

01-1817-CD  
DONALD L. HERB et al -vs- JOHN SHOOK et al

H

Date: 01/19/2005

Time: 02:01 PM

Page 1 of 2

**Clearfield County Court of Common Pleas**

User: BANDERSON

ROA Report

Case: 2001-01817-CD

Current Judge: Paul E. Cherry

Donald L. Herb, Susan Demchak-Herb vs. Dolores Shook

## Civil Other

| Date       |   | Judge   |
|------------|---|---|
| 11/02/2001 | Filing: Praeclipe for Writ of Summons Paid by: C. Lee Anderson, Esquire<br>Receipt number: 1833686 Dated: 11/02/2001 Amount: \$80.00 (Check)<br>Two Writs of Summons issued to Sheriff  | No Judge <input checked="" type="checkbox"/>                |
| 12/12/2001 | Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm  | No Judge <input checked="" type="checkbox"/>                |
| 04/24/2002 | Praeclipe To Discontinue as to JOHN SHOOK. filed by s/C. Lee Anderson, Esquire Cert. of Svc. 1 cc Atty Anderson, 2 Cert. Dis. to Atty and 1 copy to CA  | No Judge <input checked="" type="checkbox"/>                |
| 05/07/2002 | Entry of Appearance on behalf of DOLORES SHOOK, Defendant. Filed by s/Joseph P. Green, Esq. Certificate of Service no cc  | No Judge <input checked="" type="checkbox"/>                |
| 10/20/2003 | Complaint. filed by s/C. Lee Anderson, Esquire Verification s/Susan Demchak-Herb, Plaintiff s/Donald L. Herb, Plaintiff Certificate of Service no cc  | No Judge <input checked="" type="checkbox"/>                |
| 11/04/2003 | Answer and New Matter filed by Atty. Mix. No cc.  | No Judge <input checked="" type="checkbox"/>                |
| 11/17/2003 | Reply To New Matter. filed by, s/C. Lee Anderson, Esquire Certificate of Service no cc  | No Judge <input checked="" type="checkbox"/>                |
| 01/05/2004 | Certificate of Service, Plaintiff Susan Demchak-Herb's Answers to Defendant's Interrogatories Directed to Plaintiff Susan Demchak-Herb upon: ROBERT A. MIX, ESQ. filed by, s/C. Lee Anderson, Esquire no cc<br>Certificate of Service, Plaintiff Donald L. Herb's Answers to Defendant's Interrogatories Directed to Plaintiff Donald L. Herb upon: ROBERT A. MIX, ESQUIRE. filed by, s/C. Lee Anderson, Esquire no cc<br>Certificate of Service, Plaintiffs' Reply to Defendant's Request for Production of Documents upon: ROBERT A. MIX, ESQUIRE. filed by, s/C. Lee Anderson, Esquire no cc | No Judge <input checked="" type="checkbox"/>                |
| 01/08/2004 | Certificate of Service, Request for Production of Documents upon: Robert A. Mix, Esq. filed by, s/C. Lee Anderson, Esquire no cc<br>Certificate of Service, Interrogatories Directed to the Defendant upon: Robert A. Mix, Esq. filed by s/C. Lee Anderson, Esq. no cc  | No Judge <input checked="" type="checkbox"/>                |
| 07/12/2004 | Certificate of Service, Answers to Defendant's Expert Witness Interrogatories, upon the following address, US Mail, first class, postage pre-paid: Robert A Mix, Esquire. 115 East High Street. PO Box 179, Bellefonte, PA 16823. no cc   | No Judge <input checked="" type="checkbox"/> missing        |
| 07/14/2004 | Certificate of Readiness, filed by s/C. Lee Anderson Two CC Attorney Anderson   | No Judge <input checked="" type="checkbox"/>                |
| 07/29/2004 | Order, NOW, this 29th day of July, 2004, date set for Call of Civil List; counsel for both parties having agreed to submit the matter to mediation; upon request of counsel for both parties, Order that the Court Administrator relist the case for the Winter 2005 Term of Court. BY THE COURT:<br>/s/Fredric J. Ammerman, P.J. Two CC Attys: Anderson, Green<br>Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/Robert A. Mix, Esq. No CC  | Fredric Joseph Ammerman <input checked="" type="checkbox"/> |
|            | Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/Robert A. Mix, Esq. No CC   | Fredric Joseph Ammerman <input checked="" type="checkbox"/> |
|            | Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/Robert A. Mix, Esq. No CC   | Fredric Joseph Ammerman <input checked="" type="checkbox"/> |

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

Margaret A Korman, Guardian over  
the person and estate of  
Berneta Fontenoy, an alleged incapacitated  
person  
Plaintiff(s)

No.: 2004-00251-CD

Real Debt: \$

Atty's Comm: \$

Vs. Costs: \$

Int. From: \$

Clearfield Colonial Courtyard  
Defendant(s)

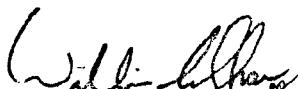
Entry: \$20.00

Instrument:

Date of Entry: January 18, 2005

Expires: January 18, 2010

Certified from the record this 18th day of January, 2005



William A. Shaw, Prothonotary

\*\*\*\*\*

SIGN BELOW FOR SATISFACTION

Received on 1 2005, of defendant full satisfaction of this Judgment, Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

\_\_\_\_\_  
Plaintiff/Attorney

**Clearfield County Court of Common Pleas**

ROA Report

Case: 2001-01817-CD

Current Judge: Paul E. Cherry

Donald L. Herb, Susan Demchak-Herb vs. Dolores Shook

**Civil Other**

| Date       |  | Judge  |
|------------|--|--|
| 08/20/2004 | Certificate of Service, Plaintiff Susan Demchak-Herb's Objections to Defendant's Subpoena to Franco Psychological Associates, served upon: Robert A. Mix, Esq., Filed by s/C. Lee Anderson, Esq., No cc<br><br>Certificate of Service, Plaintiff Susan Demchak-Herb's Objections to Defendant's Subpoena to Carbon Foudation, served upon, Robert A. Mix, Esq., Filed by s/ C. Lee Anderson, Esq., No cc   | Fredric Joseph Ammerman <i>f</i><br><i>4</i> |
| 10/21/2004 | Motion to Compel Production of Documents and/or Motion for Sanctions and/or Motion in Limine, filed by s/Robert A. Mix, Esq. No CC   | Fredric Joseph Ammerman <i>X</i>             |
| 10/22/2004 | Order, AND NOW, this 22nd day of October, 2004, upon consideration of the within Motion to Compel Production of Documents and /or Motion for Sanctions and/or Motion in Limine, argument is set for the 18th day of November, 2004, at 1:30 p.m. in Courtroom no. 1, of the Clfd. Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge.<br>1CC Atty Mix  | Fredric Joseph Ammerman <i>X</i><br><i>4</i> |
| 11/08/2004 | Answer To Motion To Compel Production of Documents and/or Motion For Sanctions and/or Motion in Limine, filed on behalf of Plaintiff Susan Demchak-Herb by s/ C. Lee Anderson, Esquire. 4CC Atty Anderson.<br>Certificate of Service, by US Mail the 5th day of Nov., 2004, upon Robert A. Mix, Esquire.   | Fredric Joseph Ammerman <i>X</i>             |
| 11/19/2004 | Order, AND NOW, this 18th day of Nov. 2004, it is the ORDER of the Court that a hearing is scheduled at 2:30 p.m. on December 16, 2004 at the Clfd. Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1 CC Attys: Anderson, Green  | Fredric Joseph Ammerman <i>X</i>             |
| 12/08/2004 | Praecipe For Entry of Appearance, filed, enter David R. Thompson, Esquire on behalf of the Plaintiffs. Filed by s/ David R. Thompson, Esquire. 2CC Atty.   | Fredric Joseph Ammerman <i>X</i>             |
| 12/16/2004 | Stipulation, filed. Now, this 16th day of Dec., 2004, the parties, by and through their counsel, stipulate as follows: (see original for details). Signed: David R. Thompson, Esquire, and Robert A. Mix, Esquire. 5CC to Atty   | Fredric Joseph Ammerman <i>X</i>             |
| 01/07/2005 | Certificate of Service, copy of plaintiff's Pre-Trial Memorandum, served Jan. 7, 2005 upon: Robert A. Mix, Esquire. Filed by s/ David R. Thompson, Esquire. No CC  | Paul E. Cherry <i>X</i>                      |
| 01/14/2005 | Certificate of Service, copy of Plaintiff's Supplemental Pre-Trial Memorandum, Jan. 14, 2005 upon Robert A. Mix, Esquire. Filed by s/ David R. Thompson, Esquire. No CC  | Paul E. Cherry <i>X</i>                      |
| 01/17/2005 | Order, AND NOW, this 14th day of Jan., 2005, following Pre-Trial Conference it is the Order of this Court as follows:<br><br>Jury Selection in this matter is scheduled for Jan. 27, 2005, beginning at 9:00 a.m. in Courtroom No. 2 of the Clfd Co. Courthouse.<br>Trial in this matter is scheduled for April 11 & 12, 2005, beginning at 9:00 a.m. in Courtroom No. 2 of the Clfd. Co Courthouse.<br>(see original for further details of Order)<br>BY THE COURT, /s/ Paul E. Cherry, Judge. 1CC Attys: Thompson, C. Lee Anderson, and J. Green | Paul E. Cherry <i>X</i>                      |

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

Margaret A Korman, Guardian over  
the person and estate of  
Berneta Fontenoy, an alleged incapacitated  
person  
Plaintiff(s)

No.: 2004-00251-CD

Clearfield Colonial Courtyard  
Defendant(s)

Vs.

Real Debt: \$

Atty's Comm: \$

Costs: \$

Int From: \$

Entry: \$20.00

Instrument:

Date of Entry: January 18, 2005

Expires: January 18, 2010

Certified from the record this 18th day of January, 2005

\_\_\_\_\_  
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

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
PLAINTIFFS

v.

JOHN SHOOK AND DOLORES SHOOK,  
DEFENDANT

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
NO. 01-1817-CO  
CIVIL ACTION - AT LAW  
JURY TRIAL DEMANDED

**COPY**

**WRIT OF SUMMONS**

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE NOTIFIED THAT THE ABOVE-NAMED PLAINTIFF HAS  
COMMENCED AN ACTION AGAINST YOU.



Prothonotary

Date: 11-2-01

Deputy

COPIA

FILED

NOV 02 2001  
3.03 (3.03)  
William A. Shaw  
Prothonotary  
pd \$80.00

(2) Writ Summons  
to Sheriff

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 11723

HERB, DONALD L. and SUSAN DEMCHAK-HERB

01-1817-CD

VS.

SHOOK, JOHN & DOLORES

**PRAECIPE & SUMMONS**

**SHERIFF RETURNS**

NOW NOVEMBER 8, 2001, BOB KOLAR, SHERIFF OF CAMBRIA COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PRAECIPE & SUMMONS ON JOHN SHOOK & DOLORES SHOOK, DEFENDANTS.

NOW NOVEMBER 15, 2001 SERVED THE WITHIN PRAECIPE & SUMMONS ON JOHN SHOOK & DOLORES SHOOK, DEFENDANTS BY DEPUTIZING THE SHERIFF OF CAMBRIA COUNTY. THE RETURN OF SHERIFF KOLAR IS HERETO ATTACHED AND MADE A PART OF THIS RETURN.

---

**Return Costs**

| Cost  | Description                  |
|-------|------------------------------|
| 34.55 | SHFF. HAWKINS PAID BY: ATTY. |
| 51.15 | SHFF. KOLAR PAID BY: ATTY.   |
| 20.00 | SURCHARGE PAID BY: ATTY.     |

**FILED**  
01/10/03-BM  
DEC 12 2001

William A. Shaw  
Prothonotary

Sworn to Before Me This

12<sup>th</sup> Day Of December 2001  
William A. Shaw

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

So Answers,

*Chester A. Hawkins  
Suzanne M. Hause  
Chester A. Hawkins  
Sheriff* *CB*

CASE # PLAINTIFF  
90319-01 HERB, DONALD & SUSAN  
DATE 11/15/01

DEFENDANT  
SHOOK, JOHN & DOLORES 01-1817

AT 14:28 HRS. SERVED THE WRIT OF SUMMONS UPON JOHN AND DOLORES SHOOK BY HANDING TRUE AND ATTESTED COPIES THEREOF TO THEM PERSONALLY AT 673 NICKTOWN HILL RD. NORTHERN CAMBRIA PA. AND MAKING CONTENTS THEREOF KNOWN TO THEM. MY COSTS PAID BY ATTORNEY FOR PLAINTIFF.

SHERIFF COSTS 48.15

PRO 3.00

TOTAL COSTS 51.15

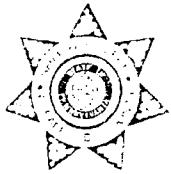
SO ANSWERS,

*Bob Kolar*

BOB KOLAR SHERIFF

SWORN AND SUBSCRIBED TO BEFORE ME THIS 27TH DAY OF NOV. 01.

PROTHONATARY Patty Berkabile



# Sheriff's Office Clearfield County

CHESTER A. HAWKINS  
SHERIFF

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

OFFICE (814) 765-2641  
AFTER 4:00 P.M. (814) 765-1533

CLEARFIELD COUNTY FAX  
(814) 765-5915

2001-90319

DARLENE SHULTZ  
CHIEF DEPUTY

MARGARET PUTT  
OFFICE MANAGER

MARILYN HAMM  
DEPT. CLERK

PETER F. SMITH  
SOLICITOR

## DEPUTATION

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

DONALD L. HERB & SUSAN  
DEMCHAK-HERB

TERM & NO. 01-1817-CD

vs

JOHN SHOOK & DOLORES SHOOK

SERVE BY: 12/1/01

or

HEARING DATE:

DOCUMENT TO BE SERVED:

PRAECIPE & SUMMONS

**MAKE REFUND PAYABLE TO:** SMIGEL, ANDERSON & SACKS, Attorney

**SERVE:** JOHN SHOOK & DOLORES SHOOK

**ADDRESS:** 673 Nicktown Hill Road, N.Cambria or Spangler, Pa.  
15714 15775

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

This Deputation being made at the request and risk of the Plaintiff this 8th day of NOVEMBER 2001.

Respectfully,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".  
CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
PLAINTIFFS

V.

JOHN SHOOK AND DOLORES SHOOK,  
DEFENDANTS

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION - AT LAW  
: JURY TRIAL DEMANDED

**PRAECIPE TO DISCONTINUE AS TO JOHN SHOOK**

TO THE PROTHONOTARY:

Please discontinue the above captioned action as to Defendant John Shook only.

SMIGEL, ANDERSON & SACKS

Date: April 22, 2002



C. Lee Anderson, Esquire  
I.D. # 21315  
2917 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401

Attorney for Plaintiff

**FILED**

APR 24 2002

013441

William A. Shaw  
Prothonotary

Anderson

(2) Cert Dno. to atty  
(1) Copy A



DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
PLAINTIFFS : IN THE COURT OF COMMON PLEAS  
V. : OF CLEARFIELD COUNTY,  
 : PENNSYLVANIA  
 : NO. 01-1817-CD  
JOHN SHOOK AND DOLORES SHOOK,  
DEFENDANTS : CIVIL ACTION – AT LAW  
 : JURY TRIAL DEMANDED

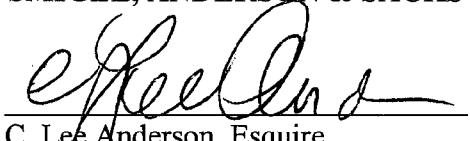
**CERTIFICATE OF SERVICE**

I, C. Lee Anderson, Esquire, hereby certify that a true and correct copy of the foregoing  
Praecipe to Discontinue as to John Shook was served upon the following as addressed below by  
depositing the same in the United States Mail, first class mail, postage prepaid, at Harrisburg,  
Pennsylvania on this 22 day of April, 2002:

Joseph P. Green, Esquire  
Lee, Martin, Green & Reiter, Inc.  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823-0179

SMIGEL, ANDERSON & SACKS

Date: April 22, 2002

  
C. Lee Anderson, Esquire  
I.D. #: 21315  
2917 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401

Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

**COPY**

CIVIL DIVISION

**Donald L. Herb and  
Susan Demchak-Herb**

Vs.  
**John Shook and  
Dolores Shook**

No. 2001-01817-CD

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on April 24, 2002 marked:

Discontinued as to John Shook only.

Record costs in the sum of \$185.70 have been paid in full by C. Lee Anderson, Esquire.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 24th day of April A.D. 2002.

---

William A. Shaw, Prothonotary

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

DONALD L. HERB and SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs

vs.

DOLORES SHOOK,  
Defendant

)  
: **No. 01-1817-CD**  
)  
: **Type of Pleading:**  
)  
: **Entry of Appearance**  
:  
)  
: **Counsel of Record for this party:**  
:  
)  
: **Joseph P. Green, Esquire, ID 19238**  
:  
)  
: **Lee, Martin, Green & Reiter, Inc.**  
)  
: **Attorneys for Defendant Dolores Shook**  
:  
)  
: **115 East High Street**  
)  
: **P.O. Box 179**  
:  
): **Bellefonte, PA 16823**  
): **814-355-4769**  
:  
)  
: **JURY TRIAL DEMANDED**

**FILED**

MAY 07 2002  
MILLIS NO. C  
William A. Shaw  
Prothonotary

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

DONALD L. HERB and SUSAN DEMCHAK-HERB, husband and wife, Plaintiffs ) : No. 01-1817-CD ) : JURY TRIAL DEMANDED ) vs. ) : ) DOLORES SHOOK, Defendant ) : )

## **ENTRY OF APPEARANCE**

## To the Prothonotary:

Please enter the appearance of the undersigned on behalf of Dolores Shook, Defendant above-named.

LEE, MARTIN, GREEN & REITER, INC.

By:   
Joseph P. Green, Esq., ID #19238  
Attorney for Defendants  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

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

DONALD L. HERB and SUSAN DEMCHAK-HERB, husband and wife, Plaintiffs ) : No. 01-1817-CD ) : JURY TRIAL DEMANDED ) vs. ) : DOLORES SHOOK, ) Defendant ) :

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Entry of Appearance was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 6 day of May, 2002 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

  
Joseph P. Green

**FILED**

OCT 20 2003

William A. Shaw  
Prothonotary/Clerk of Courts

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
PLAINTIFFS

V.

DOLORES SHOOK,  
DEFENDANT

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**COMPLAINT**

Now come Plaintiffs Donald L. Herb and Susan Demchak-Herb, by and through their undersigned counsel, Smigel, Anderson & Sacks, LLP, and file the within Complaint, averring as follows:

1. Plaintiffs, Donald L. Herb and Susan Demchak-Herb, husband and wife, are adult individuals residing at 125 Clay Road, Carlisle, Cumberland County, Pennsylvania.
2. Defendant, Dolores Shook, is an adult individual residing at 673 Nicktown Hill Road, Northern Cambria, Cambria County, Pennsylvania.
3. At the time of the accident in question, Plaintiffs were covered under an automobile insurance policy which provided them with the full tort option.
4. The facts and circumstances giving rise to this action occurred at approximately 11:50 a.m., Sunday, November 7, 1999, on State Route 53 in Decatur Township, Clearfield County, Pennsylvania, south of Osceola Mills.

5. At the aforementioned time and place, Plaintiffs were passengers in a 1990 Volvo 240 station wagon owned and driven by Ms. Demchak-Herb's father, Maxim Demchak. Mr. Demchak was driving in a southerly direction on State Route 53 at the time.

6. At the aforementioned time and place, Defendant Dolores Shook was driving her vehicle, a 1966 Buick LeSabre, north on State Route 53.

7. Rounding a curve to the right, Mrs. Shook permitted her car to drift left over the double centerline, completely into the southbound lane, whereupon her car struck Mr. Demchak's car head-on, causing Plaintiffs to suffer serious and permanent bodily injuries.

8. The aforementioned collision, and the injuries and damages sustained by the Plaintiffs, as set forth hereafter, were the direct result of the negligence, carelessness and recklessness of the Defendant in that she:

(a) Failed to keep alert and maintain a proper watch for the presence of other motor vehicles on the roadway;

(b) Failed to drive her vehicle with due regard for the highway and traffic conditions that were existing and of which she was or should have been aware;

(c) Failed to keep her vehicle under control;

(d) Continued to operate her vehicle in a direction towards the vehicle Plaintiffs were in when she saw, or in the exercise of reasonable diligence, should have seen that further operation in that direction would result in a collision;

(e) Failed to take evasive action to avoid striking the vehicle in front of her;

(f) Failed to avoid hitting the vehicle the Plaintiffs were in when she saw or should have seen that that vehicle was on the road in full view; and

(g) Failed to drive on the right side of the road in violation of §3301(a) of the Motor Vehicle Code of the Commonwealth of Pennsylvania;

(h) Failed to pass the oncoming car driven by Mr. Demchak, which was proceeding in the opposite direction, to the right in violation of §3302 of the Motor Vehicle Code of the Commonwealth of Pennsylvania;

(i) Failed to keep her vehicle in her lane of traffic as clearly marked on the road in violation of §3309 of the Motor Vehicle Code of the Commonwealth of Pennsylvania;

and

(j) Drove her vehicle in a careless and reckless fashion, in violation of §3714 of the Motor Vehicle Code of the Commonwealth of Pennsylvania;

#### COUNT I

Donald L. Herb and Susan Demchak-Herb, his wife v. Dolores Shook

9. The allegations of paragraphs 1 through 8 are incorporated herein by reference.

10. As a direct result of this negligence of the Defendant, Plaintiff Donald L. Herb sustained serious and permanent personal injuries, including but not limited to the following:

- (a) Broken left hip socket
- (b) Head and facial lacerations
- (c) Contusions and abrasions to his face, body, and extremities
- (d) Decreased range of motion in his left leg
- (e) Severe pain in his left leg
- (f) Decreased left leg endurance

(g) Pain radiating to the lower extremities

(h) Headaches

11. As a further result of Defendant's negligence, Plaintiff Donald L. Herb also sustained the following losses and damages:

(a) Pain and suffering, past, present and future.

(b) Loss of life's pleasures, past, present and future.

(c) Unreimbursed medical expenses, past, present and future.

(d) Loss of earnings and earning capacity.

(e) Permanent scarring.

(f) Expenses for substitute help to maintain and rebuild his home.

12. As a further result of Defendant's negligence, Plaintiff Donald L. Herb has suffered a loss of his wife's services and companionship.

WHEREFORE, Plaintiffs Donald L. and Susan Demchak-Herb demand judgment against Defendant in an amount in excess of this county's mandatory arbitration limits, plus the costs of this action, and any other relief that this Honorable Court deems just and proper.

COUNT II

Susan Demchak-Herb and Donald L. Herb, her husband v. Dolores Shook

13. The allegations of paragraphs 1 through 8 are incorporated herein by reference.

14. As a direct result of the negligence of the Defendant, Plaintiff Susan Demchak-Herb sustained serious and permanent personal injuries, including, but not limited to the following:

(a) Fractured right forearm and pain in her right wrist

- (b) Right ankle sprain
- (c) Contusions and abrasions to both legs and right ankle and foot
- (d) Deep contusion to her back
- (e) Neck, shoulder and lower back sprains
- (f) Decreased use, strength and endurance in her right forearm and wrist
- (g) Emotional and psychological impairment
- (h) Permanent scarring.

15. As a further result of Defendant's negligence, Plaintiff Susan Demchak-

Herb also sustained the following losses and damages:

- (a) Pain and suffering, past, present and future.
- (b) Loss of life's pleasures, past, present and future.
- (c) Medical expenses, past, present and future.
- (d) Loss of earnings and earning capacity.
- (e) Expenses for substitute help to care for her home and family

16. As a further result of Defendant's negligence, Plaintiff Susan Demchak-Herb has suffered a loss of her husband's services and companionship.

WHEREFORE, Plaintiffs Donald L. Herb and Susan Demchak-Herb demand judgment against Defendant in an amount in excess of this county's mandatory arbitration limits, plus the costs of this action, and any other relief that this Honorable Court deems just and proper.

Respectfully submitted,

**SMIGEL, ANDERSON & SACKS**

Date: Oct 15, 2005

  
C. Lee Anderson, Esquire  
I.D. #: 21315  
4431 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401

Attorneys for Plaintiffs

## **VERIFICATION**

I, Susan Demchak-Herb, verify that the statements contained in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements therein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Date: 10/10/03

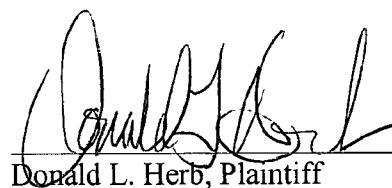
Susan Demchak - Herb  
Susan Demchak-Herb, Plaintiff

## **VERIFICATION**

I, Donald L. Herb, verify that the statements contained in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements therein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Date:

10/10/03



Donald L. Herb, Plaintiff

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
PLAINTIFFS

v.

DOLORES SHOOK,  
DEFENDANT

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-0187-CD  
:  
: CIVIL ACTION - AT LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I, C. Lee Anderson, Esquire, hereby certify that a true and correct copy of the foregoing  
Complaint was served upon the following as addressed below by depositing the same in the  
United States Mail, first class mail, postage prepaid, at Harrisburg, Pennsylvania on this 15  
day of Oct, 2003:

Joseph P. Green, Esquire  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

SMIGEL, ANDERSON & SACKS

Date: Oct 15 2003

  
C. Lee Anderson, Esquire  
Supreme Court ID # 21315  
4431 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401

Attorneys for Plaintiff

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
PLAINTIFFS

V.

DOLORES SHOOK,  
DEFENDANT

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-0187-CD  
:  
: CIVIL ACTION - AT LAW  
: JURY TRIAL DEMANDED

**N O T I C E**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Pennsylvania Bar Association Lawyer Referral Service  
100 South Street, P.O. Box 186  
Harrisburg, PA 17108  
(800) 692-7375

FILED NO

11/3/03  
OCT 20 2003

cc  
KA

William A. Shaw  
Prothonotary/Clerk of Courts

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

DONALD L. HERB and SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs

vs.

DOLORES SHOOK,  
Defendant

)  
: **No. 01-1817-CD**  
)  
: **Type of Pleading:**  
)  
: **Answer and New Matter**  
:  
)  
: **Counsel of Record for this party:**  
:  
)  
: **Robert A. Mix, Esq., ID #16164**  
:  
)  
: **Lee, Martin, Green & Reiter, Inc.**  
)  
: **Attorneys for Defendant Dolores Shook**  
:  
)  
: **115 East High Street**  
)  
: **P.O. Box 179**  
:  
)  
: **Bellefonte, PA 16823**  
)  
: **814-355-4769**  
:  
:  
)  
: **JURY TRIAL DEMANDED**

**FILED**

**NOV 04 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

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

|                                 |                       |
|---------------------------------|-----------------------|
| DONALD L. HERB and SUSAN        | )                     |
| DEMCHAK-HERB, husband and wife, | : No. 01-1817-CD      |
| Plaintiffs                      | )                     |
|                                 | : JURY TRIAL DEMANDED |
| vs.                             | )                     |
|                                 | :                     |
| DOLORES SHOOK,                  | )                     |
| Defendant                       | :                     |

**NOTICE TO PLEAD**

To the within named Plaintiff:

You are hereby notified to plead to the within NEW MATTER within 20 days of service hereof, or judgment may be entered against you.

LEE, MARTIN, GREEN & REITER, INC.

By:

  
\_\_\_\_\_  
Robert A. Mix, Esq., ID #16164  
Attorney for Defendant  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, : No. 01-1817-CD  
Plaintiffs )  
vs. ) : JURY TRIAL DEMANDED  
DOLORES SHOOK, )  
Defendant :  
:

**ANSWER AND NEW MATTER**

Now Comes Defendant Dolores Shook by her attorneys, Lee, Martin, Green & Reiter, Inc., and respectfully represents:

1. Denied. After reasonable investigation, Defendant Shook is without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.
2. Admitted.
3. Denied. After reasonable investigation, Defendant Shook is without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted that a collision occurred between the vehicles operated by Defendant Shook and Maxim Demchak. The remaining averments are denied. After reasonable

investigation, Defendant Shook is without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

8. Denied generally pursuant to Pa. R.C.P. 1029(e).

## COUNT I

### **Donald L. Herb & Susan Demchak-Herb, his wife v. Dolores Shook**

9. The averments of paragraphs 1 through 8 above are incorporated herein by reference.

10. The averments of this paragraphs stating that Defendant was negligent and that her negligence caused Plaintiff Donald Herb's injuries and damages are denied generally pursuant to Pa. R.C.P. 1029(e). The remaining averments are denied. After reasonable investigation, Defendant Shook is without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

11. The averments of this paragraphs stating that Defendant was negligent and that her negligence caused Plaintiff Donald Herb's injuries and damages are denied generally pursuant to Pa. R.C.P. 1029(e). The remaining averments are denied. After reasonable investigation, Defendant Shook is without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

12. The averments of this paragraphs stating that Defendant was negligent and that her negligence caused Plaintiff Donald Herb's injuries and damages are denied generally pursuant to Pa. R.C.P. 1029(e). The remaining averments are denied. After reasonable investigation, Defendant Shook is without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

WHEREFORE, Defendant demands judgment in her favor and against Plaintiffs Donald L. Herb and Susan Demchak-Herb.

## COUNT II

### **Susan Demchak-Herb and Donald L. Herb, her husband v. Dolores Shook**

13. The averments of paragraphs 1 through 12 above are incorporated herein by reference.

14. The averments of this paragraphs stating that Defendant was negligent and that her negligence caused Plaintiff Susan Demchak-Herb's injuries and damages are denied generally pursuant to Pa. R.C.P. 1029(e). The remaining averments are denied. After reasonable investigation, Defendant Shook is without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded..

15. The averments of this paragraphs stating that Defendant was negligent and that her negligence caused Plaintiff Susan Demchak-Herb's injuries and damages are denied generally pursuant to Pa. R.C.P. 1029(e). The remaining averments are denied. After reasonable investigation, Defendant Shook is without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

16. The averments of this paragraphs stating that Defendant was negligent and that her negligence caused Plaintiff Susan Demchak-Herb's injuries and damages are denied generally pursuant to Pa. R.C.P. 1029(e). The remaining averments are denied. After reasonable investigation, Defendant Shook is without knowledge or information sufficient to form a belief as to the truth of the averments and strict proof thereof is demanded.

WHEREFORE, Defendant demands judgment in her favor and against Plaintiffs Donald L. Herb and Susan Demchak-Herb.

**NEW MATTER**

17. Plaintiffs' recovery of damages is restricted, limited or barred by the provisions of Section 1722 of the Pennsylvania Motor Vehicle Financial Responsibility Law (75 Pa. C.S.A. §1722).

18. Plaintiffs' recovery of damages is restricted, limited or barred by the provisions of Section 1705 of the Pennsylvania Motor Vehicle Financial Responsibility Law (75 Pa. C.S.A. §1705).

19. A payment of \$10,000.00 was made by or on behalf of Defendant to Plaintiff Donald Herb for his medical expenses.

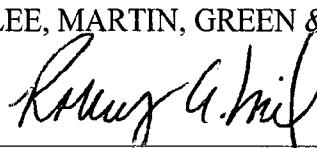
20. A payment of \$546.00 was made by or on behalf of Defendant to Plaintiff Donald Herb or his agent for his loss of earnings.

21. A payment of \$1,340.00 was made by or on behalf of Defendant to Plaintiff Susan Demchak-Herb for her loss of earnings.

WHEREFORE, Defendant demands judgment in her favor and against Plaintiffs.

LEE, MARTIN, GREEN & REITER, INC.

By:

  
\_\_\_\_\_  
Robert A. Mix, Esq., ID #16164  
Attorney for Defendants  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

**VERIFICATION**

Dolores Shook states that she is the defendant; that she is acquainted with the facts set forth in the foregoing responsive pleading; that the same are true and correct to the best of her knowledge, information and belief; and that this statement is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dolores Shook  
Dolores Shook

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs ) : JURY TRIAL DEMANDED  
vs. )  
DOLORES SHOOK, )  
Defendant ) :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Answer and New Matter was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 3rd day of November, 2003 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

  
Robert A. Mix

FILED NO  
12264  
NOV 04 2003

William A. Shaw  
Prothonotary/Clerk of Courts

DONALD L. HERB AND SUSAN DEMCHAK-HERB, husband and wife,  
PLAINTIFFS : IN THE COURT OF COMMON PLEAS  
V. : OF CLEARFIELD COUNTY,  
 : PENNSYLVANIA  
 :  
 : NO. 01-1817-CD  
 :  
JOHN SHOOK AND DOLORES SHOOK, : CIVIL ACTION – AT LAW  
DEFENDANTS : JURY TRIAL DEMANDED

**REPLY TO NEW MATTER**

NOW COME the Plaintiffs Donald L. Herb and Susan Demchak-Herb, husband and wife, by their attorneys Smigel, Anderson & Sacks, L.L.P., and make the following Reply to Defendants' New Matter:

17. Denied. Plaintiffs' claim is subject to the provisions of the Pennsylvania Motor Vehicle Financial Responsibility law. Strict proof that Plaintiffs recovery of damages is restricted, limited or barred by the provisions of this law is hereby demanded.

18. Denied. Plaintiffs' claim is subject to the provisions of the Pennsylvania Motor Vehicle Financial Responsibility law. Strict proof that Plaintiffs recovery of damages is restricted, limited or barred by the provisions of this law is hereby demanded.

19. Admitted.

20. It is admitted that a payment was made by or on behalf of Defendants to Plaintiff Donald Herb or his agent for his loss of earnings, but the amount paid was \$546.88.

**FILED**

NOV 17 2003

William A. Shaw  
Prothonotary/Clerk of Courts

21. It is admitted that a payment was made by or on behalf of Defendants to Plaintiff Susan Demchak-Herb for her loss of earnings, but the amount paid was \$1,341.00.

WHEREFORE, Plaintiffs demand judgment against Defendant as set forth in their Complaint.

SMIGEL, ANDERSON & SACKS

Date: Nov 13, 2003

By: C. Lee Anderson

C. Lee Anderson, Esquire

I.D. #: 21315

4431 North Front Street

Harrisburg, PA 17110

(717) 234-2401

Attorneys for Plaintiffs

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
PLAINTIFFS

V.

JOHN SHOOK AND DOLORES SHOOK,  
DEFENDANTS

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

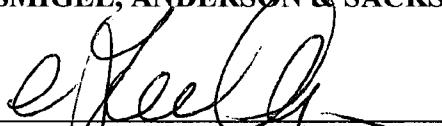
I, C. Lee Anderson, Esquire, hereby certify that a true and correct copy of the foregoing  
Reply to New Matter was served upon the following as addressed below by depositing the same  
in the United States Mail, first class mail, postage prepaid, at Harrisburg, Pennsylvania on this

13 day of Nov, 2003:

Robert A Mix, Esquire  
Lee, Martin, Green & Reiter, Inc.  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823-0179

**SMIGEL, ANDERSON & SACKS**

Date: Nov 13, 2003

By:   
C. Lee Anderson, Esquire  
I.D. #: 21315  
4431 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401  
Attorneys for Plaintiffs

FILED No  
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RE

William A. Shaw  
Prothonotary/Clerk of Courts

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs

V.

DOLORES SHOOK,  
Defendant

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

### **CERTIFICATE OF SERVICE**

I, C. Lee Anderson , Esquire, hereby certify that a true and correct copy of the Plaintiff Susan Demchak-Herb's Answers to Defendant's Interrogatories Directed to Plaintiff Susan Demchak-Herb was served upon the following as addressed below by depositing the same in the United States Mail, first class, postage prepaid, at Harrisburg, Pennsylvania on January 3, 2004.

Robert A. Mix, Esquire  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

Smigel, Anderson & Sacks

Date: Jan 3, 2004

By:



C. Lee Anderson, Esquire  
ID# 21315  
4431 North Front Street  
Harrisburg, PA 17110-1709  
(717) 234-2401  
Attorneys for Plaintiff

**FILED**

**JAN 05 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

16<sup>th</sup> cc

JAN 6 2004

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William A. Scanlon  
Prothonotary Clerk of Courts

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs

V.

DOLORES SHOOK,  
Defendant

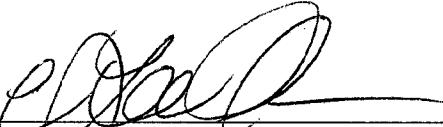
: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I, C. Lee Anderson, Esquire, hereby certify that a true and correct copy of the Plaintiff Donald L. Herb's Answers to Defendant's Interrogatories Directed to Plaintiff Donald L. Herb was served upon the following as addressed below by depositing the same in the United States Mail, first class, postage prepaid, at Harrisburg, Pennsylvania on January 3, 2004.

Robert A. Mix, Esquire  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

Smigel, Anderson & Sacks

Date: Jan 3, 2004 By: 

C. Lee Anderson, Esquire  
ID# 21315  
4431 North Front Street  
Harrisburg, PA 17110-1709  
(717) 234-2401  
Attorneys for Plaintiff

**FILED**

JAN 05 2004

William A. Shaw  
Prothonotary/Clerk of Courts

FILED  
M 15 2004  
JAN 6 2004  
421  
William A. Shaw  
Prothonotary, Clerk of Courts

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs

V.

DOLORES SHOOK,  
Defendant

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I, C. Lee Anderson, Esquire, hereby certify that a true and correct copy of the Plaintiffs' Reply to Defendant's Request for Production of Documents was served upon the following as addressed below by depositing the same in the United States Mail, first class, postage prepaid, at Harrisburg, Pennsylvania on January 3, 2004.

Robert A. Mix, Esquire  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

Smigel, Anderson & Sacks

Date: Jan 3, 2004 By:

  
C. Lee Anderson, Esquire  
ID# 21315  
4431 North Front Street  
Harrisburg, PA 17110-1709  
(717) 234-2401

Attorneys for Plaintiffs

**FILED**

JAN 05 2004

William A. Shaw  
Prothonotary/Clerk of Courts

FILED NO  
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JAN 05 2004  
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William A. Shaw  
Prothonotary/Clerk of Courts

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
PLAINTIFFS

V.

DOLORES SHOOK,  
DEFENDANT

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I, C. Lee Anderson, Esquire, hereby certify that a true and correct copy of the Request for Production of Documents was served upon the following as addressed below by depositing the same in the United States Mail, first class mail, postage prepaid, at Harrisburg, Pennsylvania on this 5 day of January, 2004:

Robert A. Mix, Esquire  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

**SMIGEL, ANDERSON & SACKS**

Date: Jan 5, 2004

  
C. Lee Anderson, Esquire  
Supreme Court ID # 21315  
4431 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401  
Attorneys for Plaintiffs

**FILED**

**JAN 08 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

11558X NOCC  
JAN 08 2004

William A. Shaw  
Prothonotary Clerk of Courts

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
PLAINTIFFS

V.

DOLORES SHOOK,  
DEFENDANT

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I, C. Lee Anderson, Esquire, hereby certify that a true and correct copy of the foregoing Interrogatories Directed to the Defendant was served upon the following as addressed below by depositing the same in the United States Mail, first class mail, postage prepaid, at Harrisburg, Pennsylvania on this 5 day of January, 2004:

Robert A. Mix, Esquire  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

**SMIGEL, ANDERSON & SACKS**

Date: Jan 5, 2004

  
C. Lee Anderson, Esquire  
Supreme Court ID # 21315  
4431 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401  
Attorneys for Plaintiffs

**FILED**

JAN 08 2004

William A. Shaw  
Prothonotary, Clerk of Courts

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs

v.

DOLORES SHOOK,  
Defendant

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

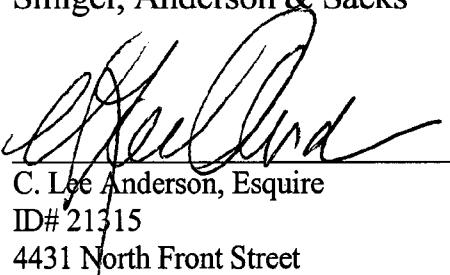
I, C. Lee Anderson, Esquire, hereby certify that a true and correct copy of the Plaintiffs Donald L. Herb's and Susan Demchak-Herb's Answers to Defendant's Expert Witness Interrogatories Directed to Plaintiffs Donald L. Herb and Susan Demchak-Herb was served upon the following as addressed below by depositing the same in the United States Mail, first class, postage prepaid, at Harrisburg, Pennsylvania on July 9, 2004.

Robert A. Mix, Esquire  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

Smigel, Anderson & Sacks

Date: July 9, 2004

By:

  
C. Lee Anderson, Esquire  
ID# 21315  
4431 North Front Street  
Harrisburg, PA 17110-1709  
(717) 234-2401

Attorneys for Plaintiffs

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William A. Shaw  
Prothonotary/Clerk of Courts

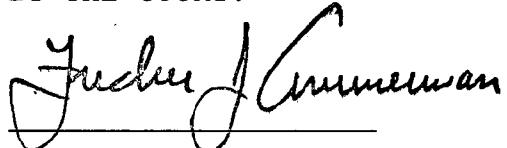
IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

DONALD HERB and :  
SUSAN DEMCHAK-HERB :  
VS. : NO. 01-1817-CD  
DOLORES SHOOK :

O R D E R

NOW, this 29th day of July, 2004, this being the date set for Call of the Civil List; counsel for both parties having agreed to submit the matter to mediation; and upon request of counsel for both parties, it is the ORDER of this Court that the Court Administrator relist the case for the Winter 2005 Term of Court.

BY THE COURT:



President Judge

FILED

JUL 29 2004

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**  
07/30/04  
JUL 29 2004  
William A. Shaw  
Prothonotary/Clerk of Courts

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, : No. 01-1817-CD  
Plaintiffs )  
: JURY TRIAL DEMANDED  
vs. )  
: DOLORES SHOOK, )  
Defendant :  
:

**CERTIFICATE**  
**PREREQUISITE TO SERVICE OF A SUBPOENA**  
**PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Robert A. Mix, Esquire, certifies that:

1. a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
2. a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
3. no objection to the subpoena has been received, and
4. the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

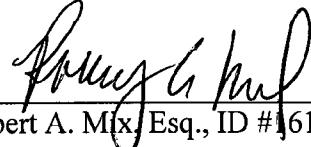
Date: May 16, 2004

FILED NO cc  
M 12:11 AM  
JUL 29 2004

William A. Shaw  
Notary/Clerk of Courts

LEE, MARTIN, GREEN & REITER, INC.

By:

  
Robert A. Mix, Esq., ID #16164  
Attorney for Defendant  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

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

|                                 |                       |
|---------------------------------|-----------------------|
| DONALD L. HERB and SUSAN        | )                     |
| DEMCHAK-HERB, husband and wife, | : No. 01-1817-CD      |
| Plaintiffs                      | )                     |
|                                 | : JURY TRIAL DEMANDED |
| vs.                             | )                     |
|                                 | :                     |
| DOLORES SHOOK,                  | )                     |
| Defendant                       | :                     |

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY

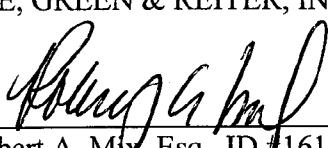
To: Plaintiffs  
c/o - C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks, LLP  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

Defendant intends to serve a subpoena identical to the one that is attached to this notice.

You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

LEE, GREEN & REITER, INC.

By:

  
\_\_\_\_\_  
Robert A. Mix, Esq., ID #16164  
Attorney for Defendant  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Donald L. Herb  
Susan Demchak-Herb  
Plaintiff(s)

Vs.

Dolores Shook  
Defendant(s)

\*

No. 2001-01817-CD

\*

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

TO: Three Points Chiropractic Clinic, 111 W. Lonther St., Carlisle, PA 17013  
(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:

All medical records, office notes, diagnostic test results, reports or other documents pertaining to the treatment and care of Susan O. Herb, SS# 044-66-9760, DOB: 1/21/66, between 1/1/97 and the present.

PO Box 179, Bellefonte, PA 16823 (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.

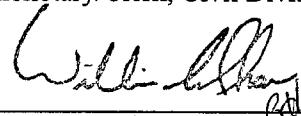
If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Robert A. Mix, Esquire  
ADDRESS: PO Box 179  
Bellefonte, PA 16823  
TELEPHONE: 814-355-4769  
SUPREME COURT ID # 16164  
ATTORNEY FOR: Defendant Shook

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division



Deputy

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

DATE: Monday, July 19, 2004  
Seal of the Court

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs ) : JURY TRIAL DEMANDED  
vs. )  
DOLORES SHOOK, )  
Defendant ) :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Notice of Intent to Serve Subpoena was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 7th day of July, 2004 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

Robert A. Mix

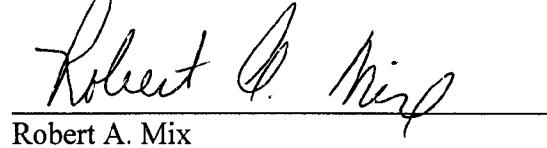
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION - LAW

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, : No. 01-1817-CD  
Plaintiffs )  
vs. ) : JURY TRIAL DEMANDED  
DOLORES SHOOK, )  
Defendant : )

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22 was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 28<sup>th</sup> day of July, 2004 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

  
\_\_\_\_\_  
Robert A. Mix

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, : No. 01-1817-CD  
Plaintiffs )  
vs. ) : JURY TRIAL DEMANDED  
DOLORES SHOOK, )  
Defendant :  
:  
:

**CERTIFICATE**  
**PREREQUISITE TO SERVICE OF A SUBPOENA**  
**PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Robert A. Mix, Esquire, certifies that:

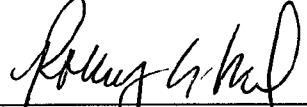
1. a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
2. a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
3. no objection to the subpoena has been received, and
4. the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Date: July 27, 2004

**FILED** *No cc*  
*mt 2:11 AM*  
**JUL 29 2004**  
*BS*  
William A. Shaw  
Prothonotary/Clerk of Courts

LEE, MARTIN, GREEN & REITER, INC.

By:

  
\_\_\_\_\_  
Robert A. Mix, Esq., ID #16164  
Attorney for Defendant  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs ) : JURY TRIAL DEMANDED  
vs. )  
DOLORES SHOOK, )  
Defendant ) :  
 )

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY**

To: Plaintiffs  
c/o - C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks, LLP  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

Defendant intends to serve a subpoena identical to the one that is attached to this notice.

You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

LEE, GREEN & REITER, INC.

By:

Robert A. Mix, Esq., P.C. #16164  
Attorney for Defendant  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Donald L. Herb  
Susan Demchak-Herb  
Plaintiff(s)

Vs.

Dolores Shook  
Defendant(s)

\*

\*

No. 2001-01817-CD

\*

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

TO: Franco Psychological Associates, 26 State Avenue, Carlisle, PA 17013  
(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:

All medical records, office notes, diagnostic test results, reports or other documents pertaining to the treatment & care of Susan O. Herb, SS# 004-66-9760  
DOB: 1/21/66, between 1/1/97 and the present.

(Address)

PO Box 179, Bellefonte, PA 16823

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: Robert A. Mix, Esq.  
ADDRESS: PO Box 179  
Bellefonte, PA 16823  
TELEPHONE: 814-355-4769  
SUPREME COURT ID # 16164  
ATTORNEY FOR: Defendant Shook

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Monday, July 19, 2004  
Seal of the Court

William A. Shaw  
Deputy

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs ) : JURY TRIAL DEMANDED  
vs. )  
DOLORES SHOOK, )  
Defendant )

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Notice of Intent to Serve Subpoena was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 7th day of July, 2004 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

  
Robert A. Mix

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs )  
vs. ) : JURY TRIAL DEMANDED  
DOLORES SHOOK, )  
Defendant ) :  
 )

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22 was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 28<sup>th</sup> day of July, 2004 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

Robert A. Mix

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

|                                 |   |                     |
|---------------------------------|---|---------------------|
| DONALD L. HERB and SUSAN        | ) |                     |
| DEMCHAK-HERB, husband and wife, | : | No. 01-1817-CD      |
| Plaintiffs                      | ) |                     |
|                                 | : | JURY TRIAL DEMANDED |
| vs.                             | ) |                     |
|                                 | : |                     |
| DOLORES SHOOK,                  | ) |                     |
| Defendant                       | : |                     |

**CERTIFICATE**  
**PREREQUISITE TO SERVICE OF A SUBPOENA**  
**PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Robert A. Mix, Esquire, certifies that:

1. a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
2. a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
3. no objection to the subpoena has been received, and
4. the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Date: July 27, 2004

**FILED**  
M 2:11 PM  
JUL 29 2004  
cc  
bwd  
William A. Shaw  
Frothonotary/Clerk of Courts

LEE, MARTIN, GREEN & REITER, INC.

By:

  
\_\_\_\_\_  
Robert A. Mix, Esq., ID #16164  
Attorney for Defendant  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

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

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY

To: Plaintiffs  
c/o - C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks, LLP  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

Defendant intends to serve a subpoena identical to the one that is attached to this notice.

You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

LEE, GREEN & REITER, INC.

By:

Robert A. Mix, Esq., ID #16164  
Attorney for Defendant  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Donald L. Herb  
Susan Demchak-Herb  
Plaintiff(s)  
Vs.  
Dolores Shook  
Defendant(s)

\*

No. 2001-01817-CD

\*

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

TO: Caron Foundation, Box A, Galen Hall Road, Wernersville, PA 19565  
(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:

All medical records, office notes, diagnostic test results, reports or other documents pertaining to the treatment & care of Susan O. Herb, SS# 004-66-9760, DOB: 1/21/66, between 10/1/2000 and 11/30/2000.

PO Box 179, Bellefonte, PA 16823  
(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: Robert A. Mix, Esq.  
ADDRESS: PO Box 179  
Bellefonte, PA 16823  
TELEPHONE: 814-355-4769  
SUPREME COURT ID # 16164  
ATTORNEY FOR: Defendant Shook

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Monday, July 19, 2004  
Seal of the Court

Deputy

WILLIAM A. SHAW

Prothonotary

My Commission Expires

1st Monday in Jan. 2005  
Clearfield Co., Clearfield, PA

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs ) : JURY TRIAL DEMANDED  
vs. )  
DOLORES SHOOK, )  
Defendant ) :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Notice of Intent to Serve Subpoena was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the Third day of July, 2004 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

Robert A. Mix

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

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22 was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 28<sup>th</sup> day of July, 2004 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

Robert A. Mix  
Robert A. Mix

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs

v.

DOLORES SHOOK,  
Defendant

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

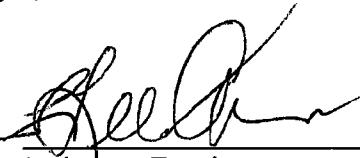
**CERTIFICATE OF SERVICE**

I, C. Lee Anderson, Esquire, hereby certify that a true and correct copy of the Plaintiff Susan Demchak-Herb's Objections to Defendant's Subpoena to Caron Foundation was served upon the following as addressed below by depositing the same in the United States Mail, first class, postage prepaid, at Harrisburg, Pennsylvania on August 17, 2004:

Robert A. Mix, Esquire  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

Smigel, Anderson & Sacks

Date: August 17, 2004

By:   
C. Lee Anderson, Esquire  
ID# 21315  
4431 North Front Street  
Harrisburg, PA 17110-1709  
(717) 234-2401

Attorneys for Plaintiffs

FILED *no cc*  
M 11-23-04  
AUG 20 2004  
EAS  
William A. Shaw  
Prothonotary/Clerk of Courts

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs

V.

DOLORES SHOOK,  
Defendant

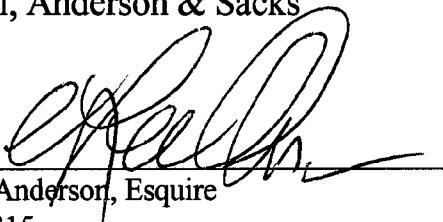
: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I, C. Lee Anderson, Esquire, hereby certify that a true and correct copy of the Plaintiff Susan Demchak-Herb's Objections to Defendant's Subpoena to Franco Psychological Associates was served upon the following as addressed below by depositing the same in the United States Mail, first class, postage prepaid, at Harrisburg, Pennsylvania on August 17, 2004:

Robert A. Mix, Esquire  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

Smigel, Anderson & Sacks

By:   
C. Lee Anderson, Esquire  
ID# 21315  
4431 North Front Street  
Harrisburg, PA 17110-1709  
(717) 234-2401

Date: August 17, 2004

Attorneys for Plaintiffs

FILED *no cc*  
m112301  
AUG 20 2004  
EAO  
William A. Shaw  
Prothonotary/Clerk of Courts

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

DONALD L. HERB and SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs

VS.

DOLORES SHOOK,  
Defendant

) : **No. 01-1817-CD**  
)  
: **Type of Pleading: Motion to Compel**  
)  
: **Production of Documents and/or Motion**  
: **for Sanctions and/or Motion in Limine**  
)  
: **Counsel of Record for this party:**  
:  
)  
: **Robert A. Mix, Esq., ID #16164**  
:  
: **Lee, Martin, Green & Reiter, Inc.**  
)  
: **Attorneys for Defendant Dolores Shook**  
:  
: **115 East High Street**  
)  
: **P.O. Box 179**  
:  
: **Bellefonte, PA 16823**  
)  
: **814-355-4769**  
:  
)  
: **JURY TRIAL DEMANDED**

**FILED** NO. 112784  
m/12/2004  
OCT 21 2004  
cc  
*Boed*  
William A. Shaw  
Prothonotary/Clerk of Courts

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs ) : JURY TRIAL DEMANDED  
vs. )  
DOLORES SHOOK, )  
Defendant ) :

**MOTION TO COMPEL PRODUCTION OF DOCUMENTS**  
**AND/OR MOTION FOR SANCTIONS AND/OR MOTION IN LIMINE**

Now Comes Defendant Dolores Shook by her attorneys, Lee, Green & Reiter, Inc., pursuant to Pennsylvania Rules of Civil Procedure 4019.21 and 4019 and Pennsylvania Rule of Evidence 104 and respectfully represents:

1. In this civil action Plaintiff Susan Demchak-Herb seeks recovery for personal injuries arising out of a motor vehicle accident. Among other things, she seeks recovery for emotional and psychological impairment. (Complaint, paragraph 14(g)).
2. In particular, Plaintiff Susan Demchak-Herb contends that such impairment caused her to seek treatment and care with Franco Psychological Associates. Further, she contends that such impairment caused her to abuse alcohol and to seek treatment and care with the Caron Foundation. She seeks recovery of her out of pocket expenses for such treatment and care in the total amount of \$8,450.06.
3. Discovery proceedings in this civil action have disclosed that prior to this accident Plaintiff Susan Demchak-Herb had been diagnosed with depression and had treated for this condition among others with Franco Psychological Associates. They have also revealed that

prior to this accident Plaintiff Susan Demchak-Herb had abused alcohol and had treated for this condition.

4. As part of discovery proceedings, on July 7, 2004, Defendant Dolores Shook served Notices of Intent to Serve Subpoenas on Franco Psychological Associates and the Caron Foundation to produce their records relating to their treatment and care of Plaintiff Susan Demchak-Herb. Copies of the notices are attached hereto as Exhibit "A".

5. No timely objections having been received, on July 27, 2004, Defendant Dolores Shook served the subpoenas on Franco Psychological Associates and the Caron Foundation.

6. On August 17, 2004, Plaintiff Susan Demchak-Herb objected to the service of said subpoenas. Copies of the Objections are attached hereto as Exhibit "B".

7. Plaintiff Susan Demchak-Herb objects to the disclosure of the requested records by Franco Psychological Associates and the Caron Foundation for the following reasons:

- a) The records are privileged under the doctor-patient privilege;
- b) The records are irrelevant and/or have no probative value in determining Plaintiff Susan Demchak-Herb's damages;
- c) Disclosure of the records would expose Plaintiff Susan Demchak-Herb to unreasonable embarrassment, oppression and ridicule, which outweigh any probative value the records might have;
- d) As to the records of Franco Psychological Associates, Plaintiff Susan Demchak-Herb has produced a summary prepared by her treating psychologist of her treatment and care from November, 1999 to May, 2003. Further disclosures from these records would expose Plaintiff Susan Demchak-Herb to unreasonable embarrassment, oppression and ridicule; and,

e) As to the records of the Caron Foundation, Plaintiff Susan Demchak-Herb has produced the Caron Foundation's billing statements. Further disclosures from these records would expose Plaintiff Susan Demchak-Herb to unreasonable embarrassment, oppression and ridicule.

8. In this civil action, the complete records of Plaintiff Susan Demchak-Herb's treatment and care with Franco Psychological Associates, pre and post accident, and with the Caron Foundation are relevant and admissible on the issues of causation and the nature and extent of her claimed emotional and psychological impairment.

9. By filing a civil action and claiming damages for emotional and psychological impairment, Plaintiff Susan Demchak-Herb has impliedly waived any statutory or common law privileges pertaining to the confidentiality of records of psychological or alcohol abuse treatment and confidentiality of communications to licensed physicians and/or psychologists.

10. Good cause exists to compel Plaintiff Susan Demchak-Herb, Franco Psychological Associates and the Caron Foundation to release and provide their records of Plaintiff Susan Demchak-Herb's treatment and care.

11. If such records are not released and provided to Defendant Dolores Snook, she will be prejudiced in her ability to defend against Plaintiff Susan Demchak-Herb's claims for emotional and psychological impairment.

12. Defendant Dolores Shook has no means to obtain the information contained in said records from other sources.

WHEREFORE, Defendant Dolores Shook respectfully requests that Your Honorable Court issue an Order:

1. Directing Plaintiff Susan Demchak-Herb to execute an appropriate authorization for the release of such records to Defendant Dolores Shook.
2. Directing Franco Psychological Associates and the Caron Foundation to release the records of Plaintiff Susan Demchak-Herb to Defendant Dolores Shook.
3. Precluding Plaintiff Susan Demchak-Herb from proving and recovering any damages for emotional and psychological impairment, to include her out of pocket expenses paid to Franco Psychological Associates and the Caron Foundation.
4. Such other relief as the Court deems appropriate.

LEE, GREEN & REITER, INC.

By: 

Robert A. Mix, Esq., ID # 6164  
Attorney for Defendant  
115 East High Street  
PO Box 179  
Bel'efonte, PA 16823  
814-355-4769

# LEE, GREEN & REITER, INC.

A PROFESSIONAL CORPORATION

DONALD E. LEE  
JOSEPH P. GREEN  
DENNIS O. REITER  
ROBERT A. MIX  
JONATHAN D. GRINE

## ATTORNEYS AT LAW

July 27, 2004

115 EAST HIGH STREET  
POST OFFICE BOX 179  
BELLEFONTE, PA 16823-0179  
(814) 355-4769  
FAX (814) 355-5024  
[www.lmgrlaw.com](http://www.lmgrlaw.com)

Caron Foundation  
Box A  
Galen Hall Road  
Wernersville, PA 19565

Re: Susan Demchak-Herb  
DOB: January 21, 1966  
SSN: 005-66-9760  
D/Injury: 11/7/99  
Our File: L-6754

Dear Sir or Madam:

Our law firm has been retained to represent Delores Shook in a civil action filed against her by Donald Herb and Susan Demchak-Herb in Clearfield County, Pennsylvania. In this civil action Mr. and Mrs. Herb seek recovery for physical and psychological injuries arising out of an automobile accident occurring on November 11, 1999.

As part of our investigation of this case, we are attempting to obtain all medical or psychological records for the treatment and care both prior and subsequent to the accident. Mrs. Demchak Herb has indicated that you provided such treatment and care to her.

Enclosed for service is a Subpoena for Production of Documents and Things and a Certificate of Compliance. It would be appreciated if you would forward the documents requested in the subpoena within the required twenty day period along with the executed Certificate of Compliance.

We will, of course, pay any reasonable fees or costs in connection with this matter. If you require payment in advance, please let me know and I will forward the same.

If you have any questions regarding this matter, please give me a call.

Very truly yours,

LEE, GREEN & REITER, INC.

By:

Robert A. Mix

KAM/ci  
Enclosures

EXHIBIT

A

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs )  
vs. ) : JURY TRIAL DEMANDED  
DOLORES SHOOK, )  
Defendant )  
: )

**CERTIFICATE OF COMPLIANCE WITH  
SUBPOENA TO PRODUCE DOCUMENTS  
OR THINGS PURSUANT TO RULE 4009.23**

I, \_\_\_\_\_ (person served with subpoena) certify to the best of my knowledge, information and belief that all documents or things required to be produced pursuant to the subpoena issued on \_\_\_\_\_ (date of subpoena) have been produced.

Date: July 19, 2004

**Person served with subpoena**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Donald L. Herb

\*

Susan Demchak-Herb

Plaintiff(s)

Vs.

\*

No. 2001-01817-CD

\*

Dolores Shook

Defendant(s)

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

TO: Caron Foundation, Box A, Galen Hall Road, Wernersville, PA 19565  
(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:

All medical records, office notes, diagnostic test results, reports or other documents pertaining to the treatment & care of Susan O. Herb, SS# 004-66-9760, DOB: 1/21/66, between 10/1/2000 and 11/30/2000.

(Address)  
PO Box 179, Bellefonte, PA 16823

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: Robert A. Mix, Esq.

ADDRESS: PO Box 179

Bellefonte, PA 16823

TELEPHONE: 814-355-4769

SUPREME COURT ID # 16164

ATTORNEY FOR: Defendant Shook

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division



Deputy

WILLIAM A. SHAW

Prothonotary

My Commission Expires

1st Monday in Jan. 2009  
Clearfield Co., Clearfield, PA

DATE: Monday, July 19, 2004

Seal of the Court

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs ) : JURY TRIAL DEMANDED  
vs. ) :  
DOLORES SHOOK, ) :  
Defendant ) :

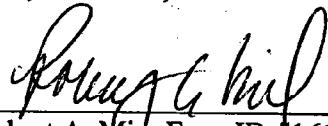
CERTIFICATE  
PREREQUISITE TO SERVICE OF A SUBPOENA  
PURSUANT TO RULE 4009.22

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Robert A. Mix, Esquire, certifies that:

1. a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
2. a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
3. no objection to the subpoena has been received, and
4. the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Date: July 27, 2004

LEE, MARTIN, GREEN & REITER, INC.

By: 

Robert A. Mix, Esq., ID #16164  
Attorney for Defendant  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, : No. 01-1817-CD  
Plaintiffs )  
vs. ) : JURY TRIAL DEMANDED  
DOLORES SHOOK, )  
Defendant : )  
: )

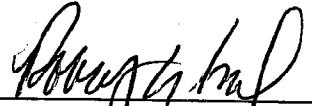
NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY

To: Plaintiffs  
c/o - C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks, LLP  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

Defendant intends to serve a subpoena identical to the one that is attached to this notice.

You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

LEE, GREEN & REITER, INC.

By: 

Robert A. Mix, Esq., ID #16164  
Attorney for Defendant  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Donald L. Herb  
Susan Demchak-Herb  
Plaintiff(s)

Vs.

Dolores Shook  
Defendant(s)

\*  
\*  
\*  
\*  
No. 2001-01817-CD

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

TO: Caron Foundation, Box A, Galen Hall Road, Wernersville, PA 19565  
(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:

All medical records, office notes, diagnostic test results, reports or other documents pertaining to the treatment & care of Susan O. Herb, SS# 004-66-9760, DOB: 1/21/66, between 10/1/2000 and 11/30/2000.

(Address)  
PO Box 179, Bellefonte, PA 16823

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: Robert A. Mix, Esq.  
ADDRESS: PO Box 179  
Bellefonte, PA 16823  
TELEPHONE: 814-355-4769  
SUPREME COURT ID # 16164  
ATTORNEY FOR: Defendant Shook

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Monday, July 19, 2004

Seal of the Court

Deputy

WILLIAM A. SHAW

Prothonotary

My Commission Expires

12/31/2006

Clearfield Co., Clearfield, PA

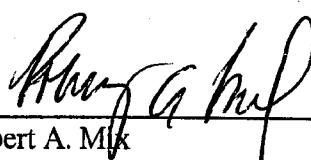
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION - LAW

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs )  
vs. ) : JURY TRIAL DEMANDED  
DOLORES SHOOK, )  
Defendant )

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Notice of Intent to Serve  
Subpoena was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania,  
on the 7th day of July, 2004 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

  
\_\_\_\_\_  
Robert A. Mix

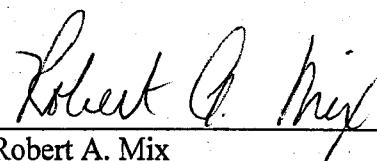
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION - LAW

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, : No. 01-1817-CD  
Plaintiffs )  
vs. ) : JURY TRIAL DEMANDED  
DOLORES SHOOK, )  
Defendant :  
vs.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22 was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 38th day of July, 2004 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

  
\_\_\_\_\_  
Robert A. Mix

# LEE, GREEN & REITER, INC.

A PROFESSIONAL CORPORATION

DONALD E. LEE  
JOSEPH P. GREEN  
DENNIS O. REITER  
ROBERT A. MIX  
JONATHAN D. GRINE

ATTORNEYS AT LAW

July 27, 2004

115 EAST HIGH STREET  
POST OFFICE BOX 179  
BELLEFONTE, PA 16823-0179  
(814) 355-4769  
FAX (814) 355-5024  
[www.lmcrlaw.com](http://www.lmcrlaw.com)

Franco Psychological Associates  
26 State Avenue  
Carlisle, PA 17013

Re: Susan Demchak-Herb  
DOB: January 21, 1966  
SSN: 005-66-9760  
D/Injury: 11/7/99  
Our File: L-6754

Dear Sir or Madam:

Our law firm has been retained to represent Delores Shook in a civil action filed against her by Donald Herb and Susan Demchak-Herb in Clearfield County, Pennsylvania. In this civil action Mr. and Mrs. Herb seek recovery for physical and psychological injuries arising out of an automobile accident occurring on November 11, 1999.

As part of our investigation of this case, we are attempting to obtain all medical or psychological records for the treatment and care both prior and subsequent to the accident. Mrs. Demchak Herb has indicated that you provided such treatment and care to her.

Enclosed for service is a Subpoena for Production of Documents and Things and a Certificate of Compliance. It would be appreciated if you would forward the documents requested in the subpoena within the required twenty day period along with the executed Certificate of Compliance.

We will, of course, pay any reasonable fees or costs in connection with this matter. If you require payment in advance, please let me know and I will forward the same.

If you have any questions regarding this matter, please give me a call.

Very truly yours,

LEE, GREEN & REITER, INC.

By:

Robert A. Mix

RAM/cl  
Enclosures

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs )  
vs. ) : JURY TRIAL DEMANDED  
DOLORES SHOOK, )  
Defendant ) :  
 )

**CERTIFICATE OF COMPLIANCE WITH  
SUBPOENA TO PRODUCE DOCUMENTS  
OR THINGS PURSUANT TO RULE 4009.23**

I, \_\_\_\_\_ (person served with subpoena) certify to the best of my knowledge, information and belief that all documents or things required to be produced pursuant to the subpoena issued on \_\_\_\_\_ (date of subpoena) have been produced.

Date: July 19, 2004

**Person served with subpoena**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Donald L. Herb  
Susan Demchak-Herb  
Plaintiff(s)

Vs.

Dolores Shook  
Defendant(s)

\*  
\*  
\*  
\*  
No. 2001-01817-CD

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

TO: Franco Psychological Associates, 26 State Avenue, Carlisle, PA 17013  
(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:

All medical records, office notes, diagnostic test results, reports or other documents pertaining to the treatment & care of Susan O. Herb, SS# 004-66-9760 DOB: 1/21/66, between 1/1/97 and the present.

(Address)

PO Box 179, Bellefonte, PA 16823

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.

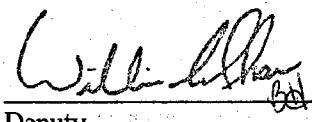
If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Robert A. Mix, Esq.  
ADDRESS: PO Box 179  
Bellefonte, PA 16823  
TELEPHONE: 814-355-4769  
SUPREME COURT ID # 16164  
ATTORNEY FOR: Defendant Shook

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

  
Deputy

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

DATE: Monday, July 19, 2004  
Seal of the Court

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs )  
vs. ) : JURY TRIAL DEMANDED  
DOLORES SHOOK, )  
Defendant )

**CERTIFICATE**  
**PREREQUISITE TO SERVICE OF A SUBPOENA**  
**PURSUANT TO RULE 4009.22**

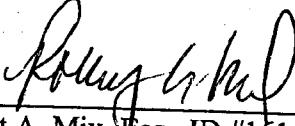
As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Robert A. Mix, Esquire, certifies that:

1. a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
2. a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
3. no objection to the subpoena has been received, and
4. the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Date: July 27, 2004

LEE, MARTIN, GREEN & REITER, INC.

By:

  
Robert A. Mix, Esq., ID #16164  
Attorney for Defendant  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

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

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs )  
vs. ) : JURY TRIAL DEMANDED  
DOLORES SHOOK, )  
Defendant )

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY

To: Plaintiffs  
c/o - C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks, LLP  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

Defendant intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

LEE, GREEN & REITER, INC.

By

Robert A. Mix, Esq., ID #16164  
Attorney for Defendant  
115 East High Street  
PO Box 179  
Bellefonte, PA 16823  
814-355-4769

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Donald L. Herb  
Susan Demchak-Herb  
Plaintiff(s)

Vs.

Dolores Shook  
Defendant(s)

\*

No. 2001-01817-CD

\*

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

TO: Franco Psychological Associates, 26 State Avenue, Carlisle, PA 17013  
(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:

All medical records, office notes, diagnostic test results, reports or other documents pertaining to the treatment & care of Susan O. Herb, SS# 004-66-9760  
DOB: 1/21/66, between 1/1/97 and the present.

(Address)

PO Box 179, Bellefonte, PA 16823

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.

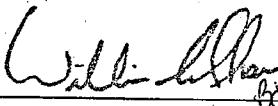
If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Robert A. Mix, Esq.  
ADDRESS: PO Box 179  
Bellefonte, PA 16823  
TELEPHONE: 814-355-4769  
SUPREME COURT ID # 16164  
ATTORNEY FOR: Defendant Shook

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

  
Deputy

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

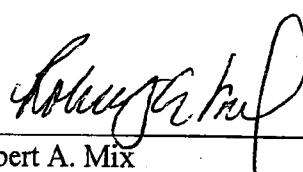
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION - LAW

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs ) : JURY TRIAL DEMANDED  
vs. ) :  
DOLORES SHOOK, ) :  
Defendant :  
vs.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Notice of Intent to Serve  
Subpoena was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania,  
on the Thru day of July, 2004 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

  
\_\_\_\_\_  
Robert A. Mix

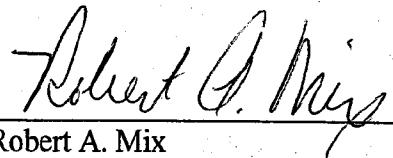
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION - LAW

DONALD L. HERB and SUSAN )  
DEMCHAK-HERB, husband and wife, ) : No. 01-1817-CD  
Plaintiffs ) : JURY TRIAL DEMANDED  
vs. ) :  
DOLORES SHOOK, ) :  
Defendant ) :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22 was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 28<sup>th</sup> day of July, 2004 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

  
Robert A. Mix

Robert A. Mix

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

V.  
DOLORES SHOOK,  
Defendant

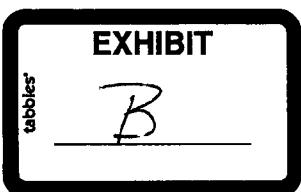
**PLAINTIFF SUSAN DEMCHAK-HERB'S OBJECTIONS**  
**TO DEFENDANT'S SUBPOENA TO FRANCO PSYCHOLOGICAL ASSOCIATES**  
**PURSUANT TO RULE 4009.21**

Plaintiff Susan Demchak-Herb hereby objects to the proposed subpoena that is attached to these objections for the following reasons:

1. Plaintiff Demchak-Herb has been a patient of Dr. Kathryn Ellis, Psychologist, Franco Psychological Associates, Carlisle, PA, since the 1980's. With regard to the medical records compiled on her as a result of her care with Dr. Ellis prior to the accident giving rise to Plaintiff Demchak-Herb's complaint, which accident occurred on November 7, 1999, those records should not be disclosed on the following grounds:

a. These records are privileged under the doctor-patient privilege. Under this privilege, Plaintiff Demchak-Herb is protected from the disclosure of these records. Dr. Ellis and the Franco Psychological Associates cannot unilaterally waive this privilege and release these records. Further, there is no statutory authority in the Commonwealth requiring these records disclosure.

b. Because these records contain information about Plaintiff Demchak-Herb's mental health, the disclosure of the information contained in them would expose and subject Plaintiff Demchak-Herb to unreasonable embarrassment, oppression, and ridicule.



c. Plaintiff Demchak-Herb was a passenger who was injured in a car accident on November 7, 1999. No information contained in these records would have any probative value in determining the Defendant's negligence in this case or the damages Plaintiff Demchak-Herb sustained in the accident. Non-disclosure of these records outweighs any probative value that release of this information would have.

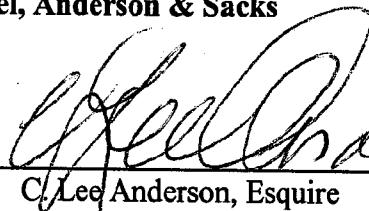
2. With regard to records compiled on Plaintiff Demchak-Herb after the accident on November 7, 1999, those records also should not be released based upon the following grounds:

a. These records are privileged under the doctor-patient privilege. Under this privilege, Plaintiff Demchak-Herb is protected from the disclosure of these records by her doctor under this privilege.

b. In April 2003, Plaintiff Demchak-Herb's doctor, Dr. Kathryn Ellis, prepared a summary of Plaintiff Demchak-Herb's medical records for the period from November 1999 to 2003. These were provided to Defendant's counsel in Plaintiff Demchak-Herb's discovery responses on or about May 5, 2003. Further disclosures from these records would expose and subject Plaintiff Denmchak-Herb to unreasonable embarrassment, oppression, and ridicule.

**Smigel, Anderson & Sacks**

Date: August 17, 2004

By:   
C. Lee Anderson, Esquire  
I.D. #21315  
2917 North Front Street  
Harrisburg, PA 17110-1260  
(717) 234-2401

Attorneys for Plaintiffs

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs

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

V.

DOLORES SHOOK,  
Defendant

: NO. 01-1817-CD

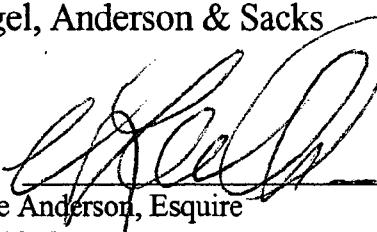
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I, C. Lee Anderson , Esquire, hereby certify that a true and correct copy of the Plaintiff Susan Demchak-Herb's Objections to Defendant's Subpoena to Franco Psychological Associates was served upon the following as addressed below by depositing the same in the United States Mail, first class, postage prepaid, at Harrisburg, Pennsylvania on August 17, 2004:

Robert A. Mix, Esquire  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

Smigel, Anderson & Sacks

By:   
C. Lee Anderson, Esquire  
ID# 21315  
4431 North Front Street  
Harrisburg, PA 17110-1709  
(717) 234-2401

Date: August 17, 2004

Attorneys for Plaintiffs

DONALD L. HERB AND SUSAN DEMCHAK-HERB, husband and wife,  
Plaintiffs

V.

DOLORES SHOOK,  
Defendant

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION - AT LAW  
: JURY TRIAL DEMANDED

**PLAINTIFF SUSAN DEMCHAK-HERB'S OBJECTIONS**  
**TO DEFENDANT'S SUBPOENA TO CARON FOUNDATION**  
**PURSUANT TO RULE 4009.21**

Plaintiff Susan Demchak-Herb hereby objects to the proposed subpoena that is attached to these objections for the following reasons:

1. On October 15, 2000, Plaintiff Demchak-Herb was admitted to the Caron Foundation on an in-patient basis. She was discharged from the Caron Foundation on November 10, 2000. With regard to the records compiled on her as a result of her in-patient stay at the Foundation, these records should not be disclosed on the following grounds:

a. These records are privileged under the doctor-patient privilege. Under this privilege, Plaintiff Demchak-Herb is protected from the disclosure of these records. The Caron Foundation cannot unilaterally decide to waive this privilege and release her records. Further, there is no statutory authority in the Commonwealth of Pennsylvania requiring that these records be disclosed.

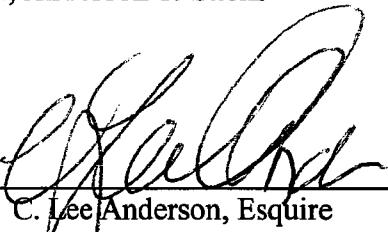
b. Because these records contain information about Plaintiff Demchak-Herb's mental health, the disclosure of the information contained in them would expose and subject Plaintiff Demchak-Herb to unreasonable embarrassment, oppression, and ridicule.

c. In April and May 2003, the Caron Foundation provided the billing records related to the treatment Plaintiff Demchak-Herb's received while an in-patient at the foundation. These have been provided to Defendant's counsel in Plaintiff Demchak-Herb's discovery responses on or about May 5, 2003. Further disclosures from these records would expose and subject Plaintiff Demchak-Herb to unreasonable embarrassment, oppression, and ridicule.

**Smigel, Anderson & Sacks**

**Date:** August 17, 2004

**By:**

  
C. Lee Anderson, Esquire  
I.D. #21315  
2917 North Front Street  
Harrisburg, PA 17110-1260  
(717) 234-2401

Attorneys for Plaintiffs

DONALD L. HERB AND SUSAN DEMCHAK-HERB, husband and wife,  
Plaintiffs

v.

DOLORES SHOOK,  
Defendant

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
: NO. 01-1817-CD  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I, C. Lee Anderson, Esquire, hereby certify that a true and correct copy of the Plaintiff Susan Demchak-Herb's Objections to Defendant's Subpoena to Caron Foundation was served upon the following as addressed below by depositing the same in the United States Mail, first class, postage prepaid, at Harrisburg, Pennsylvania on August 17, 2004:

Robert A. Mix, Esquire  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

Smigel, Anderson & Sacks

Date: August 17, 2004  
By:   
C. Lee Anderson, Esquire  
ID# 21315  
4431 North Front Street  
Harrisburg, PA 17110-1709  
(717) 234-2401

Attorneys for Plaintiffs

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

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion to Compel Production of Documents and/or Motion for Sanctions and/or Motion in Limine was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 19th day of October, 2004 addressed to the following:

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

Franco Psychological Associates  
26 State Avenue  
Carlisle, PA 17013

Caron Foundation  
Box A  
Galen Hall Road  
Wernersville, PA 19565

Robert A. Mix

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

## ORDER

AND NOW, this 22 day of October, 2004, upon consideration of the within Motion to Compel Production of Documents andor Motion for Sanctions and/or Motion in Limine, argument is set for the 18 day of November, 2004, at 1:30 o'clock P m., in Courtroom no. 1, of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

BY THE COURT:

Frederick C. Zimmerman

FILED  
10/10/2004  
OCT 22 2004  
F.6K  
cc  
Atty Mix

William A. Shaw  
Prothonotary/Clerk of Courts

SMIGEL, ANDERSON & SACKS, LLP  
ATTORNEYS AT LAW  
4431 NORTH FRONT STREET  
HARRISBURG, PENNSYLVANIA 17110  
17271 221-2401

DONALD L. HERB AND SUSAN DEMCHAK-HERB, husband and wife,  
PLAINTIFFS : IN THE COURT OF COMMON PLEAS  
V. : OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
DOLORES SHOOK,  
DEFENDANT : : NO. 01-1817-CD  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**ANSWER TO MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND/OR  
MOTION FOR SANCTIONS AND/OR MOTION IN LIMINE**

NOW COMES the Plaintiff Susar Demchak-Herb, by her attorneys Smigel, Anderson & Sacks, L.L.P. and files the following Answer to Defendant's Motion:

1. Admitted.
2. Admitted except as to the amount stated.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Denied. Various aspects of Plaintiff's treatment and care with Franco Psychological Associates both pre-accident and post-accident are not relevant or admissible on the issues of causation or damages in this case.
9. Denied. Plaintiff has not waived any privileges pertaining to the confidentiality of records as they pertain to non-relevant and non-admissible materials.
10. Only portions of said records are discoverable.
11. Denied.
12. Admitted.

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Atty Anderson  
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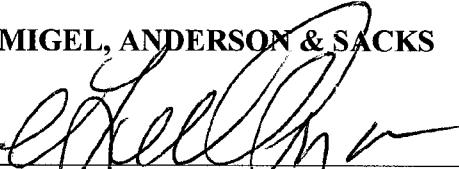
William A. Shaw  
Prothonotary/Clerk of Courts

WHEREFORE, Plaintiff respectfully requests that your Honorable Court review the requested records in camera and determine which, if any, are discoverable by Defendant.

Respectfully submitted,

**SMIGEL, ANDERSON & SACKS**

Date: November 5, 2004

By: 

C. Lee Anderson, Esquire  
I.D. No.: 21315  
4431 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401  
Attorneys for Plaintiffs

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
PLAINTIFFS

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

V.  
DOLORES SHOOK,  
DEFENDANT

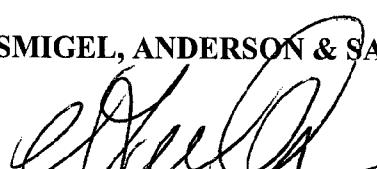
**CERTIFICATE OF SERVICE**

I, C. Lee Anderson, Esquire, hereby certify that I have served a true and correct copy of Plaintiff Susan Demchak-Herb's Answer to Motion to Compel Production of Documents and/or Motion for Sanctions and/or Motion in Limine upon counsel for Defendant as addressed below by depositing the same in the U.S. Mail, first class, postage prepaid, on this 5th day of November, 2004:

**Robert A. Mix, Esquire  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823**

**SMIGEL, ANDERSON & SACKS**

Date: November 5, 2004

By:   
C. Lee Anderson, Esquire  
I.D. No.: 21315  
4431 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401  
Attorneys for Plaintiffs

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

DONALD HERB and SUSAN :  
DEMCHAK-HERB :  
: vs. : No. 01-1817-CD  
DOLORES SHOOK :  
:

**ORDER**

AND NOW, this 18 day of November, 2004, following conference telephone call with counsel for both parties relative the Motion to Compel filed on behalf of the Defendant, it is the ORDER of the Court that a hearing is scheduled at 2:30 P.M. on December 16, 2004 at the Clearfield County Courthouse in order that the Court may review, in camera, certain medical/psychological records of the Plaintiff, Susan Demchak-Herb, in order to make a determination of what, if any, documents are relevant to the Plaintiffs' cause of action and discoverable by the Defendant.

FILED *cc*  
01041301  
NOV 19 2004  
6616  
William A. Shaw  
Prothonotary/Clerk of Courts

BY THE COURT:

*Fredric J. Ammerman*  
FREDRIC J. AMMERMAN  
President Judge



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

## CIVIL DIVISION

DONALD L. HERB AND SUSAN \* No. 01-1817-CD  
DEMCHAK-HERB, husband and wife, \*  
\*  
Plaintiffs \*  
\*  
vs. \*  
\*  
DOLORES SHOOK, \*  
\*  
Defendant \*

**PRAECLPICE FOR ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter my appearance in the above-captioned matter on behalf of the Plaintiffs

## **DONALD L. HERB AND SUSAN DEMCHAK-HERB.**

Respectfully submitted,

David R. Thompson, Esquire

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

DONALD L. HERB and SUSAN :  
DEMCHAK-HERB, husband and wife, :  
Plaintiffs, :  
VS. : NO. 01-1817-CD  
DOLORES SHOOK, :  
Defendant. :  
EGK

DEC 16 2004  
6/2:30L  
William A. Shaw  
Prothonotary/Clerk of Courts  
S CEN to  
ATTY

STIPULATION

AND NOW this 16th day of December, 2004, the parties, by and through their counsel, stipulate as follows:

1. A dispute has arisen involving the discoverability of certain documents contained in Franco Psychological Associates, Inc., records for the Plaintiff Susan Herb.

2. Plaintiff has previously disclosed documents contained in the records of Caron Foundation pertaining to her inpatient admission.

3. Plaintiff has made claims for the cost of her inpatient admission to the Caron Foundation and for the cost of treatment at Franco Psychological Associates.

4. In paragraph 14 (g) of her Complaint, Plaintiff has made a claim for emotional and psychological impairment.

5. In paragraph 15 (b) of her Complaint, Plaintiff has made a claim for loss of life's pleasures which would include emotional and psychological impairment.

6. In order to resolve the dispute as to the discoverability of the Franco Psychological Associates records, as well as any future psychological counseling or treatment, the parties agree as follows:

- a) Plaintiff Susan Herb withdraws her claim for monetary damages for her admission to the Caron Foundation and her claim for monetary damages for treatment at Franco Psychological Associates;
- b) Plaintiff Susan Herb withdraws her claim for emotional and psychological impairment and her claim for loss of life's pleasures only to the extent that it includes emotional and psychological impairment;
- c) Defendant agrees to withdraw its request to discover Franco Psychological Associates records and any other records containing psychological or psychiatric counseling, agrees to return the Caron Foundation records and agrees that such evidence will not be admissible in the trial or arbitration of this matter.



DAVID R. THOMPSON, ESQUIRE



ROBERT A. MIX, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

DONALD L. HERB AND SUSAN DEMCHAK-  
HERB, his wife,

Plaintiff

\*  
\*  
\*  
\* No. 01-1817-CD

vs.

JOHN SHOOK AND DOLORES SHOOK,

Defendant

\* TYPE OF CASE:  
\* Civil Division

\* TYPE OF CASE:  
\* Civil Division

\* TYPE OF PLEADING:  
\* Certificate of Service

\* FILED ON BEHALF OF:  
\* Plaintiff

\* COUNSEL OF RECORD FOR  
\* THIS PARTY:  
\* David R. Thompson, Esquire  
\* Attorney at Law  
\* Supreme Court 73053  
\* P.O. Box 587  
\* 308 Walton Street, Suite 4  
\* Philipsburg PA 16866  
\* (814) 342-4100

FILED NO cc  
of 35737  
JAN 07 2005

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

DONALD L. HERB AND SUSAN DEMCHAK-  
HERB, his wife,

\*

\*

\*

Plaintiff

\*

No. 01-1817-CD

\*

VS.

\*

\*

\*

JOHN SHOOK AND DOLORES SHOOK,

\*

TYPE OF CASE:

Defendant

Civil Division

\*

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, **DAVID R. THOMPSON, ESQUIRE**, do hereby certify that I served a true and correct copy of the **PLAINTIFF'S PRE-TRIAL MEMORANDUM**, in the above captioned matter by depositing the same in the U.S. First Class Mail, postage prepaid, addressed as follows:

Robert A. Mix, Esquire  
LEE MARTIN GREEN & REITER, INC.  
115 E High Street  
PO Box 179  
Bellefonte PA 16823-0179

DATE: January 7, 2005

BY:

  
David R. Thompson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

DONALD L. HERB AND SUSAN DEMCHAK-  
HERB, his wife,

Plaintiff

\*

\*

\*

No. 01-1817-CD

vs.

JOHN SHOOK AND DOLORES SHOOK,

Defendant

\*

\*

\*

\*

TYPE OF CASE:

Civil Division

\*

\*

\*

TYPE OF CASE:

Civil Division

\*

\*

\*

TYPE OF PLEADING:

Certificate of Service

\*

\*

\*

\*

\*

FILED ON BEHALF OF:

Plaintiff

\*

\*

\*

COUNSEL OF RECORD FOR  
THIS PARTY:

David R. Thompson, Esquire

Attorney at Law

Supreme Court 73053

P.O. Box 587

308 Walton Street, Suite 4

Philipsburg PA 16866

(814) 342-4100

FILED NO  
64 01/27/05  
JAN 14 2005

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

|                                   |                |
|-----------------------------------|----------------|
| DONALD L. HERB AND SUSAN DEMCHAK- | *              |
| HERB, his wife,                   | *              |
|                                   | *              |
| Plaintiff                         | *              |
|                                   | *              |
| vs.                               | *              |
|                                   | *              |
| JOHN SHOOK AND DOLORES SHOOK,     | *              |
|                                   | *              |
| Defendant                         | *              |
|                                   | *              |
|                                   | TYPE OF CASE:  |
|                                   | Civil Division |

CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I, **DAVID R. THOMPSON, ESQUIRE**, do hereby certify that I served a true and correct copy of the **PLAINTIFF'S SUPPLEMENTAL PRE-TRIAL MEMORANDUM**, in the above captioned matter by depositing the same in the U.S. First Class Mail, postage prepaid, addressed as follows:

Robert A. Mix, Esquire  
LEE MARTIN GREEN & REITER, INC.  
115 E High Street  
PO Box 179  
Bellefonte PA 16823-0179

DATE: January 14, 2005

BY:   
David R. Thompson, Esquire

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

DONALD HERB and SUSAN  
DEMCHAK-HERB

: NO. 01-1817-CD

:

V.

:

DOLORES SHOOK

:

:

**ORDER**

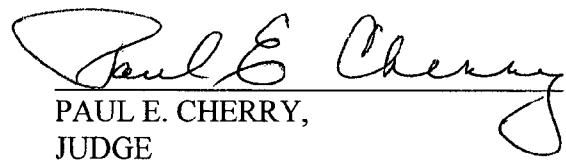
FILED <sup>1CC</sup>  
61c 01/10/18 AM  
JAN 17 2005  
Attn: Thompson  
C. Lee Anderson  
J. Green  
William A. Shaw  
Prothonotary/Clerk of Courts

AND NOW, this 14<sup>th</sup> day of January, 2005, following Pre-Trial Conference it is  
the Order of this Court as follows:

1. Jury Selection in this matter is scheduled for January 27, 2005, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Trial in this matter is scheduled for April 11 & 12, 2005, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. Counsel for the parties, if they so desire, may submit a Trial Brief to the Court no more than thirty (30) days prior to the commencement of trial.
4. The deadline for submitting any and all Motions shall be by and no later than thirty (30) days prior to the commencement of trial.
5. Points for Charge shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
6. Proposed Verdict Slip shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.

7. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,



PAUL E. CHERRY,  
JUDGE

**SMIGEL, ANDERSON  
& SACKS LLP**

ATTORNEYS AT LAW

C. LEE ANDERSON

PHONE: (717) 234-2401

TOLL FREE: 1-800-822-9757

FACSIMILE (717) 234-3611

EMAIL: [landerson@sasllp.com](mailto:landerson@sasllp.com)

[www.sasllp.com](http://www.sasllp.com)

January 25, 2005

File No.  
5636-1-8

**VIA FEDERAL EXPRESS**

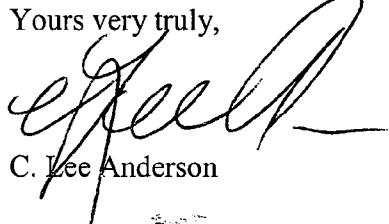
Clearfield County Prothonotary  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

**Re:   Herb v. Shook  
Docket No.: 01-1817-CD**

Dear Sir or Madam:

Enclosed for filing please find an original and three (3) copies of Plaintiffs' Proposed Questions on Voir Dire for the above-referenced matter. Please time-stamp the copies and return them to my office in the enclosed self-addressed stamped envelope. Thank you for your kind attention to this matter.

Yours very truly,

  
C. Lee Anderson

CLA/mss  
Enclosures  
cc:   Honorable Paul E. Cherry  
      Robert Mix, Esquire  
      Dave Thompson, Esquire  
      Donald and Susan Herb  
      Maxim Demchak

*RECEIVED*

*JAN 26 2005*

*COURT ADMINISTRATORS  
OFFICE*

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs,

v.

DOLORES SHOOK,  
Defendant.

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION - AT LAW  
: JURY TRIAL DEMANDED

**PLAINTIFFS' PROPOSED QUESTIONS ON VOIR DIRE**

In addition to the questions allowed by Pa. R. C. P. No. 220.1, Plaintiffs propose the following questions on Voir Dire:

1. Whether any of the jurors or members of their immediate families have been or are represented by either party's counsel or any of counsels' law partners or associates.
2. Whether any of the jurors or members of their immediate families are personal acquaintances of any of the parties herein, witnesses, their counsel or counsels' law partners or associates.
3. Whether any of the jurors or members of their immediate families are personally familiar with any of the facts of the case leading to the lawsuit by the Plaintiff.
4. Whether any members of the jury panel are legally trained in any way.
5. Whether or not any of the jurors or members of their immediate families or relatives either owns stock or are in the business of investigating claims. If so, the name, address and identity of such persons and the relationship to the juror. See, Aetna v. Lawrence, 428 Pa. 424, 239 A.2d 346 (1968).
6. Whether any of the jurors or members of their families or relatives either owns stock or are employed by an insurance carrier. If so, the name, address, relationship to the juror and the position held by the individual at said insurance company. See, Kiernan v. Van Schaik, 347 F.2d 775 (3d Cir., 1965).

RECEIVED

JAN 26 2005

COURT ADMINISTRATOR'S  
OFFICE

7. Whether any of the jurors have recently read anything in the newspapers or magazines or heard anything on the radio or television concerning the "liability insurance crisis." If yes, what that information has been, what judgments they have drawn therefrom, and whether their conduct as jurors in the present action would be affected thereby.

8. Whether any of the jurors believe there are too many lawsuits. On what do you base your opinion? How would this affect your view of this case should you be chosen as a juror?

9. Whether any of the jurors have read anything in a newspaper or other publication, seen anything on television or heard anything on the radio about tort laws or proposed changes in tort laws, such that you question your ability to be fair and impartial in this case.

10. Whether the jury understands that in the event it should determine under the evidence and the law to find a verdict in favor of the Plaintiff, that it should not consider how it will be paid or who will pay it.

11. Whether any of the jurors or members of their immediate families have been involved as litigants in any civil action for damages, and to inquire, in the event of an affirmative reply, as to their status as plaintiff or defendant, the nature of the action and its ultimate outcome.

12. Whether any of the jurors have served on a prior civil jury and if they have, whether they have heard of a case in which they regard to be similar, and further, whether they understand that each case is different and it is to be decided on its own merits.

13. Whether the jurors understand--and especially those who have served on criminal juries--the important differences between a civil and a criminal case.

14. Whether any member of the jury supposes that in order for the Plaintiff to prevail the Defendant must be found "guilty" of something or whether the proof against the Defendant must be established beyond a "reasonable doubt."

15. Whether the jury will respect that portion of the charge by the Court that will indicate the Defendant's responsibility need only be established by the basis of a fair preponderance of the evidence.

16. Whether any members of the jury of the belief or mindset that what happens to an individual is the will of God and unavoidable.

17. Whether any member of the jury or a member of their immediate family has ever suffered a serious personal injury.

18. Whether any member of the jury has any feelings against people who bring a suit for injuries for pain and suffering, loss of life's pleasures, and future disability.

19. Whether, for any reason whatsoever, any member of the jury would prefer not to sit on this jury in this case.

20. Whether, if appropriately satisfied under the evidence and law, any member of the jury would, for any reason, hesitate to award a substantial verdict.

Respectfully submitted,

**SMIGEL, ANDERSON & SACKS**

Date: 1-25-08

By: 

C. Lee Anderson, Esquire  
I.D. #: 21315  
4431 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401  
Attorneys for Plaintiffs

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs,

v.

DOLORES SHOOK,  
Defendant.

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

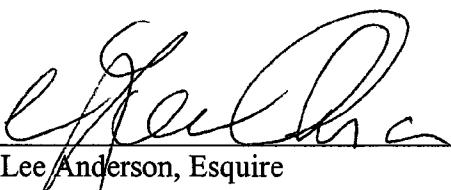
I, C. Lee Anderson, Esquire, hereby certify that I have served a true and correct copy of  
**Plaintiffs' Proposed Questions on Voir Dire** upon counsel for Defendant as addressed below  
via facsimile, on this 25 day of January, 2005:

**Robert A. Mix, Esquire**  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

**SMIGEL, ANDERSON & SACKS**

Date: 1-25-05

By:

  
C. Lee Anderson, Esquire  
I.D. No.: 21315  
4431 North Front Street  
Harrisburg, PA 17110-1223  
(717) 234-2401  
Attorneys for Plaintiffs

**SMIGEL, ANDERSON  
& SACKS LLP**

ATTORNEYS AT LAW

C. LEE ANDERSON

PHONE: (717) 234-2401

TOLL FREE: 1-800-822-9757

FACSIMILE (717) 234-3611

EMAIL: [landerson@sasllp.com](mailto:landerson@sasllp.com)

[www.sasllp.com](http://www.sasllp.com)

January 25, 2005

File No.  
5636-1-8

**VIA FEDERAL EXPRESS**

Honorable Paul E. Cherry  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

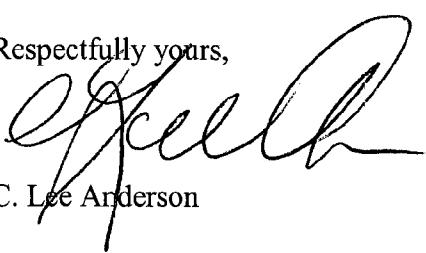
**RECEIVED**  
JAN 26 2005

Re: **Herb v. Shook**  
Docket No.: 01-1817-CD

Dear Judge Cherry:

Enclosed please find a copy of Plaintiffs' Proposed Questions on Voir Dire for the above-referenced matter. Thank you for your kind attention to this matter.

Respectfully yours,

  
C. Lee Anderson

CLA/mss

Enclosures

cc: Robert Mix, Esquire  
Dave Thompson, Esquire  
Donald and Susan Herb  
Maxim Demchak

**SMIGEL, ANDERSON  
& SACKS LLP**

ATTORNEYS AT LAW

C. LEE ANDERSON

PHONE: (717) 234-2401

TOLL FREE: 1-800-822-9757

FACSIMILE (717) 234-3611

EMAIL: [landerson@sasllp.com](mailto:landerson@sasllp.com)

[www.sasllp.com](http://www.sasllp.com)

January 25, 2005

File No.  
5636-1-8

**VIA FEDERAL EXPRESS**

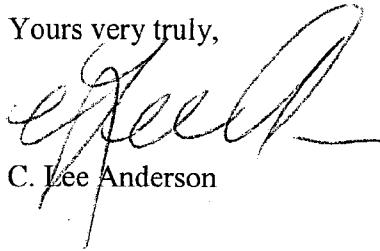
Clearfield County Prothonotary  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

**Re:    Herb v. Shook  
Docket No.: 01-1817-CD**

Dear Sir or Madam:

Enclosed for filing please find an original and three (3) copies of Plaintiffs' Proposed Questions on Voir Dire for the above-referenced matter. Please time-stamp the copies and return them to my office in the enclosed self-addressed stamped envelope. Thank you for your kind attention to this matter.

Yours very truly,



C. Lee Anderson

CLA/mss

Enclosures

cc:    Honorable Paul E. Cherry  
Robert Mix, Esquire  
Dave Thompson, Esquire  
Donald and Susan Herb  
Maxim Demchak

DONALD L. HERB AND SUSAN DEMCHAK-HERB, husband and wife,  
Plaintiffs, : IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY,  
PENNSYLVANIA

v. : NO. 01-1817-CD

DOLORES SHOOK,  
Defendant. : CIVIL ACTION - AT LAW  
JURY TRIAL DEMANDED

**PLAINTIFFS' PROPOSED QUESTIONS ON VOIR DIRE**

In addition to the questions allowed by Pa. R. C. P. No. 220.1, Plaintiffs propose the following questions on Voir Dire:

1. Whether any of the jurors or members of their immediate families have been or are represented by either party's counsel or any of counsels' law partners or associates.
2. Whether any of the jurors or members of their immediate families are personal acquaintances of any of the parties herein, witnesses, their counsel or counsels' law partners or associates.
3. Whether any of the jurors or members of their immediate families are personally familiar with any of the facts of the case leading to the lawsuit by the Plaintiff.
4. Whether any members of the jury panel are legally trained in any way.
5. Whether or not any of the jurors or members of their immediate families or relatives either owns stock or are in the business of investigating claims. If so, the name, address and identity of such persons and the relationship to the juror. See, Aetna v. Lawrence, 428 Pa. 424, 239 A.2d 346 (1968).
6. Whether any of the jurors or members of their families or relatives either owns stock or are employed by an insurance carrier. If so, the name, address, relationship to the juror and the position held by the individual at said insurance company. See, Kiernan v. Van Schaik, 347 F.2d 775 (3d Cir., 1965).

7. Whether any of the jurors have recently read anything in the newspapers or magazines or heard anything on the radio or television concerning the "liability insurance crisis." If yes, what that information has been, what judgments they have drawn therefrom, and whether their conduct as jurors in the present action would be affected thereby.

8. Whether any of the jurors believe there are too many lawsuits. On what do you base your opinion? How would this affect your view of this case should you be chosen as a juror?

9. Whether any of the jurors have read anything in a newspaper or other publication, seen anything on television or heard anything on the radio about tort laws or proposed changes in tort laws, such that you question your ability to be fair and impartial in this case.

10. Whether the jury understands that in the event it should determine under the evidence and the law to find a verdict in favor of the Plaintiff, that it should not consider how it will be paid or who will pay it.

11. Whether any of the jurors or members of their immediate families have been involved as litigants in any civil action for damages, and to inquire, in the event of an affirmative reply, as to their status as plaintiff or defendant, the nature of the action and its ultimate outcome.

12. Whether any of the jurors have served on a prior civil jury and if they have, whether they have heard of a case in which they regard to be similar, and further, whether they understand that each case is different and it is to be decided on its own merits.

13. Whether the jurors understand--and especially those who have served on criminal juries--the important differences between a civil and a criminal case.

14. Whether any member of the jury supposes that in order for the Plaintiff to prevail the Defendant must be found "guilty" of something or whether the proof against the Defendant must be established beyond a "reasonable doubt."

15. Whether the jury will respect that portion of the charge by the Court that will indicate the Defendant's responsibility need only be established by the basis of a fair preponderance of the evidence.

16. Whether any members of the jury of the belief or mindset that what happens to an individual is the will of God and unavoidable.

17. Whether any member of the jury or a member of their immediate family has ever suffered a serious personal injury.

18. Whether any member of the jury has any feelings against people who bring a suit for injuries for pain and suffering, loss of life's pleasures, and future disability.

19. Whether, for any reason whatsoever, any member of the jury would prefer not to sit on this jury in this case.

20. Whether, if appropriately satisfied under the evidence and law, any member of the jury would, for any reason, hesitate to award a substantial verdict.

Respectfully submitted,

**SMIGEL, ANDERSON & SACKS**

Date: 1-25-08

By: 

C. Lee Anderson, Esquire  
I.D. #: 21315  
4431 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401  
Attorneys for Plaintiffs

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
Plaintiffs, : IN THE COURT OF COMMON PLEAS  
v. : OF CLEARFIELD COUNTY,  
DOLORES SHOOK, : PENNSYLVANIA  
Defendant. : NO. 01-1817-CD  
: CIVIL ACTION - AT LAW  
: JURY TRIAL DEMANDED

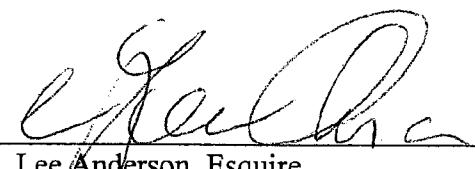
**CERTIFICATE OF SERVICE**

I, C. Lee Anderson, Esquire, hereby certify that I have served a true and correct copy of  
**Plaintiffs' Proposed Questions on Voir Dire** upon counsel for Defendant as addressed below  
via facsimile, on this 25 day of January, 2005:

**Robert A. Mix, Esquire**  
115 East High Street  
P.O. Box 179  
Bellefonte, PA 16823

**SMIGEL, ANDERSON & SACKS**

Date: 1-25-05

By:   
C. Lee Anderson, Esquire  
I.D. No.: 21315  
4431 North Front Street  
Harrisburg, PA 17110-1223  
(717) 234-2401  
Attorneys for Plaintiffs

LEE, GREEN & REITER, INC.

A PROFESSIONAL CORPORATION

DONALD E. LEE  
JOSEPH P. GREEN  
DENNIS O. REITER  
ROBERT A. MIX  
JONATHAN D. GRINE

FILED 6th  
29-00-05 file per judge's order  
JAN 27 2005

William A. Shaw  
Prothonotary/Clerk of Courts

January 26, 2005

115 EAST HIGH STREET  
POST OFFICE BOX 179  
BELLEFONTE, PA 16823-0179  
(814) 355-4769  
FAX (814) 355-5024  
WWW.LCRLAW.COM

C. Lee Anderson, Esquire  
Smigel, Anderson & Sacks, LLP  
River Chase Office Center  
4431 North Front Street  
Harrisburg, PA 17110

IN RE: DONALD HERB & SUSAN DEMCHAK-HERB  
vs.  
DOLORES SHOOK

Re: Lindsey Demchak, guardian of Derika Feaster vs. Dolores Shook  
Our File: L-6754

Dear Lee:

This will confirm our discussions regarding submitting Donald Herb and Susan Demchak-Herb's personal injury claims, as set forth in the above-captioned civil action, to binding arbitration.

The parties are willing to submit said claims to binding arbitration before a panel of three arbitrators. Donald Herb and Susan Demchak-Herb will, collectively, select one arbitrator; Dolores Shook will select one arbitrator, and the two arbitrators selected will select a third arbitrator. Donald Herb and Susan Demchak-Herb will pay the cost of their arbitrator, Dolores Shook will pay the cost of her arbitrator and they each will pay one-half of the cost of the third arbitrator.

The arbitration will be conducted pursuant to the provisions of the Uniform Arbitration Act, Subchapter A, pertaining to Statutory Arbitration.

Dolores Shook will stipulate to the admission into evidence of those medical records pertaining to Donald Herb and Susan Demchak-Herb, which were provided to her counsel under their counsel's letter dated January 21, 2005.

Should counsel for Donald Herb and Susan Demchak-Herb wish to present additional testimony from James Rodgers, M.D., or Robert Wolfe, he will depose them or call them as witnesses at the arbitration hearing.

The arbitration will be subject to a high-low award agreement. Any individual award entered for Donald Herb shall not be less than \$30,000.00 nor more than \$89,453.12, and any individual award entered for Susan Demchak-Herb shall not be less than \$25,000.00 nor more than \$98,659.00, provided, however, that the total of both individual awards shall not be more

LEE, MARTIN, GREEN & REITER, INC.

C. Lee Anderson, Esq.

-2-

January 26, 2005

than \$155,153.87. The parties further agree that any amounts previously paid to Donald Herb and Susan Demchak-Herb by or on behalf of Dolores Shook shall not reduce the low amounts under this high-low agreement.

If the above correctly states your understanding of the parties' binding arbitration agreement, please sign and date this letter where indicated.

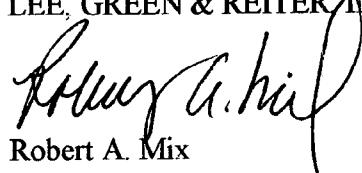
If you have any questions, please give me a call.

Very truly yours,

LEE, GREEN & REITER, INC.

By:

Robert A. Mix



RAM/cl

In accord:

  
C. Lee Anderson, Esquire  
David R. Thompson, Esquire

Date: 1-26-05

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
PLAINTIFFS

v.

DOLORES SHOOK,  
DEFENDANT

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: NO. 01-1817-CD  
:  
: CIVIL ACTION - AT LAW  
: JURY TRIAL DEMANDED

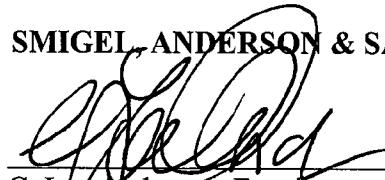
**PRAECIPE TO DISCONTINUE**

TO THE PROTHONOTARY:

Please discontinue the above-referenced action with prejudice.

Date: September 19, 2005

SMIGEL, ANDERSON & SACKS

By: 

C. Lee Anderson, Esquire  
I.D. #: 21315  
4431 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401  
Attorneys for Plaintiffs

**FILED**  
0/10:23 AM 4/23/05 Anderson  
SEP 23 2005 Cent of disc to  
W A. Anderson  
Copy to C/A  
William A. Shaw  
Prothonotary

FILED

SEP 23 2005

William A. Shaw  
Prothonotary

DONALD L. HERB AND SUSAN  
DEMCHAK-HERB, husband and wife,  
PLAINTIFFS

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

V.

DOLORES SHOOK,  
DEFENDANT

: NO. 01-1817-CD

: CIVIL ACTION – AT LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I, C. Lee Anderson, Esquire, hereby certify that a true and correct copy of the foregoing Praecipe to Discontinue was served upon the following as addressed below by depositing the same in the United States Mail, first class mail, postage prepaid, at Harrisburg, Pennsylvania on this 19th day of September, 2005:

Robert A. Mix, Esquire  
P.O. Box 179  
Bellefonte, PA 16823

**SMIGEL, ANDERSON & SACKS**

Date: September 19, 2005

By: 

C. Lee Anderson, Esquire  
I.D. #: 21315  
4431 North Front Street  
Harrisburg, PA 17110  
(717) 234-2401  
Attorneys for Plaintiffs

**SMIGEL, ANDERSON  
& SACKS LLP**

ATTORNEYS AT LAW

C. LEE ANDERSON

PHONE: (717) 234-2401

TOLL FREE: 1-800-822-9757

FACSIMILE (717) 234-3611

EMAIL: [landerson@sasllp.com](mailto:landerson@sasllp.com)

[www.sasllp.com](http://www.sasllp.com)

September 19, 2005

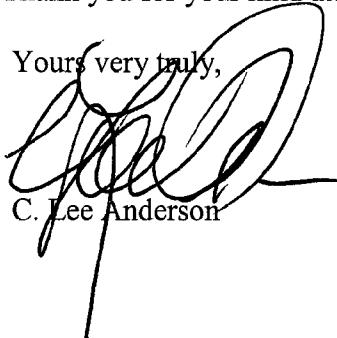
File No.  
5636-1-8

Clearfield County Prothonotary  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

**Re:   Herb v. Shook  
Clearfield County Docket No.: 01-1817-CD**

Dear Sir or Madam:

Enclosed for filing please find an original and four (4) copies of a Praeclipe to Discontinue for the above-referenced matter. Please time-stamp the copies and return them to my office in the enclosed self-addressed stamped envelope. Thank you for your kind attention to this matter.

Yours very truly,  
  
C. Lee Anderson

CLA/jgh

Enclosures

cc:   Donald and Susan Herb (w/enclosure)  
Maxim Demchak (w/enclosure)  
Robert A. Mix, Esquire

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

*COPY*

CIVIL DIVISION

**Donald L. Herb**  
**Susan Demchak-Herb**

**Vs.** **No. 2001-01817-CD**  
**Dolores Shook**

**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 September 23, 2005, marked:

Discontinue the above-referenced action with prejudice

Record costs in the sum of \$80.00 have been paid in full by Attorney C. Lee Anderson.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 23rd day of September A.D. 2005.

---

William A. Shaw, Prothonotary