAL DEMANDED

FILED

JUN 05 2002
0/2/20/wg
William A. Shaw
Prothonotary

3 cent TO ATTY

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

WILLIAM SINGLEY :
Plaintiff :
: :
v. : Case No. 2001-01616-CD
: :
GEORGE and DIANE DOBSON, :
t/d/b/a DOBSON'S AUTO WASH : JURY TRIAL DEMANDED
Defendant :
:

NOTICE TO DEFEND

TO: GEORGE and DIANE DOBSON
t/d/b/a DOBSON'S AUTO WASH

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 claims or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641

Date: 6-5-02

Mark S. Weaver
Mark S. Weaver
The Mazza Law Group, P.C.
Attorney ID # 63044
1315 South Allen Street, Suite 302
State College, PA 16801
(814) 237-6255

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

WILLIAM SINGLEY :
Plaintiff :
v. : Case No. 2001-01616-CD
: JURY TRIAL DEMANDED
GEORGE and DIANE DOBSON, :
t/d/b/a DOBSON'S AUTO WASH :
Defendant :

COMPLAINT

AND NOW, comes the Plaintiff, William H. Singley, by and through his attorneys, The Mazza Law Group, P.C., and makes the following Complaint:

1. Plaintiff is William H. Singley, an adult individual, whose residence is located at Rural Route 3, Box 283, Curwensville, Clearfield County, Pennsylvania 16833.
2. Defendants are George Dobson and Diane Dobson, a/k/a George P. Dobson and Diane M. Dobson, whose residence is located at 133 Cherry Road, Kersey, Pennsylvania 15846.
3. At all times relevant hereto, Defendants were engaged in the conduct of business in the Commonwealth of Pennsylvania, specifically consisting of a self-serve and automatic car wash known as Dobson's Auto Wash which is located at 331 State Street, Curwensville, Pennsylvania 16833, hereinafter described as the "premises."
4. At all times relevant due to, Defendants owned in fee simple the premises located at 331 State Street, Curwensville, Pennsylvania 16833.
5. At all times relevant hereto, Defendants were in exclusive custody, possession and control of that area described as the premises, and it was the duty of the Defendants to keep and

maintain those premises in a reasonably safe condition for those persons lawfully thereon.

6. On October 2, 1999, at approximately 3:00 p.m., Plaintiff was a business invitee of the Defendants at the premises and while crossing an asphalt walkway on the premises, Plaintiff, through no fault of his own, stumbled and fell to the ground by reason of the extreme grade and steepness of the walkway sustaining the injuries described herein.

7. Notwithstanding its duty, Defendants did on the above date, and for a period of time prior thereto, carelessly, recklessly and negligently allow and permit to remain on the said premises a dangerous and defective condition, to wit:

a. a walkway which was defectively constructed as required by federal, state and local building codes and regulations;

b. a walkway which failed to have handrails or steps which could be used to traverse the steep grade.

8. At the time of the accident and for some time prior thereto, Defendants did or should have had both notice and knowledge of the aforesaid dangerous condition, and did allow and permit the condition to be and remain on the premises.

9. The injuries and damages which are hereinafter set forth were caused solely by and were the direct and proximate result of the negligence of the Defendants in any and all of the following respects:

a. In failing to keep the premises in a safe condition for persons lawfully using the same;

b. In permitting the dangerous condition to be and remain on the premises when the Defendants knew or in the exercise of reasonable care should have known of the danger

involved;

c. In failing to warn the Plaintiff of the dangerous condition created by the above-described hazard;

d. In failing to remove, blockade or otherwise cure the dangerous condition of which the Defendants knew or in the exercise of reasonable care should have known;

e. In permitting persons, particularly the Plaintiff, to transverse the premises when the Defendants knew or in the exercise of reasonable care, should have known it was dangerous to do so and involved an unreasonable risk of harm to persons so doing;

f. In failing to inspect the premises and to discover the dangerous condition or in inspecting so carelessly as not to have discovered the condition;

g. In constructing and/or maintaining the premises in an improper manner with a dangerous condition or in employing personnel who were not sufficiently qualified to construct or maintain the premises; and

h. In violating the various statutes and regulations pertaining to the construction and maintenance of walkways which are being utilized by the public.

10. Solely as a result of the said accident, Plaintiff has suffered severe and permanent injuries, including but not limited the following:

a. torn deltoid ligament of the right ankle;

b. fracture of the right fibular shaft;

c. acute urinary retention (post op); and

d. internal injuries, shock and injury to the nerves and nervous system.

11. As a result of the injuries as aforesaid, Plaintiff has sustained the following

damages:

- a. Plaintiff has suffered and continues to suffer severe and agonizing pain which will continue into the future;
- b. Plaintiff has been forced to expend and will continue to expend large sums of money to cure his injuries, which expenses shall continue indefinitely into the future;
- c. Plaintiff was unable to engage in his usual activities and occupation during a period of recuperation and has suffered a general impairment of his health, strength and vitality.

WHEREFORE, Plaintiff demands judgment against the Defendants in an amount in excess of \$25,000 exclusive of interest and cost.

Respectfully submitted,

Date: 6-5-02



Mark S. Weaver
The Mazza Law Group, P.C.
Attorney ID # 63044
1315 South Allen Street, Suite 302
State College, PA 16801
(814) 237-6255

VERIFICATION

I hereby verify that the facts set forth in this Complaint are true and correct to the best of my knowledge, information and belief. I understand that any false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 6/5/02

William Singley
William Singley

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

WILLIAM SINGLEY :
Plaintiff :
:
v. : Case No. 2001-01616-CD
:
GEORGE and DIANE DOBSON, :
t/d/b/a DOBSON'S AUTO WASH :
Defendant :

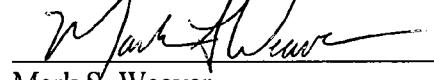
CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2002, I served a certified copy of the Complaint upon the person and in the manner indicated below, which service satisfied the requirements of Pa. R.C.P. 440.

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

John J. Donnelly, Esquire
Donnelly & Associates, P.C.
323 East Front Street
Media, PA 19063
Attorney for Defendant

Date: 6-6-02


Mark S. Weaver
The Mazza Law Group, P.C.
Attorney ID # 63044
1315 South Allen Street, Suite 302
State College, PA 16801
(814) 237-6255

FILED

JUN 20 2002

William A. Shaw
Prothonotary

FILED

2cc

01/22/02
JUN 20 2002

Atty Weaver

William A. Shaw
Prothonotary

FILED

JUN 24 2002

M. Shaw
William A. Shaw
Prothonotary

DONNELLY & ASSOCIATES, P.C.

ATTORNEYS AT LAW
323 East Front Street
Media, Pennsylvania 19063

Phone: (610) 892-7600
Fax: (610) 892-7699

DONNELLY & ASSOCIATES, P.C.

ATTORNEYS AT LAW

323 East Front Street • Media, Pennsylvania 19063
(610) 892-7600

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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

ORDER

AND NOW, this 25th day of June, 2002, upon consideration of Defendants' Motion to Compel Answers to Slip and Fall, Expert Witness Interrogatories and Request for Production of Documents and any answer thereto, it is hereby ORDERED and DECREED that Plaintiffs shall file full and complete answers to Defendants, George Dobson, Diane Dobson d/b/a Dobson's Auto Wash:

1. Slip and Fall Interrogatories,
2. Expert Witness Interrogatories, and
3. Request for Production of Documents

within twenty (20) days from the date hereof or appropriate sanctions will be imposed upon application to this Honorable Court.

BY THE COURT:

FILED

JUN 25 2002
091711ccatty, Donnelly
William A. Shaw
Prothonotary
G.E.

J.

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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

vs.

FILED

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH

Defendants,

JUN 24 2002

William A. Shaw
Prothonotary

DEFENDANTS, GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH'S MOTION TO COMPEL
PLAINTIFF'S ANSWERS TO DISCOVERY

Defendants, George Dobson, Diane Dobson d/b/a Dobson's Auto Wash, hereby makes this Motion to Compel Discovery and state their reasons as follows:

1. On or about May 22, 2002, the attorney for the Defendants forwarded to the Plaintiff's counsel Slip and Fall Interrogatories.
2. On May 29, 2002 the attorney for the Defendant served the Plaintiff's counsel with Expert Witness Interrogatories and Request for Production of Documents.
3. The Slip and Fall, Expert Witness Interrogatories and Request for Production of Documents seek information which is relevant and discoverable in this matter.
4. To date, the Plaintiffs have not served answers to these discovery requests.

WHEREFORE, Defendants, George Dobson, Diane Dobson d/b/a Dobson's Auto Wash, request an Order for Sanctions under Pennsylvania Rule of Civil Procedure No. 4019 which directs the Plaintiffs to file full and complete answers without objections to Slip and Fall Interrogatories, Expert Witness

Witness Interrogatories and Request for Production of Documents within twenty (20) days of service of
this Court's Order.

DONNELLY & ASSOCIATES, P.C.

By: 

JOHN J. DONNELLY, JR.

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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANTS, GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH'S
MOTION TO COMPEL ANSWERS TO DISCOVERY

Defendants, George Dobson, Diane Dobson d/b/a Dobson's Auto Wash, by and through their attorneys, Donnelly & Associates, P.C., forwarded Slip and Fall Interrogatories to Plaintiff's attorney on May 22, 2002. On May 29, 2002 the attorney for the Defendant served the Plaintiff's counsel with Expert Witness Interrogatories and Request for Production of Documents. The Slip and Fall Interrogatories, Expert Witness Interrogatories and Request for Production of Documents seek information which is relevant and discoverable in this matter. To date, the Plaintiffs have not served answers to these discovery requests.

The Plaintiff, despite repeated requests by Defendants' counsel, has failed to either answer or object to Defendants' discovery requests. More than the thirty days have lapsed since Plaintiff was served with the Slip and Fall Interrogatories, Expert Witness Interrogatories and Request for Production of Documents.

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

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

Pennsylvania Rule of Civil Procedure 4009(a)(1) provides in part:

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

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

WHEREFORE, Defendants, George Dobson, Diane Dobson d/b/a Dobson's Auto Wash, requests an Order for Sanctions under Pennsylvania Rule of Civil Procedure No. 4019 be entered requesting the Plaintiffs to file and serve answers to Slip and Fall Interrogatories, Expert Witness Interrogatories and Request for Production of Documents within twenty (20) days of service of this Court's Order.

DONNELLY & ASSOCIATES, P.C.

By: _____

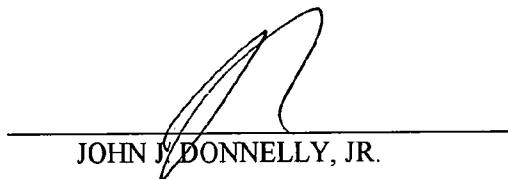
JOHN J. DONNELLY, JR.

VERIFICATION

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

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

JOHN J. DONNELLY, JR.



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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

CERTIFICATE OF SERVICE

JOHN J. DONNELLY, JR., ESQUIRE, attorney for Defendants, George Dobson, Diane Dobson d/b/a Dobson's Auto Wash, hereby certifies that a true and correct copy of Defendants' Motion to Compel Answers to Discovery was served upon all counsel of record by United States First Class Mail.

DONNELLY & ASSOCIATES, P.C.

Dated:

Jan 21, 2002

By:

John J. Donnelly, Jr.

William A Shaw
Prothonotary

JUL 01 2002

FILED

DONNELLY & ASSOCIATES, P.C.

ATTORNEYS AT LAW

323 East Front Street
Media, Pennsylvania 19063

Phone: (610) 892-7600
Fax: (610) 892-7699

DONNELLY & ASSOCIATES, P.C.
ATTORNEYS AT LAW
323 East Front Street • Media, Pennsylvania 19063
(610) 892-7600

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

WILLIAM SINGLEY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH

Defendants,

Type of Action:
Personal Injury

Type of Pleading
Answer and New Matter

Filed on behalf of Defendants,
George Dobson, Diane Dobson d/b/a
Dobson's Auto Wash

Counsel of Record for this Party

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

Donnelly & Associates, P.C.
323 East Front Street
Media, PA 19063
(610) 892-7600

FILED

JUL 01 2002

11/8/2002

William A. Shaw
Prothonotary

1 CANCE TO ATT

ED

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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

vs.

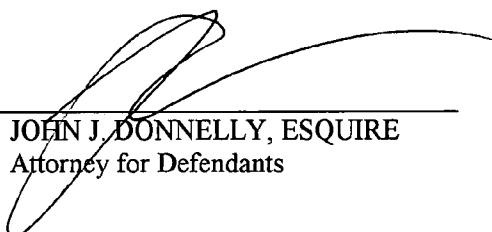
GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

NOTICE TO PLEAD

To: Plaintiff:

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

DONNELLY & ASSOCIATES, P.C.

By: 

JOHN J. DONNELLY, ESQUIRE
Attorney for Defendants

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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

ANSWER AND NEW MATTER

Defendants, George Dobson, Diane Dobson d/b/a Dobson's Auto Wash respectfully respond to the Plaintiff's Complaint and file this Answer and New Matter as follows:

1. Admitted.

2. Admitted.

3. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.

4. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof

thereof at Trial.

5. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required in accordance with the applicable Pennsylvania Rules of Civil Procedure. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.

6. – 11. Denied. The averments contained in these paragraphs state conclusions of law to which no answers are required in accordance with the applicable Pennsylvania Rules of Civil Procedure. It is specifically denied that the Plaintiff was a business invitee on the day of October 2, 1999. To the contrary, at all times applicable, Plaintiff was a licensee or a trespasser. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in these paragraphs and, therefore, deny same and demand strict proof thereof at Trial.

WHEREFORE, Defendants, George and Diane Dobson, d/b/a Dobson's Auto Wash, demand judgment in their favor and against the Plaintiff, along with costs for this action.

NEW MATTER

12. If Plaintiff sustained injuries as alleged, then the same were solely as a result of the failure of the Plaintiff to exercise due care for his own safety. The negligence, recklessness and carelessness of the Plaintiff is more fully set forth as follows:

- (a) Failing to keep a proper lookout;
- (b) Failing to utilize and choose a safe alternate route;
- (c) Failing to properly maintain his shoes or footwear in a reasonable and safe manner under the circumstances;
- (d) Failing to adequately inspect the area where he intended to walk;

(e) Disregarding open and obvious impediments, the existence of which have been alleged but are specifically denied by Answering Defendants, to his travel;

(f) Failing to look where he was walking.

(f) Failing to wear proper shoes and/or footwear for walking.

(h) Walking in a negligent, careless or reckless manner.

(i) Running.

(j) Carrying items which hindered his ability to ambulate.

(k) Carrying items which obstructed his vision

(l) Failing to wear prescribed eyewear.

(m) Descending a hill and/or hilly surface carelessly and recklessly.

13. The Plaintiff assumed the risk of injury.

14. Plaintiff fell on property not possessed or controlled by Answering Defendants; but rather on property owned, controlled and possessed by an unidentified entity.

15. Plaintiff's Complaint fails to state a cause of action upon which relief can be granted.

16. Plaintiff's causes of action are barred by the applicable and non-waivable statute of limitations and/or doctrine of laches.

17. Plaintiff's claims and/or causes of action are limited, governed, barred and/or restricted by the terms of the Pennsylvania Comparative Negligence Act, the relevant terms of which are incorporated by reference herein, since Plaintiff's negligence exceeds the negligence of Defendant, if any.

18. Plaintiff's cause of action and/or claim set forth in the Plaintiff's Civil Action Complaint are limited, governed, barred and/or restricted as the Plaintiff has failed to mitigate his damages.

19. In the event that it is established that Plaintiff sustained any injuries or damages as alleged, which are strictly denied, said injuries and/or damages were caused by the acts or

omissions of other persons or parties over whom Answering Defendants had no control or duty to control and Answering Defendants asserts that there is no liability on their part.

20. Plaintiff's claims of negligence may be the result of ant act or omission of other individuals or entities which acts or omissions have constituted intervening or superseding causes of the damages or injuries allegedly sustained by the Plaintiff.

21. Plaintiff's causes of action and/or claim are barred by the Doctrine of Contributory Negligence as the direct and approximate cause of the injuries suffered by the Plaintiff was the contributory negligence of the Plaintiff in failing to exercise the degree of care which a reasonable, prudent person would have exercised under the same or similar circumstances for his own safety and well being.

22. The injuries alleged to have been sustained by the Plaintiff were not proximately or directly caused by the Answering Defendants.

23. If the Plaintiff requests damages for delay pursuant to Pa.R.C.P. 2238, Defendants challenge the applicability and constitutionality of that rule and places it at issue.

24. If there is a judicial determination that Pa.R.C.P. 238, in the within action, is constitutional, then any liability for any interest imposed by said rule should be superseded during the period of time that Plaintiff failed to convey a reasonable settlement figure, delays in responding to Interrogatories, delays in responding to Request for Production of Documents and Things, delays in producing witnesses for deposition or delays in other discovery requests by the Answering Defendants and, as a result of such delay, Plaintiff should be estopped from claiming any interest under such rule.

25. Plaintiff's injuries, if any, were not caused by Plaintiff's alleged fall described in his Complaint.

26. Plaintiff's claims are barred by the choice of paths and/or ways doctrines.

27. Plaintiff's claims and this lawsuit are barred because of Plaintiff's failure to join necessary and indispensable parties.

28. Defendant incorporates all affirmative defense included in Pa.R.C.P. 1030 upon advice of counsel that failure to raise said defenses constitutes a waiver of the defense.

29. The negligence of the Plaintiff was a substantial factor in bringing about the accident and injury alleged and this negligence operates to bar or limit the damages asserted.

30. The Plaintiff had notice and knowledge of the conditions alleged to have caused the accident and did knowingly, and willfully, encounter these conditions and did assume any risk of injury that could arise. The claim of Plaintiff is barred by the assumption of risk.

31. The Answering Defendants did not maintain or control the area alleged to be defective and had no duty to the plaintiff.

32. The Plaintiff failed to take reasonable measures to cure the injury or prevent further injury or loss from taking place, and did fail to mitigate the damages asserted.

33. Plaintiff has failed to state a claim upon which relief can be granted.

34. Plaintiff's cause of action against Answering Defendants is barred by any other defense and/or affirmative defense that may become apparent during discovery or at the time of trial.

35. If Plaintiff suffered any injuries and/or damages as alleged, they were caused solely and primarily by the carelessness, recklessness, negligence of other third-parties, who may be presently unknown to the answering Defendant over whom the Answering Defendants had no control and no legal duty to control.

36. Answering Defendants neither owned nor maintained the property where Plaintiff allegedly suffered injuries.

37. This Honorable Court lacks jurisdiction over the subject matter of this action.

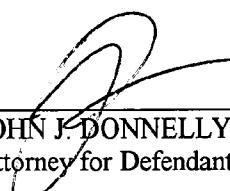
38. The premises upon which Plaintiff allegedly suffered injury were controlled and owned by entities other than responding Defendants.

39. Plaintiff assumed the risks of any and all injuries, which limits and/or bars all claims.

40. Answering Defendants assert all the defenses available to them under the Pennsylvania Worker's Compensation Act and aver that the Plaintiff's remedies are limited exclusively thereto and the present action is barred.

WHEREFORE, Defendants, George and Diane Dobson, d/b/a Dobson's Auto Wash, demand judgment in their favor and against the Plaintiff, and demand that Plaintiff's Complaint be dismissed with prejudice along with costs for this action.

DONNELLY & ASSOCIATES, P.C.

By: 

JOHN J. DONNELLY, ESQUIRE
Attorney for Defendants

VERIFICATION

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

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

JOHN J. DONNELLY, ESQUIRE



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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

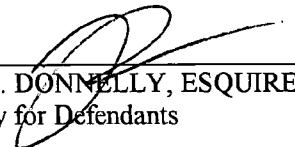
vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

CERTIFICATE OF SERVICE

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

DATE: 6/28/02

BY: 
JOHN J. DONNELLY, ESQUIRE
Attorney for Defendants

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

WILLIAM SINGLEY :
Plaintiff, :
: :
v. : No. 2001-01616-CD
: :
GEORGE and DIANE DOBSON, :
t/d/b/a DOBSON'S AUTO WASH :
Defendant : Type of Action:
: Personal Injury
: :
: Type of Pleading:
: Plaintiff's Reply to Defendants' New Matter
: :
: Filed on behalf of Plaintiff,
: William Singley
: :
: Counsel of Record for this Party:
: Mark S. Weaver
: Attorney ID # 63044
: :
: The Mazza Law Group, P.C.
: 1315 South Allen Street, Suite 302
: State College, PA 16801
: Telephone: (814) 237-6255
: Facsimile: (814) 237-5752
: Email: weaver@mazzalaw.com

FILED

JUL 16 2002
0195013cc atth, Weaver
William A. Shaw
Prothonotary
SAC

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

WILLIAM SINGLEY :
Plaintiff :
: :
v. : Case No. 2001-01616-CD
: :
GEORGE and DIANE DOBSON, :
t/d/b/a DOBSON'S AUTO WASH :
Defendant :
:

PLAINTIFF'S REPLY TO DEFENDANTS' NEW MATTER

12. Denied. The Plaintiff exercised due care at all times relevant hereto and was not responsible for the injuries he sustained and further denies the allegations listed as paragraphs 12(a)-12(m):

- (a) Plaintiff was keeping a proper lookout at all times;
- (b) Plaintiff chose what appeared to be a safe route;
- (c) Plaintiff properly maintained his footwear;
- (d) Plaintiff was not required to inspect the walkway constructed by the Defendants which was open to the public and business invitees;
- (e) Plaintiff proceeded with reasonable care upon the walkway at all times;
- (f) Plaintiff maintained a proper lookout at all times;
- (g) Plaintiff was wearing appropriate shoes for walking;
- (h) Plaintiff was walking in a reasonable manner;
- (i) Plaintiff was not running;
- (j) Plaintiff was not carrying any items;
- (k) Plaintiff was not carrying any items;

(l) Plaintiff was wearing appropriate eyewear if required;

(m) Plaintiff proceeded in a reasonable manner at all times.

13. Denied. Although a response is not required, Plaintiff specifically denies that he assumed the risk of injury and strict proof of the same is hereby demanded at trial.

14. Denied. It is denied that the property on which the Plaintiff was injured was owned, controlled or possessed by another entity and strict proof of the same is hereby demanded at trial.

15. Denied. It is denied that Plaintiff's complaint fails to state a cause of action upon which relief can be granted. Plaintiff has sufficiently pled a cause of action against the Defendants that sounds in negligence. Moreover, the Defendants' averment is a preliminary objection which is improperly raised in its new matter.

16. Denied. It is denied that Plaintiff's causes of action are barred by statute of limitations and/or doctrine of laches as evidenced by the Writ of Summons that was filed in this matter within the applicable two year period.

17. Denied. Although the averment does not require a response, it is denied that Plaintiff's claims are limited, barred and/or restricted by the terms of the Pennsylvania Comparative Negligence Act in that Plaintiff exercised reasonable care at all times relevant hereto.

18. Denied. It is denied that Plaintiff's causes of action are limited, barred and/or restricted due to any action by the Plaintiff which might reasonable be interpreted as a failure to mitigate his damages. Plaintiff at all times acted reasonably with regard to the damages he suffered as the result of the Defendants' negligence.

19. After reasonable investigation, Plaintiff is without sufficient knowledge or information to form a belief as to the truth of the averment that Plaintiff's injuries or damages were caused by the acts or omissions of other persons or parties to whom the Defendants had no control or duty to control.

20. After reasonable investigation, Plaintiff is without sufficient knowledge or information to form a belief as to the truth of the averment that other individuals or entities may be responsible for acts or omissions constituting intervening or superceding causes of Plaintiff's damages or injuries.

21. Denied. Although a response is not required, Plaintiff denies that he failed to exercise reasonable care at any time relevant hereto and that his causes of action are barred by the doctrine of contributory negligence.

22. Denied. Plaintiff's injuries were the direct and proximate cause of the negligence of the Defendants and the Plaintiff has discovered no other causes after reasonable investigation.

23. This averment sets forth a conclusion of law to which no response is required.

24. Denied. It is denied that Plaintiff is estopped from claiming interest under Pa. R.C.P. 238 due to any actions of the Plaintiff and strict proof of the same is hereby demanded at trial.

25. Denied. Plaintiff's injuries as described in his complaint were the direct and proximate result of his fall on the Defendants' property.

26. Denied. It is denied that Plaintiff's claims are barred by the choice of paths and/or ways doctrines in that Plaintiff's reason for choosing for proceeding along the Defendants' walkway was entirely reasonable and did not fall short of a reasonable person's standard.

27. Denied. It is denied that Plaintiff's claims are barred due to failure to join necessary and indispensable parties since the Defendants are the fee simple owners of the real property on which the Plaintiff was injured and were in control of said property at all times relevant hereto. Moreover, this averment sets forth a preliminary objection which is inappropriately raised in Defendants' New Matter.

28. Denied. Although a response is not required, Plaintiff denies any and all affirmative defenses which are vaguely raised by the Defendants in this averment.

29. Denied. Although a response is not required, Plaintiff at all times relevant hereto acted in accordance with a reasonable person's standard and was not responsible for any of the injuries which he received.

30. Denied. Although this averment has been previously denied, Plaintiff had no prior knowledge or notice of the dangerous condition which caused this accident on the Defendants' property.

31. Denied. Defendants were and remain the owners of the real property in question and were the only parties in control of the same at the time of Plaintiff's accident.

32. Denied. Although this averment has previously been answered, Plaintiff at all times acted reasonably in mitigating his damages.

33. Denied. This averment has previously been answered by the Plaintiff and sets forth an improper preliminary objection raised in the Defendants' New Matter. To the extent a response is required, Plaintiff has adequately raised a claim for negligence against the Defendants in his complaint.

34. No response is required since the Plaintiff cannot answer an averment which is

not specifically pled. To the extent a response is required, Plaintiff denies that his cause of action is barred by any other defense and/or affirmative defense that becomes apparent during discovery or time of trial.

35. After reasonable investigation, Plaintiff is without sufficient knowledge or information to form a belief as to the truth of the averment that other third parties were responsible for Plaintiff's injuries.

36. Denied. Defendants were the sole owners of the property where Plaintiff was injured and exerted sole authority and control over the same.

37. Denied. It is denied that this Court lacks subject matter jurisdiction over the instant matter. Moreover, this averment improperly raises a preliminary objection in the Defendants' New Matter.

38. Denied. This averment has been previously answered in Paragraphs 31 and 36, *supra*.

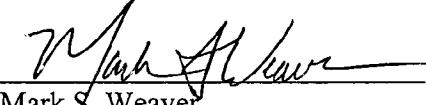
39. Denied. This averment has been previously answered in Paragraphs 13 and 30, *supra*.

40. Denied. The Plaintiff denies that the Pennsylvania Worker's Compensation Act is relevant to this matter in that he was on personal business at the time of the injuries alleged in his complaint.

WHEREFORE, Plaintiff respectfully request judgment in his favor against the Defendants.

Respectfully submitted,

Date: 7-15-02

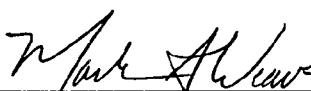


Mark S. Weaver
The Mazza Law Group, P.C.
Attorney ID # 63044
Attorney for Plaintiff
315 South Allen Street, Suite 302
State College, PA 16801
Telephone: (814) 237-6255
Facsimile: (814) 237-5752
Email: weaver@mazzalaw.com

VERIFICATION

I, Mark S. Weaver, attorney for the Plaintiff, hereby verify that the facts set forth in Plaintiff's Reply to Defendants' New Matter are true and correct based upon the information relayed to me by the Plaintiff. I am signing this verification on behalf of the Plaintiff due to the lack of time available to obtain the Plaintiff's signature. I understand that any false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 7-15-02


Mark S. Weaver
Mark S. Weaver
Attorney for the Plaintiff

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

WILLIAM SINGLEY :
Plaintiff :
:
v. : Case No. 2001-01616-CD
:
GEORGE and DIANE DOBSON, :
t/d/b/a DOBSON'S AUTO WASH :
Defendant :
:

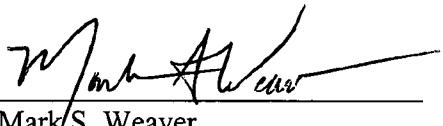
CERTIFICATE OF SERVICE

I hereby certify that I served a certified copy of the Plaintiff's Reply to Defendants' New Matter upon the person and in the manner indicated below, which service satisfied the requirements of Pa. R.C.P. 440.

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

John J. Donnelly, Esquire
Donnelly & Associates, P.C.
323 East Front Street
Media, PA 19063
Attorney for Defendant

Date: 7-22-02



Mark S. Weaver
The Mazza Law Group, P.C.
Attorney ID # 63044
Attorney for Plaintiff
1315 South Allen Street, Suite 302
State College, PA 16801
Telephone: (814) 237-6255
Facsimile: (814) 237-5752
Email: weaver@mazzalaw.com

FILED

JUL 26 2002

m/a:001acc:atty/weaver
William A. Shaw
Prothonotary
E
FJD

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

WILLIAM SINGLEY :
Plaintiff :
: :
v. : Case No. 2001-01616-CD
: :
GEORGE and DIANE DOBSON, :
t/d/b/a DOBSON'S AUTO WASH :
Defendant :
:

CERTIFICATE OF SERVICE

I hereby certify that I served a certified copy of the Plaintiff's Answer To Defendant's Request For Production Of Documents upon the person and in the manner indicated below, which service satisfied the requirements of Pa. R.C.P. 440.

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

John J. Donnelly, Esquire
Donnelly & Associates, P.C.
323 East Front Street
Media, PA 19063
Attorney for Defendant

Date: 7-13-02



Mark S. Weaver
The Mazza Law Group, P.C.
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FILED

JUL 26 2002

01/20012cc caty weaver
William A. Shaw
Prothonotary



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

WILLIAM SINGLEY :
Plaintiff :
: :
v. : Case No. 2001-01616-CD
: :
GEORGE and DIANE DOBSON, :
t/d/b/a DOBSON'S AUTO WASH :
Defendant :
:

CERTIFICATE OF SERVICE

I hereby certify that I served a certified copy of the Plaintiff's Answer to Defendant's First Set of Interrogatories upon the person and in the manner indicated below, which service satisfied the requirements of Pa. R.C.P. 440.

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

John J. Donnelly, Esquire
Donnelly & Associates, P.C.
323 East Front Street
Media, PA 19063
Attorney for Defendant

Date: 7-13-02



Mark S. Weaver
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FILED

JUL 26 2002

012:0412cc atty Weaver
William A. Shaw
Prothonotary 

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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

vs.

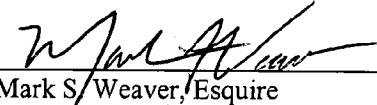
GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

ORDER TO SETTLE, DISCONTINUE AND END

To the Prothonotary:

Kindly mark this action settled, discontinued and ended upon payment of your costs only.

Date: 2-28-03



Mark S. Weaver, Esquire
I.D. No.: 63044

FILED

MAR 20 2003

William A. Shaw
Prothonotary

P

FILED

100-03-001: of Disc. to
Atty. Weaver

100-03-47
MAR 20 2003

Copy of Disc. to CJA

William A. Shaw
Prothonotary

WAS

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CCP

CIVIL DIVISION

William H. Singely

Vs.

No. 2001-01616-CD

**George Dobson,
Diane Dobson, d/b/a
Dobson's Auto Wash**

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 March 20, 2003, marked:

Settled, Discontinued and Ended

Record costs in the sum of \$80.00 have been paid in full by Mark S. Weaver, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 20th day of March A.D. 2003.

William A. Shaw, Prothonotary

323 East Front Street • Media, Pennsylvania 19063
ATTORNEYS AT LAW
DONNELLY & ASSOCIATES, P.C.
(610) 892-7600

DONNELLY & ASSOCIATES, P.C.
ATTORNEYS AT LAW
323 East Front Street
Media, Pennsylvania 19063
Phone: (610) 892-7600
Fax: (610) 892-7699

FILED

FEB 21 2003

William A. Donnelly
Prothonotary

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

WILLIAM SINGLEY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH

Defendants,

Type of Action:
Personal Injury

Type of Pleading
Motion for Summary Judgment

Filed on behalf of Defendants,
George Dobson, Diane Dobson d/b/a
Dobson's Auto Wash

Counsel of Record for this Party

Robin M. Niemiec, Esquire
I.D. No.: 86535

Donnelly & Associates, P.C.
323 East Front Street
Media, PA 19063
(610) 892-7600

FILED

FEB 21 2003

M 1220514
William A. Shaw
Prothonotary

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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

ORDER

AND NOW, this _____ day of _____, 2003, upon
consideration of Defendants, George and Diane Dobson d/b/a Dobson's Auto Wash's, Motion for
Summary Judgment, and any response thereto, it is hereby ORDERED and DECREED that said
Motion is GRANTED and Plaintiff's Complaint is dismissed with PREJUDICE.

BY THE COURT:

J.

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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

**DEFENDANT, GEORGE AND DIANE DOBSON d/b/a/ DOBSON'S AUTO WASH'S,
MOTION FOR SUMMARY JUDGMENT**

Defendants, George and Diane Dobson t/d/b/a Dobson's Auto Wash, by and through their attorneys, Donnelly & Associates, P.C., respectfully file this Motion for Summary Judgment and, in support thereof, avers and relies upon the following:

1. On or about June 5, 2002, Plaintiff William Singley filed a Complaint against Defendants George and Diane Dobson, d/b/a Dobson's Auto Wash. (Please see copy of Complaint attached as "Exhibit A").
2. In Plaintiff's Complaint, William Singley seeks damages for personal injuries allegedly sustained as a result of a slip and fall while on the property of the Defendants that occurred on October 2, 1999. (Please see copy of Complaint attached as "Exhibit A").
3. On the day of the incident, Mr. Singley had purchased items at an IGA grocery store, whose property was adjacent to Dobson's Auto Wash. (Please see copy of Plaintiff's Deposition at page 14, attached as "Exhibit B").

4. After leaving the supermarket, Mr. Singley decided that he may want to shampoo/wash his automobile. (Please see copy of Plaintiff's Deposition at page 14, attached as "Exhibit B").

5. Mr. Singley was going to drive to the carwash, however, noticed there was "traffic everywhere" and decided to walk to the shampoo machine to look at the machine, as that he had never used it before. (Please see copy of Plaintiff's Deposition at page 15, attached as "Exhibit B").

6. Mr. Singley chose to walk through the grass to get to the shampoo machine at Dobson's Auto Wash. (Please see copy of Plaintiff's Deposition at page 14, attached as "Exhibit B").

7. Between the corner of the IGA building and the grassy area that Mr. Singley originally walked on, is an asphalt area. (Please see copy of Plaintiff's Deposition at pages 19-20, 32 and 35, attached as "Exhibit A").

8. Mr. Singley retrieved some quarters from a change machine attached to the Dobson's Auto Wash building and was returning to his automobile. (Please see copy of Plaintiff's Deposition at page 15, attached as "Exhibit B").

9. On the return trip to his automobile, Mr. Singley did not want to walk in the grass again, as that it was a "very dry season." Instead, he chose to walk down the asphalt area described above. (Please see copy of Plaintiff's Deposition at page 15, attached as "Exhibit B").

10. Mr. Singley fell on this asphalt area. (Please see copy of Plaintiff's Deposition at page 15, attached as "Exhibit B").

11. At his deposition, Mr. Singley admitted that he had alternate paths that he could have taken to return to his vehicle.

12. In particular, he admitted that he could have: walked through the grass again, driven to the car wash or walked on the sidewalk that joined the two properties. (Please see copy of Plaintiff's Deposition at pages 26-28 and page 36, attached as "Exhibit B").

13. Mr. Singley admitted that he was aware that the asphalt area was at an incline. At his deposition, Mr. Singley stated, "...I got about 10 or 15 feet from the place where the accident occurred and I thought, humm, it drops off here." (Please see copy of Plaintiff's Deposition at page 15, attached as "Exhibit B").

14. Mr. Singley also admitted that the grassy area that he originally used as a path was less steep than the asphalt area. (Please see copy of Plaintiff's Deposition at page 23, attached as "Exhibit B").

15. Pennsylvania law clearly dictates that when a person having a choice of two ways, one of which is perfectly safe, and the other of which is subject to risks, voluntarily chooses the latter and is injured, he is guilty of contributory negligence as a matter of law.

16. Mr. Singley admitted that he was aware of the incline in the asphalt path, and therefore, it was open and obvious.

17. Plaintiff clearly assumed the risk of said action and, therefore, should not recover anything from George and Diane Dobson, d/b/a Dobson's Auto Wash.

18. The "choice of paths" doctrine, "assumption of the risk" doctrine and Plaintiff's contributory negligence bars recovery by the Plaintiff.

WHEREFORE, Defendants, George and Diane Dobson, d/b/a Dobson's Auto Wash, respectfully request that this Court grant their Motion for Summary Judgment, dismiss Plaintiff's Complaint with prejudice and enter Judgment in favor of Defendants.

RESPECTFULLY SUBMITTED,

DONNELLY & ASSOCIATES, P.C.

By: *Robin M. Niemiec*
Robin M. Niemiec

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

WILLIAM SINGELY

Plaintiff,
vs.
NO. 2001-01616-CD

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

Brin
f-21

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS GEORGE
AND DIANE DOBSON, d/b/a DOBSON'S AUTO WASH'S
MOTION FOR SUMMARY JUDGMENT**

Defendants, George and Diane Dobson, d/b/a Dobson's Auto Wash, by and through their attorneys, Donnelly & Associates, P.C., hereby submit this Memorandum of Law in support of their Motion for Summary Judgment.

I. STATEMENT OF FACTS

On or about June 5, 2002, Plaintiff William Singley filed a Complaint against Defendants George and Diane Dobson, d/b/a Dobson's Auto Wash. (Please see copy of Complaint attached as "Exhibit A"). In Plaintiff's Complaint, William Singley seeks damages for personal injuries allegedly sustained as a result of a slip and fall while on the property of the Defendants on October 2, 1999. (Please see copy of Complaint attached as "Exhibit A").

On the day of the incident, Mr. Singley had purchased items at an IGA grocery store, whose property was adjacent to Dobson's Auto Wash. (Please see copy of Plaintiff's Deposition at page 14, attached as "Exhibit B"). After leaving the supermarket, Mr. Singley decided that he may want to shampoo/wash his automobile. (Please see copy of Plaintiff's Deposition at page 14, attached as "Exhibit B"). Mr. Singley was going to drive to the carwash, however, noticed there

was "traffic everywhere" and decided to walk to the shampoo machine to look at the machine, as that he had never used it before. (Please see copy of Plaintiff's Deposition at page 15, attached as "Exhibit B"). Mr. Singley chose to walk through the grass to get to the shampoo machine at Dobson's Auto Wash. (Please see copy of Plaintiff's Deposition at page 14, attached as "Exhibit B").

Between the corner of the IGA building and the grassy area that Mr. Singley originally walked on, is an asphalt area. (Please see copy of Plaintiff's Deposition at pages 19-20, 32 and 35, attached as "Exhibit A"). Mr. Singley retrieved some quarters from a change machine attached to the Dobson's Auto Wash building and was returning to his automobile. (Please see copy of Plaintiff's Deposition at page 15, attached as "Exhibit B"). On the return trip to his automobile, Mr. Singley did not want to walk in the grass again, as that it was a very "dry season." Instead, he chose to walk down the asphalt area described above. (Please see copy of Plaintiff's Deposition at page 15, attached as "Exhibit B"). Mr. Singley fell on this asphalt area. (Please see copy of Plaintiff's Deposition at page 15, attached as "Exhibit B").

Mr. Singley had alternate paths he could have taken. He could have walked through the grass again, driven to the car wash or walked on the sidewalk that joined the two properties. (Please see copy of Plaintiff's Deposition at pages 26-28 and page 36, attached as "Exhibit B"). The incline of the asphalt area was open and obvious. Mr. Singley was aware that the asphalt area was at an incline. (Please see copy of Plaintiff's Deposition at page 15, attached as "Exhibit B"). The grassy area that Mr. Singley originally used as a path was less steep than the asphalt area. (Please see copy of Plaintiff's Deposition at page 23, attached as "Exhibit B").

II. LEGAL ARGUMENT

A. Summary Judgment is the Appropriate Remedy

Rule 1035.2 of the Pennsylvania Rules of Civil Procedure provides that the test for a Motion for Summary Judgment is as follows:

After the relevant pleadings are closed, but within such time

as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law:

(1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or

(2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

It is well established in Pennsylvania that if a Defendant can show that there is no genuine issue of material fact, he/she may move for Summary Judgment as to the opponent's claim and thereby terminate the litigation against him/her. DeMartino v. Albert Einstein Medical Center, 313 Pa.Super. 492, 460 A.2d 295 (1983); See also, Brophy v. Philadelphia Newspapers, Inc., 281 Pa.Super. 588, 422 A.2d 625 (1980); Tim Morello Construction v. Bridgeport Federal, 280 Pa.Super. 329, 421 A.2d 747 (1980). The Note to Rule 1035.2 states, "To defeat this motion, the adverse party must come forth with evidence showing the existence of the facts essential to the cause of action or defense." The clear implication of this language is that, it is inadequate for the respondent to merely repeat allegations of the Complaint in answering papers. What is required is proof of an evidentiary nature. The Rule clearly states that when a moving party makes a Motion for Summary Judgment supported by evidentiary proof, the responding party must bring forward more evidentiary proof or risk defeat.

Summary Judgment is appropriate when the record indicates that there is no material issue of fact for trial and judgment for the moving party is appropriate as a matter of law. Rose v. Food Fair Stores, Inc., 437 Pa. 117, 262 A.2d 851, 853 (1970). In a Summary Judgment Motion, the moving party has the initial burden of putting forth the evidence that demonstrates the absence of a genuine issue of material fact. Equimark v. Commerican Financial Company v. C.I.T. Financial Services Corporation, 812 F.2d 141, 142 (3d Cir. 1987) (citing Celotex

Corporation v. Catrett, 477 U.S. 317, 323 (1966)). The moving party may meet its burden by showing that there is an absence of evidence to support the non-moving party's cause. See, First Nation Bank of Pennsylvania v. Lincoln National Life, Inc., 824 F.2d 277, 280 (3d Cir. 1987).

The United States Supreme Court in Celotex v. Catrett, 477 U.S. 317 (1986), held that:

[T]he plain language...mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party **who fails to make a showing sufficient to establish the existence of an element essential to that party's case**, and on which the party will bear the burden of proof at trial. In such a situation, there can be no "genuine issue as to any material fact," since a complete failure of proof concerning an essential element of the non-moving party's case necessarily renders all other facts immaterial. The moving party is entitled to a judgment as a matter of law because the non-moving party has failed to make a sufficient showing on an essential element of her case with respect to which she has the burden of proof.

Celotex, 477 U.S. at 322-323 (emphasis added).

In this case, there are no genuine issues of material fact and, this is proven by the testimony of William Singley at his deposition. Plaintiff, William Singley, had the option of avoiding a path that had an open and obvious, steep condition. Mr. Singley could have chosen one of three alternate, safe paths. (Please see copy of Plaintiff's Deposition at pages 14, 26-28 and 36, attached as "Exhibit B"). No evidence has been produced, nor could be produced, to contradict the direct testimony of the plaintiff. Therefore, as a matter of law, the claims of Plaintiff are barred.

B. Plaintiff's Claims are Barred by the "Choice of Paths" Doctrine

It is well establish in this Commonwealth where a person "having a choice of two ways, one which is perfectly safe, and the other of which is subject to risks and dangers, voluntarily chooses the latter and is injured, he is guilty of contributory negligence..." DeFonde v. Keystone Valley Coal Co., 386 Pa. 433, 434, 126 A.2d 439, 439 (1956).

In the case at bar, there is indisputable evidence, the plaintiff's own testimony, that there was a safe course, a dangerous course and a voluntary choice to travel the dangerous course. Mr. Singley testified that the asphalt area upon which he fell had an incline. He stated, "...I got about

10 or 15 feet from the place where the accident occurred and I thought, humm, it drops off here.”

(Please see Plaintiff’s Deposition at page 15, attached as “Exhibit B”). Mr. Singley further testified that he could have traveled on the grass, driven on the road or walked on the sidewalk.

(Please see Plaintiff’s Deposition at pages 26-28, 36, attached as “Exhibit B”). Finally, Mr. Singley testified that the incline of the asphalt area was more severe than that of the grass.

(Please see Plaintiff’s Deposition at page 23, attached as “Exhibit B”). In fact, Mr. Singley had used the grass to travel to the car wash originally. (Please see Plaintiff’s Deposition at page 14, attached as “Exhibit B”). These facts are patently clear. Reasonable minds cannot disagree. Mr. Singley had safe, alternate paths that he could have chosen. Therefore, Summary Judgment should be granted in favor of Defendants, as a matter of law.

The case at bar is analogous to the case of DeFonde v. Keystone Valley Coal Co., Tharp v. Pennsylvania Railroad and Ott v. Unclaimed Freight Co. In DeFond, the decedent could have walked around the front end of a bulldozer to reach his truck. Instead, the decedent “darted forward between the rear of the [mechanical] shovel and the bulldozer and was there caught and crushed between the two vehicles due to the recoil of the shovel...” 386 Pa. 433, 126 A.2d 439 (1956). The Supreme Court held that the decedent’s choice to “duck” between the two machines rather than walk around them was a “dangerous one.” Id. Similarly, in Tharp, the decedent did not use a bridge over the railroad tracks but chose instead, to cross over a set of four railroad tracks and was struck by an oncoming train in the second track. 332 Pa. 233, 2 A.2d 695 (1938). Finally, in Ott, the plaintiff was crossing a parking lot and saw ice on the ground. The plaintiff chose to continue on the ice, slipped and fell. The Court upheld a summary judgment ruling because the plaintiff had an alternate path. Ott v. Unclaimed Freight, Co., 395 Pa. Super. 483, 577 A.2d 894 (1990). The current case is, perhaps, the clearest example of the applicability of the “Choice of Paths” doctrine. Therefore, Summary Judgment should be granted in favor of the Defendants, as a matter of law.

C. Plaintiffs' Claims are Barred by the Doctrine of Assumption of the Risk

The facts in this case are not disputed. The Pennsylvania Supreme Court has affirmed trial courts' determinations that Defendants are absolved from responsibility of Plaintiffs' injuries when Plaintiffs voluntarily proceed in the face of a known risk. See, e.g., Howell v. Clyde, 533 Pa. 151, 620 A.2d 1107 (1993); Carrender v. Fitterer, 503 Pa. 178, 469 A.2d 120 (1983). In Carrender, 503, Pa. 178, 469 A.2d 120 (1983), the Plaintiff was aware of ice in a parking lot before she entered her car and that maneuvering on ice was difficult for her. The Plaintiff parked her automobile on a sheet of ice, despite the fact that portions of the parking lot that had been plowed and cleared. The Plaintiff subsequently slipped and fell on the ice when re-entering her automobile. She then sued the landowner. The Court held that the Defendant owed no duty to the Plaintiff who proceeded to face an obvious and avoidable dangerous situation. Id. In Howell, 533 Pa. 151, 620 A.2d 1107 (1993), the Plaintiff attended a party at a neighbor's house. While at the party, Howell observed and visually inspected a fireworks cannon. Howell ignited the cannon and it subsequently exploded and caused injury. The Court granted Defendant's Motions for Summary Judgment because Plaintiff proceeded to face an obvious and avoidable danger. Id. In both cases, Carrender and Howell, the Plaintiffs proceeded to the known danger voluntarily. In the current case, as stated previously, Mr. Singley knew the asphalt area had a steep incline and yet, proceeded to walk down the area, despite alternate, safe paths.

The Supreme Court discussed the present status of the Doctrine of Assumption of Risk in Howell v. Clyde, 620 A.2d 1107 (Pa. 1993). It stated, "The comparative negligence statute has not abolished implied assumption of risk in situation where plaintiffs voluntarily and intelligently undertake activity which he knows to be hazardous in ways that subsequently cause him injury; rather, implied assumption of the risk has become part of duty analysis for trial court." As such, to attach a duty to the Defendants where Plaintiff voluntarily undertook an action, by his own choice, is absurd. The case at bar is a classic case of assumption of the risk. The Court should not hesitate in considering that, as a matter of law, Plaintiff is solely responsible for his own

injury because the danger was known and obvious. The law permits the question be decided by a Court where reasonable minds could not differ as to the conclusion. See, Restatement (Second) of Torts 328B, Comments c. and e. In the case at bar, the case seems so clear, reasonable minds could not disagree that Mr. Singley assumed the risk by choosing the path he traveled. Therefore, Defendants Motion for Summary Judgment should be granted as a matter of law.

III. CONCLUSION

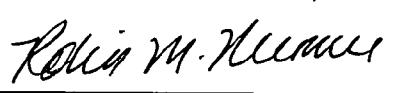
The Defendants are not responsible for consequences of the Plaintiff's decision to choose an unsafe path, that was open and obvious, when there are safe, alternate paths that could have been used. Mr. Singley's own deposition testimony supports that he had safe, alternate paths and chose to travel on the asphalt area. In the current matter, there are no genuine issues of material fact. The "choice of paths" doctrine, the "assumption of the risk" doctrine and Plaintiff's contributory negligence bars recovery by the Plaintiff.

WHEREFORE, Defendants, respectfully requests that this Court grant her Motion for Summary Judgment, dismiss Plaintiff's Complaint with prejudice, and enter judgment in their favor against Plaintiff.

RESPECTFULLY SUBMITTED,

DONNELLY & ASSOCIATES, P.C.

By:



Robin M. Niemiec

VERIFICATION

I, ROBIN M. NIEMIEC, ESQUIRE, attorney for Defendants in the within action, hereby state that the facts set forth in the foregoing Motion for Summary Judgment are true and correct to the best of my knowledge, information and belief.

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



ROBIN M. NIEMIEC

Exhibit “A”

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

WILLIAM SINGLEY

Plaintiff,

v.

No. 2001-01616-CD

GEORGE and DIANE DOBSON,
t/d/b/a DOBSON'S AUTO WASH

Defendant

Type of Action:
Personal Injury

Type of Pleading:
Complaint

Filed on behalf of Plaintiff,
William Singley

Counsel of Record for this Party:

Mark S. Weaver
Attorney ID # 63044

The Mazza Law Group, P.C.
1315 South Allen Street, Suite 302
State College, PA 16801
(814) 237-6255

JURY TRIAL DEMANDED

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

JUN 05 2002

Attest,

John H. Shaffer
Prothonotary/
Clerk of Courts

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

WILLIAM SINGLEY

Plaintiff

v.

Case No. 2001-01616-CD

GEORGE and DIANE DOBSON,
t/d/b/a DOBSON'S AUTO WASH

JURY TRIAL DEMANDED

Defendant

NOTICE TO DEFEND

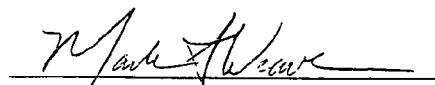
TO: GEORGE and DIANE DOBSON
t/d/b/a DOBSON'S AUTO WASH

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 claims or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641

Date: 6-5-02


Mark S. Weaver
The Mazza Law Group, P.C.
Attorney ID # 63044
1315 South Allen Street, Suite 302
State College, PA 16801
(814) 237-6255

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

WILLIAM SINGLEY :
Plaintiff :
v. : Case No. 2001-01616-CD
GEORGE and DIANE DOBSON, : JURY TRIAL DEMANDED
t/d/b/a DOBSON'S AUTO WASH :
Defendant :

COMPLAINT

AND NOW, comes the Plaintiff, William H. Singley, by and through his attorneys, The Mazza Law Group, P.C., and makes the following Complaint:

1. Plaintiff is William H. Singley, an adult individual, whose residence is located at Rural Route 3, Box 283, Curwensville, Clearfield County, Pennsylvania 16833.
2. Defendants are George Dobson and Diane Dobson, a/k/a George P. Dobson and Diane M. Dobson, whose residence is located at 133 Cherry Road, Kersey, Pennsylvania 15846.
3. At all times relevant hereto, Defendants were engaged in the conduct of business in the Commonwealth of Pennsylvania, specifically consisting of a self-serve and automatic car wash known as Dobson's Auto Wash which is located at 331 State Street, Curwensville, Pennsylvania 16833, hereinafter described as the "premises."
4. At all times relevant due to, Defendants owned in fee simple the premises located at 331 State Street, Curwensville, Pennsylvania 16833.
5. At all times relevant hereto, Defendants were in exclusive custody, possession and control of that area described as the premises, and it was the duty of the Defendants to keep and

maintain those premises in a reasonably safe condition for those persons lawfully thereon.

6. On October 2, 1999, at approximately 3:00 p.m., Plaintiff was a business invitee of the Defendants at the premises and while crossing an asphalt walkway on the premises, Plaintiff, through no fault of his own, stumbled and fell to the ground by reason of the extreme grade and steepness of the walkway sustaining the injuries described herein.

7. Notwithstanding its duty, Defendants did on the above date, and for a period of time prior thereto, carelessly, recklessly and negligently allow and permit to remain on the said premises a dangerous and defective condition, to wit:

- a. a walkway which was defectively constructed as required by federal, state and local building codes and regulations;
- b. a walkway which failed to have handrails or steps which could be used to traverse the steep grade.

8. At the time of the accident and for some time prior thereto, Defendants did or should have had both notice and knowledge of the aforesaid dangerous condition, and did allow and permit the condition to be and remain on the premises.

9. The injuries and damages which are hereinafter set forth were caused solely by and were the direct and proximate result of the negligence of the Defendants in any and all of the following respects:

- a. In failing to keep the premises in a safe condition for persons lawfully using the same;
- b. In permitting the dangerous condition to be and remain on the premises when the Defendants knew or in the exercise of reasonable care should have known of the danger

involved;

- c. In failing to warn the Plaintiff of the dangerous condition created by the above-described hazard;
- d. In failing to remove, blockade or otherwise cure the dangerous condition of which the Defendants knew or in the exercise of reasonable care should have known;
- e. In permitting persons, particularly the Plaintiff, to transverse the premises when the Defendants knew or in the exercise of reasonable care, should have known it was dangerous to do so and involved an unreasonable risk of harm to persons so doing;
- f. In failing to inspect the premises and to discover the dangerous condition or in inspecting so carelessly as not to have discovered the condition;
- g. In constructing and/or maintaining the premises in an improper manner with a dangerous condition or in employing personnel who were not sufficiently qualified to construct or maintain the premises; and
- h. In violating the various statutes and regulations pertaining to the construction and maintenance of walkways which are being utilized by the public.

10. Solely as a result of the said accident, Plaintiff has suffered severe and permanent injuries, including but not limited the following:

- a. torn deltoid ligament of the right ankle;
- b. fracture of the right fibular shaft;
- c. acute urinary retention (post op); and
- d. internal injuries, shock and injury to the nerves and nervous system.

11. As a result of the injuries as aforesaid, Plaintiff has sustained the following

damages:

- a. Plaintiff has suffered and continues to suffer severe and agonizing pain which will continue into the future;
- b. Plaintiff has been forced to expend and will continue to expend large sums of money to cure his injuries, which expenses shall continue indefinitely into the future;
- c. Plaintiff was unable to engage in his usual activities and occupation during a period of recuperation and has suffered a general impairment of his health, strength and vitality.

WHEREFORE, Plaintiff demands judgment against the Defendants in an amount in excess of \$25,000 exclusive of interest and cost.

Respectfully submitted,

Date: 6-5-02


Mark S. Weaver
The Mazza Law Group, P.C.
Attorney ID # 63044
1315 South Allen Street, Suite 302
State College, PA 16801
(814) 237-6255

VERIFICATION

I hereby verify that the facts set forth in this Complaint are true and correct to the best of my knowledge, information and belief. I understand that any false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 5/5/02

William Singley
William Singley

Exhibit “B”

1
2 IN THE COURT OF COMMON PLEAS
3 OF CLEARFIELD COUNTY, PENNSYLVANIA
4 CIVIL ACTION - LAW
5

6 WILLIAM SINGLEY,
7 PLAINTIFF
8

9 VS. : NO: 2001-01616-CD
10

11 GEORGE DOBSON, DIANE DOBSON
12 d/b/a DOBSON'S AUTO WASH,
13 DEFENDANTS
14

15 DEPOSITION OF: WILLIAM SINGLEY
16

17 TAKEN BY: DEFENDANT
18

19 BEFORE: DANA LYNN DANCHANKO
20 NOTARY PUBLIC
21

22 DATE: SEPTEMBER 18, 2002, 1:55 P.M.
23

24 PLACE: THE MAZZA LAW GROUP
25 1315 S. ALLEN STREET, SUITE 302
 STATE COLLEGE, PA 16801
1

2 APPEARANCES:
3

4 THE MAZZA LAW GROUP
5 BY: MARK S. WEAVER, ESQUIRE
6 1315 S. Allen Street, Suite 302
7 State College, PA 16801
8 FOR - PLAINTIFF
9

10 DONNELLY & ASSOCIATES, P.C.
11 BY: ROBIN M. NIEMIEC, ESQUIRE
12 323 E. Front Street
13 Media, PA 19063
14 FOR - DEFENDANTS
15

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1 I N D E X2 BY DEFENDANT3 EXAMINATION

4 WILLIAM SINGLEY

5 By Ms. Niemiec 3
6 By Mr. Weaver 607 E X H I B I T S8 SINGLEY
9 EXHIBITSPRODUCED
AND MARKED

10	No. 1 - Photocopy of Photographs	17
11	No. 2 - Photocopy of Photograph	22
12	No. 4 - Report by Wilson Fisher	28

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1 let's say for the week, if you had to buy groceries?

2 A We'd buy some items there, yes.

3 Q Is it your regular grocery store?

4 A No.

5 Q No.

6 A For big grocery items, we go somewhere
7 else.

8 Q Okay. How far away do you live -- where
9 your house is from this area?

10 A About a mile.

11 Q A mile. Okay. On the date of the
12 accident -- well, just start off with this, why don't
13 you tell what happened. Your version of the events
14 that day.

15 A Okay. I think it was approximately about
16 3:00 or ten till 3:00 when I pulled into the IGA
17 parking lot and I was picking up couple of items at the
18 IGA. And I walked out of the IGA, I had parked my car
19 in the third stall down from the building and when I
20 opened my car up, I noticed how dirty it was, and I
21 thought, humm, I need to vacuum this and possibly
22 shampoo it. So I looked up to the car wash there and
23 there is a shampooing piece of equipment that sits
24 closer to the grassy section. And I thought that might
25 be nice to use to clean my car.

1 I thought, well, I'll just drive around
2 there and then I turned left and I looked at the corner
3 and there was traffic everywhere, where it was really
4 busy. I thought, humm, I'll just go up and look at
5 this machine and see what it takes in the way of
6 change, because I had never used that particular piece
7 of equipment. I'd used the vacuum cleaners, but never
8 this other piece of equipment.

9 So I went up and inspected the machine and
10 discovered that it took quarters. So I went up to --
11 walked up directly to the car wash and got my quarters
12 out of the machine. Well, coming back to my car, it
13 was -- if you remember the weather that time of year,
14 if was very, very dry, very, very -- we had had a lot
15 of drought.

16 And I didn't want to walk through his grass
17 again. I walked up through the grass the first time
18 and it was really dry and I thought, humm, there's a
19 path right there, I'll just take that path so I don't
20 have to walk on the grass anymore.

21 And I got about 10 or 15 feet from the
22 place where the accident occurred and I thought, humm,
23 it drops off here. And I continued to walk and
24 naturally looking up to down because I was walking into
25 a parking lot and I didn't want to get hit by a car,

1 the statement that there is a sidewalk in front of --
2 or on the side of Dobson's Auto Wash?

3 A Yes.

4 Q Okay. If you would look to the second
5 page, photo number four, it says under the description,
6 car wash area continued from above to IGA, quote,
7 unquote, shortcut from sidewalk. Is this an accurate
8 representation of where you were walking from the car
9 wash after you, I'm assuming, have retrieved your
10 quarters?

11 A No.

12 Q No. Can you explain why it is not?

13 A It was over that way more.

14 Q Pointing to the left side of the
15 photograph?

16 A Uh-huh, right.

17 Q Is this -- the corner of the IGA building
18 that's in the photograph, in about the middle of the
19 photograph, is to the right of that, is that, in fact,
20 where the sloped area or the pathway that you
21 originally walked down, is that where it's located?

22 MR. WEAVER: You may ask Ms. Niemiec --

23 THE WITNESS: Are you referring to this
24 area right here?

25 BY MS. NIEMIEC:

1 Q Yes, I am. He's pointing to the middle of
2 the photograph?

3 MR. WEAVER: Of photograph 4.

4 BY MS. NIEMIEC:

5 Q Yes.

6 A Yes, that's where the sloped area is.

7 Q And in this photograph, you'll notice that
8 there's cars parked. The third car over, is that
9 approximately where your automobile was parked? It
10 would be, looks like a brown and white SUV of some
11 sort.

12 A Suburban.

13 Q Suburban?

14 A I think there's a space in between those
15 two.

16 Q Okay.

17 A Looks like there's an empty space there.

18 Q Okay. And that's where you would have --

19 A That would have been about where I was
20 parked.

21 Q Okay. Turn to the third page, photo number
22 6, on the bottom. Is that the pathway that we've been
23 discussing that you -- that that accident occurred --
24 incident occurred on?

25 A Yes.

1 accurate representations of the area in which the
2 accident occurred?

3 A Yes.

4 Q Okay. In all the photos we have looked at
5 thus far in regards to where the accident occurred, the
6 grass area that isn't completely -- I'm not familiar
7 with the area, so you'll have to bear with me a little
8 bit and the actual site of the accident. But all the
9 grass area that's there to the -- to the side of this
10 paved area, not obviously on the building, does that
11 grass extend outward towards the street?

12 A Yes.

13 Q Okay. And is that the grass area that you
14 originally walked up?

15 A Uh-huh.

16 Q Yes, okay. In regards to steepness, for
17 lack of a better phrase, of the grass area, is it less
18 steep or more steep than this -- the pathway here that
19 you had walked down and the incident occurred on?

20 A The grass area is less steep.

21 Q It's less steep, okay. You stated that
22 your original intention was that you were going to have
23 your car vacuumed and possibly shampooed, depending on
24 what the machine looked like. After you got your
25 quarters and you were returning to your car, was it

1 that's scaled.

2 MR. WEAVER: You might want to identify
3 this.

4 MS. NIEMIEC: From Hess & Fisher
5 Engineering.

6 MR. WEAVER: Dated August 3, '02.

7 BY MS. NIEMIEC:

8 Q Is this, to the best of your knowledge, an
9 accurate representation of the roads, as well as where
10 the car wash and the IGA market is located?

11 A Yes.

12 Q Okay. What we have here at the bottom in
13 the middle of Exhibit 3, which we'll have marked, is a
14 parking lot where -- and then to come out of the IGA
15 parking lot, you would have to get on Route 879; is
16 that correct?

17 A Yes.

18 Q And right here at this intersection of
19 Gilbert Street or 3015 and 879, is this where the
20 traffic lights are?

21 A Right on the corner.

22 Q When you leave the IGA parking lot, you
23 would take a right and you would go up to the -- on
24 879, you have to go up to the traffic lights, correct?

25 A Yes.

1 Q Okay. How far approximately is it from the
2 parking lot exit to the traffic light?

3 A To here?

4 Q Yeah.

5 A Approximately 75 to 100 feet.

6 Q 75 to 100 feet, okay. And once you take
7 the -- coming off of 879, you would take a right to
8 come on Gilbert Street, correct?

9 A Yes.

10 Q And you would enter the car wash from
11 Gilbert Street. How far from the light to the entrance
12 of the car wash is it approximately?

13 A Approximately the same, 70 to 100 feet.

14 Q Okay. And around this whole area following
15 the roads, the two roads is a sidewalk?

16 A Yes, the sidewalk goes all the way around
17 there.

18 Q Okay. So had you wanted to or decided to,
19 you could have walked, there was no construction or
20 whatnot on the sidewalk, that you could have walked
21 from the IGA parking lot on the sidewalk to the
22 Dobson's Auto Wash?

23 A Yes.

24 Q Okay. And as you've already stated, that
25 you walked up through the grass to get to the shampoo

1 machine?

2 A Yes.

3 Q You could have, in fact, walked down on the
4 grass?

5 A Yes, I could have.

6 Q Okay. As I said, I don't know if you had a
7 chance to read it -- you can fold this up.

8 MR. WEAVER: It's not being made a part of
9 it?

10 MS. NIEMIEC: Yes. Like I said, your
11 attorney sent us an expert report from a Mr. Wilson
12 Fisher of Hess & Fisher Engineers, Incorporated. I
13 copied the first two for purposes of this is what I
14 want to ask him about, the first two pages of it. I
15 don't know if he's had a chance to review what
16 Mr. Fisher wrote in regards to that. But I'd like to
17 have that marked as Exhibit 4.

18 (Report by Wilson Fisher marked Singley
19 Exhibit No. 4.)

20 BY MS. NIEMIEC:

21 Q Mr. Singley, have you had a chance to read
22 this prior to coming today?

23 A Yes, I glanced over it.

24 Q Okay. Would you like to take an
25 opportunity to read through it again real quick?

1 A I was about right in the middle of it.

2 Q Right in the middle, okay. When you're
3 saying the varying degrees of steepness, is it like --
4 is it an obvious difference of steepness or is it just
5 that it kind of slopes, not only down -- strike that.

6 How is the different levels of steepness
7 different from the left side to the right side? Is it
8 gradual or is it --

9 A Well, I'm not an engineer but it is
10 pretty -- increases, decreases quite a bit over that
11 five-foot width. I think the picture shows it there
12 pretty well.

13 Q Okay.

14 A I think he has the grading levels right on
15 the map.

16 Q On the map, right. I just kind of was --
17 like I said, I've never been out to the car wash, so
18 just kind of -- from your perspective, where you were
19 looking at it, I'm was just trying to determine if it
20 was obvious that the left side was more steep than the
21 right side from, you know, an average person's -- just
22 looking at it?

23 A As you look at it, you know, in retrospect,
24 yes, it is quite a bit of difference.

25 Q Okay. You state in your statement to

1 I could really see was cars pulling into the IGA or
2 cars coming around the first parking area there into
3 the handicap spot. So that's what I was watching for.

4 Q Okay.

5 A I kind of had my eyesight down where the
6 cars would have pulled into that handicap parking
7 place 'cause I didn't want to walk right into one.

8 Q And just to clarify, earlier you testified,
9 and I just want to make sure, in regards to it, the
10 reason that you chose to walk down this path is not
11 because you were going to the IGA grocery store but
12 it's, in fact, because you didn't want to walk on the
13 grass again?

14 A That's right.

15 Q Okay. When you came up the grass, did you
16 see the slope?

17 A No, I had never negotiated that slope
18 before and didn't know it was there. The first time I
19 had seen it was after I had gotten my quarters and I
20 was walking back toward the car to go home. There's a
21 path there of theirs and I decided to take it.

22 Q Okay. This slope, the asphalt slope, it's
23 directly next to the IGA building, grocery store
24 building; is that correct?

25 A Yes.

1 Q Okay. Did you at any point reach out and
2 hold onto the building when walking down the slope?

3 A No, I didn't touch it at all.

4 Q Did anyone see you fall?

5 A No, I don't believe.

6 Q Okay. Was there anything obstructing your
7 view, like anything in front of -- on the slope or in
8 front of before you walked down the slope, anything at
9 all?

10 A No.

11 Q Okay. Prior to stepping onto -- down the
12 slope, you knew that there was an incline, regardless
13 of whether how steep or not it was, you did know that
14 there was an incline?

15 A Yes.

16 Q Okay. You stated that the reason you did
17 not drive was because there was traffic?

18 A Yes.

19 Q There was nothing wrong with your
20 automobile?

21 A No.

22 Q I mean, you could have driven over to
23 that --

24 A Yes, I could have driven.

25 Q All right. Following -- you fell, your

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

WILLIAM SINGELY

Plaintiff,

NO. 2001-01616-CD

vs.

GEORGE DOBSON, DIANE DOBSON d/b/a
DOBSON'S AUTO WASH
Defendants,

CERTIFICATE OF SERVICE

ROBIN M. NIEMIEC, ESQUIRE, attorney for Defendants, George Dobson, Diane Dobson d/b/a Dobson's Auto Wash, hereby certifies that a, true and correct, copy of Defendants' Motion for Summary Judgment was served upon all counsel of record by United States First Class Mail.

DONNELLY & ASSOCIATES, P.C.

Dated: 2/20/03

By: *Robin M. Niemiec*
ROBIN M. NIEMIEC