

02-378-CD.
RICHARD J. LAWSON et al -vs- PCA INTERNATIONAL, INC.

Civil Other

Date		Judge
03/14/2002	X Filing: Civil Complaint Paid by: Naddeo, James A. (attorney for Lawson, Richard J.) Receipt number: 1839715 Dated: 03/14/2002 Amount: \$80.00 (Check) One CC Attorney Naddeo	No Judge
04/11/2002	3 X Praecipe For Appearance, on behalf of Defendant, PCA International, Inc. Filed by s/Paul T. Grater, Esq. Proof of Service. no cc	No Judge
05/02/2002	3 Answer and New Matter Pursuant to Rule 2252(d). Filed by s/Paul T. Grater, Esq. Verification s/Caroline Von Stetten Proof of Suervice upon James A. Naddeo, Esq. no cc	No Judge
	4 Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
05/22/2002	6 Answer To New Matter. Filed by s/Kim Eboch-Lawson, Pro se Certificate of Service 1 cc Atty Naddeo	No Judge
08/27/2002	6 Certificate of Service, Notice of Deposition of Kristina L. Russell upon PAUL T. GRATER, ESQ. and ASAP COURT REPORTING. s/James A. Naddeo, Esq. 1 cc Atty Naddeo	No Judge
10/09/2002	7 Filing: Certificate of Service of Notice of Deposition of Kristina Russell. One CC to Atty.	No Judge
10/21/2002	8 Notice of Deposition of KIM EBOCH-LAWSON. filed by s/Paul T. Grater, Esquire no cc	No Judge
11/25/2002	9 Praecipe for entry as Co-Counsel for the Plaintiff. s/John R. Carfley, Esq. 1 cc Atty Carfley	No Judge
12/20/2002	10 Certificate of Service, Notice of Deposition of Kristina L. Russell upon PAUL T. GRATER, ESQ. and ASAP COURT REPORTING. filed by s/James A. Naddeo, Esq. 1 cc to Atty	No Judge
01/14/2003	11 Certificate of Service, Interrogatories and Request for Production of Documents upon Defendant, PCA INTERNATIONAL, INC. through its attorney PAUL T. GRATER, ESQUIRE filed by s/John R. Carfley, Esq. 1 cc Atty Carfley	No Judge
01/15/2003	12 Motion to Compel Against Defendant For Defendant's Failure to Answer Plaintiff's Interrogatories Directed to Defendant. filed by s/James A. Naddeo, Esq. 1 cc	No Judge
	ORDER, AND NOW, this 15th day of January, 2003. re: DEFENDANT file full and complete responses to Plaintiffs' Interrogatories within ten (10) days of suffer appropriate sanctions to be imposed upon further application of the Court. by the Court, s/JKR,JR.,P.J. 1 cc Atty Naddeo	John K. Reilly Jr.
01/16/2003	13 Certificate of Service, Plaintiffs' Motion to Compel upon PAUL T. GRATER, ESQ. filed by s/James A. Naddeo, Esquire no cc	John K. Reilly Jr.
01/27/2003	14 Proof of Service, Defendant's Answers to Interrogatories and Respond to Request For Production upon JOHN R. CARFLEY, ESQ. and JAMES A. NADDEO, ESQ. filed by s/PAUL T. GRATER, ESQ. no cc	John K. Reilly Jr.
01/31/2003	15 Motion For Sanctions. filed by s/James A. Naddeo, Esquire Proof of Service 1 cc Atty Naddeo	John K. Reilly Jr.
	Motion For for Sanctions filed by Atty. Naddeo. 1 CC to Atty. Naddeo	Fredric Joseph Ammerman
02/03/2003	16 RULE, AND NOW, this 3rd day of February, 2003, re: Issued upon Defendant. Rule returnable the 24th day of February, 2003, for filing Written Response. by the Court, s/JKR,JR.,P.J. 1 cc Atty Naddeo	John K. Reilly Jr.

Civil Other

Date		Judge
02/03/2003	16 RULE, AND NOW, this 3rd day of February, 2003, re: Issued upon Defendant. Rule returnable the 24th day of February, 2003, for filing Written Response. by the Court, s/JKR, JR., P.J. 1 cc Atty Naddeo	John K. Reilly Jr.
02/04/2003	17 Certificate of Service Filed by Atty. Naddeo Served copy of Plaintiffs' Motions for Sanctions on the 4th day of February, 2003	John K. Reilly Jr.
02/24/2003	18 Defendant's Answer To Plaintiff's Motion For Sanctions (Interrogatories) filed by s/Paul T. Grater, Esquire Proof of Service no cc	John K. Reilly Jr.
	19 Defendant's Answer To Plaintiff's Motion For Sanctions (Deposition). filed by s/Paul T. Grater, Esquire Proof of Service no cc	John K. Reilly Jr.
04/17/2003	20 ORDER, NOW, this 17th day of April, 2003, re: Motion For Sanctions filed on behalf of Plaintiff above-named to Defendant's Response to Request for Production of Documents. by the Court, s/JKR, JR., P.J. 2 cc Atty Naddeo, 1 cc Atty Grater	John K. Reilly Jr.
	21 ORDER, NOW, this 17th day of April, 2003, re: Motion For Sanctions. by the Court, s/JKR, JR., P.J. 2 cc Atty Naddeo, 1 cc Atty Grater	John K. Reilly Jr.
05/16/2003	22 Certificate of Service, Notice of Deposition of Susan Barclay upon: PAUL T. GRATER, ESQUIRE. filed by s/James A. Naddeo, Esquire 1 cc Atty Naddeo	John K. Reilly Jr.
08/20/2003	23 Noticre of Service of Defendant's Response to Plaintiffs' request for production filed by Atty. Grater. No cc.	John K. Reilly Jr.
08/29/2003	24 Motion to Compel. filed by s/John R. Carfley, Esquire 2 cc to Atty	John K. Reilly Jr.
	25 Certificate of Service, Motion To Compel Discovery upon Defendant, PCA International c/o Paul T. Grater, Inc. filed by s/John R. Carfley, Esq. no cc to Atty	John K. Reilly Jr.
09/02/2003	24 ORDER OF COURT, AND NOW, this 29th day of August, 2003, re: Defendant to file full and complete responses to Plaintiffs' Second Request for Production of Documents within ten (10) days or suffer appropriate sanctions to be imposed upon further application to the Court. by the Court, s/JKR, JR., P.J. 2 cc Atty Carfley	John K. Reilly Jr.
09/12/2003	26 Motion For Sanctions. filed by s/John R. Carfley, Esq. 3 cc Atty Carfley	John K. Reilly Jr.
09/15/2003	26 RULE, AND NOW, this 15th day of September, 2003, issued upon Defendant. Rule returnable the 13th day of October, 2003, at 10:00 a.m. by the Court, s/JKR, JR., P.J. 3 cc Atty Carfley	John K. Reilly Jr.
09/17/2003	27 Notice of Service of Defendant's Supplemental Response to Plaintiffs' Request for Production (Second Set) upon John R. Carfley, Esq. and James A. Naddeo, Esq. filed by s/Paul T. Grater, Esquire no cc	John K. Reilly Jr.
10/13/2003	28 ORDER, NOW, this 13th day of October, 2003, re: Plaintiffs' Motion for Sanctions and argument thereon. by the Court, s/JKR, JR., P.J. 1 cc Atty Naddeo, Carfley, and Crater	John K. Reilly Jr.
11/17/2003	29 Notice Of Service Of Defendant's Second Supplemental Response To Plaintiffs' Request For Production (Second Set) upon: JOHN R. CARFLEY, ESQ. filed by, s/Paul T. Grater, Esquire no cc	John K. Reilly Jr.
12/03/2003	30 Affidavit In Support of Plaintiffs' Motion For Summary Judgment. filed by, s/John R. Carfley, Esquire 1 cc to Atty	John K. Reilly Jr.

Civil Other

Date		Judge
12/03/2003	31 Transcript of Deposition of SUSAN L. BARCLAY, Monday, June 9, 2003, 10:55 a.m. - 12:55 p.m.. Table of Contents, Exhibits In Support of Plaintiff's Motion For Summary Judgment. filed by s/John R. Carfley, Esquier	John K. Reilly Jr.
	31 Motion For Summary Judgment. filed by, s/John R. Carfley, Esquire 2 cc to Atty	John K. Reilly Jr.
01/14/2004	32 Answer To Plaintiffs' Motion For Summary Judgment. filed by, s/Paul T. Grater, Esquire Proof of Service no cc	John K. Reilly Jr.
01/15/2004	34 ORDER, NOW, this 14th day of January, 2004, re: Plaintiff to supply the Court w/appropriate Brief no later than Feb. 16,2004. Counsel for Defendant shall have 30 days thereafter to respond in kind. by the Court, s/JKR,JR., Senior Judge, Specially Presiding 2 cc Atty Carfley, Grater and 1 cc Atty Naddeo	John K. Reilly Jr.
01/23/2004	35 ORDER: AND NOW, this 23rd day of January, 2004 it is the ORDER of the Court that a status conference has been scheduled for Feb. 25, 2004 at 2:00PM. S/FJA 1 CC to Atty. Carfley/Grater.	John K. Reilly Jr.
02/24/2004	36 Praecipe To List For Trial. filed by, s/James A. Naddeo, Esquire no cc Copy to C/A	John K. Reilly Jr.
02/26/2004	37 ORDER, NOW, this 25th day of February, 2004, re: All Discovery, including the independent medical examination request by Defendant, shall be completed within 90 days from the date of this Court's ruling on the Plaintiffs' Motion for Summary Judgment. It is the further ORDER of this Court that all expenses incurred by Plaintiffs in attendance at said IME shall be fully reimbursed by Defendant. by the Court, s/JKR,JR.,S.J., Specially Presiding 1 cc Naddeo, Carfley, Grater	John K. Reilly Jr.
04/07/2004	38 ORDER, NOW, this 1st day of April, 2004, Matter be and is hereby CONTINUED until the fall term of Court. by the Court, s/FJA, P.J. 2 cc Atty Naddeo, Carfley and Grater	John K. Reilly Jr.
04/19/2004	39 OPINION AND ORDER, NOW, this 19th day of April, 2004, re: Plaintiff's Motion for Partial Summary Judgment be and is hereby DISMISSED. by the Court, s/JKR, JR., S.J., Specially Presiding 1 cc Attys Naddeo, Carfley, Grater	John K. Reilly Jr.
05/27/2004	40 Certificate of Service, Request for Production of Documents upon: Paul T. Grater, Esquire. filed by, s/James A. Naddeo, Esquire no cc	John K. Reilly Jr.
07/02/2004	41 Motion to Compel, filed by s/James A. Naddeo, Esq. One CC Attorney Naddeo	John K. Reilly Jr.
07/06/2004	41 Order, AND NOW, this 6 day of July, 2004, upon consideration of Plaintiff's Motion to Compel Response to Plaintiff's Request for Production of Documents directed to Defendant, Order that Defendant file full and complete responses to Plaintiff's Request for the Production of Documents within 20 days or suffer appropriate sanctions to be imposed upon further application to the Court. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attorney Naddeo	John K. Reilly Jr.
07/07/2004	42 Certificate of Service, Motion to Compel upon Paul T. Grater, Esq. No CC	John K. Reilly Jr.
07/27/2004	43 Motion for Sanctions, filed by s/John R. Carfley, Esq. One CC Attonrney Naddeo (Co-counsel)	John K. Reilly Jr.
08/06/2004	44 Proof of Service, Defendant's Pre-Trial Statement, on John R. Carfley, Esq. and James A. Naddeo, Esq. Filed by s/Paul T. Grater, Esq. No cc.	John K. Reilly Jr.

Civil Other

Date		Judge
08/13/2004	<p>Order, AND NOW, this 12th day of August, 2004, following Pre-Trial Conference, it is the ORDER of this Court as follows:</p> <p>46 1. Jury Selection will be held on August 26, 2004 at 9:30 a.m. in Courtroom 1.</p> <p>2. Jury Trial is scheduled for three days, October 27, 2004, October 28, 2004, and October 29, 2004 commencing at 9:00 a.m. each day in Courtroom No. 1 of the Clfd Co. Courthouse.</p> <p>The Plaintiffs' Motion for Sanctions filed on July 27, 2004 is hereby dismissed as moot. BY THE COURT/s/Fredric J. Ammerman, President Judge</p> <p>(For all information regarding depositions, objections, and filing of motions or petitions see original) 2 certi. copies to James A. Naddeo, Esq., 2 cert. copies to John R. Carfley, Esq., 2 cert. copies to Paul T. Grater, Esq., 1 copy to President Judge Ammerman, 1 copy to Court Administrator.</p>	Fredric Joseph Ammerman
08/26/2004	<p>47 Notice of Videotaped Deposition of Rajiv R. Varma, M.D., Filed by s/Paul T. Grater, Esq., No cc</p>	Fredric Joseph Ammerman
09/17/2004	<p>Notice of Deposition of Glenn A. Stayer, M.D. On behalf of: PCA INTERNATIONAL, INC., Defendant, filed by Paul T. Grater, Esquire. Served upon: John R. Carfley, Esquire; and James A. Naddeo, Esquire. No CC.</p>	Fredric Joseph Ammerman
09/23/2004	<p>48 Motion in Limine, filed by s/John R. Carfley, Esq. Four CC Attorney Carfley</p>	Fredric Joseph Ammerman
09/24/2004	<p>49 Certificate of Service, Motion in Limine upon defendant, PCA International, Inc. through its atty. Paul T. Grater, Esquire. Filed by s/ John R. Carfley, Esq. 1 CC Atty.</p>	Fredric Joseph Ammerman
09/29/2004	<p>48 Rule, AND NOW, this 29th day of Sept, 2004, upon consideration of the foregoing motion in Limine, a rule is hereby issued upon Defendant to Show Cause why the Motion should not be granted. Rule Returnable the 13th day of October, 2004, for filing written response and the 15th day of October, 2004, at 2:30 p.m. in Courtroom Number 1. BY THE COURT: Fredric J. Ammerman, President Judge. 4 CC Atty Carfley.</p>	Fredric Joseph Ammerman
10/12/2004	<p>50 Motion for Continuance and for Leave to Withdraw as Counsel, filed by s/Paul T. Grater, Esq. No CC</p>	Fredric Joseph Ammerman
10/13/2004	<p>51 Defendant's Answer to Plaintiff's Motion in Limine, on behalf of Defendant, filed by s/Paul T. Grater, Esquire. No CC. Proof of Service, served upon John R. Carfley, Esquire and James A. Naddeo, Esquire the 9th of Oct. by 1st class mail.</p>	Fredric Joseph Ammerman
10/21/2004	<p>52 Motion For Continuance filed by Atty. Naddeo 1 CC to Atty.</p>	Fredric Joseph Ammerman
10/22/2004	<p>53 Order, NOW, this 15th day of October, 2004, following argument on the defendant's Motion for Continuance and for Withdraw of Counsel, it is the ORDER of this Court that the said motions be and are hereby denied. The jury trial scheduled for October 27th, 28th and 29, 2004, shall continue as scheduled and all counsel of current record shall be present. BY THE COURT: /s/ Fredric Ammerman, President Judge. 1 CC Attys: Carfley, Naddeo, and Grater.</p>	Fredric Joseph Ammerman
	<p>54 Order, AND NOW, this 21st day of October, 2004, upon motion of Plaintiff with the joinder of Defendant, it is the ORDER of this Court that trial of this case be continued to the next term of Civil Court. It is the further ORDER of this Court that no further continuances will be granted to either party. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 2CC Atty Naddeo.</p>	Fredric Joseph Ammerman

Civil Other

Date		Judge
10/22/2004	<p>Order, Now, this 21st day of October, 2004, in consideration of the Court's Order issued this date continuing the above-captioned case to the next Term of Court, the Court hereby grants the prior request of Defense counsel, Paul T. Grater, esquire, to withdraw from the case. The Prothonotary shall note the withdrawal of Attorney Grater as Attorney for the Defendant. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1 CC Attys: Carfley, Naddeo, Grater.</p>	Fredric Joseph Ammerman
10/26/2004	<p>Certificate of Service of Motion for Continuance filed by Atty. Naddeo</p>	Fredric Joseph Ammerman
11/03/2004	<p>Praecipe For Entry of Appearance, filed on behalf of PCA International, INC., by s/ John M. Giunta, Esquire. 1 CC to Atty. Cert. of Service, on 1st of Nov., 2004, by 1st class mail to John R. Carfley, Esq. and James A. Naddeo, Esq.</p>	Fredric Joseph Ammerman
11/23/2004	<p>Motion in Limine Plaintiff's Request for Binding Instructions with Respect to the Issue of Causation, filed by Atty. Carfley 2 Cert. to Atty.</p>	Fredric Joseph Ammerman
12/06/2004	<p>Certificate of Service, Motion in Limine upon defendant by mail the 23rd day of Nov., 2004, to John M. Giunta, Esquire. No CC Rule, AND NOW, this 6th day of December, 2004, upon consideration of the foregoing Motion in Limine, a rule is hereby issued upon Defendant to Show Cause why the Motion should not be granted. Dec. 17, 2004 at 9:30 a.m. in Courtroom for hearing thereon. BY THE COURT, /s/ Fredric J. Ammerman, President Judge. 2CC to Atty Carfley.</p>	Fredric Joseph Ammerman
12/08/2004	<p>Certificate of Service: Motion of Limine/ Rule, sent on Dec. 7, 2004 to PCA International, Inc., c/o John M. Giunta, Esquire. Filed by s/ John R. Carfley, Esquire. No CC</p>	Fredric Joseph Ammerman
12/15/2004	<p>Order, AND NOW, this 14th day of December, 2004, it is hereby ORDERED that the Rule that was issued upon defendant to Show Cause why the Motion in Limine - Plaintiff's Request for Binding Instructions with Respect to the Issue of Causation should not be granted, will be returnable for a filing a written response and for argument on the 4th day of Jan., 2005, at 10:30 a.m. in Courtroom 1 of the Clfd. Co. Courthouse. BY THE COURT, /s/ Fredric J. Ammerman, President Judge. 1CC Atty Giunta, 1CC Atty Carfley</p>	Fredric Joseph Ammerman
01/04/2005	<p>Response To Plaintiffs' Motion In Limine - Plaintiffs' Request for Binding Instructions With Respect To The Issue of Causation, filed by s/ John M. Giunta, Esquire. No CC</p>	Fredric Joseph Ammerman
01/12/2005	<p>Answer To Amended New Matter, filed by s/ James A. Naddeo, Esquire. 1CC to Atty.</p>	Fredric Joseph Ammerman
	<p>Stipulation, AND NOW, this 10th day of Jan. 2005, the parties by their undersigned counsel, consent to the filing of the Amended New Matter by the Defendant, PCA International, Inc. Signed James A. Naddeo, Esquire, and John M. Giunta, Esquire. filed by s/ John M. Giunta, Esquire. no CC.</p>	Fredric Joseph Ammerman
01/17/2005	<p>Amended New Matter, filed by s/ John M. Giunta, Esquire. No CC Certificate of Service, copy of the First Supplemental Pretrial Statement on the 13th of Jan. 2005 upon John R. Carfley, Esquire, and James A. Naddeo, Esquire. Filed by s/ John M. Giunta, Esquire. No CC</p>	Fredric Joseph Ammerman

Civil Other

Date		Judge
01/25/2005	<p>65 Order, NOW, this 21st day of Jan., 2005, following Pre-Trial Conf. among the Court and counsel it is the ORDER of this Court as follows:</p> <ol style="list-style-type: none"> 1. Trial is scheduled for April 6,7 and 8, 2005 and start at 9:00 a.m. on each day in Courtroom No. 1, Clfd. Co. Courthouse. 2. Jury selection is hereby scheduled for 9:00 a.m. on Thursday, Jan. 27, 2005 in Courtroom No. 1, Clfd. Co Courthouse. <p>(See original for further details of Order). BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Naddeo, Carfley, Giunta, Grater</p>	Fredric Joseph Ammerman
02/01/2005	<p>66 Order, AND NOW, this 1st day of Feb., 2005, folowing oral argument on Plaintiffs' Motion in Limine: Plaintiff's Request for Binding Instructions with Respect to the Issue of Causation and Defendant's Response to same, the Court HEREBY DENIES Plaintiff's Motion. By the Court, /s/ Fredric Ammerman, President Judge. 3CC to Atty Naddeo</p>	Fredric Joseph Ammerman
	<p>67 Order, AND NOW, this 1st day of Feb., 2005, after reviewing the Party's pleadings and oral argument on Plaintiffs' first Motion in Limine (Motion), the Court hereby DENIES said Motion. By the court, /s/ Fredric Ammerman, President Judge. 3CC to Atty Naddeo</p>	Fredric Joseph Ammerman
02/25/2005	<p>68 Motion in Limine to Admit Evidence of Past Incidents Which Involved Falling From Posing/Photographic Tables Utilized by PCA International, Inc. in Their Photographic Studios, filed by Atty. Carfley 2 Cert. to Atty.</p>	Fredric Joseph Ammerman
	<p>70 Motion in Limine to Determine the Effect of the Proof of Claim Filed on Behalf of Minor Child as a Limitation on the Amount of Recovery for Economic and Non-Economic Loss, filed by Atty. Carfley 2 Cert. to Atty.</p>	Fredric Joseph Ammerman
	<p>69 Motion In Limine to Determine Whether Defendant retains the Right to Call its Expert Witness at Trial After Having Noticed the Same Expert for Videotape Deposition, All to the Detriment and Prejudice of the Plaintiffs. filed by Atty. Carfley 2 Cert. to Atty.</p>	Fredric Joseph Ammerman
02/28/2005	<p>64 Scheduling Order AND NOW, this 28th day of Feb., 2005, upon consideration of the Motion in Limine filed by Plaintiffs, a rule is hereby issued upon defendant to show cause why the Motion should not be granted. Rule returnable the 7th day of March, 2005, at 9:30 a.m. in Courtroom Number 1, Clfd. Pa for hearing thereon. Fredric J. Ammerman, President Judge. 2CC to Atty</p>	Fredric Joseph Ammerman
	<p>65 Scheduling Order AND NOW, this 28th day of Feb., 2005, upon consideration of the Motion in Limine filed by Plaintiffs, a rule is hereby issued upon defendant to show cause why the Motion should not be granted. Rule returnable the 7th day of March, 2005, at 9:30 a.m. in Courtroom Number 1, Clfd. Pa for hearing thereon. Fredric J. Ammerman, President Judge. 2CC to Atty</p>	Fredric Joseph Ammerman
	<p>66 Scheduling Order AND NOW, this 28th day of Feb., 2005, upon consideration of the Motion in Limine filed by Plaintiffs, a rule is hereby issued upon defendant to show cause why the Motion should not be granted. Rule returnable the 7th day of March, 2005, at 9:30 a.m. in Courtroom Number 1, Clfd. Pa for hearing thereon. Fredric J. Ammerman, President Judge. 2CC to Atty</p>	Fredric Joseph Ammerman
03/02/2005	<p>67 Motion to Continue Rule Returnable Date and Hearing Date, filed by Atty. Giunta 1 Cert. to Atty.</p>	Fredric Joseph Ammerman
03/08/2005	<p>68 Order, NOW, this 7th day of March, 2005, it is the ORDER of the court that: (see Original). By the Court: /s/ Fredric J. Ammerman, Judge. 1CC Attys: Naddeo, Carfley, Giunta, Grater</p>	Fredric Joseph Ammerman

Civil Other

Date		Judge
03/21/2005	<p>B Order, NOW, this 21st day of March, 2005, upon consideration of Plaintiffs' Motion in Limine, it is ORDERED that Plaintiffs' Motion is DENIED and it is further ORDERED that Plaintiffs are precluded from referring to or attempting to offer any evidence of prior accidents at the trial in this matter. BY THE COURT, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Naddeo, Carfley, Giunta, Grater</p>	Fredric Joseph Ammerman
03/22/2005	<p>M Offer of Proof Relative To The In-Court Trial Testimony of Dr. Rajiv R. Varma, filed by s/ John M. Giunta, Esquire. No CC</p> <p>Answer To Plaintiffs' Motion In Limine To Determine The Effect Of The Proof Of Claim Filed on Behalf Of Minor Child As A Limitation On The Amount Of Recovery For Econonmic And Non-Economic Loss, Filed by s/ John M. Giunta, Esquire. No CC</p>	Fredric Joseph Ammerman
03/23/2005	<p>P Objections To Excerpts Of Deposition Testimony of Dr. Michael G. Moncman And Brief In Support, filed by s/ John M. Giunta, Esquire. No CC</p>	Fredric Joseph Ammerman
03/30/2005	<p>Order, AND NOW, this 28th day of March, 2005, upon due consideration of plaintiffs' Motion in Limine To Determine the Effect of the Proof Of Claim Filed On Behalf of Minor Child As A limitation On The Amount Of Recovery For Economic And Non-Economic Loss, Defendant PCA International, Inc.'s Answer and Brief in Opposition, Plaintiffs' Motion is denied, and the Release pleaded will be applied in the post-verdict stage of the case, if necessary. BY THE COURT: /s/ Fredric J. Ammerman, Judge. 2CC Atty Giunta</p>	Fredric Joseph Ammerman

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and Natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs,

v.

PCA INTERNATIONAL, INC.,
a corporation,
Defendant.

*
*
*
*
*
*
*
*
*
*
*
*
*
*

No. 02 - - CD

COMPLAINT

NOW COME the Plaintiffs, Richard J. Lawson and Kim Eboch-Lawson, husband and wife, and parents and natural guardians of Mariah C. Lawson, a minor, and by their attorney, James A. Naddeo, Esquire, sets forth the following:

1. That the Plaintiff, Richard J. Lawson, is a sui juris, adult individual who resides at 623 East Spruce Street, Philipsburg, Pennsylvania 16866.

2. That the Plaintiff, Kim Eboch-Lawson, is a sui juris, adult individual who resides at 623 East Spruce Street, Philipsburg, Pennsylvania 16866.

3. That the parties hereto are husband and wife having been married on February 14, 1994.

4. That the Plaintiff, Richard J. Lawson, and the Plaintiff, Kim Eboch-Lawson, are the parents of one child,

namely the Plaintiff, Mariah C. Lawson, a minor, age 4, born March 2, 1997.

5. That the Defendant, PCR International, Inc., is a corporation whose principal place of business is located at 815 Matthews-Mint Hill Road, Matthews, NC 28105-1705.

6. That at all times referred to herein the Defendant conducted business within the Commonwealth of Pennsylvania and specifically operated a photo center at the Wal-Mart Super Center, Wolf Run Exchange, Route 879, Lawrence Township, Clearfield County, Pennsylvania.

First Count

Richard J. Lawson and Kim Eboch-Lawson, parents
And natural guardians of Mariah C. Lawson v. PCA
International, Inc.

7. That the Plaintiffs, Richard J. Lawson and Kim Eboch-Lawson, bring this action on behalf of their minor daughter, Mariah C. Lawson.

8. That on March 28, 2000 at or about 4:00 p.m., E.S.T., the minor Plaintiff, Mariah C. Lawson, accompanied by her mother, Kim Eboch-Lawson, were patrons at the Wal-Mart Super Center, Wolf Run Exchange, Route 879, Lawrence Township, Clearfield, Pennsylvania.

9. That on or about the said day and at or about the said time, the minor Plaintiff, Mariah C. Lawson, along with her

mother, Kim Eboch-Lawson, entered the Wal-Mart Super Center for the purpose of obtaining a family portrait of the minor Plaintiff commemorating her third birthday.

10. That at or about the said day and at or about the said time, the minor Plaintiff, Mariah C. Lawson, along with her mother, Kim Eboch-Lawson, proceeded to a photo center owned and operated by the Defendant, PCA International, Inc.

11. That on or about the said day and at or about the said time, the Defendant's photo center was being operated by a Kristina L. Russell, an employee of the Defendant, who was at all times acting within the scope of her employment for the Defendant.

12. That the said Kristina L. Russell, placed the minor Plaintiff, Mariah C. Lawson, on an open table the surface of which was 28" by 39" and the height of which was 32" from the floor.

13. That after placing the minor Plaintiff, Mariah C. Lawson, on the open table, the said Kristina L. Russell proceeded to take a feather duster and place it directly into the face of the minor Plaintiff, Mariah C. Lawson, causing the child to fall backwards and strike her head on a concrete floor causing the serious injuries hereinafter described.

14. That the Defendant, PCA International, Inc., through its agent, Kristina L. Russell, was guilty of the

following negligence, recklessness and carelessness which was the proximate cause of the accident and injuries to the minor Plaintiff, Mariah C. Lawson:

A. Kristina L. Russell placed the minor Plaintiff, Mariah C. Lawson, on an open table with no side rails or other security device that would prevent her from falling from the table.

B. Kristina L. Russell failed to properly secure the minor Plaintiff, Mariah C. Lawson, on an open table so that she would not fall to the floor.

C. Kristina L. Russell failed to warn the minor Plaintiff, Mariah C. Lawson, prior to placing the feather duster in the child's face causing said child to lurch backwards and fall from a table striking her head on a concrete floor.

D. Kristina L. Russell failed to inform the minor Plaintiff's mother, Kim Eboch-Lawson, that she intended to place a feather duster in the child's face so as to afford mother an opportunity to prevent the child from falling.

E. Kristina L. Russell placed the minor Plaintiff unsecured on an open table 32" from the floor with knowledge actual or implied that the height

of the table was sufficient to cause harm to said child in the event that she fell from the table.

F. Kristina L. Russell failed to place padding or other protective material around the table where she placed the minor Plaintiff so as to protect the child from harm in the event of a fall.

G. The Defendant, PCA International, Inc., through its agent, servant and employee was negligent, careless and reckless in that it failed to use due care under all of the circumstances of this case.

15. That as a direct result of the negligence, carelessness and recklessness of the Defendant as described in Paragraph 14 hereof which is incorporated herein by reference, the minor Plaintiff, Mariah C. Lawson, fell from a table striking her head on the concrete floor causing her to sustain a closed head injury.

16. That as a direct result of the injury described in Paragraph 15 hereof, the minor Plaintiff, Mariah C. Lawson, is suffering from postconcussion migraine headaches and/or postconcussion headache syndrome which condition may and probably will be permanent.

17. That the minor Plaintiff, Mariah C. Lawson, has incurred the following medical expenses to date of this

Complaint and will continue to incur medical expenses in an undetermined amount in the future:

Michael G. Moncman Geisinger Health Plan 100 N. Academy Ave. Danville, PA 17822	\$ 261.00
611 Open MRI 611 University Drive State College, PA 16801	\$1,025.00
Erik W. Cameron Centre Diagnostic Imaging P.O. Box 197 State College, PA 16804	\$ 163.00
Philipsburg Area Hospital 210 Loch Lomond Road Philipsburg, PA 16866	\$ 168.00
Centre Community Hospital P.O. Box 1259 State College, PA 16804	\$ 766.40
Geisinger Clinic 100 N. Academy Ave. Danville, PA 17822-4322	\$ 133.00
Glenn A. Stayer, M.D. Geisinger Clinic N. Academy Ave. Danville, PA 17822-4322	\$ 627.00
TOTAL	\$3,143.40

18. That the minor Plaintiff, Mariah C. Lawson, claims a reasonable amount for the following:

A. Pain and suffering; past, present and future;

B. Privation and inconvenience; past,
present and future;

C. Impairment of earning power;

D. Future lost wages;

E. Future medical expenses;

F. All other damages allowable by law.

WHEREFORE, the Plaintiffs claim liquidated damages from the Defendant in the amount of \$3,143.40 and unliquidated damages in excess of Twenty-Five Thousand (\$25,000.00) Dollars. Jury Trial Demanded.

Second Count

Robert J. Lawson and Kim-Eboch Lawson
v. PCA International, Inc.

19. That the Plaintiffs, Robert J. Lawson and Kim-Eboch Lawson, incorporate Paragraphs 1 through 18 of the First Count of this Complaint by reference and makes them a part hereof.

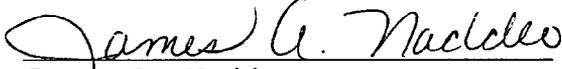
20. That as a direct result of the injuries received by the minor Plaintiff, Mariah C. Lawson, the Plaintiffs have incurred medical expenses as set forth in Paragraph 17 hereof which is incorporated herein by reference.

21. That in addition to medical expenses, the Plaintiff, Robert J. Lawson, and the Plaintiff, Kim Eboch-

Lawson, have periodically been required to miss work in order to obtain medical care for their daughter, Mariah C. Lawson.

22. That the Plaintiffs, Robert J. Lawson and Kim Eboch-Lawson, have been required to travel on various occasions to obtain medical services for their daughter, Mariah C. Lawson, and in respect thereto have incurred expenses for mileage, meals and parking.

WHEREFORE, the Plaintiffs claim liquidated damages from the Defendant in the amount of \$3,143.40 and unliquidated damages from the Defendant in excess of Twenty-five Thousand (\$25,000.00) Dollars. Jury Trial Demanded.


James A. Naddeo
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA)

ss.

COUNTY OF CLEARFIELD)

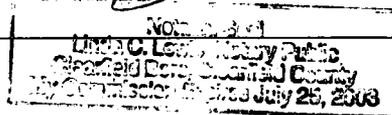
Before me, the undersigned officer, personally appeared KIM EBOCH-LAWSON, who being duly sworn according to law, deposes and states that the facts set forth in the foregoing Complaint are true and correct to the best of her knowledge, information and belief.

Kim Eboch-Lawson

Kim Eboch-Lawson

SWORN and SUBSCRIBED before me this 19th day of February, 2002.

Linda C. Lewis



JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

FILED

0110:39 ~~881~~
MAR 14 2002

WJN
William A. Shaw
Prothonotary

1 cc
Amy Naddo
Amy pd. 80.00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

RICHARD J. LAWSON and KIM EBOCH-LAWSON, husband and wife, and Parents and natural guardians of MARIAH C. LAWSON, a minor,

No. 02-378-CD

Plaintiffs,

**PRAECIPE FOR APPEARANCE
JURY TRIAL DEMANDED**

vs.

PCA INTERNATIONAL, INC., a corporation,

Issue No.:

Code:

Defendant.

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

Suite 340
Chatham Center One
Pittsburgh, PA 15219
(412) 338-0610

FILED

APR 11 2002
m1200/nocc
William A. Shaw
Prothonotary *E. Kol*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

PCA INTERNATIONAL, INC., a
corporation,

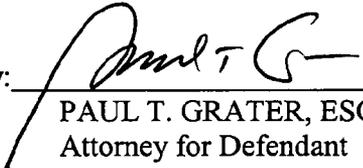
Defendant.

PRAECIPE FOR APPEARANCE

Kindly enter my appearance on behalf of the defendant, PCA International, Inc., a
corporation, in the above-captioned action.

LAW OFFICES OF PAUL T. GRATER

By: _____


PAUL T. GRATER, ESQUIRE
Attorney for Defendant

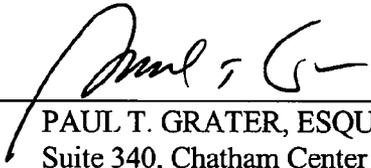
JURY TRIAL DEMANDED

PROOF OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Praecipe for Appearance** was served upon the following person(s) by First-Class Mail, Postage Pre-paid on the 9 day of April, 2002.

James A. Naddeo, Esquire
211 1/2 E. Locust Street
P.O. Box 552
Clearfield, PA 16830

By: _____


PAUL T. GRATER, ESQUIRE
Suite 340, Chatham Center One
Pittsburgh, PA 15219
(412) 338-0610

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents
and natural guardians of MARIAH C.
LAWSON, a minor,

No. 02-378-CD

Plaintiffs,

vs.

**ANSWER AND NEW MATTER
PURSUANT TO RULE 2252(d)**

PCA INTERNATIONAL, INC., a
corporation,

Issue No.:

Code:

Defendant.

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

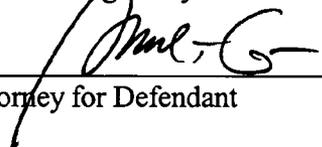
Counsel of record for
this party:

TO THE WITHIN PARTIES:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

You are hereby notified to file a written
response to the enclosed New Matter
Pursuant to Rule 2252(d) within twenty (20)
days from service herein or a judgment may
be entered against you.

Suite 340
Chatham Center One
Pittsburgh, PA 15219
(412) 338-0610



Attorney for Defendant

FILED

MAY 02 2002
M11:19/ROCS
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

ANSWER

NOW comes the defendant, PCA International, Inc., by its undersigned counsel,
and answers plaintiffs' Complaint as follows:

1. – 6. The answering party does not contest the factual averments contained in
Paragraphs 1 through 6 of the plaintiffs' Complaint. By way of further answer, the
defendant is advised that under the applicable Rules of Civil Procedure no answer need
be made except as may be hereinafter set forth, and that all remaining relevant averments
of fact and allegations of negligence are deemed denied and are at issue by virtue of
Pa.R.C.P. 1029(e), and proof of all such averments, to the extent material, is hereby
demanded.

FIRST COUNT

7. The contents of Paragraphs 1 through 6 above are here incorporated by reference as though fully set forth at length. Inasmuch as Paragraph 7 of the plaintiffs' Complaint merely sets forth a procedural statement, no answer thereto need be made.

8. – 11. The answering party has no specific knowledge of the activities or intentions of the plaintiff at or about the relevant time, but does not contest the factual averments contained in Paragraphs 8 through 11 of the Complaint.

12. – 18. The factual averments contained in Paragraphs 12 through 18 of the plaintiffs' Complaint are denied pursuant to Pa.R.C.P. 1029(e), and proof of all such averments, to the extent material, is hereby demanded.

WHEREFORE, the answering party denies any and all liability to the plaintiffs herein, and demands judgment in its favor in the within cause.

SECOND COUNT

19. The contents of Paragraphs 1 through 18 above are here incorporated by reference as though fully set forth at length.

20. – 22. The factual averments contained in Paragraphs 20 through 22 of the plaintiffs' Complaint are denied pursuant to Pa.R.C.P. 1029(e), and proof of all such averments to the extent material, is hereby demanded.

WHEREFORE, the answering party denies any and all liability to the plaintiffs herein, and demands judgment in its favor in the within cause.

NEW MATTER PURSUANT TO Pa.R.C.P. 2252(d)

23. At the time of the events of which the plaintiffs complain, the minor-plaintiff was in the custody and care of Kim Eboch-Lawson, who was seated nearby the subject posing-table.

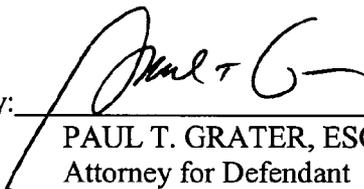
24. To the extent that the plaintiff, Kim Eboch-Lawson, was a participant in the process by which the defendant's representative attempted to elicit a smile for purposes of the photographic session, and having more intimate knowledge of the child's characteristics and proclivities, the said Kim Eboch-Lawson had reason to anticipate the child's reaction to being tickled.

25. Should it be established that the minor-plaintiff sustained injury as alleged, then such injury was the result of the failure of Kim Eboch-Lawson to exercise appropriate care under the circumstances, in that she had more reason to anticipate the child's behavior or reaction than did the defendant's employee, and the said wife-plaintiff's negligence proximately contributed to the event of which the plaintiffs complain.

26. If at the time of trial any liability should be imposed upon this answering defendant, then by virtue of the negligence of Kim Eboch-Lawson as above described, the said plaintiff will be liable over to this defendant by way of indemnity, or will be jointly and severally liable with this defendant by way of contribution to any sums recoverable by the minor-plaintiff or on her behalf in the within cause.

WHEREFORE, PCA International, Inc. hereby joins Kim Eboch-Lawson as additional defendant herein, seeking to preserve its rights of contribution and indemnity, and calls upon the said additional defendant to answer any liability which may be entered in the within cause.

LAW OFFICES OF PAUL T. GRATER

By: 

PAUL T. GRATER, ESQUIRE
Attorney for Defendant

VERIFICATION

I Caroline VonStetten have read the foregoing Answer and New Matter Pursuant to Rule 2252(d). The statements therein are correct to the best of my personal knowledge or information and belief. I am authorized to make this verification on behalf of the defendant by virtue of my position as Risk Manager.

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

PCA INTERNATIONAL, INC.

x Caroline VonStetten

PROOF OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Answer and New Matter**

Pursuant to Rule 2252(d) was served upon the following person(s) by First-Class Mail, Postage

Pre-paid on the 30 day of April, 2002.

James A. Naddeo, Esquire
211 1/2 E. Locust Street
P.O. Box 552
Clearfield, PA 16830

By: _____


PAUL T. GRATER, ESQUIRE
Suite 340, Chatham Center One
Pittsburgh, PA 15219
(412) 338-0610

4

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12239

LAWSON, RICHARD J. & KIM EBOCH-LAWSON

02-378-CD

VS.

PCA INTERNATIONAL, INC.

COMPLAINT

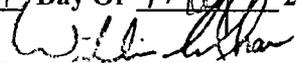
SHERIFF RETURNS

NOW MARCH 15, 2002 MAILED THE WITHIN COMPLAINT TO PCA INTERNATIONAL INC., DEFENDANT BY CERT. MAIL # 7001 1940 0001 9405 9772 AT 815 MATTHEWS-MINT HILL ROAD, MATTHEWS, NC 281-1705 BEING THEIR LAST KNOWN ADDRESS. THE RETURN RECEIPT IS HERETO ATTACHED ENDORSED BY AGENT. NO DATE OF DELIVERY ON RETURN RECEIPT CARD.

Return Costs

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

Sworn to Before Me This

2nd Day Of May 2002


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

So Answers,



Chester A. Hawkins
Sheriff 

FILED

014:00
MAY 02 2002

William A. Shaw
Prothonotary

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:
PCA INTERNATIONAL INC
815 Matthews-Mint Hill Road
Matthews, NC 28105-1705



COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) _____ B. Date of Delivery _____

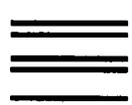
C. Signature *[Signature]* Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below: _____

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
4. Restricted Delivery? (Extra Fee) Yes No

5-99-M-1789

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

CHESTER A. HAWKINS
Sheriff of Clearfield county
1 N. 2nd ST. Suite 116
Clearfield, Pa. 16830

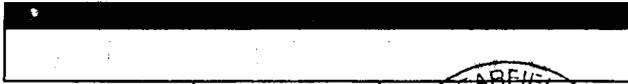
12234

003
8567 35

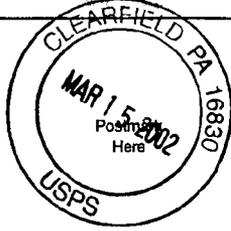


(Domestic Mail Only. No Insurance Coverage Provided)

7001 1940 0001 9405 9772



Postage	\$.80
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.40



Sent To: PCA INTERNATIONAL INC

Street, Apt. No.;
or PO Box No.: 815 Matthews-Mint Hill Road

City, State, ZIP+4: Matthews, NC 28105-1705

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece 12239
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- Certified Mail is not available for any class of international mail.
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry.

Paragraph 24 of Defendant's New Matter by reference and makes it a part hereof.

4. Paragraph 26 states a conclusion of law to which no answer is required.

WHEREFORE, Plaintiff Kim Eboch-Lawson respectfully requests that Defendant PCA International's claim against her be dismissed.


Kim Eboch-Lawson

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

RICHARD J. LAWSON and	*
KIM EBOCH-LAWSON,	*
husband and wife, and	*
Parents and Natural	*
Guardians of MARIAH C.	*
LAWSON, a minor,	*
Plaintiffs,	*
	*
v.	*
	No. 02 - 378 - CD
	*
PCA INTERNATIONAL, INC.,	*
a corporation,	*
Defendant.	*

CERTIFICATE OF SERVICE

I, Kim Eboch-Lawson, do hereby certify that a true and certified copy of Plaintiffs' Answer to New Matter filed in the above-captioned action was served on the following person and in the following manner on the 22nd day of May, 2002:

First-Class Mail, Postage Prepaid

Paul T. Grater, Esquire
Suite 340
Chatham Center One
Pittsburgh, PA 15219


Kim Eboch-Lawson

JAMES A. NADDEO
ATTORNEY AT LAW
21 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

5

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

RICHARD J. LAWSON and	*	
KIM EBOCH-LAWSON,	*	
husband and wife, and	*	
Parents and Natural	*	
Guardians of MARIAH C.	*	
LAWSON, a minor,	*	
Plaintiffs,	*	
	*	
v.	*	No. 02 - 378 - CD
	*	
PCA INTERNATIONAL, INC.,	*	
a corporation,	*	
Defendant.	*	

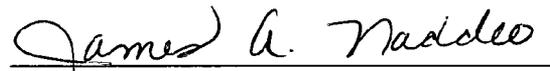
CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, Attorney for Plaintiffs, do hereby certify that a true and correct copy of Notice of Deposition of Kristina L. Russell in the above matter was served by first-class mail, postage prepaid, upon the following:

Paul T. Grater, Esquire
340 Chatham Center One
Pittsburgh, PA 15219-3419

ASAP Court Reporting
PO Box 345
Ebensburg, PA 15931-0345

Said Notice of Deposition was mailed this 27th day of August 2002.


James A. Naddeo, Esquire
Attorney for Plaintiffs

JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

6

FILED

icc

13:50 PM
AUG 27 2002

Atty Naddeo

William A. Shaw
Prothonotary



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

RICHARD J. LAWSON and	*
KIM EBOCH-LAWSON,	*
husband and wife, and	*
Parents and Natural	*
Guardians of MARIAH C.	*
LAWSON, a minor,	*
Plaintiffs,	*
	*
v.	*
	No. 02 - 378 - CD
	*
PCA INTERNATIONAL, INC.,	*
a corporation,	*
Defendant.	*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, Attorney for Plaintiffs, do hereby certify that a true and correct copy of Notice of Deposition of Kristina L. Russell in the above matter was served by first-class mail, postage prepaid, upon the following:

Kristina L. Russell
C/O K-Mart Olan Mills Studio
528 W. Plank Road
Altoona, PA 15602

Paul T. Grater, Esquire
340 Chatham Center One
Pittsburgh, PA 15219-3419

ASAP Court Reporting
P.O. Box 345
Ebensburg, PA 15931-0345

Said Notice of Deposition was mailed this 9th day of
October 2002.

James A. Naddeo
James A. Naddeo, Esquire
Attorney for Plaintiffs

JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

7/11/77
10:00 AM
CLEARFIELD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

RICHARD J. LAWSON and KIM EBOCH-LAWSON, husband and wife, and Parents and natural guardians of MARIAH C. LAWSON, a minor,

No. 02-378-CD

Plaintiffs,

vs.

NOTICE OF DEPOSITION OF KIM EBOCH-LAWSON

PCA INTERNATIONAL, INC., a corporation,

Issue No.:

Code:

Defendant.

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

Suite 340
Chatham Center One
Pittsburgh, PA 15219
(412) 338-0610

FILED

OCT 21 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

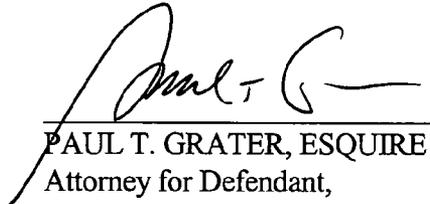
PCA INTERNATIONAL, INC., a
corporation,

Defendant.

NOTICE OF DEPOSITION

TO: Kim Eboch-Lawson
c/o James A. Naddeo, Esquire
211 ½ E. Locust Street
P.O. Box 552
Clearfield, PA 16830

TAKE NOTICE that the deposition of *Kim Eboch-Lawson* shall be taken for discovery pursuant to the Pennsylvania Rules of Civil Procedure, as amended, before a Notary Public duly authorized to administer oaths on *Tuesday, November 12, 2002 starting at 1:00 p.m.* at the offices of *James A. Naddeo, Esquire, 211 ½ East Locust Street, Clearfield, PA 16830*, and at any adjournments thereof, at which time and place you are invited to appear and take such part as shall be fitting and proper.


PAUL T. GRATER, ESQUIRE
Attorney for Defendant,
PCA International, Inc.

cc: ASAP Court Reporting

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

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :

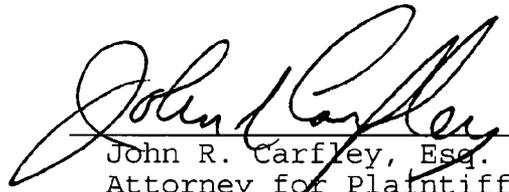
vs. : No. 02-378-CD

PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

PRAECIPE

TO THE PROTHONOTARY:

PLEASE enter my appearance as co-counsel for the plaintiff in
the above captioned matter.


John R. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated: November 25, 2002

FILED

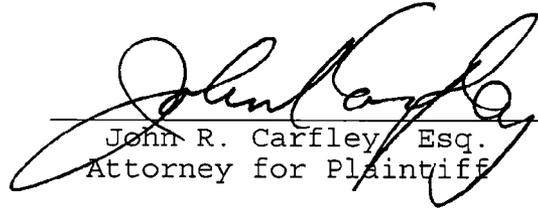
NOV 25 2002

William A. Shaw
Prothonotary

CERTIFICATE OF SERVICE

I do certify that I made service of the foregoing document upon defendant, PCA International, Inc. through its attorney, Paul T. Grater, Esquire, by depositing the same in the United States mail, postage prepaid, this 25 day of November, 2002, addressed as follows:

PCA International, Inc.
c/o Paul T. Grater, Esq.
340 Chattam Center I
Pittsburgh, Pa., 15219


John R. Carfley Esq.
Attorney for Plaintiff

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

RICHARD J. LAWSON and	*	
KIM EBOCH-LAWSON,	*	
husband and wife, and	*	
Parents and Natural	*	
Guardians of MARIAH C.	*	
LAWSON, a minor,	*	
Plaintiffs,	*	
	*	
v.	*	No. 02 - 378 - CD
	*	
PCA INTERNATIONAL, INC.,	*	
a corporation,	*	
Defendant.	*	

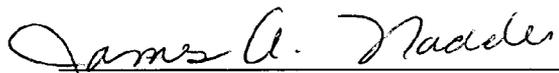
CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, Attorney for Plaintiffs, do hereby certify that a true and correct copy of Notice of Deposition of Kristina L. Russell in the above matter was served by first-class mail, postage prepaid, upon the following:

Paul T. Grater, Esquire
233 Breeding Avenue
Pittsburgh, PA 15202

ASAP Court Reporting
P.O. Box 345
Ebensburg, PA 15931-0345

Said Notice of Deposition was mailed this 20th day of December 2002.


James A. Naddeo, Esquire
Attorney for Plaintiffs

JAMES A. NAPDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

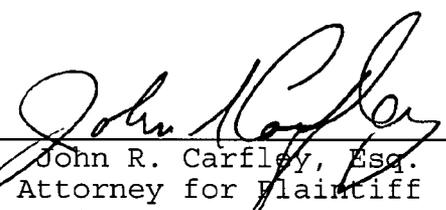
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RICHARD J. LAWSON and	:	
KIM EBOCH-LAWSON,	:	
husband and wife, and	:	
Parents and natural	:	
Guardians of MARIAH C.	:	
LAWSON, a minor,	:	
Plaintiffs	:	
vs.	:	No. 02-378-CD
PCA INTERNATIONAL, INC.,	:	
a corporation,	:	
Defendant	:	

CERTIFICATE OF SERVICE

I do certify that I made service of Interrogatories and Request for Production of Documents upon defendant, PCA International, Inc. through its attorney, Paul T. Grater, Esquire, by depositing the same in the United States mail, postage prepaid, this 26th day of November, 2002, addressed as follows:

PCA International, Inc.
c/o Paul T. Grater, Esq.
340 Chattam Center I
Pittsburgh, Pa., 15219



 John R. Carfley, Esq.
 Attorney for Plaintiff
 P. O. Box 249
 Philipsburg, Pa., 16866
 (814) 342-5581

FILED

JAN 14 2003

William A. Shaw
Prothonotary

FILED

ice

01:33
JAN 14 2003

Atty Casfley
CS

William A. Shaw
Prothonotary

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

RICHARD J. LAWSON and	*
KIM EBOCH-LAWSON,	*
husband and wife, and	*
Parents and Natural	*
Guardians of MARIAH C.	*
LAWSON, a minor,	*
Plaintiffs,	*
	*
v.	*
	No. 02 - 378 - CD
	*
PCA INTERNATIONAL, INC.,	*
a corporation,	*
Defendant.	*

MOTION TO COMPEL AGAINST DEFENDANT FOR
DEFENDANT'S FAILURE TO ANSWER PLAINTIFF'S
INTERROGATORIES DIRECTED TO DEFENDANT

TO THE HONORABLE JUDGE OF THE COURT:

Plaintiffs, by their undersigned counsel, James A. Naddeo, Esquire, respectfully request that the Court enter the attached Order pursuant to Pa. R.C.P. No. 4019(a)(1)(vii) directing Defendant to respond to Plaintiffs' Interrogatories or suffer sanctions, and in support thereof avers as follows:

1. The above-captioned matter was commenced on or about March 14, 2002. As part of the Plaintiffs' discovery and in order to properly develop their claim against the Defendant, Interrogatories were served upon Defendant on or about November 26, 2002. A copy of Plaintiffs' Interrogatories directed to Defendant is attached hereto and marked as Exhibit "A".

2. Pursuant to Pa.R.C.P. No. 4009(b) (2), Defendant's response and objections, if any, were due on or before December 26, 2002.

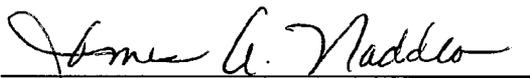
3. No objections to Plaintiffs' Interrogatories were filed by Defendant.

4. The information requested by Plaintiffs is necessary to the proper development and presentation of Plaintiffs' case.

5. For the foregoing reasons, Plaintiffs believe and aver that Defendant will not fully and completely answer Plaintiffs' Interrogatories absent a Court Order pursuant to Pa. R.C.P. No. 4019(a) (1) (vii).

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order directing the Defendant to file a full and complete response to Plaintiffs' Interrogatories within ten (10) days or suffer appropriate sanctions to be imposed upon further application to the Court.

Respectfully submitted,


James A. Naddeo, Esquire
Attorney for Plaintiffs

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and Natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs,

v.

PCA INTERNATIONAL, INC.,
a corporation,
Defendant.

*
*
*
*
*
*
*
*
*
*
*
*
*
*
*

No. 02 - 378 - CD

O R D E R

AND NOW, this 15th day of January, 2003, upon consideration of Plaintiffs' Motion to Compel response to Plaintiffs' Interrogatories directed to Defendant served upon Defendant on November 26, 2002, which Interrogatories have neither been answered nor has Defendant filed objections thereto, it is the ORDER of this Court that Defendant file full and complete responses to Plaintiffs' Interrogatories within ten (10) days or suffer appropriate sanctions to be imposed upon further application to the Court.

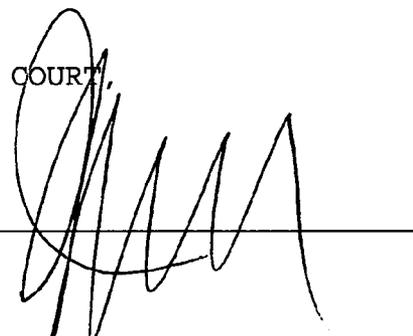
BY THE COURT,

Judge

FILED

JAN 15 2003

William A. Shaw
Prothonotary



FILED

100

Atty Maddeo

8/23

0/2:47

JAN 15 2003

William A. Shaw
Prothonotary

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs

:
:
:
:
:
:
:
:

vs.

: No. 02-378-CD

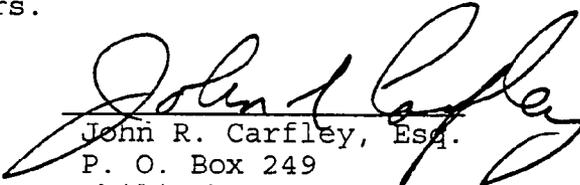
PCA INTERNATIONAL, INC.,
a corporation,
Defendant

:
:
:

TO: PCA INTERNATIONAL, INC.

PLEASE TAKE NOTICE that you are hereby required, pursuant to Pennsylvania Rules of Civil Procedure No. 4001, et seq., to serve upon the undersigned, within thirty (30) days after service of this Notice, your answers in writing under oath to the following Interrogatories, Expert Interrogatories and Request for Production of Documents:

These Interrogatories, Expert Interrogatories and Request for Production of Documents are deemed to be continuing and any other information secured subsequent to the filing of Defendant answers which would have been includable or available, are to be supplied by supplemental answers.



John R. Carfley, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated:

DEFINITIONS

As used in the following Interrogatories, the following defined terms have the meaning herein ascribed to them:

(a) "Person" and "Party" shall refer to any individual, partnership, corporation, or other entity, and any director, officer, employee, agent, representative, or other person acting or purporting to act for any of them.

(b) "Document" shall mean any written, printed, typed, and/or other graphic material of any kind or nature, and all mechanical and electronic sound recordings or transcripts thereof, however produced or reproduced, or whether sent, received, and/or either, including but not limited to: letters and other correspondence, memoranda; notes; work papers; transcripts; policies and contracts of insurance; claim notices and information forms; minutes or reports of meeting; telephone or other conversations; interviews or conferences; reports; legal documents; financial records; invoices; statistical records; appointment books and diaries; charts; graphs; designs; drawings and blueprints; maps; plans or surveys; computer cards; information which is preserved or stored in or on any type of recording, tape, film, or electronic memory device; tapes or printouts; films or videotapes; microfilm or microfiche reports; opinions; messages; objects, papers, books and anything similar to any of the foregoing however designated or denominated by the party to whom these Interrogatories are propounded, in possession and/or control of such party of his/her/their/its officers, employees,

agents or representatives or known by the party to whom these Interrogatories are propounded to exist. It shall also mean all copies of documents by whatever means made, and all drafts whether or not later finalized, including any marginal notes or other markings appearing on any such "document" or "writing". The term also includes photographs (see R.C.P. No. 4009 (a) (1)).

(c) "Identify", when used in reference to an individual person, means to state his full name and present address; his present, or last known position and business affiliation; his positions and business affiliation at the time in question; his educational background, his experience working, for or on behalf of the party to whom these Interrogatories are propounded and/or other companies; his area of responsibility and title at the time in question.

(d) "Identify", when used in reference to a corporation, or other business entity, means to state its full name, principal place of business or corporate headquarters and the type of business in which it is engaged or otherwise conducted by it.

(e) "Identify" or "Identity", when used elsewhere herein, means to state your total knowledge and information concerning the subject matter.

(f) "Identify", when used in reference to a document or writing, means to state the date and author; type of document (e.g., letter, memorandum, report, chart, etc.) title or some other means of identification; its proprietary classification; if a drawing or blue print, its drawing number, revision date, and

number of sheets; its present location and custodian, and to identify each person who presently, and at all relevant times, had custody, control or access. If a copy of the document will be provided voluntarily, it should be attached and/or included with the Answers to these Interrogatories and the Interrogatory it is provided in answer to should be identified. If any such document was, but is no longer in your possession or subject to your control, state what disposition was made of it.

(g) "Written statement" shall mean: (1) a written statement signed or otherwise adopted or approved by the person making it, or (2) a stenographic, mechanical, electrical, or other recording or a transcript thereof, which is a substantially verbatim recital of an oral statement given by the person making it and contemporaneously recorded or preserved or stored in or on any type of recording, tape, film, or electronic memory device.

(h) "Oral statement" shall mean an oral utterance made by any person, at any time, concerning the liability arising out of the subject matter of this action.

FURTHER INSTRUCTION

(a) In the event that exact information requested in any of these Interrogatories is not available or cannot be ascertained at this time, please answer such Interrogatory with the information available, using estimates or approximations where necessary, and indicate that such estimates or approximations have been used.

(b) In the event that information requested in these Interrogatories is not available or cannot be ascertained at the time of answering these Interrogatories, but such information becomes available or is ascertained thereafter and prior to trial of this case, please submit Supplemental Answers hereto upon such occurrence.

(c) The party propounding these Interrogatories reserves the right to serve further Interrogatories or sets of Interrogatories dealing with subjects covered herein or with subjects not covered herein.

(d) If the information furnished herein is not within the personal knowledge of the person who signs the Affidavit under oath answering these Interrogatories, then and in that event, identify each such other person who assisted and participated in preparing or supplying any of the information given in the Answers to or relied upon in preparing the Answers to these Interrogatories.

(e) You are required, pursuant to Rule No. 4006 (a) (2) of the Rules of Civil Procedure, to file the original with the Prothonotary, and to serve a copy of the Answers to these

Interrogatories upon every party to this action. (See also Rule No. 233(c)).

(f) All Interrogatories which request that you attach copies of statements or documents (including photographs) with your Answers are a request for production of documents under the provisions of Pa. R.C.P. No. 4009.

(g) Number. Gender. Tense. The singular shall include the plural, and the plural, the singular. Words used in the masculine gender shall include the feminine and neuter. Words used in the past or present tense shall include the future. (See Pa. R.C.P. No. 102).

INTERROGATORIES

1 (a) State whether you are covered by any type of insurance, including any professional or business liability insurance, or any excess or umbrella insurance which may provide coverage for the injuries and/or damages allegedly sustained by plaintiff in this incident.

If the answer is affirmative, state the following with respect to each policy:

(b) The name of the insurance carrier which issued each policy of insurance;

(c) The named insured under each policy and the policy number;

(d) The type of each policy and the effective dates;

(e) The amount of coverage provided for injury to each person, for each occurrence, and in the aggregate for such policy;

(f) Each exclusion, if any, in the policy which is applicable to any claim thereunder and the reasons why you or the insurer claims the exclusion is applicable.

2. State whether you acquired bonding or any type of protective coverage to assist in your involvement with children's portraits and/or whether you are provided with any other type of protective coverage in addition to insurance coverage to assist you in the payment of damages which might be sustained should you or any of your agents, employees or contractors be found liable in your business and/or photographic activities.

If the answer to the foregoing is in the affirmative, state the following with respect to each form of protective coverage?

(a) The name of the carrier which issued each policy and/or bond?

(b) The named insured under each bond and/or protective coverage and the policy number?

(c) The type of each policy and the effective dates?

(d) The amount of coverage provided for injury to each person, for each occurrence, and in the aggregate for such policy;

(e) Each exclusion, if any, in the policy which is applicable to any claim thereunder and the reasons why you or the insurer claims the exclusion is applicable.

3. Please attach a copy of each policy, bond, or other type of protective coverage to your answers to these Interrogatories.

WITNESS INTERROGATORIES

1. Please identify each and every lay witnesses and/or expert witness who the defense intends to call to substantiate its position that the photographer engaged in photographing the child in this instance was not negligent in her placement of the child on the table but rather obeyed each and every safety regulation promulgated by the company and/or implemented by the company through its training procedures and manuals.

2. For each expert named, state the substance of each and every fact which each expert is expected to utilize during his/her testimony?

ANSWER:

3. For each such expert witness, state the substance of the opinions to which each expert is expected to testify and provide a summary of the grounds for each opinion.

ANSWER:

4. For each expert witness you intend to call at the trial of this case, please state:

- a. Name, business address, and home address.
- b. Date of birth, technical schools attended, dates of attendance, date of graduation, and degree attained;
- c. The specialties in which the witness has received certification by any board or professional organization, the date of said certification, and the identity of the board issuing such certification;
- d. All professional societies, academies, associations or other organized professional groups, of which this expert is a member;
- e. All states in which the witness has ever been licensed and the states in which the witness is currently licensed;
- f. Whether any state board of licensure has ever revoked or suspended the witnesses' license and if so, the date of such revocation or suspension and the name of the state board of licensure imposing such revocation or suspension;
- g. Whether any professional or governmental agency or body has ever had occasion to investigate the

witness pursuant to any complaint calling into question the professional conduct or professional ability of the witness and if so, the name of such investigative body, the date of investigation, and the outcome or disposition of such investigation;

- h. All lawsuits in which this expert has ever testified as an expert witness and for each whether he/she testified on behalf of the plaintiff or defendant, the court term and number of each action, and the area of expertise to which this expert testified in each case.

5. For each lay witness that you intend to call to support the proposition that the photographer engaged in photographing the child in this instance was not negligent in her placement of the child on the table but rather obeyed each and every safety regulation promulgated by the company and/or implemented by the company through its training procedures and manuals:

- (a) state the substance of each and every fact which the lay witness is expected to testify to during his or her testimony.

(b) The substance of the opinion to which the individual is expected to testify, and the basis of that opinion.

(c) Each and every fact upon which defendant relies to support the conclusion that the defendant was not negligent in its conduct involving the child.

(d) Each and every opinion, source of information or authority upon which the witness relies to support that contention.

(e) Each and every document referred to relied upon or considered in any manner by the witness rendering an opinion, expert or otherwise, regarding this fact.

(f) Each and every document which supports, bears upon, or in any way relates or refers to the conduct of the defendant, and the facts the witness will specify in support thereof and the custodian of those documents.

6. Please detail the action which defendant contends that the photographer undertook to insure that the placement of the child on the table was safe and proper and likely to result in the depiction of the child in photographs without the possibility of any adverse reaction or events.

ANSWER:

7. Identify by name, home address and business address each and every person who has been retained or specially employed by you in anticipation of litigation or preparation for trial as an expert, even though such person is not expected to be called as a witness at trial.

ANSWER:

8. Please provide a detailed narrative as to the acts and/or conduct of the defendant/photographer which would support the proposition that she followed each and every safety regulation, protocol and/or procedure established by the company in the course of their training and as specified in the training manuals.

ANSWER:

9. Please identify each and every lay witness and/or expert witness who the defense intends to call in support of its position that the mother was negligent, contributorily negligent and/or comparatively negligent in the placement of the child on the table or in any other action which led up to or brought about the fall of the child from the table provided in the photography room at the Walmart facility on or about March 28, 2000.

ANSWER:

10. Please identify each and every lay witness and/or expert witness who the defense intends to call to support the position and/or proposition that the child was negligent, contributorily negligent and/or comparatively negligent in bringing about the fall which resulted in the injuries sustained by the child in the Walmart facility on or about March 28, 2000.

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Please produce the Level I Training Manual provided by PCA International to the Photographer Trainees.

2. Please produce the Level II Training Manual provided by PCA International to the Photographer Trainees.

3. Please produce the Level III Training Manual provided by PCA International to the Photographer Trainees.

4. Please produce the Level IV Training Manual provided by PCA International to its Photographer Trainees.

5. Please produce the information card prepared by the Plaintiff preparatory to the photo session and incident involving the minor child, Mariah C. Lawson, to wit: that incident which occurred on March 28, 2000, at or about 4:00 o'clock P.M. Eastern Standard Time at the Walmart facility, Clearfield, Pa.

6. Please produce any and all accident reports and/or incident statements prepared by any individuals involved in the incident which occurred at the Walmart facility, Clearfield, Pennsylvania, on March 28, 2000, at or about 4:00 o'clock P.M.

7. Please produce any photographs or other visual reproductions of the table used by photographers in photo sessions with children at the Walmart facility, Clearfield, Pennsylvania, at or about the date of this incident, to wit: March 28, 2000.

8. Please produce any statements given by PCA Employees including but not limited to Kristina L. Russell concerning the incident involving the minor plaintiff, Mariah C. Lawson, which occurred on or about March 28, 2000.

9. Please produce incident reports involving any other accidents or incidents which occurred at the Walmart facility, Clearfield, Pennsylvania, involving the photographic unit of the business run by PCA International from January 1, 1999, through the present date.

10. Please produce incident reports involving any other accidents or incidents which occurred at any facilities operated by PCA International at K-Mart, Walmart or any other similar facilities within the Commonwealth of Pennsylvania from January 1, 1999, through the present date.

11. Please produce any contracts, agreements, memos or other documents evidencing the conditions under which PCA International occupied the Walmart premises and provided services to Walmart and/or the marketing public with respect to photographs of children, adults or other individuals.

12. Please produce any records pertaining to the termination of employment of the photographer retained by PCA International, to wit: Ms. Kristina L. Russell, on or about May 1, 2000.

13. Please produce any computer programs, ie. I-Max both prior to and subsequent to the session completed with the minor plaintiff, which session is identified as follows: Studio 2129, Week 0009, Roll 11, Sitting 9, Code 6850.

14. Please produce the original of the computer enhanced program including poses 113, 115, 116, 117, 118, 120, 121, which computer program is further identified as follows: Studio 2129, Week 0009, Roll 11, Sitting 9, Code 6850.

15. Please produce photographs and/or other visual depictions of any equipment used by the photographers at Studio 2129 at or about the date of this incident or immediately prior or subsequent thereto, to wit: March 28, 2000.

16. Please produce any manuals, training notebooks, or other written information pertaining to safety regulations taught during the two weeks of training provided to sales and photo personnel preparatory to their engagement as a professional photographer by PCA International.

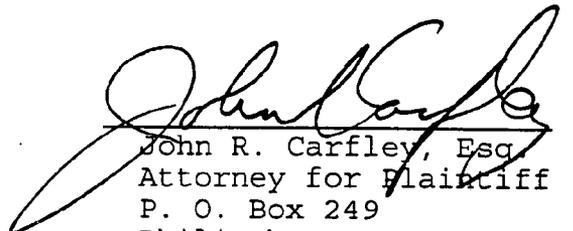
17. Please produce any written documents, handouts, memorandums, worksheets, tests or manual dealing with the proposed training undergone by individuals hired by PCA International as professional photographers.

18. Please provide any information and/or visual depictions of the equipment presently utilized by PCA International in photographic sessions including tables or other props used with children under the age of five years and further indicate the date when the equipment so specified above was implemented at the work stations utilized by PCA Photographers.

19. Please describe in detail the dimensions and overall operation of the table used as a prop by photographers at or about the date of this incident, to wit: March 28, 2000.

20. Please specify all details concerning an accident involving a baby that fell off a table during a photographic session conducted by agents of PCA, International and was the subject of litigation involving PCA International including the county where the incident occurred, the name of the store involved and the caption for the litigation which ensued.

21. Please produce any and all documents, records, correspondence or other demonstrative evidence which you claim would substantiate or tend to prove that the defendant photographer complied with all safety regulations established by her employer or that the mother or child in any way breached any duty of care and/or in any way engaged in conduct which may be regarded as the proximate cause of the injuries sustained by the child in the fall which occurred at the Walmart facility on March 28, 2000.

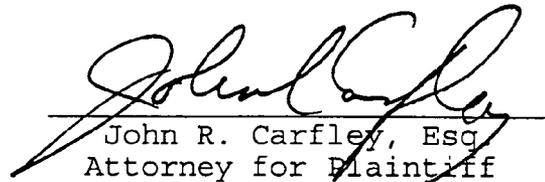

John R. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated:

CERTIFICATE OF SERVICE

I do certify that I made service of the foregoing document upon defendant, PCA International, Inc. through its attorney, by depositing the same in the United States mail, postage prepaid, this 26th day of Nov. 2002, addressed as follows:

PCA International, Inc.
c/o


John R. Carfley, Esq.
Attorney for Plaintiff

JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

12

Lap over margin

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

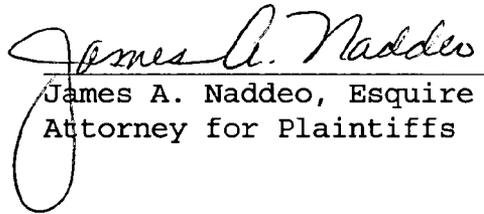
RICHARD J. LAWSON and	*
KIM EBOCH-LAWSON,	*
husband and wife, and	*
Parents and Natural	*
Guardians of MARIAH C.	*
LAWSON, a minor,	*
Plaintiffs,	*
	*
v.	*
	No. 02 - 378 - CD
	*
PCA INTERNATIONAL, INC.,	*
a corporation,	*
Defendant.	*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and certified copy of Plaintiffs' Motion to Compel filed in the above-captioned action was served on the following person and in the following manner on the 15th day of January, 2003:

First-Class Mail, Postage Prepaid

Paul T. Grater, Esquire
233 Breeding Avenue
Pittsburgh, PA 15202


James A. Naddeo, Esquire
Attorney for Plaintiffs

JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

FILED

Q10:40:48H
JAN 16 2003

B
GET

UC
cc

William A. Shaw
Prothonotary

13

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

RICHARD J. LAWSON and KIM EBOCH-LAWSON, husband and wife, and Parents and natural guardians of MARIAH C. LAWSON, a minor,

No. 02-378-CD

Plaintiffs,

CERTIFICATE OF SERVICE

vs.

Issue No.:

PCA INTERNATIONAL, INC., a corporation,

Code:

Defendant.

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
412-734-4595

FILED

JAN 27 2003

William A. Shaw
Prothonotary

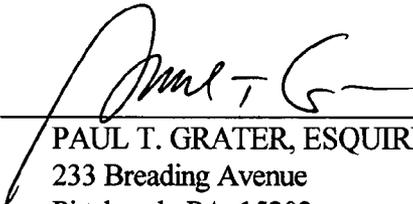
PROOF OF SERVICE

I hereby certify that a true and correct copy of the **Defendant's Answers to Interrogatories and Response to Request For Production** was served upon the following person(s) by First-Class Mail, Postage Pre-paid on the 24th day of January, 2003.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 1/2 E. Locust Street
P.O. Box 552
Clearfield, PA 16830

By: _____

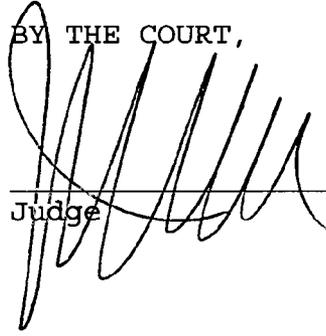

PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

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

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
(814) 765-2641

BY THE COURT,

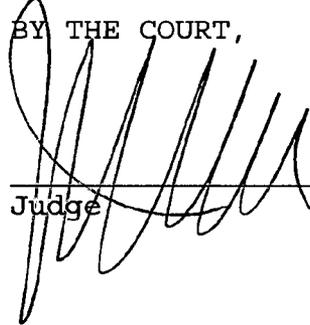
Judge

A handwritten signature in black ink, consisting of several large, overlapping loops and strokes, is written over a horizontal line. The signature is positioned to the right of the word "Judge" and extends across the line.

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

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
(814) 765-2641

BY THE COURT,



Judge

EMERGENCY

1CC

0/4:0081
113 06753

Atty. Maddeo

[Handwritten signature]

William A. Shew
Proprietary

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

RICHARD J. LAWSON and	*		
KIM EBOCH-LAWSON,	*		
husband and wife, and	*		
Parents and Natural	*		
Guardians of MARIAH C.	*		
LAWSON, a minor,	*		
Plaintiffs,	*		
	*		
v.	*	No. 02 -	- CD
	*		
PCA INTERNATIONAL, INC.,	*		
a corporation,	*		
Defendant.	*		

MOTION FOR SANCTIONS

NOW COME the Plaintiffs, Richard J. Lawson and Kim Eboch-Lawson, husband and wife, and parents and natural guardians of Mariah C. Lawson, a minor, and by their attorney, James A. Naddeo, Esquire, move the Court for sanctions against Defendant and in support thereof avers as follows:

1. That Plaintiffs are involved in litigation against the Defendant based on a claim for personal injuries allegedly sustained when their minor child fell from a photographic table as a result of the alleged negligence of the employees and/or agents of the Defendant.

2. That pleadings in this matter were closed on May 22, 2002.

3. That Plaintiff's counsel initiated an informal request to obtain mutually convenient dates for deposition from

defense counsel by letter dated August 13, 2002. A copy of said letter is attached hereto as Exhibit "A".

4. That Plaintiffs' counsel received no response from defense counsel in answer to the letter attached hereto as Exhibit "A".

5. That on August 27, 2002, Plaintiff filed a notice to take the deposition of Kristina L. Russell who had been an employee of the Defendant at the time of Plaintiff's injury. A copy of said notice is attached hereto as Exhibit "B".

6. That Plaintiffs' counsel received no response from defense counsel concerning the deposition of Kristina L. Russell until Thursday, September 26, 2002, at 3:00 p.m.

7. That on the aforesaid date and time, Plaintiffs' counsel received a telephone call from the office of defense counsel informing Plaintiffs' counsel that defense counsel had a conflict and was unable to appear for the deposition of Kristina L. Russell scheduled to be taken in the office of Plaintiffs' counsel on Monday, September 30, 2002, at 1:00 p.m. A copy of said message is attached hereto as Exhibit "C".

8. That Plaintiffs' counsel called the office of defense counsel on September 26, 2002, and spoke to "Laurie".

9. That during the course of Plaintiffs' counsel's discussion with Laurie, Plaintiffs' counsel inquired as to why he had not been informed prior to September 26, 2002, of defense

counsel's conflict; asked whether the deposition could be covered by an associate; and requested defense counsel to contact Plaintiffs' counsel by telephone to discuss possible arrangements for the deposition to proceed as scheduled.

10. That Plaintiffs' counsel did not receive a return call from defense counsel.

11. That on September 27, 2002, at 12:03 p.m. Plaintiffs' counsel received a fax from defense counsel indicating that deponent was no longer an employee of Defendant and that she was no longer under the control of Defendant. A copy of said letter is attached hereto as Exhibit "D".

12. That Plaintiffs' counsel had allowed two (2) hours for the deposition of Kristina L. Russell, which time was lost due to the last minute disclosure made to Plaintiffs' counsel concerning the employment status of the deponent.

13. That on December 20, 2002, Plaintiffs' counsel filed a notice to take the deposition of Susan Barkley an employee of the Defendant at the office of Plaintiffs' counsel on Monday, January 27, 2003, at 11:00 a.m. A copy of said notice is attached hereto as Exhibit "E".

14. That on January 22, 2003, Plaintiffs' counsel received a fax from defense counsel stating among other things that he had been unable to "get her lined up for travel to PA". A copy of said fax is attached hereto as Exhibit "F".

15. That Plaintiffs' counsel responded to defense counsel's correspondence of January 22, 2003, by fax bearing the same date. A copy of said letter is attached hereto as Exhibit "G".

16. That Plaintiffs' counsel received no further communication from defense counsel concerning the deposition of Susan Barkley until Monday, January 27, 2003, when Plaintiff's counsel received a letter from defense counsel dated January 23, 2003. A copy of said letter is attached hereto as Exhibit "H".

17. That Plaintiffs' counsel responded to defense counsel's letter of January 23, 2003, by letter dated January 27, 2003. A copy of said letter is attached hereto as Exhibit "I".

18. That in the absence of further communication from defense counsel concerning the deposition of Susan Barkley, the official court reporter and counsel for Plaintiff, James A. Naddeo, Esquire, and John R. Carfley, Esquire, appeared in the office of James A. Naddeo, Esquire, as scheduled on Monday, January 27, 2003, at 11:00 a.m.

19. That neither deponent nor defense counsel appeared for the deposition on Monday, January 27, 2003, at 11:00 a.m.

20. That Plaintiffs' counsel had allowed two (2) hours for the deposition of Susan Barkley, which time was lost as a

result of deponent and defense counsel's failure to attend the scheduled deposition.

21. That Plaintiff's counsel was charged an appearance fee by the official court reporter in the amount of \$80.00, which fee has been paid by counsel for Plaintiffs. A copy of said bill is attached hereto as Exhibit "J".

22. That the regular and usual hourly rate charged by John R. Carfley, Esquire, in accordance with his standard fee bill is \$125.00 per hour.

23. That the regular and usual hourly rate charged by James A. Naddeo, Esquire, in accordance with his standard fee bill is \$150.00 per hour.

WHEREFORE, Plaintiffs request the Court to enter an Order imposing reasonable sanctions upon Defendant including but not limited to the following:

A. Reimbursement to Plaintiffs' counsel for appearance fee charged by the official court reporter in respect to the deposition of Susan Barkley;

B. Reimbursement to Plaintiffs' counsel, James A. Naddeo, Esquire, for reasonable value of time expended and/or lost at the rate of \$150.00 per hour;

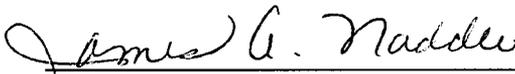
C. Reimbursement to Plaintiffs' counsel, John R. Carfley, Esquire, for reasonable value of time expended and/or lost at the rate of \$120.00 per hour;

D. Direct the Defendant to pay reasonable stenographic and appearance fees for the deposition of Susan Barkley when taken;

E. Set a time and date for the deposition of Susan Barkley to be taken at the office of James A. Naddeo, Esquire, 211 1/2 East Locust Street, Clearfield, Pennsylvania 16830; and

F. Direct that Defendant be responsible for the appearance of the deponent, Susan Barkley, irrespective of her employment status with Defendant at the time of the deposition.

Respectfully submitted,


James A. Naddeo, Esquire
Attorney for Plaintiffs

JAMES A. NADDEO
ATTORNEY AT LAW
211½ EAST LOCUST STREET
MARINO BUILDING
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

ASSOCIATE
LINDA C. LEWIS

TELEPHONE
(814) 765-1601
TELECOPIER
(814) 765-8142

August 13, 2002

Paul T. Grater, Esquire
340 Chatham Center One
Pittsburgh, PA 15219-3419

Re: Lawson vs. PCA International

Dear Mr. Grater:

Suit was filed in this case on March 14, 2002. Pleadings were closed on May 22, 2002. I would like to schedule the deposition of Defendant's employee, Kristina L. Russell. I would appreciate it if you would provide me with some dates upon which it would be convenient for you to schedule Mr. Russell's deposition. Should you wish to depose Plaintiffs on the same date, you are welcome to do so.

If I do not hear from you within ten (10) days of the date of this letter, I will assume that I can select a date convenient to me. In that event, I will send an appropriate notice.

Sincerely,

James A. Naddeo

JAN/jlr

cc: Mr. and Mrs. Richard Lawson

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and Natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs,

v.

PCA INTERNATIONAL, INC.,
a corporation,
Defendant.

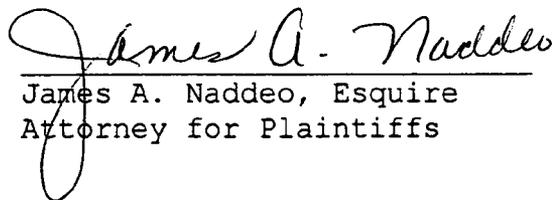
*
*
*
*
*
*
*
*
*
*
*
*
*
*
*

No. 02 - 378 - CD

NOTICE OF TAKING DEPOSITION

TO: Kristina L. Russell
C/O Paul T. Grater, Esquire
340 Chatham Center One
Pittsburgh, PA 15219-3419

PLEASE TAKE NOTICE that on Monday, September 30, 2002,
beginning at 1:00 p.m., before a notary public (or other person
authorized to administer oaths), the Plaintiffs in this action
will take your deposition at the office of James A. Naddeo,
Esquire located at 211 1/2 East Locust Street, Clearfield,
Pennsylvania 16830.


James A. Naddeo, Esquire
Attorney for Plaintiffs

Naddeo

From: Jill
Sent: Thursday, September 26, 2002 3:04 PM
To: Naddeo
Subject: Laurie @ Attorney Grater's office 412 338-0610

They need to postpone deposition of Kristina L. Russell scheduled for Monday 9/30. They have a scheduling conflict.

Naddeo

EXHIBIT "C"

LAW OFFICES of

PAUL T. GRATER

340 Chatham Center One
Pittsburgh, Pennsylvania 15219-3419

Paul T. Grater
Martin G. Colavincenzo
Paul G. Mayer, Jr.

(412) 338-0610
FAX (412) 338-8617

September 27, 2002

James A. Naddeo, Esquire
211 1/2 East Locust Street
Marino Building
P.O. Box 552
Clearfield, PA 16830

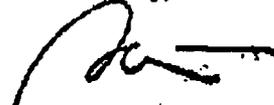
Re: Richard J. Lawson and Kim Eboch-Lawson as parent and natural
guardians of Mariah C. Lawson vs. PCA International, Inc.
No.: 02-378-CD
Our File No.: 2002PI00045

Dear Mr. Naddeo:

Relative to the deposition that you have scheduled for Monday, September 30th, please be advised that Ms. Kristin Russell is no longer employed by my client. To the extent that she is not directly represented by this office, nor under my client's control, it appears that I will be unable to produce her voluntarily as a witness in this matter.

I trust that her deposition will be rescheduled at such time as you are able to appropriately effect personal service of a subpoena on her.

Yours truly,



PAUL T. GRATER

PTG/lac

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

RICHARD J. LAWSON and *
KIM EBOCH-LAWSON, *
husband and wife, and *
Parents and Natural *
Guardians of MARIAH C. *
LAWSON, a minor, *
Plaintiffs, *

v. *

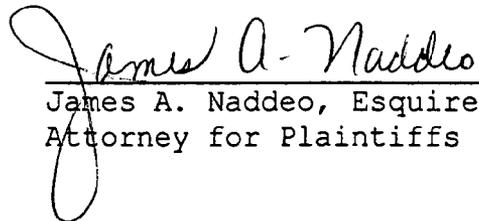
No. 02 - 378 - CD

PCA INTERNATIONAL, INC., *
a corporation, *
Defendant. *

NOTICE OF TAKING DEPOSITION

TO: Susan Barley
Paul T. Grater, Esquire
233 Breeding Avenue
Pittsburgh, PA 15202

PLEASE TAKE NOTICE that on Monday, January 27, 2003,
beginning at 11:00 a.m., before a notary public (or other person
authorized to administer oaths), the Plaintiffs in this action
will take your deposition at the office of James A. Naddeo,
Esquire located at 211 1/2 East Locust Street, Clearfield,
Pennsylvania 16830.


James A. Naddeo, Esquire
Attorney for Plaintiffs

Fax Transmittal

from:

Paul T. Grater, Esq.
233 Breeding Avenue
Pittsburgh, PA 15202
Fax/phone 412-734-4595

To: James Naddeo, Esq.
cc: John Carfley, Esq.

Date: 1/22/03

From: Paul Grater, Esq.

No. of pages: 1

Subject: Lawson v. PCA

Comments:

Mr. Naddeo,

Susan Barkley currently resides in the State of Washington, and due to other commitments I have been unable to get her lined up for travel to PA for a deposition on Monday. I am therefore requesting that her deposition be rescheduled to a mutually agreeable time in the future. Toward that end, I would ask that you contact me, so we can discuss the matter further.

Would you be agreeable to a telephone deposition?

P. Grater

[If you do not receive all of the pages transmitted, please call us at 412-734-4595.]

Important Notice: The contents of this facsimile message and any attachments are intended solely for the use of the individual(s) named above, and are to be considered privileged and confidential. If the reader is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please notify us immediately at the above number. Thank you.

JAMES A. NADDEO
ATTORNEY AT LAW
211½ EAST LOCUST STREET
MARINO BUILDING
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

ASSOCIATE
LINDA C. LEWIS

TELEPHONE
(814) 765-1601
TELECOPIER
(814) 765-8142

January 22, 2003

Paul T. Grater, Esquire
233 Breeding Avenue
Pittsburgh, PA 15202

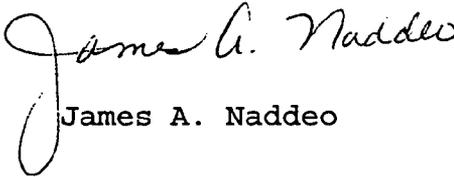
Re: Lawson vs. PCA International

Dear Mr. Grater:

This is the second time that you have notified me two days before a deposition is to be taken that you and/or the deponent cannot be available. My records indicate that you were noticed on December 20, 2003. It may surprise you to learn that my time might be as valuable as yours.

If Ms. Barkley is not present on Monday as noticed, we will be discussing the matter with the Court.

Sincerely,


James A. Naddeo

JAN/jlr

cc: Mr. and Mrs. Richard Lawson
John R. Carfley, Esquire

January 23, 2003

James A. Naddeo, Esquire
211 1/2 East Locust Street
Marino Building
P.O.Box 552
Clearfield, PA 16830

Re: Lawson v. PCA International

Dear Mr. Naddeo;

I don't know what I may have done to annoy you so thoroughly that you would abandon all civility in this matter. I can't imagine that you are characteristically this rude and antagonistic from the outset with everyone that you encounter, so I figure I must have done something right up front that really seriously offended you. If I have been discourteous, or for whatever else I may have done that ticked you off, I apologize.

As to the letter you sent me on Wednesday, I have never heard of a lawyer refusing to reschedule a discovery deposition at the request of opposing counsel. As you well understand, these things don't always go as planned, and depositions are rescheduled in the ordinary course for many reasons. Your unreasonable refusal to even discuss the matter, but rather to threaten sanctions, is unprofessional to say the least, and completely uncalled for. I have no doubt that your time is valuable; probably more valuable than mine. This has nothing to do with the value of your time or my time. It is no more than a matter of simple courtesy. This is such a big deal that five days (not two) before a deposition you couldn't even discuss the possibility of an alternative arrangement?

I note that when answers to interrogatories were less than three weeks overdue, you obtained a signed 10-day order ex-parte, without having given me the minimal courtesy of a note, a phone call or any notice of your intent. Maybe your clients are impressed with this sort of aggressive and antagonistic practice; I can assure you that I am not. The likelihood of a resolution favorable to your clients is not enhanced by your rude and sharp tactics. I was counseled many years ago by a senior partner that it's not a good idea to engage in a kicking contest with a jackass, or a pissing contest with a skunk. It has been my habit to generally try to follow that advice, and I don't care enough to confirm one way or the other if you are either of those. Sooner or later this case will be over, and the forced necessity of our dealing with each other will be ended. In the interim if you choose to make the experience as unpleasant as possible, so be it.

If you intend to go to court with a Motion concerning this deposition, I expect you will provide the minimal professional courtesy of a contemporaneous copy of whatever you file, and advance notice of your intent to present it, as I will oppose it.

Yours very truly,

PAUL T. GRATER

PTG:lac

cc: John Carfley, Esq.

JAMES A. NADDEO
ATTORNEY AT LAW
211½ EAST LOCUST STREET
MARINO BUILDING
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

TELEPHONE
(814) 765-1601
TELECOPIER
(814) 765-8142

ASSOCIATE
LINDA C. LEWIS

January 27, 2003

Paul T. Grater, Esquire
233 Breeding Avenue
Pittsburgh, PA 15202

Re: Lawson vs. PCA International

Dear Mr. Grater:

I am rarely inclined to engage in letter writing contests with opposing counsel. I take exception to the personal attack contained in your letter of January 23, 2003. Let's discuss the subject of common courtesy and unprofessional conduct.

The pleadings in this case were closed on May 22, 2002. Prior to initiating discovery, I directed a letter to you on August 13, 2002. That letter indicated my intention to take the deposition of Kristina L. Russell. I asked that you provide me with dates acceptable to you for that purpose. I consider that letter to be standard practice in the area of common courtesy and professionalism. I did not receive a reply.

On August 27, 2002, I filed a Notice to take the deposition of Kristina L. Russell. That notice directed that her deposition was to be taken in my office on September 30, 2002, at 1:00 p.m. I received a telephone call from your office on Thursday, September 26, 2002, at 3:00 p.m. Your secretary informed me that you could not attend the deposition due to a scheduling conflict. I was very disconcerted by this representation. I informed your office that I could not understand why you would have a conflict since the notice had been sent to you over a month prior to the telephone call. It seemed to me that someone should have contacted me more than two (2) working days prior to the deposition date. I inquired as to whether you had an associate who could cover the deposition and also requested that you call me to discuss the problem. I did not receive the "courtesy" of a return phone call. To the contrary, I received a fax from your office which

EXHIBIT "I"

Paul T. Grater, Esquire

January 27, 2003

Page 2

arrived at 4:00 p.m. on Friday, January 27, 2002, informing me that Ms. Russell was no longer an employee of PCA International, Inc., and that you would be unable to produce her voluntarily as a witness. Aside from the inconsistency with the conflict story, I was sorely offended that I would get confirmation near close of business Friday that there would be no deposition on Monday. I was unable to contact the court reporter until Monday morning to cancel the deposition. If this episode doesn't provide some insight as to how you offended me, I can only surmise that you have the sensibilities of a billygoat.

I did not write to you in advance to request dates to schedule the deposition of Ms. Barkley. I reasonably assumed that I would not get an answer. I informed my secretary to file a deposition notice that would give you more than ample time to respond if the deposition date was unacceptable. The notice was filed on December 20, 2002, for a deposition to be taken on January 27, 2003. Lo and behold I receive a fax on January 22, 2003, informing me that you had been unable to "get her lined up for travel to PA". When did you start lining her up? Is there some reason why I was not afforded the simple courtesy of a few weeks rather than a few days' notice that you and your client did not intend to appear?

If it does not occur to you that you have treated this case with arrogance, discourtesy and lack of professionalism, please refer to my earlier four-legged reference. I have every intention of filing a motion for sanctions. You will be served with a copy of that motion as required by our local rules. The motion will encompass your failure to appear for the deposition scheduled for today's date as well as your failure to adequately respond to discovery in a timely manner.

As far as your correspondence of January 23, 2003, I genuinely thank you for that letter. Your reference to the likelihood that a resolution favorable to my clients is not

Paul T. Grater, Esquire
January 27, 2003
Page 3

enhanced by my rude and sharp tactics will come in handy in the event of a bad faith claim.

Sincerely,

James A. Naddeo

JAN/jlr

cc: Mr. and Mrs. Richard Lawson
John R. Carfley, Esquire

PS: I'm curious that after receiving my fax of January 22, 2003, you didn't bother to call or fax me a letter confirming your intention not to appear for the deposition. I am not eating the appearance fee charged by the court reporter.

ASAP Court Reporting
208 West Sample Street
P.O. Box 345
Ebensburg, PA 15931
814-472-8009

James A. Naddeo, Esquire
211 1/2 East Locust Street
Clearfield, PA 16830

Inv. No.
9329

Inv. Date Cl.No. Reporter
01/28/2003 198 LMH

Re: LAWSON . PCA
Assignment Date: January 27, 2003

Susan Barkley

Total Amount \$	80.00
Interest At A Rate Of 2.00% After 30 Days \$	0.00
Less Paid To Date \$	0.00
Total due \$	80.00

LMH
Now accepting VISA & MASTERCARD. Thank you!

F E D

PAID

1/30/03

Please Make Checks Payable To:
ASAP Court Reporting
Federal Tax Id#: 25-1749887

JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

15

ICC
Atty. Naddeo
613-371-2811

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

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :
vs. : No. 02-378-CD
PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

RULE

AND NOW, this 3rd day of February, 2003, upon consideration of the foregoing Motion, a rule is hereby issued upon Defendant to Show Cause why the Motion should not be granted. Rule returnable the 24 day of February, 2003, for filing written response.

NOTICE

A MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING MOTION, YOU MUST TAKE ACTION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE MOVANT. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

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

COURT ADMINISTRATOR
COURTHOUSE
CLEARFIELD, PENNSYLVANIA, 16830
(814) 765-2641

BY THE COURT:

FILED

FEB 03 2003

William A. Shaw
Prothonotary

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs

:
:
:
:
:
:
:

vs.

:

No. 02-378-CD

PCA INTERNATIONAL, INC.,
a corporation,
Defendant

:
:
:

FILED

JAN 8 1 2003

William A. Shaw
Prothonotary

MOTION FOR SANCTIONS

AND NOW COMES the Plaintiff, Richard J. Lawson and Kim Eboch-Lawson, individually and as Guardians of Mariah C. Lawson, a minor child, who by and through their attorney, James A. Naddeo, Esquire, moves this Honorable Court for sanctions against the said defendant and in support of said Motion avers as follows:

1. Plaintiff is involved in litigation against the defendant based on a claim for personal injuries allegedly sustained when a minor child fell from a photographic table as a result of the negligence of the employees and/or agents of the defendant.

2. The preparation of this case for trial involved the transmittal of discovery consisting of initial interrogatories and request for production of documents.

3. On or about November 25, 2002, co-counsel for the plaintiff prepared, filed and transmitted Interrogatories and Request for Production of Documents to the defendant.

4. Responses to the Interrogatories and Request for Production of Documents were due thirty days subsequent to the date of service as provided by the Pennsylvania Rules of Civil Procedure.

5. When timely responses were not received counsel filed a pro forma motion to compel responses to the Interrogatories and Request for Production of Documents as required by local rules which order to compel was signed by this court on January 17, 2003, as evidenced by a true and correct copy of said Order attached hereto as Exhibit A.

6. Under the terms of this court's order responses were due from the defendant on or about January 27, 2003.

7. On or about January 27, 2003, counsel received responses to the Interrogatories and Request for Production of Documents in the form attached hereto as Exhibit B.

8. The Pennsylvania Rules of Civil Procedure dealing with discovery provides that responses to written discovery are due within thirty days after service of the Interrogatories failing any motion for a protective order dealing with the scope of the discovery and/or the impropriety of the request contained therein. See Rule 4006, Rule 4009.12, Rule 4011 and Rule 4012.

9. Rule 4019 of the Pennsylvania Rules of Civil Procedure provides for sanctions to be imposed against a defendant and/or counsel for failure to file adequate responses to written discovery.

10. It is believed and therefore averred that under the

Pennsylvania Rules of Civil Procedure a party is required to object to the scope of the Interrogatories and Request for Production of Documents within thirty days of the date of service or is required to assert said objections in his responses and serve the same within thirty (30) days or all objections are waived. In the absence of any motion or objections counsel is required to respond fully and adequately to all requests. (See Rule 4006(a)(2) Pa. R.C.P.)

11. It is believed and therefore averred that the defendant has violated the Pennsylvania Rules of Civil Procedure specifically in its response to Interrogatory Number 1, Interrogatory 5-A through 5-F, Interrogatory 7, Interrogatory 8, and has further violated the Pennsylvania Rules of Civil Procedure in its responses to Plaintiff's Request for Production of Documents Numbers 9, 10, 11, and 20.

12. It is believed and therefore averred that in each of the instances cited hereinabove defendant has violated the Pennsylvania Rules of Civil Procedure by attempting to assert objections to Plaintiff's Interrogatories and Request for Production of Documents in an untimely fashion and subsequent to the period of time envisioned by the Rules of Civil Procedure for objecting to the scope of the inquiry.

13. It is believed and therefore averred that defendant has failed to adequately provide information pertaining to incidents and/or documents which are clearly within the control of the corporate defendant and should therefore be sanctioned in conformity

with Rule 4019 of the Pennsylvania Rules of Civil Procedure.

14. Rule 4006 of the Pennsylvania Rules of Civil Procedure provides that each Interrogatory shall be answered fully and shall be signed by the person making the answers with any objections to be signed by the attorney making them.

15. The party and the attorney in this instance has failed to respond in an appropriate way to the discovery disseminated by the plaintiff in that no corporate officer has signed the answers to the interrogatories or verified that the information contained in the interrogatories is true and correct subject to 18 Pa. C.S.A. Section 4904.

16. Rules 4006(a)(2) provides that a party submitting interrogatories may move the court to dismiss any objections and direct that the interrogatory be answered completely.

17. In this instance the defendant has failed to answer the Interrogatories and Request for Production of Documents completely and has further violated the time limitations under the Rules of Discovery requiring answers within thirty days after service of the discovery.

18. Based on these provisions defendant should be ordered by this court to respond fully and completely to all of the discovery promulgated.

19. It is believed and therefore averred that defendant has failed to properly verify the responses to the Interrogatories and Request for Production of Documents even though two months was provided within which the defendant could secure corporate

verification.

20. It is believed and therefore averred that in this instance the verification of counsel is insufficient to provide plaintiff with information necessary in order to prepare the case for litigation.

21. It is believed and therefore averred that the defendant should be required to properly verify these interrogatories and/or in the alternative should be required to certify that the documents requested do exist and in so doing to identify the proper repository for these documents or in the alternative to state that the said documents do not exist anywhere within the corporate structure of the defendant or any associated legal entities.

WHEREFORE, Plaintiff requests this Honorable Court to enter an Order directing the Defendant to file full and complete answers to Plaintiff's Discovery Packet within 10 days or suffer appropriate sanctions to be imposed under Rule 4019 of the Pennsylvania Rules of Civil Procedure.


James A. Naddeo, Esq.
Attorney for Plaintiff
P. O. Box 552
Clearfield, Pa., 16830

Dated: January 31,

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and Natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs,

v.

PCA INTERNATIONAL, INC.,
a corporation.
Defendant.

*
*
*
*
*
*
*
*
*
*
*

No. 02 - 378 - CD

ORDER

AND NOW, this 15th day of January, 2003, upon consideration of Plaintiffs' Motion to Compel response to Plaintiffs' Interrogatories directed to Defendant served upon Defendant on November 26, 2002, which Interrogatories have neither been answered nor has Defendant filed objections thereto, it is the ORDER of this Court that Defendant file full and complete responses to Plaintiffs' Interrogatories within ten (10) days or suffer appropriate sanctions to be imposed upon further application to the Court.

BY THE COURT,

5/ John K. Reilly, Jr.
Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents and
natural guardians of MARIAH C. LAWSON, a
minor,

No. 02-378-CD

Plaintiffs,

vs.

**ANSWERS OF THE DEFENDANT TO
PLAINTIFF'S INTERROGATORIES
AND REQUEST FOR PRODUCTION**

PCA INTERNATIONAL, INC., a
corporation,

Issue No.:

Defendant.

Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
412-734-4595

INTERROGATORIES

1 (a) State whether you are covered by any type of insurance, including any professional or business liability insurance, or any excess or umbrella insurance which may provide coverage for the injuries and/or damages allegedly sustained by plaintiff in this incident.

Yes.

If the answer is affirmative, state the following with respect to each policy:

(b) The name of the insurance carrier which issued each policy of insurance;

Reliance Insurance Company

(c) The named insured under each policy and the policy number;

PCA International, Inc.

Policy # VQ 2673035

(d) The type of each policy and the effective dates;

Commercial General Liability

Policy period 8/24/1999 – 8/24/2000

(e) The amount of coverage provided for injury to each person, for each occurrence, and in the aggregate for such policy;

1,000,000. per occurrence, subject to a 2,000,000. aggregate limit.

(f) Each exclusion, if any, in the policy which is applicable to any claim thereunder and the reasons why you or the insurer claims the exclusion is applicable.

To the best of the answering party's information, the carrier has not raised any exclusion.

2. State whether you acquired bonding or any type of protective coverage to assist in your involvement with children's portraits and/or whether you are provided with any other type of protective coverage in addition to insurance coverage to assist you in the payment of damages which might be sustained should you or any of your agents, employees or contractors be found liable in your business and/or photographic activities.

The answering party is covered by the above referenced insurance policy only.

If the answer to the foregoing is in the affirmative, state the following with respect to each form of protective coverage?

(a) The name of the carrier which issued each policy and/or bond?

N/A

(b) The named insured under each bond and/or protective coverage and the policy number?

N/A

(c) The type of each policy and the effective dates?

N/A

(d) The amount of coverage provided for injury to each person, for each occurrence, and in the aggregate for such policy;

N/A

(e) Each exclusion, if any, in the policy which is applicable to any claim thereunder and the reasons why you or the insurer claims the exclusion is applicable.

N/A

3. Please attach a copy of each policy, bond, or other type of protective coverage to your answers to these interrogatories.

Attached

WITNESS INTERROGATORIES

1. Please identify each and every lay witnesses and/or expert witness who the defense intends to call to substantiate its position that the photographer engaged in photographing the child in this instance was not negligent in her placement of the child on the table but rather obeyed each and every safety regulation promulgated by the company and/or implemented by the company through its training procedures and manuals.

To the extent that this interrogatory rests on an implicit assumption that the defendant has the burden of proving the absence of negligence, it is objected to as being improperly premised. It is the answering party's position that the plaintiff has the affirmative burden of proof of negligence. By way of further answer, and without waiving said objection, the defendant has not determined as of the present time whether it will call an expert witness at the time of trial, or who such witness might be. As to lay witnesses, it is likely that the defendant will call Kristina Russell, the photographer, whose deposition testimony is presently in the plaintiff's possession.

2. For each expert named, state the substance of each and every fact which each expert is expected to utilize during his/her testimony?

ANSWER: N/A

3. For each such expert witness, state the substance of the opinions to which each expert is expected to testify and provide a summary of the grounds for each opinion.

ANSWER: N/A

4. For each expert witness you intend to call at the trial of this case, please state:
 - a. Name, business address, and home address.
 - b. Date of birth, technical schools attended, dates of attendance, date of graduation, and degree attained;
 - c. The specialties in which the witness has received certification by any board or professional organization, the date of said certification, and the identity of the board issuing such certification;
 - d. All professional societies, academies, associations or other organized professional groups, of which this expert is a member;
 - e. All states in which the witness has ever been licensed and the states in which the witness is currently licensed;
 - f. Whether any state board of licensure has ever revoked or suspended the witnesses' license and if so, the date of such revocation or suspension and the name of the state board of licensure imposing such revocation or suspension;
 - g. Whether any professional or governmental agency or body has ever had occasion to investigate the

(a. – g.) N/A

witness pursuant to any complaint calling into question the professional conduct or professional ability of the witness and if so, the name of such investigative body, the date of investigation, and the outcome or disposition of such investigation;

- h. All lawsuits in which this expert has ever testified as an expert witness and for each whether he/she testified on behalf of the plaintiff or defendant, the court term and number of each action, and the area of expertise to which this expert testified in each case.

N/A

5. For each lay witness that you intend to call to support the proposition that the photographer engaged in photographing the child in this instance was not negligent in her placement of the child on the table but rather obeyed each and every safety regulation promulgated by the company and/or implemented by the company through its training procedures and manuals:

(a) state the substance of each and every fact which the lay witness is expected to testify to during his or her testimony.

See answer to Interrogatory #1 above; by way of further answer, see transcript of deposition of Kristina Russell, taken by counsel for the plaintiff on November 12, 2002.

(b) The substance of the opinion to which the individual is expected to testify, and the basis of that opinion.

(c) Each and every fact upon which defendant relies to support the conclusion that the defendant was not negligent in its conduct involving the child.

(d) Each and every opinion, source of information or authority upon which the witness relies to support that contention.

(e) Each and every document referred to relied upon or considered in any manner by the witness rendering an opinion, expert or otherwise, regarding this fact.

(f) Each and every document which supports, bears upon, or in any way relates or refers to the conduct of the defendant, and the facts the witness will specify in support thereof and the custodian of those documents.

(b. – f.) See answer to Interrogatory # 1 above; by way of further answer, see transcript of deposition of Kristina Russell, taken on plaintiff's behalf on November 12, 2002.

6. Please detail the action which defendant contends that the photographer undertook to insure that the placement of the child on the table was safe and proper and likely to result in the depiction of the child in photographs without the possibility of any adverse reaction or events.

ANSWER: See transcript of testimony of Kristina Russell, taken by plaintiff's counsel on November 12, 2002.

7. Identify by name, home address and business address each and every person who has been retained or specially employed by you in anticipation of litigation or preparation for trial as an expert, even though such person is not expected to be called as a witness at trial.

ANSWER: Inasmuch as this inquiry is in direct contravention of the Rules of Civil Procedure, it is objected to.

8. Please provide a detailed narrative as to the acts and/or conduct of the defendant/photographer which would support the proposition that she followed each and every safety regulation, protocol and/or procedure established by the company in the course of their training and as specified in the training manuals.

ANSWER: To the extent that this interrogatory is redundant and repetitive of preceding interrogatories, it is objected to on those grounds. By way of further answer, and without waiving said objection, see answers to interrogatories above, and see transcript of deposition of Kristina Russell, taken by plaintiff's counsel on November 12, 2002.

9. Please identify each and every lay witness and/or expert witness who the defense intends to call in support of its position that the mother was negligent, contributorily negligent and/or comparatively negligent in the placement of the child on the table or in any other action which led up to or brought about the fall of the child from the table provided in the photography room at the Walmart facility on or about March 28, 2000.

ANSWER: The defendant has not determined as of the present time whether it will call an expert witness at the time of trial, or who such witness might be. As to lay witnesses, it is likely that the defendant will call Kristina Russell, whose deposition testimony is presently in the possession of plaintiff's counsel.

10. Please identify each and every lay witness and/or expert witness who the defense intends to call to support the position and/or proposition that the child was negligent, contributorily negligent and/or comparatively negligent in bringing about the fall which resulted in the injuries sustained by the child in the Walmart facility on or about March 28, 2000.

Given the answering party's understanding that the child is deemed to be incapable of negligence as a matter of law, the defense does not presently intend to call any such witness.

VERIFICATION

I, Paul T. Grater, Esquire, do hereby state that I am the attorney for PCA International, Inc., defendant in this action, that the verification of my client cannot be obtained within the time frame allowed for the filing of the within document, and that the facts contained in the foregoing ANSWERS TO INTERROGATORIES are based upon information provided by the defendant and are true and correct to the best of my information and belief. I understand that any false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.



PAUL T. GRATER

* C O P Y *

Reliance Insurance Company
Philadelphia, PA

LAD NY CITY

CLAIMS COPY
Effective :

Renewal
COMMERCIAL GENERAL LIABILITY DECLARATIONS

Policy Number: VQ 2673035
Agency Number: 0311901

Policy Period: From: 08/24/1999 To: 08/24/2000
Named Insured: PCA INTERNATIONAL, INC.

LIMITS OF INSURANCE

General Aggregate Limit (other than Products-Completed Operations)	\$	2,000,000
Products-Completed Operations Aggregate Limit	\$	2,000,000
Personal Injury and Advertising Injury Limit*	\$	1,000,000
Per Occurrence Limit*	\$	1,000,000
Fire/Explosion/Water Damage Limit**	\$	100,000
Medical Expense Limit**	\$	10,000
	any one person	\$

*Subject to the applicable Aggregate Limit
**Subject to the Occurrence Limit

Forms and endorsements forming a part of this coverage part at issuance only those indicated by an (X) below apply:
(X) See Common Policy Declarations

*No longer valid
@ State limit of
\$40 to 250,000?
250,000 limit?*

Defendant's Response to Plaintiffs Request for Production

The defendant, by its undersigned counsel, responds as follows to plaintiffs request for production:

- No. 1-4. A copy of the training manual, containing levels 1 through 4, is attached as Exhibit A.
- No. 5. To the best of the answering party's knowledge, the information card signed on the referenced date by the plaintiff no longer exists at the subject facility. A copy of an exemplar card is attached as Exhibit B.
- No. 6. A copy of the subject incident report was produced to plaintiff's counsel at the time of the deposition of Kristina Russel on November 12, 2002.
- No. 7. The answering party is not in possession of any documents which meet the description contained in request No. 7.
- No. 8. The answering party is in possession of no statements as described, other than the content of the incident report prepared by Kristina Russell on the date of the subject incident.
- No. 9. The defendant objects to this request on the grounds that it is overly broad, inasmuch as it would encompass all manner of employee injuries as well as other "incidents or accidents" which are neither relevant nor calculated to lead to evidence admissible on any issue in the instant case.
- No. 10. See response to Request No.9 above, which is here incorporated by reference.
- No. 11. The answering party objects to request No. 11 on the grounds that the terms of the lease under which PCA International leases space from the Wal-Mart are neither relevant nor calculated to lead to evidence admissible on any issue in dispute.
- No. 12. The records of the subject employee are no longer available at the facility in question, but are being searched for recovery from an archive. To the extent that such record can be recovered, those portions relevant to reasons for the termination will be produced.
- No. 13. The answering party is not in possession of the documents requested.
- No. 14. The answering party is not in possession of the documents requested.

- No. 15. The answering party is not in possession of any documents which meet the description contained in request No. 15, other than reproductions of photos produced by plaintiff's counsel at the time of the deposition of Kristina Russell.
- No. 16. A copy of the subject Safety Manual in use during the relevant time frame is attached as exhibit C. See also exhibit A., attached in response to request 1 – 4 above.
- No. 17. See the documents attached.
- No. 18. The answering party is not in possession of any documents which meet the description contained in request No. 18.
- No. 19. The answering party is not in possession of any documents which contain the description requested, except to the extent that such description may be referenced in exhibits A or C attached.
- No. 20. Based on the description provided, the answering party is unable to identify specifically the incident referenced.
- No. 21. See documents attached; see transcript of deposition of Kristina Russell, taken on November 12, 2002.

LAW OFFICE OF PAUL T. GRATER


Paul T. Grater, Esquire
Attorney for Defendant PCA Int'l, Inc.

PROOF OF SERVICE

I hereby certify that a true and correct copy of the **Defendant's Answers to Interrogatories and Response to Request For Production** was served upon the following person(s) by First-Class Mail, Postage Pre-paid on the 24th day of January, 2003.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 1/2 E. Locust Street
P.O. Box 552
Clearfield, PA 16830

By: _____



PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

16
lx

Lap over margin

FILED

013137
JAN 31 2003

1 cc
Atty Naddeo
EJL

WILLIAM A. SHAW
Treasurer

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

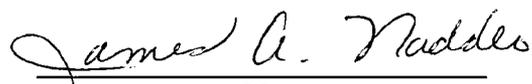
RICHARD J. LAWSON and	*
KIM EBOCH-LAWSON,	*
husband and wife, and	*
Parents and Natural	*
Guardians of MARIAH C.	*
LAWSON, a minor,	*
Plaintiffs,	*
	*
v.	*
	No. 02 - 378 - CD
	*
PCA INTERNATIONAL, INC.,	*
a corporation,	*
Defendant.	*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and certified copies of Plaintiffs' Motions for Sanctions filed in the above-captioned action was served on the following person and in the following manner on the 4th day of February, 2003:

First-Class Mail, Postage Prepaid

Paul T. Grater, Esquire
233 Breeding Avenue
Pittsburgh, PA 15202


James A. Naddeo, Esquire
Attorney for Plaintiffs

21

JAMES A. NAPDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

FILED

FEB 04 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM EBOCH-LAWSON, husband and wife, and Parents and natural guardians of MARIAH C. LAWSON, a minor,

Plaintiffs,

vs.

PCA INTERNATIONAL, INC., a corporation,

Defendant.

CIVIL DIVISION

No. 02-378-CD

DEFENDANT'S ANSWER TO PLAINTIFF'S MOTION FOR SANCTIONS (Interrogatories)

Issue No.:

Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
412-734-4595

FILED

FEB 24 2003

William A. Shaw
Prothonetary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

**DEFENDANT'S ANSWER
TO PLAINTIFF'S MOTION FOR SANCTIONS
(In RE: INTERROGATORIES)**

NOW comes the defendant, PCA International, Inc., by its undersigned counsel,
and responds to the plaintiffs Motion for Sanctions as follows:

1. Paragraph 11 of the Plaintiffs Motion delineates specifically the interrogatories at issue, consisting of Interrogatories No. 1; No.5-(a) through 5 – (f), No. 7 and No. 8, and Requests for Production number 9, 10, 11 and 20.

2. With respect to Interrogatory No. 1, the defendant has responded as best it can, given the character of the question. To the extent that the interrogatory is objectionable in form it has been objected to. However, the substance of the interrogatory refers to

narrative testimony already taken by plaintiffs counsel by way of deposition of the named witness.

3. With respect to Interrogatory No. 5, the defendant has responded similarly because the only representative of this defendant who was present, and who was directly involved with the subject incident, was Kristina Russell, who had already been extensively examined in deposition by plaintiffs counsel. What she did and how she did it are part of the existing record, and the defendant believes that reference to the transcript of her deposition in response to this interrogatory is a sufficient answer.

4. With respect to Interrogatories No. 7 and 8, the defendant believes that its responses speak for themselves and are fully appropriate under the Rules of Civil Procedure, as the interrogatories are framed. To the extent that interrogatory No. 7 seeks to identify expert witnesses who are not expected to be called at trial, Rule 4003.5(3) makes it clear that *“a party may not discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, ...”* This is precisely what the plaintiff has asked for, and the defendant’s response is therefore in keeping with the Rules of Civil Procedure.

5. With respect to Requests for Production No. 9, 10 and 11, the defendant believes that its objections are well taken, based on the framing of the requests. To the extent that objections were not lodged specifically within the first 30 days following service of the

requests, such failure is not necessarily deemed a waiver of the objections. See McGovern vs. Hospital Service Association of Northeastern Pennsylvania, 785 A.2d 1012 (Pa. Super, 2001); Roman vs. Pearlstein, 478 A.2d 845 (Pa. Super, 1984)

6. With respect to request for production No. 20, the defendant believes that the vagueness of the request, which apparently seeks to describe a single incident, having no time frame or geographical limitation, and could theoretically encompass the entire continental United States, justifies the response provided.

Wherefore, the respondent PCA International Inc., through its undersigned counsel, respectfully prays that this Honorable Court will deny the plaintiff's Motion for Sanctions, and refuse the relief sought by plaintiffs counsel.

Respectfully submitted,

LAW OFFICES OF PAUL T. GRATER

by, 
Paul T. Grater, Esquire
Attorney for the Defendant
PCI International, Inc.

PROOF OF SERVICE

I hereby certify that a true and correct copy of the **Defendant's Answer to Plaintiff's Motion for Sanctions** was served upon the following person(s) by First-Class Mail, Postage Pre-paid on the 20th day of February 2003.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 1/2 E. Locust Street
P.O. Box 552
Clearfield, PA 16830

By: _____



PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

19

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents and
natural guardians of MARIAH C. LAWSON, a
minor,

Plaintiffs,

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

No. 02-378-CD

**DEFENDANT'S ANSWER TO
PLAINTIFF'S MOTION FOR
SANCTIONS (Deposition)**

Issue No.:

Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
412-734-4595

FILED

FEB 24 2003

**William A. Shaw
Prothonotary**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

**DEFENDANT'S ANSWER
TO PLAINTIFF'S MOTION FOR SANCTIONS
(In RE: DEPOSITION)**

NOW comes the defendant, PCA International, Inc., by its undersigned counsel,
and responds to the plaintiffs Motion for Sanctions as follows:

No. 1-12. The recounting of the history contained in paragraphs 1 through 12 of the
plaintiffs motion relates to a witness whose deposition was in fact accomplished on
November 12th 2002. The events surrounding the arrangement and taking of that
deposition do not reflect any violation of any Rules of Civil Procedure governing
discovery, and the averments contained in those paragraphs are not a basis for imposition
of sanctions under any applicable rule of law.

No. 13-23. With respect to the deposition of Susan Barkley, which had been noticed for Monday January 27th 2003, it is admitted that five days prior to that date, on Wednesday January 22nd, defendant's counsel requested that the deposition be rescheduled under the circumstances described in Exhibit F, as attached to the plaintiff's Motion. Given the content of the message, it was or should have been clear to counsel that the witness, who was located in the state of Washington, would not be in Mr. Naddeo's office on Monday January 27th. This was the first and only scheduling of this witness's deposition. It is not uncommon for depositions to be rearranged or rescheduled, under varying circumstances. The request that this particular deposition date be rescheduled, in light of the fact that the witness was at the other end of the country, or the suggested alternative of a deposition by way of telephone, was not unreasonable. The flat refusal by counsel to consider either a rescheduling or the suggested alternative was unreasonable. The instant case is not on a current trial list, and there was no reason beyond sheer obstinacy that the deposition could not have been rescheduled. Counsel could reasonably have cancelled the court reporter's appearance while alternative arrangements were considered. That counsel would insist on having a court reporter appear five days later, when it was clear that the deposition would not be taking place is tantamount to a charade calculated simply to create a sanctionable event.

The assertion that counsel allotted and therefore "lost" two hours of time as a result of the deponent's absence, is subject to challenge on its face. Are we to assume that counsel sat in silent contemplation for two hours, unable to allocate the passing time to other productive pursuits?

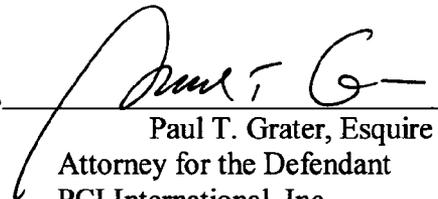
Moreover, the deponent Susan Barkley is not a party to this case. The plaintiffs' counsel served no corporate deposition notice on the defendant, seeking a designee as is contemplated by rule 4007.1 (E.). Rather, counsel served a notice simply identifying an individual witness. To the extent that counsel seeks fees, Rule 4019(f) provides that, "If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and because of such failure the witness does not attend, and if another party attends in person or by attorney expecting the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by such other party and his or her attorney in so attending, including attorney's fees." Thus, it would appear that if counsel incurred costs or fees as a result of the non-appearance of a non-subpoenaed witness, under Rule 4019 those would be attributable solely to Mr. Naddeo.

While the relations of counsel in this matter have become unfortunately strained, there has been no willful or demonstrable violation of the Rules of Civil Procedure. The Respondent respectfully prays that this Honorable Court will resist the invitation to become a participant in what could be better characterized as a petty squabble rather than a sanctionable violation of any rule of procedure or of law.

Wherefore, the respondent PCA International Inc., through its undersigned counsel, respectfully prays that this Honorable Court will deny the plaintiff's Motion for Sanctions, and refuse the relief sought by plaintiffs counsel.

Respectfully submitted,

LAW OFFICES OF PAUL T. GRATER

by, 
Paul T. Grater, Esquire
Attorney for the Defendant
PCI International, Inc.

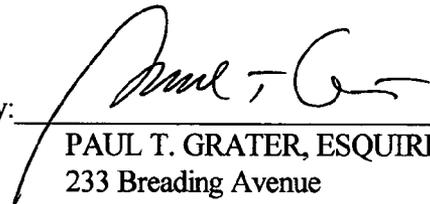
PROOF OF SERVICE

I hereby certify that a true and correct copy of the **Defendant's Answer to Plaintiff's Motion for Sanctions** was served upon the following person(s) by First-Class Mail, Postage Pre-paid on the 20th day of February 2003.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 1/2 E. Locust Street
P.O. Box 552
Clearfield, PA 16830

By: _____


PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife,
and Parents and natural Guardians of
MARIAH . LAWSON, a minor

-vs-

No. 02 - 378 - CD

PCA INTERNATIONAL, INC.
a corporation

ORDER

NOW, this 17th day of April, 2003, upon consideration of Motion for Sanctions filed on behalf of Plaintiff above-named to Defendant's Response to Request for Production of Documents, it is the ORDER of this Court that said Motion be and is hereby granted to the extent that Defendant shall respond to the Plaintiff's 9th request by producing all incident reports involving any other accidents or incidents which occurred at the Walmart store in Clearfield, Clearfield County, Pennsylvania, involving the photography unit run by Defendant from January 1, 1999 through the present.

That Defendant shall fully respond to request #10 to provide incident reports involving any other accidents or incidents which occurred at any facility operated by PCA International, Inc. at K-Mart, Walmart or any other facility in Pennsylvania from January 1, 1999 through the present.

Defendant shall fully comply with request for Production of Documents #11 and provide any contracts, agreements or other documents evidencing the conditions under which the Defendant occupied the Walmart premises and provided services to Walmart and/or the general public.

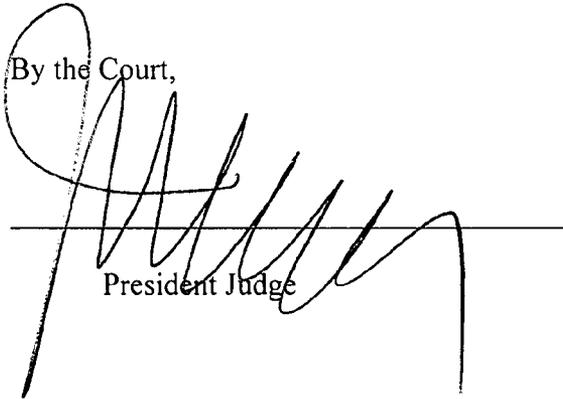
FILED

APR 17 2003

William A. Shaw
Prothonotary

Finally, Defendant shall fully respond to request for Production of Documents #20 by making an exhaustive search of its records concerning all details involving an accident in which a child fell off a table during a photograph session conducted by Defendant and was the subject of litigation in Pennsylvania. Said responses to include the county where the incident occurred, the name of the store involved and the caption of the litigation which ensued.

It is the further ORDER of this Court that all responses provided by Defendant shall be acknowledged by an appropriate corporate officer. Said responses to be provided within 30 days from date hereof.

By the Court,


President Judge

William A. Shaw
Prothonotary

APR 17 2003

FILED
0 3159 8A

cc Mr. [unclear]
1 cc [unclear]
2
(Key)

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

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife,
and Parents and natural Guardians of
MARIAH . LAWSON, a minor

-vs-

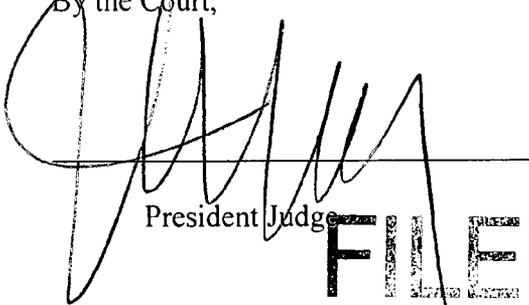
No. 02 - 378 - CD

PCA INTERNATIONAL, INC.,
a corporation

ORDER

NOW, this 17th day of April, 2003, following argument into Motion for Sanctions filed on behalf of Plaintiff above-named seeking the deposition of one Susan Bartley. It is the ORDER of this Court that said Motion shall be and is hereby granted to the extent that said deposition shall be taken by counsel for Plaintiff by video-conference at a time and date mutually agreeable among counsel but in no event to be more than 60 days from date hereof. In the event that circumstances prevent the taking of a video-conference, the deposition shall be held either in the State of Washington where Susan Barkley is currently located, or in Pennsylvania at the option of counsel for defense. In any event, said deposition shall be completed within 60 days from date hereof.

By the Court,



President Judge

FILED

D 3:46

APR 17 2003

William A. Shaw
Prothonotary

William A. Shaw
Prothonotary

APR 17 2003

FILED

3-46 84
acc 1 cc
msd/lls
ccy/la/bs

3-22

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and Natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs,

v.

PCA INTERNATIONAL, INC.,
a corporation,
Defendant.

*
*
*
*
*
*
*
*
*
*
*
*
*
*
*

No. 02 - 378 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Notice of Deposition of Susan Barclay filed in the above-captioned action was served on the following person and in the following manner on the 16th day of May, 2003:

First-Class Mail, Postage Prepaid

Paul T. Grater, Esquire
233 Breeding Avenue
Pittsburgh, PA 15202


James A. Naddeo, Esquire
Attorney for Plaintiffs

JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

22

Lap over margin

106
Amy Naddes
8/3/41
RET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM EBOCH-LAWSON, husband and wife, and Parents and natural guardians of MARIAH C. LAWSON, a minor,

Plaintiffs,

vs.

PCA INTERNATIONAL, INC., a corporation,

Defendant.

CIVIL DIVISION

No. 02-378-CD

NOTICE OF SERVICE OF DEFENDANT'S RESPONSE TO PLAINTIFFS' REQUEST FOR PRODUCTION (Second Set)

Issue No.:

Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
412-734-4595

FILED

AUG 20 2003

William A. Shaw
Prothonotary/Clerk of Courts

PROOF OF SERVICE

I hereby certify that a true and correct copy of Defendant's Response to Plaintiffs' Request for Production (Second Set) was served upon the following person(s) by First-Class Mail, Postage Pre-paid on this 18th day of August 2003.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 1/2 E. Locust Street
P.O. Box 552
Clearfield, PA 16830

By: _____


PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs

:
:
:
:
:
:
:

vs.

:

No. 02-378-CD

PCA INTERNATIONAL, INC.,
a corporation,
Defendant

:
:
:
:
:
:
:
:

Type of Pleading:
Motion to Compel Against
Defendant for Failure
to fully respond to
Plaintiff's Request for
Production of Documents
And ORDER
Counsel of Record for this
Party:

John R. Carfley, Esq.
Pa. ID# 17621
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

FILED

AUG 29 2003
0/12/20/2
William A. Shaw
Prothonotary/Clerk of Courts

2 Cmt TO ATTY

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs

:
:
:
:
:
:
:

vs.

:

No. 02-378-CD

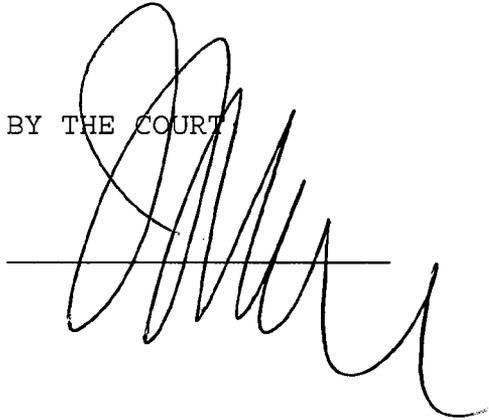
PCA INTERNATIONAL, INC.,
a corporation,
Defendant

:
:
:

ORDER OF COURT

AND NOW, this 29th day of August, 2003, upon consideration of Plaintiffs' Motion to Compel Discovery to Plaintiffs' Second Request for Production of Documents directed to Defendant on June 11, 2003, which Requests have not been fully and adequately addressed and/or answered in full, IT IS THE ORDER OF THIS COURT that Defendant file full and complete responses to Plaintiffs' Second Request for Production of Documents within ten (10) days or suffer appropriate sanctions to be imposed upon further application to the Court.

BY THE COURT



A large, stylized handwritten signature in black ink, appearing to be 'W. A. Shaw', is written over a horizontal line. The signature is cursive and somewhat abstract.

FILED

SEP 02 2003

William A. Shaw
Prothonotary/Clerk of Courts

which warranted the filing of a Second Request for Production of Documents which was served on the Defendant through its counsel on June 11, 2003, a true and correct copy of said Requests is attached hereto and marked Exhibit A.

3. Answers to said Requests were due from the Defendant no later than Friday, July 11, 2003.

4. On July 9, 2003, counsel for defendant verbally requested an extension of time to produce the various documents requested by the plaintiff citing as the reasons for his delay in responding, the problem which counsel had experienced in acquiring such a volume of documents from the corporate defendant within the thirty day period. Counsel for the defendant also stated that delivery of the discovery packet had been delayed as a result of his move to new offices in the Pittsburgh area.

5. During the conversation which ensued between counsel no mention was ever made of any objections to the documents requested or the inability of counsel to secure said documents for production.

6. Based on those representations that counsel made with respect to his difficulties in acquiring the documents from his client and the delay in the receipt of the discovery packet, counsel, as a matter of professional courtesy, extended the discovery deadline for an additional thirty days but asked that counsel verify said extension in writing so that the record would be clear as to the request for the extension of time and the date upon which the extension would expire.

7. Counsel for the defendant failed to transmit any letter or other correspondence confirming the extension, however, counsel for the plaintiff noted in the file and on his day calendar the date of the request and the date when the said extension would expire.

8. On Monday, August 11, 2003, the date that said discovery was due, Plaintiffs' counsel dictated a letter to counsel for the defendant a copy of which letter dated August 12, 2003, is attached hereto as Exhibit B.

9. Counsel for the defendant still did not voice any objections to the substance of Plaintiff's request for documents nor did he state that the documents were untraceable or unavailable through the corporate offices or through his own resources.

10. Plaintiff's counsel did, however, in his letter to counsel for the defendant establish a firm date for delivery of documents which would not exceed Monday, August 18, 2003. Counsel further stated unequivocally that any documents transmitted subsequent to that date would be considered untimely.

11. On Wednesday, August 20, 2003, two days after the established deadline, Plaintiff received a packet of information apparently in response to the request for production of documents, a true and correct copy of said packet being attached hereto and marked Exhibit C.

12. It is averred that defense counsel has been guilty of engaging in similar evasive tactics while attempting to withhold items of clearly discoverable material from Plaintiff's counsel in his responses to Plaintiff's initial discovery requests which

prompted a similar motion to compel by plaintiff's counsel.

13. It is averred that defense counsel has consistently abused the professional courtesy extended by this court and co-counsel in that he has misrepresented the availability of witnesses for deposition and the availability of documents clearly within the control of his client.

14. It is submitted that each of the documents and/or items requested in this discovery packet were referenced in the depositions conducted of corporate agents and/or resulted from information provided in response to Plaintiff's earlier discovery requests so that the information now sought should be readily available to counsel and could and should be deliverable with a minimum of effort and expense.

15. Rule 4006, 4009.12, 4011 and 4012 provide the procedural rules under which a party seeking protective orders from the court with respect to another party's discovery may respond with respect to interrogatories, request for admissions, request for production of documents, and/or any other form of discovery.

16. The rules are clear in stating that answers to these written requests must be filed within thirty (30) days and any written objections must be noted within that period of time or said objections are untimely and may be considered waived by the court.

17. In the case at bar counsel for the defendant at no time from the original filing on June 11, 2003, until his response on August 20, 2003, stated any objection to the request for information sought by the plaintiff.

18. The responses submitted by the defendant pertaining to the reasonableness and relevancy of the discovery requests are, therefore, untimely and should be considered waived.

19. Moreover the determination of the relevancy, competency or likelihood of these documents leading to discovery of other substantive evidence is a matter for determination by the court and not counsel so that these answers are a blatant attempt to usurp the authority of the court in this arena.

20. It is believed and therefore averred that defense counsel misrepresented the factual basis of his request for additional time to counsel for the plaintiff in that he asserted, represented, and implied that the documents requested would be produced but that they were of such a nature that the corporate defendant would be required to research its records in order to produce the information requested when, in fact, it appears that defense counsel knew full well that he intended to object to the production of these documents and/or that he was going to argue their unavailability as well as their materiality and relevancy in the proceeding at bar.

21. Plaintiffs' counsel would ask the court to take note of the Defendant's responses to Plaintiff's initial discovery since these responses likewise required a Motion for Sanctions by Plaintiff's counsel in order to compel a reasonable response.

22. It is believed and therefore averred that this constitutes a pattern of behavior and the use of trial tactics and strategy which should not be tolerated by this court given

plaintiffs' clear and concise requests, and the need for such information in order to develop its case in chief.

23. It is believed and therefore averred that defendant has consistently failed to adequately provide information pertaining to incidents and/or documents which are clearly within the control of the corporate defendant and should be compelled to produce the information or be sanctioned in conformity with Rule 4019 of the Pennsylvania Rules of Civil Procedure.

24. Rule 4006 of the Pennsylvania Rules of Civil Procedure provides that each Interrogatory shall be answered fully and shall be signed by the person making the answers with any objections to be signed by the attorney making them.

25. The party and the attorney in this instance has failed to respond in an appropriate way to the discovery disseminated by the plaintiff in that no corporate officer has signed the answers to the interrogatories or verified that the information contained in the interrogatories is true and correct subject to 18 Pa. C.S.A. Section 4904.

26. In this instance the defendant has failed to answer the Interrogatories and Request for Production of Documents completely and has further violated the time limitations under the Rules of Discovery requiring answers within thirty days after service of the discovery requests.

27. Based on these provisions defendant should be ordered by this court to respond fully and completely to all of the discovery promulgated and be further sanctioned as the court deems

appropriate.

28. It is believed and therefore averred that defendant has failed to properly verify the responses to the Interrogatories and Request for Production of Documents even though two months were provided within which the defendant could secure corporate verification.

29. It is believed and therefore averred that in this instance the verification of counsel to these answers is insufficient and not in conformity or compliance with the procedural rules.

30. It is believed and therefore averred that the corporate defendant through its officers, employees, agents and/or staff should be required to properly verify these interrogatories and/or in the alternative should be required to certify that the documents requested do exist and in so doing to identify the proper repository for these documents or in the alternative to state that the said documents do not exist anywhere within the corporate structure of the defendant or any associated legal entities.

II. SPECIFIC OBJECTIONS TO DEFENDANT'S RESPONSES TO
PLAINTIFFS' REQUEST FOR PRODUCTION OF DOCUMENTS

31. In response to Paragraph 1 and Paragraph 2 of Plaintiffs' Request for Production of Documents Defendant has refused to produce the subject manual stating that the manual will be made available for inspection when, in fact, Plaintiffs specifically requested the production of the manuals so as to have access to information in the manual on a continuing basis so that Plaintiffs

could review said document and prepare for cross-examination of witnesses prior to trial, something which would be rendered impossible if Plaintiffs were limited to an inspection of the text only on corporate premises during normal working hours and after notice to the defendant.

32. Defendant's refusal to produce this document in its entirety thwarts the efforts of Plaintiffs to engage in reasonable discovery in order to develop the case for trial particularly in light of the fact that defendant was provided with over two months to secure a reproduction of this document, a task which could have been readily accomplished by transmittal of the manual to any copying service in the area for minimal cost and minimal disruption of business activities. It is also incomprehensible that duplicate copies of this manual are not readily available for distribution by the defendant in instances such as in the instant proceeding.

33. The responses of defense counsel to Request Number 5 and Request Number 8 are evasive, misleading and do not represent the position of the corporate officers who have failed to swear and/or verify the discovery responses. As a result counsel should be ordered by this court to exercise a due diligent search through its corporate offices and to produce these documents which were clearly mentioned in deposition and must be presumed to be available somewhere within the corporate structure.

34. It is averred that the defendant has violated the Pennsylvania Rules of Civil Procedure in its responses to

Plaintiffs' Request for Production of Documents Paragraphs 9, 10, 11, 12, 13, 14 in that these objections are untimely and not properly preserved under Rule 4006 Pa. R.C.P.

35. It is believed and therefore averred that in each of the instances cited above defendant has violated the Pennsylvania Rules of Civil Procedure by attempting to assert objections to Plaintiff's Requests in an untimely fashion and subsequent to the period of time envisioned by the Rules of Civil Procedure for objecting to the scope of the inquiry and further are a blatant attempt to usurp the authority of the court which is solely responsible for rulings on relevancy, competency and admissibility.

36. The responses of defense counsel to Request Number 16 and 17 are evasive in that the posing table is clearly within the possession of the defendant and could be described by way of photographic evidence, diagram and/or graphic drawings so that the responses of the defendant are clearly inadequate and sanctions are therefore appropriate unless drawings, photos or graphic reproductions of the unit are provided.

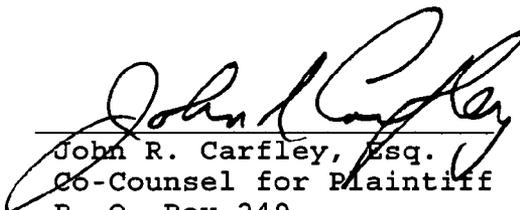
37. The responses of defense counsel to Request Number 18 and 19 are evasive in that the item requested is clearly within the possession and control of the defendant and could be described by means of photographic evidence, diagram and/or graphic drawings so that the responses of the defendant are clearly inadequate and sanctions are therefore appropriate unless drawings, photos or graphic reproductions of the unit are provided.

38. It is believed and therefore averred that the responses

to all of Plaintiffs' requests are responses formulated by defense counsel and not by corporate officers, agents, and/or employees entrusted with the formulation and/or compilation of the information sought by the plaintiffs.

39. In that respect defense counsel should be sanctioned individually for failure to produce those items as specified or in the alternative defense counsel and the corporation should be jointly and severally sanctioned as this court may see fit.

WHEREFORE, Plaintiff requests this Honorable Court to enter an Order directing the Defendant to file full and complete answers to Plaintiff's Discovery Packet within 10 days or suffer appropriate sanctions to be imposed under Rule 4019 of the Pennsylvania Rules of Civil Procedure.


John R. Carfley, Esq.
Co-Counsel for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated: August 28, 2003

JOHN R. CARFLEY
ATTORNEY AT LAW
222 PRESQUEISLE STREET
P. O. BOX 249
PHILIPSBURG, PENNSYLVANIA 16866

AREA CODE 814
TELEPHONE 342-5581
FAX 342-1127

June 11, 2003

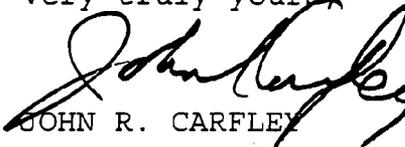
Paul T. Grater, Esq.
340 Chattam Center I
Pittsburgh, Pa., 15219

RE: Richard J. Lawson et. al.
vs. PCA International, Inc.
No. 02-378-CD

Dear Mr. Grater:

Please find enclosed an original and one copy of Plaintiffs' Request for Production of Documents, Second Set, for response by your client.

Very truly yours,


JOHN R. CARFLEY

JRC:sm

Encls.

CC: James Naddeo, Esq.



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

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :

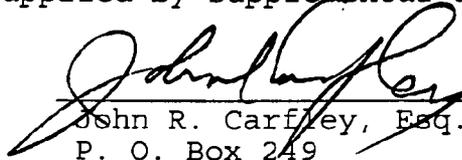
vs. : No. 02-378-CD

PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

TO: PCA INTERNATIONAL, INC.
c/o Paul T. Grater, Esq.
340 Chattam Center I
Pittsburgh, Pa., 15219

PLEASE TAKE NOTICE that you are hereby required, pursuant to Pennsylvania Rules of Civil Procedure No. 4001, et seq., to serve upon the undersigned, within thirty (30) days after service of this Notice, the following Request for Production of Documents, Second Set:

These Request for Production of Documents are deemed to be continuing and any other information secured subsequent to the filing of Defendant answers which would have been includable or available, are to be supplied by supplemental answers.


John R. Carfley, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: June 11, 2003

REQUEST FOR PRODUCTION OF DOCUMENTS, SET II

1. Please produce the PCA document referred to in the deposition of Susan Barkley completed on June 9, 2003 as the Studio Manual together with any projected revisions of the manual in later publications or editions or approved for publication by any responsible committee, individual and/or agent in charge of revisions for the corporation.
2. Please produce the Studio Manual referenced in the deposition of Susan Barkley on June 9, 2003, which was being utilized by PCA and its photographic units and personnel in March of 2000 at or about the date of this incident.
3. Please produce any and all current revised manuals available for use by supervisors, photographers, or other employees of PCA including but not limited to the manual entitled "PCA Portrait Studio Certification Program", Associate Manual, earlier produced as Exhibit A in response to previous discovery and the PCA International, Inc. PCA Portrait Studio Portrait Safety Manual originally dated January, 1996, and reproduced as Exhibit C in response to earlier discovery requests.
4. Please produce any customer completed accident form submitted by the plaintiff coincident to the incident which is the subject of this litigation.
5. Please produce the completed customer statement reproduced in generic form as a blank document in response to Plaintiff's earlier discovery requests and labelled as Exhibit B therein.
6. Please produce any medical examination reimbursement and information form which was completed by the customer or studio personnel on the date of this incident and forwarded to PCA International, Inc. 815 Matthews Mint Hill Road, Matthews, N.C. 28105, Attention: Risk Mangement Department.
7. Please produce the completed customer accident investigation form which form represents an internal document to be completed and sent to corporate risk management along with a copy of medical reimbursement forms and addressed to the Risk Management Department at the above cited address:
8. Please produce any written narrative completed by the photographer involved or any other person or employee of PCA or Walmart concerning the incident which gave rise to this cause of action which written narrative may or may not have been incorporated into the formal customer accident form hereinabove referenced.

9. Please produce any and all documents, pleadings, motions, and other information pertinent to the Cambria County case of Kevin & Janet Barnosky, as Parents and Guardians of the Minor, Bethany Barnosky, vs. PCA International, Inc. and Walmart, which case is filed to Docket Number 2002-3104 in the Court of Common Pleas of Cambria County, Pennsylvania.

10. Please produce all documents related to the following incidents including but not limited to the medical examination reimbursement and information form and customer accident investigation form: The claim number for these incidents are as noted on the Reliance claims form attached as Exhibit A to the Supplemental Response to Plaintiff's Request for Production of Documents and are as follows:

- (a) Claim Number 419950250
- (b) Claim Number 79952984
- (c) Claim Number 79951761
- (d) Claim Number 79952433
- (e) Claim Number 79953452
- (f) Claim Number 79953149
- (g) Claim Number 79955200
- (h) Claim Number 79955916
- (i) Claim Number 79962434
- (j) Claim Number 70150046
- (k) Claim Number 70052131

11. Please produce the same documents as requested in Request Number 10 for those incidents reported on Exhibit B of the Supplemental Response to Plaintiff's Discovery referenced under the name of the claimant as follows:

- (a) Prinkey, Ethan
- (b) Donner, Stephanie
- (c) Lynch, Katelyn
- (d) Scott, Leland
- (e) Bennett, Cody
- (f) Boyle, Alana

12. For the information requested in Request for Production of Document Number 10, please provide the age of the individual involved in the incident and the location where the incident occurred.

13. With respect to the Claimants listed in Paragraph 11, please provide the age of the individual involved in the incident and the location of the studio.

14. Please produce a location code corresponding to the location of all stores and/or PCA units operating in the Commonwealth of Pennsylvania.

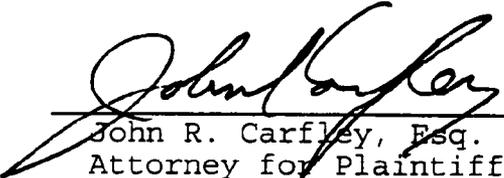
15. Please produce copies of any and all signs placed in the studio at Clearfield Walmart at or about the time of this incident to warn parents to care for the child, to remain seated near the child, or beside the child at all times, which signs are said to be comprised in part of four orange signs with black lettering situate throughout the studio.

16. Please produce information pertaining to the size of the posing table including length, width, height, and the dates when the variable height posing table was rendered stationary and the reasons therefore.

17. Please identify the individual and/or the individuals within the corporation who were responsible for the decision to enlarge the size of the top of the table and who is responsible for the decision to lock the table in place at a certain height, again stating the height in terms of feet and inches from the floor so that it would not be capable of lowering as suggested in Page 42 of the Associates Manual.

18. Please provide the dimensions for the poser table being used in the photo lab in March of 2000 and the dimensions of the passer table utilized at present in the PCA/Walmart Photo Labs.

19. Please provide the brand name or manufacturer of the poser table utilized in March of 2000 and the manufacturer or brand name of the poser table utilized at present in the PCA/Walmart Photo Labs.


John R. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated: June *11*, 2003

CERTIFICATE OF SERVICE

I do certify that I made service of the foregoing document upon defendant, PCA International, Inc. through its attorney, Paul T. Grater, Esquire, by depositing the same in the United States mail, postage prepaid, this 11TH day of June, 2003, addressed as follows:

PCA International, Inc.
c/o Paul T. Grater, Esq.
340 Chattam Center I
Pittsburgh, Pa., 15219


John R. Carfley, Esq.
Attorney for Plaintiff

JOHN R. CARFLEY
ATTORNEY AT LAW
222 PRESQUEISLE STREET
P. O. BOX 249
PHILIPSBURG, PENNSYLVANIA 16866

AREA CODE 814
TELEPHONE 342-5581
FAX 342-1127

August 12, 2003

Paul Grater
233 Breeding Avenue
Pittsburgh, PA 15202

Lawson Vs. PCA International

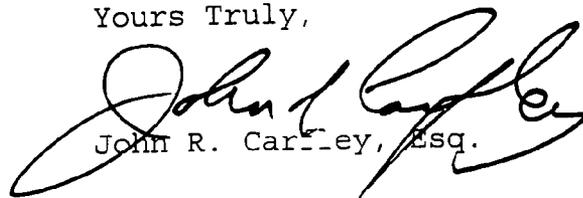
Dear Paul,

My calendar indicates that the responses to my interrogatories and request for production of documents were due on Monday, August 11, 2003, which date reflects the 30-day extension which I provided you as per telephone conversation. I had asked that you confirm our agreement in writing, however, my records do not indicate any correspondence addressing this issue.

I did, however, note our conversation and would like to request your immediate attention to this matter so as to avoid the necessity of filing any type of motion for a protective order.

If you require a few extra days to complete your discovery package, I would be more than happy to accommodate you. However, the extension will not exceed seven days or August 18, 2003.

Yours Truly,


John R. Carfley, Esq.

cc: James A. Naddeo



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents
and natural guardians of MARIAH C.
LAWSON, a minor,

Plaintiffs,

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

No. 02-378-CD

**DEFENDANT'S RESPONSE TO
PLAINTIFFS' REQUEST FOR
PRODUCTION (Second Set)**

Issue No.:

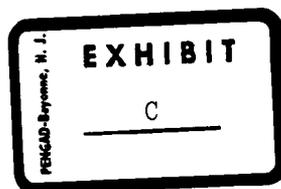
Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
412-734-4595



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

DEFENDANT'S RESPONSE TO PLAINTIFFS'
REQUEST FOR PRODUCTION (Second Set)

NOW comes the defendant, PCA International, Inc., by its undersigned counsel,
and files this following response to the plaintiffs' Request for Production of Documents
(Second Set) as follows:

1. The subject manual will be made available for inspection by the plaintiffs' representatives at the subject store, during normal business hours and upon reasonable notice.
2. To the extent that the document referenced in Request Number 2 is the same document as referenced in Request Number 1, see response to Request Number 1 above.

3. The manual referenced as the "PCA Portrait Studio Certification Program," associate manual, which was produced earlier in response to the plaintiffs' previous request, is the manual currently in use. As to the second request contained in Request Number 3, the current safety manual, updated as of August 2001, is attached hereto as Exhibit "A."

4. The defendant believes that the referenced form was produced to plaintiffs' counsel at the time of the deposition of Christina Russell in November 2002. A copy thereof is attached hereto as Exhibit "B."

5. To the best of the answering party's information, the subject document is not presently within the defendant's position. If such document is located, pending further search, it will be produced pursuant to supplemental response.

6. The subject document is attached hereto as Exhibit "C."

7. See documents attached hereto, as referenced above.

8. The answering party is not in possession of any document which meets the description contained in Request Number 8.

9. Objection. The defendant objects to Request Number 9 on the grounds that the materials requested are neither relevant nor calculated to lead to evidence admissible on any issue in dispute in the within cause. By way of further answer, and without waiving the said objection, it is the answering party's belief that the subject documents are public records, and are available to the inquiring party at the office of the Prothonotary, Cambria County, Pennsylvania.

10. Objection. The defendant objects to Request Number 10 on the grounds that the documents requested are neither relevant nor calculated to lead to evidence admissible on any matter at issue in the within cause.

11. Objection. The defendant objects to Request Number 11 on the grounds that the documents requested are neither relevant nor calculated to lead to evidence admissible on any matter at issue in the within cause.

12. See response to Request Number 10 above.

13. See response to Request Number 11 above.

14. Objection. The defendant objects to Request Number 14 on the grounds that the documents requested are neither relevant nor calculated to lead to evidence admissible on any matter at issue in the within cause.

15. See Exhibit "D" attached.

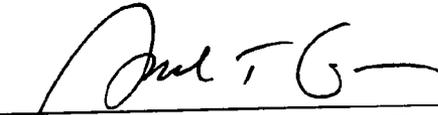
16. The defendant is not in possession of any document which meets the description contained in Request Number 16. By way of further response, the subject posing table will be made available for inspection by the plaintiffs' representatives at the subject studio, during normal business hours and upon reasonable notice.

17. The defendant is not in possession of any document which meets the description contained in Request Number 17, or which contains the information referenced in this Request.

18. The defendant is not in possession of any document which contains the information requested in Request Number 18. By way of further response, see answer to Request Number 16 above.

19. To the best of the defendant's knowledge or information, the subject poser table does not bear any manufacturer's name plate from which the requested information can be obtained.

LAW OFFICES OF PAUL T. GRATER

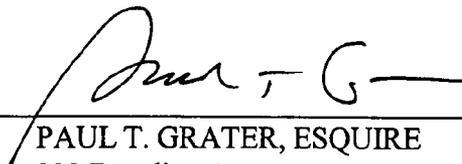
By: 
PAUL T. GRATER, ESQUIRE
Attorney for Defendant

PROOF OF SERVICE

I hereby certify that a true and correct copy of the attached Defendant's Response to Plaintiffs' Request for Production (Second Set) was served upon the following person(s) by First-Class Mail, Postage Pre-paid on this 18th day of August 2003.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 1/2 E. Locust Street
P.O. Box 552
Clearfield, PA 16830

By: 
PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202



EXHIBIT

A

tabbles

SAFETY MANUAL



<u>CONTENTS</u>	<u>PAGE</u>
→ Camera Room Safety	3
→ Associate Safety	5
→ Safety Instructions for the Parent/Legal Guardian	9
→ Safety Guidelines for Non-Sitters	11
→ Safety Guidelines for Sitters & Groups	13
→ Unsafe Poses	14
→ Lifting Children in Photography Sessions	15
→ Handling Children in Photography Sessions	16
→ Inappropriate Poses/Props	17
→ Customer Accidents	19
→ Reporting Customer Injury/Accident	22
→ Customer Accident Forms	22
→ Reporting "On-the-Job" Associate Injuries	23
→ Restricted Duty Program	26
	28

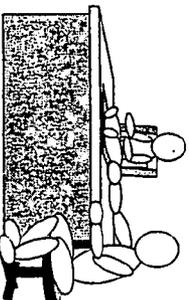
This page intentionally blank.

CAMERA ROOM SAFETY

YOU are the person who is in control of what takes place in your studio! Courtesy is important! However, politely instruct all persons where and how they are to be seated and/or posed.

- Whenever there is a child on the poser, the parent/legal guardian must be seated next to and facing the poser with his/her hand holding the child between exposures during the entire photography session!
- When posing NON-SITTERS (infants up about 8 months of age), the parent/legal guardian must keep a hand on the child at all times!
- SITTERS (children from about 8 months to 7 years) are more accident prone than non-sitters because they are more active. The parent/legal guardian must still stay seated next to the poser at all times, with his/her hand holding the child between exposures during the entire photography session!
- To ensure the safety of all children, no child should be allowed to stand on the poser at any time for any reason. If a child should stand up or the parent/legal guardian request that you photograph his/her child in a standing pose, you should politely ask the parent/legal guardian to assist and have his/her child sit down on the poser. Explain to the parent/legal guardian that our procedures are to ensure the safety of their child.
- **At no time should one child be posed sitting and/or lying on top of another child.**
- When escorting the customer to the posing area, point out any change in elevation of the carpet.
- Do not allow additional adult family members to stand around the sides of the camera or the subject area as they might distract you, the child on the poser and/or the parent/legal guardian seated beside the child. **Children and/or adults not being photographed should be seated or asked to wait outside of the camera room.**
- Be alert to possible hazards in your studio such as sharp objects, electrical cords, frayed carpet, objects lying on the floor, etc.

Stay seated beside the poser!



Always hold your child!

CAMERA ROOM SAFETY (cont.)

As a studio employee, routinely during the day, you should be continuously aware of any potential trip and fall hazards that exists within the studio or in the aisle way surrounding the studio. Following is a partial list of those items you should be constantly aware of:

- ➔ Water on the floor ... spilled drinks.
- ➔ Food on the floor.
- ➔ Props on the floor used during a session.
- ➔ Paper or misc. trash ... maybe from an overfilled trash can.
- ➔ Electrical cords that have gotten into an aisle.
- ➔ Children's toys, bottles, etc.
- ➔ Uncontrolled children.

Electric shock is powerful enough to cause serious injury or death to you or a customer. Follow these guidelines in making sure that electrical hazards are controlled within the studio:

- ➔ Keep safety caps in exposed unused receptacle outlets.
- ➔ Never overload an electrical outlet or drop cord; this can result in serious shock or a fire.
- ➔ Keep water away from electrical equipment, i.e.; cameras, wiring, computers. Water is a conductor for electricity and can magnify its impact.
- ➔ Keep all doors shut and locked to exposed wiring, especially those under the camera operation. The open door can present itself as an "attractive nuisance" to a child and may result in a serious injury.
- ➔ Be sure all circuits are dead before attempting to work on them.
- ➔ All electrical wiring, cords, and conduits should be secured and kept away from general traffic areas and anywhere people could trip over them, brush against them or otherwise be inadvertently exposed to them. ***In all travelling promotions, cords must be securely taped to the floor or carpet!***
- ➔ Call the Corporate Construction Department at 1-800-438-0894 for assistance in correcting any electrical hazards within a studio.

It is your responsibility to make sure hazardous situations in the studio are corrected immediately! Always notify your DM of any hazardous situation. Should you observe an unsafe condition anywhere else within the Store, notify the Store Manager.

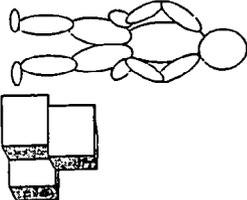
ASSOCIATE SAFETY

Follow these guidelines to help ensure your own safety in the PCA studio or promotion:

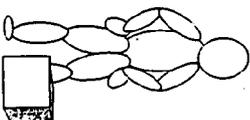
HELPFUL HINTS:

- ➔ **PUSH.....DON'T PULL THAT LOAD** - When you have to move something that's on a cart, dolly or hand truck, push the load. Pushing puts less strain on your back.
- ➔ **MOVE.....DON'T REACH** - Organize things in your work area so that they are in easy reach for you. Overreaching for objects can cause unnecessary strain on your back and shoulders. If you can't get things within easy reach....move your entire body closer to them.
- ➔ **SQUAT.....DON'T BEND** - Whenever you have to reach down low, you should squat down, bending at the knees, rather than bending your back. If you have to reach into a deep container, prevent injury by resting your free hand on the top edge of the container for support. As you straighten up, push down on the container edge to push yourself back up.
- ➔ **TURN...DON'T TWIST** - Twisting is not the thing to do. Sudden twists are responsible for lots of back injuries. Instead of twisting, pivot your whole body in the direction you want to go.

LIFTING TECHNIQUES



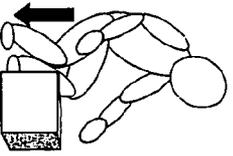
Think before you lift! If the load appears to be too much for you, break it down into smaller components or arrange for a cart or a hand truck to help move the load.



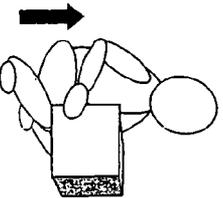
Stand close to the load with feet apart.

ASSOCIATE SAFETY

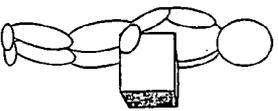
LIFTING TECHNIQUES (cont.)



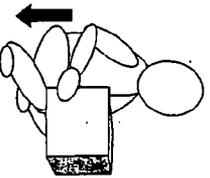
Squat down, bending at the hips and knees.



As you grip the load, arch your lower back inward by pulling your shoulders back and sticking your chest out.....Push up using your leg muscles rather than just lifting up using your back or shoulder muscles.



Be sure to keep the load close to your body. The closer the load is to your body, the less pressure it exerts on your back.



When you set the load down, squat down, bending at the hips and knees, keeping your lower back arched in.

ASSOCIATE SAFETY (cont.)

LIFTING FROM A HIGH SHELF

Ask these questions before you make a move...

- ➔ Can I move the load myself?
- ➔ Will I be able to grasp the load firmly when it's above or below my head and shoulders?
- ➔ Do I need a stepladder?
- ➔ Will I need someone or something below me to help take the load?
- ➔ Do I have a clear place in which I can set the load down safely and easily?

Once you've answered these questions, move the load as follows:

- ➔ If the load is above you and must be brought down, test its weight by pushing up on it.
- ➔ Make sure you have a firm footing and a solid grasp before you move the load. In other words, don't try to move anything if the only way you can reach it is on the tips of your toes with your arms stretched way above your head. If you must, use a ladder to bring yourself up to the load, but never try to lift and move a load this way by yourself especially if the load is too large.
- ➔ After lifting the load, position it close to your body so that the weight is centered.

PROPER CARRYING TECHNIQUES

The best posture to maintain when you have to walk and carry something is the one that comes closest to normal standing.

- ➔ Keep your body aligned correctly.....your ears, shoulders and hips should be aligned to keep your body from being awkwardly positioned.
- ➔ Hold the load close to your body. If you hold the load away from your body, you place unnecessary strain on your arms, shoulders and back. Make sure that you can see over the load and never carry so much that you block your vision.
- ➔ Keep your elbows resting against your sides. This secures the load and prevents sudden shifts, which could cause sudden strains.
- ➔ Keep the weight of the load evenly balanced. This way, no one part of your body has to bear more than its share of the weight.
- ➔ If you have to carry something in only one arm, place it as close as possible to your elbow. This will give you extra support. You can also rest a large load against your hip for support.

ASSOCIATE SAFETY (cont.)

- ➔ Rest large loads against your hip for even better support. This will give your arms and shoulders a break and allow you to carry the load for longer distances without getting tired.
 - ➔ Turn, don't twist. If you need to turn, turn your whole body; don't just twist at the waist.
 - ➔ If the load is too bulky or large for you to carry alone... break it down...make two trips. Never run the risk of back injury in order to save time.
- REMEMBER THE FOLLOWING BACK SAFETY TIPS!**
- ➔ When you lift something, follow proper lifting procedures making sure to keep the load close to your body.
 - ➔ If a load is too heavy or bulky to carry alone, ask someone to help you or arrange for a cart, buggy or other equipment to transport it.
 - ➔ Practice good standing posture; Keep your ears, shoulders and hips aligned.
 - ➔ When you have to pick something up off the floor, squat down rather than bend at the waist.
 - ➔ **REMEMBER TO LIFT USING YOUR LEGS** not with just your arms and shoulders.
 - ➔ Use a ladder to reach loads that are too high for you to reach safely from the ground.
 - ➔ When you set a load down, squat down, being sure to bend at the hips and knees.

INSTRUCTIONS FOR MAINTAINING PROPER CAMERA ANGLE

- In a situation that requires a camera angle that prevents you from seeing into the viewfinder while standing on the floor, you may have to stand on something to properly frame and size the subject. In this situation, follow these guidelines:*
- ➔ Raise the camera tripod to the proper height while standing on the floor. Make sure the tripod crank is locked in position and that the safety pin is properly engaged!
 - ➔ Use a wooden (never foam!) PCA posing block positioned beside the camera to stand on while you are framing and sizing a pose that requires a higher camera angle. **NOTE:** Do not use plastic stepping stools or other store-bought stepadders!
 - ➔ As soon as you have framed and sized the pose, move the wooden posing block safely out of your way and work for expression while standing on the floor.

SAFETY INSTRUCTIONS FOR THE PARENT/LEGAL GUARDIAN

At all times, be polite to your customers when giving them instructions as to what they are to do before, during, and after the sitting and where they should sit or stand. Also, be polite to store management and personnel when asking for assistance. Our intent is to prevent any possible accident and/or injury and to ensure the customer's safety at all times during the photography session.

- ➔ Always insist the parent/legal guardian sit next to the poser at all times when you are posing and photographing children of any age (non-sitters, sitters, school age children). This procedure applies without exception!
- ➔ Enlist the parent/legal guardian's assistance in the safe posing of his/her child by instructing them in a polite manner such as:
"During the photography session, I need you (the parent/legal guardian) to lift your child onto the poser and to remain seated next to the poser. For the safety of your child, please hold on to your child and do not let go."
- ➔ Show the parent/legal guardian where to sit and where to place his/her child on the poser. At all times, the parent/guardian must be seated next to the poser! The child must never be left alone before, during, or after the photography session!

Situation 1: A parent is physically able but refuses to lift his/her child onto the poser, or refuses to be seated next to the poser and hold his/her child.



Action: STOP THE SESSION and politely restate that our policy is for the purpose of ensuring the safety of his/her child.

Situation 2: A parent stands up, moves away, and leaves his/her child alone on the poser.



Action: STOP THE SESSION! Immediately move quickly to the poser and hold the child to ensure the child does not fall. Politely say to the parent/guardian... "Excuse me, your child's safety is my main concern. Before I can resume the photography session, you will need to remain seated next to the poser and hold your child."

SAFETY INSTRUCTIONS FOR THE PARENT/LEGAL GUARDIAN (cont.)

Situation 3: The parent/legal guardian continues to refuse after you have repeatedly asked him/her to remain seated next to the poser, lift his/her child onto or off of the poser, or refuses to remain seated next to the poser and hold his/her child.



Action: STOP THE SESSION! Politely ask the parent to wait while you:

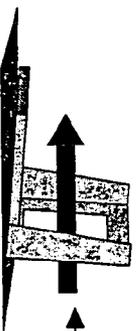
- Call the store manager and ask for assistance in explaining to the parent/legal guardian that you cannot continue with the photography session until he/she complies with our safety procedures.
- If the store manager asks you to continue the photography session in violation of PCA's safety policy, politely ask the store manager to call the PCA Customer Service Department (Store Manager Hotline, 1-800-438-1999) for direction before proceeding.
- It will be the PCA Customer Service Department and/or PCA Senior Management's responsibility to address our safety procedures with the store manager.



SAFETY GUIDELINES FOR POSING NON-SITTERS

Situation 1: To safely position a non-sitter in a full body pose, follow these steps:

- Raise the backrest of the infant seat on the PCA poser. (NOTE: If using a posing table/poser without the built-in infant seat, you should position a PCA approved separate infant seat in the middle of the posing table.)
- Position a rubber-backed rug over the backrest so that the slit cut into the rug is aligned with the reach-through hole on the backrest of the infant seat. **NOTE: All posing drapes/rugs must have a slit cut into them for the parent's hand if they are to be used with a non-sitter!**
- Instruct the parent/legal guardian to place their baby into the infant seat with the baby's back firmly against the backrest. It is important that the baby is sitting up straight and not leaning back into the seat.
- While holding the child in position, instruct the parent/legal guardian to sit next to and facing the poser.
- Direct the parent/legal guardian to reach under the rug, through the backrest and through the slit in the rug and to firmly hold on to the baby throughout the entire sitting. **Make sure the parent/legal guardian understands by instructing: "Please make sure that you do not let go of your child at any time."**



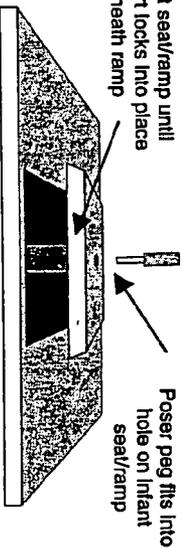
Parent must reach through the backrest, through the slit in the rug, and firmly hold the child's clothing.

- Do not release your hold on the child until you are sure that the parent/legal guardian is following your instructions and firmly holding the child.
- Never turn your back on the child.
- If the parent/legal guardian lets go of the child or gets up from his/her position next to the poser, immediately STOP THE SESSION and move quickly to the poser to hold the child! **Politely ask the parent to return to his/her position next to the poser. Remind them that our policy is for the purpose of ensuring the safety of his/her child.** (see page 3)
- After you have completed the full body pose(s), instruct the parent/legal guardian to lift the baby off the poser. **No PCA Associate may lift a child from the poser at any time other than those exceptions listed under "Lifting of Children"** (see page 15).

SAFETY GUIDELINES FOR POSING NON-SITTERS

Situation 2: To safely position a non-sitter in a tummy pose, follow these steps:

- ➔ Raise and secure the tummy ramp on the PCA poser. (NOTE: If using a posing table/poser without the built-in infant seat/ramp, you should position a PCA approved separate infant seat in the middle of the posing table and turn it so that the raised side of the infant seat is facing the camera.)



- ➔ If using a PCA poser, position the shaft of the poser peg into one of the holes in the middle of the tummy ramp.
- ➔ Cover the ramp with a rubber backed posing rug. Position the rug so that the peg sticks up through the slit in the posing rug.
- ➔ Instruct the parent/legal guardian to lay the baby onto the poser ramp. The baby's legs should be straddling the poser peg.
- ➔ While holding the child in position, instruct the parent/legal guardian to sit next to and facing the poser.
- ➔ Instruct the parent/legal guardian to place one of their hands on the child's bottom. (Make sure they keep their arm low enough so it is not visible in the portrait.) Make sure the parent/legal guardian understands by instructing: "Please make sure that you do not let go of your child at any time."
- ➔ If the parent/legal guardian lets go of the child or gets up from his/her position next to the poser:



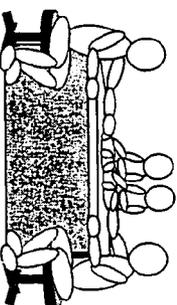
STOP THE SESSION and move quickly to the poser to hold the child! Politely ask the parent to return to his/her position next to the poser. Remind them that our policy is for the purpose of ensuring the safety of his/her child. (see page 3)

- ➔ After you have completed the full body pose(s), instruct the parent/legal guardian to lift the baby off the poser. No PCA Associate may lift a child from the poser at any time other than those exceptions listed under "Lifting of Children" (see page 15).

SAFETY GUIDELINES FOR POSING SITTERS AND GROUPS OF TWO OR MORE

Situation 1: Children between the ages of 8 months and school age (approximately 7 years) are more accident-prone because they are more mobile and active. WATCH THESE CHILDREN AT ALL TIMES! When posing sitters and/or groups of children, follow these steps:

- ➔ Instruct the parent/legal guardian to lift the child(ren) onto the poser. Remember, the PCA poser only supports up to 125 pounds!
- ➔ Direct the parent/legal guardian to his/her position sitting next to and facing the poser throughout the sitting. **IMPORTANT: If you are posing a group of children on the poser, you should recruit another parent to stand/sit on the other side of the poser and help watch the children throughout the sitting. Remember, the posing stools only support up to 200 pounds!**
- ➔ It is important that the parent/legal guardian understand that you are depending on him/her to help safeguard his/her child(ren) throughout the sitting.
- ➔ Instruct the parent/legal guardian to hold his/her child at all times except when you are taking an exposure. As soon as you have taken an exposure, remind the parent/legal guardian to hold his/her child. NOTE: In groups of two or more children the parent(s) must maintain hand contact with their children at all times (except during an exposure) while the children are seated on the poser.
- ➔ Always be careful when using an arm poser with a sitter and with a sitter and a non-sitter together. Instruct the parent/legal guardian to keep one hand on the child and one hand on the leg of the arm poser.
- ➔ If at any time during the sitting the parent/legal guardian moves away from their position next to the poser, you should STOP THE SESSION and move quickly to the poser to hold the child(ren)! Politely ask the parent to return to his/her position next to the poser. Remind them that our policy is for the purpose of ensuring the safety of his/her child(ren). (see page 3)



Recruit a second parent when photographing a group of children on the poser!

UNSAFE POSES

During the course of a photography session, a PCA Associate may be requested by the parent/legal guardian to pose a child and/or an adult in an unsafe pose. **You should always decline a customer request for an unsafe pose.**

Unsafe poses can be dangerous to the safety of the child or the adult and could result in an avoidable injury. Such requests may come in the form of a pose of the child standing on the poser, the child being held upside down, a child sitting on a prop on top of the poser, or other "trick" or unacceptable and unsafe poses outside of PCA guidelines.

If you receive a customer request for an unsafe pose, you should simply and politely reply that in the interest of safety, you are not allowed to photograph poses which may be unsafe!

UNSAFE PROPS

The utilization of props during the portrait session is a creative tool used to produce a distinctive portrait. However, only those props approved, purchased and issued by PCA are permitted.

An exception to this is the use of a prop (if appropriate) brought in by a parent/guardian to personalize or enhance the portrait of their child. (i.e.; special articles of clothing, hats, toys, etc.)

Any props that would put the child at risk of injury are prohibited (even if provided by parent/guardian). Examples are as follows:

- ➔ All chairs
- ➔ Any item with wheels that may move on the poser table
- ➔ Ladders
- ➔ Washtubs
- ➔ Baskets
- ➔ Mirrors

Any prop that prevents the child from sitting directly on the draped poser is prohibited. The only exception is one 2" posing block or one 4" posing block placed underneath the poser drape to adjust the height of the child.

Unauthorized prop usage is monitored by the Editing Department at PCA's Corporate Laboratory and violations are reported to the Senior Vice President of Operations. Violation of this policy may lead to final written warning and/or termination.

Our goal is to provide both a creative and safe environment for a child to be photographed in. When in doubt about a particular prop's usage, contact your immediate manager/supervisor or call PCA's Operations Department, 1-800-438-0894.

LIFTING CHILDREN IN PHOTOGRAPHY SESSIONS

The safe placement and removal of the child from the poser should only be done by the parent/legal guardian or, in rare instances, with your assistance. The handling and placement of a child on the poser is a critical moment in the photography session. Small children can become upset when approached by a stranger (the photographer).

Follow these procedures regarding the lifting of children in photography sessions:

- ➔ PCA Associates should not lift children onto or off of the poser except when the parent/legal guardian is unable to perform this task. The only acceptable circumstances where a PCA Associate may lift or assist a parent/legal guardian are as follows:

- Expectant mothers who ask for assistance
- A handicapped or disabled parent/legal guardian who is unable to lift the child or is incapacitated (wheel chair, blind, etc.) and needs assistance.
- A parent/legal guardian with more than one child, one of which is a non-sitter

- ➔ When posing a parent/legal guardian with a child in all of the above circumstances, the PCA Associate should assist the parent/legal guardian only as needed to safely complete the sitting. **Remember, the primary individual responsible for lifting a child remains the parent/legal guardian!**

Situation 1: A parent refuses to lift a child onto the poser.

Action: STOP THE SESSION and politely explain that you cannot continue the sitting unless he/she follows our safety procedures.

- ➔ Stress to the parent/legal guardian the importance of his/her handling of his/her child and that such a procedure does not indicate that we are unwilling to be of assistance. For safety purposes, we have no choice but to ask him/her to place the child on the poser.

Situation 2: A parent still refuses to lift a child to or from the poser.

Action: Politely remind the parent/legal guardian that you cannot continue the sitting unless he/she follows our safety procedures.

- ➔ If a child is four years or older, place a wooden PCA posing block next to the poser and ask the parent/legal guardian to hold the child's hand while the child steps up to the poser.
- ➔ Assist the parent/legal guardian as they position his/her child on the poser to safely complete the sitting.

HANDLING CHILDREN IN PHOTOGRAPHY SESSIONS

Because parents place their trust in us when photographing their child, each PCA Associate must respect this trust with a high degree of professionalism. Treat each child as you would want your child or yourself to be treated!

- Approach each child with a pleasant manner, smiling and reassuring the child. Remember that you are trying to create a positive atmosphere in which to obtain a memorable and valuable portrait. It is not appropriate to yell, shout, or make loud noises to get the child's attention.
- If you must adjust or position a child seated on the poser, ask the parent/legal guardian to assist you. *If it is necessary for you to move the child in any way, inform the parent/legal guardian of your intentions and get his/her approval before touching the child.*
- You should not squeeze, twist, pinch, poke, or jerk a child in order to adjust his/her pose as this might upset the child and/or be viewed by the parent/legal guardian as being rough with his/her child.
- If you must adjust a child's clothing to straighten a wrinkle, correct details, etc. *you must first ask the parent/legal guardian to assist you and for his/her approval before making adjustments.*

Special Notes

- There are times when you will be asked to photograph a subject with physical disabilities and/or handicaps. It is PCA's policy to provide *all* customers with the same high level of service. As a PCA Professional, you should exhibit sensitivity to the special needs of any handicapped or disabled individual. Make every effort to provide exemplary service to the disabled customer as well as to their family who may be present. It is perfectly acceptable to photograph an individual in his/her wheelchair without requesting that he/she be moved to the poser or a stool.
- Associates should always ask for the parent/legal guardian's assistance when handling a child. If a child has a runny nose or if the child is drooling, offer a clean tissue to the parent to wipe/clean the child's face. Make sure *not to* offer the same tissue to more than one child! Good hygiene and sanitation are a must when handling small children!
- All Associates should be aware of how his/her own personal hygiene and conduct are perceived by our customers.

INAPPROPRIATE POSES AND PROPS

SUGGESTIVE & NUDE POSING

PCA policy does not permit Associates to photograph subjects in suggestive or nude poses! This includes poses of adult subjects who are wearing swimsuits, lingerie, or other revealing clothing of any kind. ***Violation of this policy is grounds for final written warning!*** The only exception to this policy is a child one year old or less who may be photographed without clothes from the waist up. ***In no case may a child be photographed without clothes from the waist down!***

If a customer requests to be photographed in a nude or suggestive pose or that his/her child be photographed in a nude or suggestive pose, politely explain our policy and decline the request. If the customer is persistent, give the customer our toll free Customer Service number (1-877-763-4456) and politely ask them to contact a supervisor.

If a customer requests to change their child's clothing during a photography session, follow these steps:

- Ask the customer to change or undress the child in a private area. PCA Associates should not be present when a parent/legal guardian is changing and/or undressing his/her child.
- Do not offer to assist the parent/legal guardian with the changing, undressing, dressing, handling of a non-sitter.
- Do not allow the customer to change a child's diaper or clothing on the poser or on any of the poser drapes.

WEAPON/FIREARM PROPS

PCA policy does not permit Associates to photograph subjects with weapons or firearms! Weapons and firearms include knives, handguns, rifles, or other life-threatening items, whether they are real, replicas, or just toys.

The only exception to this policy is a pose of a child in costume (for example, wearing a cowboy/cowgirl costume that includes a holster and toy gun). However, at no time should a toy gun be pointed at the subject, at another subject or at the camera.

INANIMATE OBJECTS

If a customer requests that you photograph an inanimate object such as an antique, a doll, a painting, etc., follow these steps:

- Inform the customer that you will be glad to photograph the object(s) and print any number of portraits they wish as long as they pay for all sitting fees and portrait dollars in full when placing their order.

PETS

INAPPROPRIATE POSES AND PROPS (cont.)

As a rule, we do not photograph pets in our studios due to sanitation, health, and safety concerns. For the same reasons, many of our host locations do not allow pets to be brought into their facility. The only exception is a seeing eye dog accompanied by its owner.

- If a visually impaired customer asks you to photograph them with their seeing eye dog, politely inform the customer that to do so, they will need to provide a clean posing cloth or blanket to use with the animal. *It is a violation of PCA policy to photograph an animal using the same posing drape or blanket that is used for posing children.*

If any other customer requests to be photographed with their pet, politely decline the request and explain our policy. If the customer insists that you photograph their pet and states they have Store Manager permission, follow these steps:

- Inform the customer that you will be glad to print any number of portraits they wish as long as they pay for all sitting fees and portrait dollars *in full* when placing their order.
- Politely ask the Store Manager to provide a clean blanket or cloth to cover the poser. *Do not use the PCA posing blankets or cloths to photograph a pet!*
- Ask a member of store management to remain at the studio during the photography session to ensure other customer's safety.
- Ask the customer to handle their pet, to move them into position to be photographed, and to remain at their side throughout the entire session. *Do not attempt to move or handle the pet yourself!*
- If the pet behaves aggressively, if you feel there is any potential for personal injury or any danger to the safety of other customers, you should discontinue the sitting immediately!

Use your best judgment on any other questionable poses or props. You have the authority to refuse to photograph a customer in any pose that you feel is unsafe, depicts violence, or is in bad taste.

MINORS NOT ACCOMPANIED BY A PARENT AND/OR LEGAL GUARDIAN

Persons or subjects under the age of 18 must be accompanied by a parent or legal guardian when photographed in a PCA studio. The only exception to this policy is when the person or subject being photographed (who is under the age of 18) is a parent himself or herself.

CUSTOMER ACCIDENTS

ACCIDENT DEFINITIONS (revised July 10, 2001)

- **Accident:** An unfortunate event such as a slip, trip, fall, hit by, bumped by or cut from, etc. which occurs in or around our portrait studio.
- **Reportable Accident:** Any accident.
- **Preventable Accident:** An accident resulting from carelessness, unawareness, or a combination of causes which may have been prevented if proper procedures had been followed.
- **Serious Accident:** An accident in which any of the following occur: 1) any bone is broken, 2) loss of consciousness by involved party or 3) if stitches are required.

ACCIDENT DISCIPLINARY MEASURES (revised July 10, 2001)

The following are reasons for immediate employee termination:

- 1) Studio Manager is terminated if an accident occurs in their studio as a result of the poser not being converted (or converted properly).
- 2) Photographer is terminated if the accident is determined to be "serious". (See definition above) The photographer is suspended, with pay, pending investigation.
- 3) Photographers with 3 "preventable" accidents within a rolling 12 month period. (See definition above)
- 4) Photographers do not report "reportable" accidents. (See definition above)

CUSTOMER ACCIDENTS

HANDLING A CUSTOMER ACCIDENT

THE FIRST RESPONSE TO ACCIDENTS should be as follows:

- ➔ As a studio employee, your first response and concern in the event of an accident is to obtain qualified medical care as soon as possible for the injured person when required.
- ➔ If there is a visible injury, call for medical assistance at once.
- ➔ Ask the Store Manager or waiting customers for assistance in calling for a doctor or ambulance at once.
- ➔ **DO NOT** leave the injured party. It is important to remember that you are not qualified or authorized by PCA to provide medical first aid, however, you should make the injured party as comfortable as possible until medical assistance arrives.

ACCIDENT & EMERGENCY RESPONSE GUIDELINES

As stated, your first response and concern in the event of an accident is always to obtain qualified medical care as soon as possible for the injured person when required. Please note, however, that you are not qualified or authorized by PCA to implement first aid to an injured party. You can only be aware of certain conditions and support the parent/guardian until qualified help arrives.

The following emergency guidelines are given for your general information only. They are not intended as and should never be used in lieu of qualified medical advice.

UNCONSCIOUSNESS - CALL for Emergency Medical Service (911 - where available)

EXTERNAL BLEEDING INJURIES: CALL for Emergency Medical Service (911 - where available)

If the parent/guardian chooses to they can apply direct pressure to the injury with sterile dressing (if available). Do not remove any dressing if it becomes soaked, continue to add more bandages and apply even, direct pressure until help arrives. Arm/leg injuries may be elevated above the head to slow bleeding. **DO NOT USE THIS PROCEDURE FOR HEAD INJURIES.** allow blood to flow from nose, ears or mouth.

INTERNAL BLEEDING INJURIES: CALL for Emergency Medical Service (911 - where available)

Some of the signs or symptoms of an Internal Bleeding Injury can be bruises on the chest or signs of fractured ribs, bruised, swollen tender abdomen, blood in vomit, difficulty breathing, cool, moist skin. If bleeding externally, follow procedure for External Bleeding Injuries.

CUSTOMER ACCIDENTS (cont.)

HEAD/NECK/SPINE INJURIES: Call for Emergency Medical Service (911 - where available)

If the victim has received a possible head or neck injury from a fall and is unconscious they should not be moved until EMS arrives. Have the parent/guardian stabilize their head/neck by placing a hand on the front and backside of the neck. Always assume in this scenario that the victim may also have a spine injury. If you must relocate them, it should be done very carefully to avoid further injury. If the victim is bleeding from the ears, nose, or mouth, allow bleeding to flow freely.

FRACTURES: Call for Emergency Medical Service (911 - where available)

Signs and symptoms include the following: the sound of bone "snapping", a grating sensation of bones rubbing together, obvious deformities, pain, tenderness, swelling, bruising, and an inability to move the injured part. Victims with fractured ribs may feel pain as they breathe. Make the person as comfortable as possible until help arrives.

DISLOCATIONS: Call for Emergency Medical Service (911 - where available)

Signs and symptoms of a dislocation are similar to those of a fracture. They include swelling, deformity, pain in the joint, loss of movement and tenderness. Make the person as comfortable as possible until help arrives.

SIMPLE BRUISES:

Simple bruises to arms, legs or other body parts where other signs of trauma (ex. confusion, vomiting, breathing difficulty) are not present may be treated with ice packs applied by the parent/guardian to keep tissues from swelling until they can see a physician.

SPRAINS:

Sprains are stretched or torn tendons, ligaments and blood vessels around joints, often at the ankle. Signs and symptoms include pain at the joint, tenderness when touched, discoloration and swelling. The person should usually relieve pressure from the body part by sitting down, elevate it and be taken to their doctor for examination. This is generally not considered a medical emergency requiring EMS attention.

STRAINS:

Strains are stretched or torn muscles. The person should discontinue activity and be seen by their physician before resuming activity. A person with an incapacitating serious back strain should be seen by a doctor before resuming activity. The signs and symptoms of strains include sharp pain, stiffness and possible swelling. This is not generally considered a medical emergency requiring EMS attention, however, they should be seen by their physician for proper diagnosis and treatment.

REPORTING A CUSTOMER INJURY/ACCIDENT

PCA is concerned about the safety and well being of its customers. In the unfortunate event that an accident should occur, PCA, out of its humanitarian concern for its customers, wants to make every effort to reassure them of the Company's concern for their well being. Because of this, the company volunteers to reimburse our customers for a doctor visit when necessary to alleviate their concerns.

However, in order to effectively control PCA's costs associated with accidents that occur during routine business operation, it is critical that Corporate Risk Management be notified as soon as possible of an accident when it occurs. The customer accident forms and handling guidelines have been designed to assist you to efficiently manage the accident as well as reporting important facts relative to each claim.

- Quickly evaluate the situation.
 - Seek medical help for the injured person if the situation requires it or if requested by the parent/guardian. **NOTE:** Never make judgment calls regarding the health and well being of a customer. Let the parent/guardian decide what is best for the situation.
 - Complete and sign the **MEDICAL EXAMINATION REIMBURSEMENT AND INFORMATION FORM** (revised 9/01). The customer should complete the top portion of the form along with their signature for accepting or declining our offer for medical attention. If they refuse to do so, you should complete the form and note that the customer refused to complete. Give the customer the pink copy of the form.
 - The Studio Manager should complete a **CUSTOMER ACCIDENT INVESTIGATION FORM**. Forward a copy of both the Customer Accident Investigation Form and the Medical Examination and Reimbursement Form to Risk Management at the following address:

PCA International, Inc.
815 Matthews-Mint Hill Road
Matthews, North Carolina 28105
ATTENTION: RISK MANAGEMENT DEPARTMENT
 - Notify your District Manager.
 - Call Risk Management at 1-800-438-0894, ext.2427 if the accident is serious.
- Please call 1-800-438-0894 (Risk Management Department) with any questions or concerns that may arise during an accident or regarding these instructions.*

CUSTOMER ACCIDENT FORMS

The following should be completed for each accident:

- **PCA MEDICAL EXAMINATION REIMBURSEMENT & INFORMATION FORM** - available in English, Spanish, and French- (see example next page) complete this form whether the customer decides to go to the doctor or not. If they do make a doctor or emergency room visit, all invoices for payment should be sent directly to the address shown on the form. **NOTE:** The customer should complete their part of the form, however, should they refuse to do so, you should complete and note that the customer refused to complete. Give the customer the pink copy of the form.

- **CUSTOMER ACCIDENT INVESTIGATION FORM** - available in English, Spanish, and French- (see example on page after next) as soon as possible after an accident occurs the Studio manager should complete a thorough review of events surrounding each accident. Corrective action should be taken to prevent additional injuries or other accidents. Any defective materials, equipment, furniture, etc. should be tagged with the CIC Week, Roll and Customer Number and the words "Customer Accident/Customer Name" and returned to Purchasing/Warehouse. This form should be sent to Corporate Risk Management along with the Medical Examination Reimbursement Form.

In addition, you should always:

- Notify your District Manager. If your District Manager is not available, notify your Regional Director.



MEDICAL EXAMINATION REIMBURSEMENT AND INFORMATION FORM

(English version = Stock # 001010; French version = Stock #001017;
Spanish version = Stock #001016)

PCA International, Inc. MEDICAL EXAMINATION REIMBURSEMENT AND INFORMATION FORM

As a commitment to the safety and well being of our customers, PCA makes it a general policy to offer to pay for a medical examination should one of our customers or their relatives be involved in an accident while visiting our stores. PCA agrees to pay the cost of a medical examination by a licensed physician, provided the cost of the examination is covered by the health insurance of the injured person or the person's family. PCA agrees to pay the cost of a medical examination by a licensed physician, provided the cost of the examination is covered by the health insurance of the injured person or the person's family. PCA agrees to pay the cost of a medical examination by a licensed physician, provided the cost of the examination is covered by the health insurance of the injured person or the person's family.

By accepting this offer you give your consent for PCA to receive a copy of the medical record including the examination including the diagnosis and recommendations, if any, by the attending physician, and you agree to cooperate with PCA in being any necessary steps to obtain for PCA a copy of such medical record.

PCA will be provided for the following reasons:
a) As confirmation that PCA offered to pay the cost of the medical examination.
b) To obtain information regarding the injury and the completion of these forms, do not constitute an acceptance or admission of liability on PCA's behalf.

TO BE COMPLETED BY CUSTOMER:

INJURED PARTY'S NAME: _____ BIRTHDATE: _____
 DESCRIPTION OF ACCIDENT: _____
 NATURE OF INJURY: _____ DATE: _____
 CUSTOMER ACCEPTED: _____ (Customer Signature) DATE: _____
 CUSTOMER DECLINED: _____ (Customer Signature) DATE: _____

TO BE COMPLETED BY STORE PERSONNEL:

STORE/STATION NUMBER: _____ ACCIDENT DATE: _____
 ADDRESS: _____ (Street) (City) (State) (Zip) (Country)
 NAME OF INJURED PERSON: _____
 ADDRESS OF INJURED PERSON: _____
 NAME OF GUARDIAN: _____
 TELEPHONE NUMBER: _____ (Home) (Work)

CC (Customer License and) NUMBER OF INJURED PERSON: _____ (Specify Total Final Customer #)
 Accident Occurred: Before _____ During _____ After _____ the Store
 At the Time of the Accident: YES _____ NO _____
 Was the personal/vehicle used used in the event? YES _____ NO _____
 Was the personal/vehicle holding the driver? YES _____ NO _____

ANY OTHER WITNESSES: _____
 PCA REPRESENTATIVE: _____
 STORE/STATION MANAGER: _____
 (Print) (Print)

NOTICE TO PHYSICIAN/HOSPITAL
 Please direct invoice to the following address:
 PCA International, Inc.
 815 Matthews-Mint Hill Road
 Matthews, North Carolina 28105
ATTENTION: RISK MANAGEMENT DEPT.

DISTRIBUTION:
 Original (White) to PCA CORPORATE
 Second (Yellow) to Store Manager
 Third (Pink) to Customer
 Form # 001010
 Revised 8/01

CUSTOMER ACCIDENT INVESTIGATION FORM

(English version = Stock # 001026; French version = Stock #001019;
Spanish version = Stock #001018)

PCA International, Inc. CUSTOMER ACCIDENT INVESTIGATION FORM

ACCIDENT DATE: _____ STORE NUMBER: _____
 CUSTOMER NAME: _____ (Include Surname)
 TYPE OF ACCIDENT: _____ (Include Surname)
 (Include Object)
 DESCRIBE INJURY: _____
 DESCRIBE THE ACCIDENT: _____

WHAT WAS THE PRIMARY CAUSE OF THIS ACCIDENT? _____
 WAS MEDICAL HELP PROVIDED/REFERRED TO INJURED PARTY? _____
 IF REQUIRED, WAS CORRECTIVE ACTION TAKEN TO PREVENT ANOTHER INJURY? _____
 WERE THERE ANY WITNESSES? (PLEASE LIST EACH CUSTOMER) IF SO, PLEASE OBTAIN THEIR NAMES/ADDRESSES/STATEMENT (ATTACH TO FORM)

IF AN OBJECT WAS INVOLVED, DESCRIBE OBJECT: _____
 WAS IT REPAIRABLE/USED? _____
 IF SPILL OR FLASH INVOLVED WAS IT CLEANED UP? _____
 ARE THERE CIRCUMSTANCES THAT STILL NEED TO BE CORRECTED TO PREVENT ANOTHER INJURY FROM OCCURRING? _____

DID ANYTHING ABOUT THIS ACCIDENT SEEM QUESTIONABLE OR STRANGE? If so please describe: _____
 ADDITIONAL COMMENTS/RECOMMENDATIONS: _____

EMPLOYEE SIGNATURE: _____ DATE: _____
 Original should be mailed to the following address:
 PCA International, Inc.
 815 Matthews-Mint Hill Road
 Matthews, North Carolina 28105
ATTENTION: RISK MANAGEMENT DEPT.

IMPORTANT: THIS FORM IS AN INTERNAL DOCUMENT AND SHOULD BE COMPLETED AND SENT TO CORPORATE RISK MANAGEMENT ALONG WITH THE COPY OF THE MEDICAL REIMBURSEMENT FORM. THIS FORM SHOULD BE COMPLETED FOR ALL ACCIDENTS INVOLVING CUSTOMERS.

Form # 001026
 Revised 8/01

REPORTING "ON-THE-JOB" EMPLOYEE INJURIES

If you are injured on the job, Corporate Risk Management must be informed as soon as possible in order to get you proper medical care. It is also mandatory that you notify your District Manager, so that your studio can be properly covered. ***It is the responsibility of every employee to report an on-the-job injury directly to Corporate Risk Management and their District Manager.***

REPORT EVERY ON THE JOB INJURY WITHIN 24 HOURS OF OCCURRENCE AS FOLLOWS:

- ➔ **CALL IN THE ACCIDENT INFORMATION** - All job-related injuries should be reported directly to RISK MANAGEMENT at 1-800-438-0894, ext. 2427. **Be prepared to give the following information:**
 - * Employee name; * Social Security Number;
 - * Studio (or promotion) Number; Address
 - * Description of the Accident; * Description of the Injury
 - * DATE and TIME of accident; * Exact location of accident
- ➔ **NOTIFY YOUR DISTRICT MANAGER.**
- ➔ **ASSOCIATES IN THE U.S. MUST ARRANGE TO HAVE A DRUG TEST** - Call 1-800-257-9570 to arrange to have a drug test performed within 24 hours of the accident. This phone service is available 24 hours a day, 7 days a week, 365 days a year.
- ➔ **GO TO THE DOCTOR - "ROUTINE INJURY"**
RISK MANAGEMENT will direct your medical care unless an emergency.
- ➔ **GO TO THE DOCTOR - LIFE THREATENING EMERGENCY**
When immediate MEDICAL TREATMENT is needed for a life-threatening emergency situation, call 911 or go directly to the medical facility nearest your location.
- ➔ **GET A MEDICAL RELEASE FORM COMPLETED** by the treating physician and forward it to Risk Management at PCA.
- ➔ **FOLLOW-UP TREATMENT** must be authorized by the insurance company.

EVERY ACCIDENT IS REPORTABLE!

REPORTING "ON-THE-JOB" EMPLOYEE INJURIES (cont.)

- ➔ **BE AWARE OF PCA'S RESTRICTED DUTY POLICY:** It is your responsibility to inform your treating physician of PCA's Restricted Duty Policy. The policy is described on the page after next.
- ➔ **DIRECT BILLINGS FOR TREATMENT AS FOLLOWS:** Corporate Risk Management will provide billing information upon the reporting of your accident.
- ➔ **BE AWARE THAT FOLLOW UP TREATMENT MUST BE AUTHORIZED:** In most states follow up treatment must be authorized through the Insurance Carrier, you should contact your claim adjuster or Risk Management to confirm authorization for treatment.
- ➔ **IF AN INJURY OCCURS OVER THE WEEKEND:** Report the injury to your District Manager; If IMMEDIATE medical care is necessary it should be obtained through your local walk-in medical facility or emergency room. For all U.S. Associates, it is mandatory that a drug test be performed *within 24 hours of the accident.* For all Associates, it is mandatory that injuries be reported to CORPORATE RISK MANAGEMENT on MONDAY if an injury occurs over a weekend.
- ➔ **WORKERS' COMPENSATION PAY DOES NOT BEGIN IMMEDIATELY DUE TO AN ON-THE-JOB INJURY:** You are required to use your open sick days or vacation leave during the waiting period that varies by state. In order to avoid an interruption in your pay, it is in your best interest to advise your physician of PCA's restricted duty program.

Questions concerning your claim should be directed to Corporate Risk Management at 1-800-438-0894. Restricted duty work and return to work scheduling will be coordinated through your District Manager.

RESTRICTED DUTY PROGRAM

POLICY:

It is PCA's policy to provide a modified work position (may be referred to as light duty or restricted duty) to any employee who has been injured on the job and has been released by their treating physician to return to work with physical restrictions and/or hours limitations.

GENERAL:

Restricted duty is offered for the following reasons:

- ➔ To assist in the employee's transition from injury to productive work status;
- ➔ To prevent the employee from losing wages due to an on-the-job injury;
- ➔ To comply with Labor Laws, specifically the various caveats of the Family Medical Leave Act;
- ➔ To seek to lower insurance costs through lowering company claims experience.

GUIDELINES:

- ➔ Restricted Duty will be offered to all employees once their doctor has released them to return to a modified duty position.
- ➔ FMLA will run concurrently from the date of the incident for up to a total of twelve weeks for those who qualify.
- ➔ The employee has the right to refuse the restricted duty position. In this case, the FMLA leave will continue to be applied.
- ➔ In some states, the employee's refusal to return to work on restricted duty may also result in discontinuance of their Indemnity benefit under the state's statutory workers' compensation law.

RESTRICTED DUTY PROGRAM (cont.)

- ➔ Employees will be required to use their open sick days and vacation leave during the waiting period (varies by state) before workers compensation will begin to make indemnity payments.
- ➔ Depending upon the restrictions given the employee, paid hours may be applied through the workers' compensation budget for employees returning to work under restricted accommodations due to an on-the-job injury.

RISK MANAGEMENT

Risk Management will actively work to insure that District Managers and/or Regional Directors are aware of the restricted duty policy. Additionally, we will offer assistance in coordinating job duties within the employee's restrictions.

Risk Management will also actively seek full duty releases through the Insurance adjusters to insure that the light duty employee makes a progressive transition back to full duty. These employees will be returned to full duty as soon as a doctor's full release can be obtained.



DIV. ___ REG ___ DIST ___

STORE#/CITY/STATE Clearfield PA
STORE PHONE# 724-7013

INCIDENT REPORT

DATE / TIME OF INCIDENT: 3-28-00 4:00
ASSOCIATES NAME: K. Bussell
NAME OF PERSON ALLEGEDLY INJURED: Mariah AGE 3yr.
NAME OF PARENT OR GUARDIAN: Kim Lawson
ADDRESS / PHONE NUMBER: 623 E Spruce St. Philipsburg PA 16801 342-7420

DESCRIBE THE ALLEGED INCIDENT AND INJURY IN DETAIL: Was trying to get smile. Child sat leaned back to floor. Mom, who was sitting next to child, caught her leg but she still hit the floor

DOES PARENT OR GUARDIAN THINK THAT CHILD IS INJURED: YES OR NO
WAS PARENT OR GUARDIAN SITTING BY POSER: YES OR NO
WAS PARENT OR GUARDIAN HOLDING CHILD: YES OR NO
NUMBER OF TIMES PARENT OR GUARDIAN WAS ASKED TO REMAIN AT POSER WITH CHILD: once

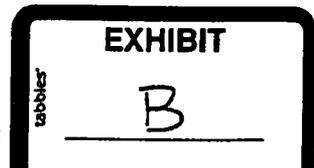
PARENT OR GUARDIANS COMMENTS REGARDING ALLEGED INCIDENT: MARIAH WAS being tickled when she leaned back & fell off platform. She landed on head & then twisted onto right shoulder. Her feet were over her head when she initially fell
PARENT OR GUARDIAN SIGNATURE: Kim Lawson DATE: 03-28-00
REPORT COMPLETED BY (NAME/TITLE): Kristina Bussell / Studio Manager
DATE: 03-28-00

WITNESS INFORMATION:
NAME: Carol Ebock NAME: _____
ADD/PHONE: 814-342-6187 ADD/PHONE: _____
Rt 1 Box 580 West Decatur PA 16878

CALL THE SAFETY DEPARTMENT IMMEDIATELY AT 3803 OR 3747 AND FAX THIS WITHIN 8 HOURS OF THE INCIDENT TO 1-800-553-0054. MAIL HARD COPY ASAP.

#5503110

Note: Mom insisted we finish session.



LAWSON

PCA International, Inc. MEDICAL EXAMINATION REIMBURSEMENT AND INFORMATION FORM

As a commitment to the safety and well being of our customers, PCA makes it a general policy to offer to pay for a medical examination should one of our customers or their children be involved in an accident while visiting our studio. PCA agrees to pay the cost of a medical examination by a licensed physician, provided the examination includes only those matters deemed by the physician to be necessary and prudent in light of the injury and provided the examination is conducted within 24 hours of its occurrence.

By accepting this offer you give your consent for PCA to receive a copy of the medical record reflecting the examination, including the diagnosis and recommendations, if any, by the examining physician, and you agree to cooperate with PCA in taking any necessary steps to obtain for PCA a copy of such medical record.

PCA asks this form be completed for the following reasons:

- a) As confirmation that PCA offered to pay the cost of the medical examination
- b) To obtain information regarding the accident.

The medical examination reimbursement offer and the completion of these forms does not constitute an acceptance or admission of liability on PCA's behalf.

Valley Forge
800-735-5375

TO BE COMPLETED BY CUSTOMER:

INJURED PARTY'S NAME: MARIAH LAWSON BIRTHDATE: 03 02 97

DESCRIPTION OF ACCIDENT: MARIAH WAS being tickled when she leaned back & fell off platform. She landed on head & then twisted onto right shoulder. Her feet went over her head when she initially fell.

NATURE OF INJURY: hit back, neck, head & shoulders

CUSTOMER ACCEPTED: EBOCH-LAWSON DATE: 3-28-00
(Customer's Signature)

CUSTOMER DECLINED: _____ DATE: _____
(Customer Signature)

TO BE COMPLETED BY STUDIO PERSONNEL:

STORE/INSTITUTION NUMBER: 2129 ACCIDENT DATE: 03-28-00

ADDRESS: 100 Supercenter Dr Clearfield PA 16830
(street) (city) (state)

NAME OF INJURED PERSON: Mariah Lawson

ADDRESS OF INJURED PERSON: 623 E. Spruce St Philipsburg PA 16866

NAME OF PARENT/GUARDIAN: Kim Eboch-Lawson

TELEPHONE NUMBER: 342-7420 768-4734
(home) (work)

CIC (customer information card) NUMBER OF INJURED PERSON: _____

Accident Occurred: Before _____ During X After _____ the sitting.
(Shoot/Work/Rest/Customer)

At the Time of the Accident:

1) Was the parent/guardian seated next to the parent? YES X NO _____

2) Was the parent/guardian holding the child? YES _____ NO X

ANY OTHER WITNESSES: Carol Eboch

PCA REPRESENTATIVE: _____ STORE/INSTITUTIONAL MANAGER: _____
(Print) (Print)

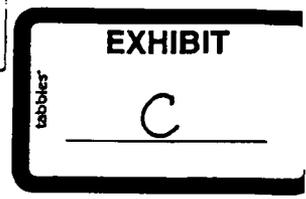
NOTICE TO PHYSICIAN/HOSPITAL:
Please direct invoices to the following:

PCA International, Inc.
815 Matthews-Mint Hill Road
Matthews, North Carolina 28105
ATTENTION: RISK MANAGEMENT DEPT.

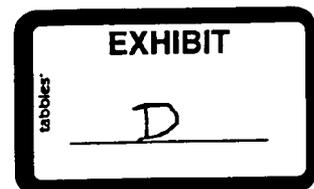
DISTRIBUTION:
Original (White) to PCA CORPORATE
Second (Yellow) to Studio Manager
Third (Pink) to Customer D-325

Form # 001010 Dm - Javeda Hicks
Revised: 1/96

Rm - Casen Dunn



For Comfort & Safety,
Please Keep A Firm Hand
On Your Child
During Photography.
Thank You.



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

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :

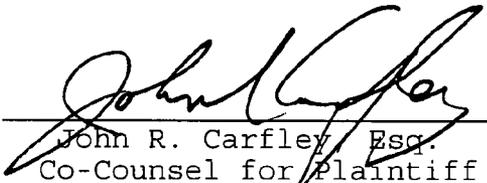
vs. : No. 02-378-CD

PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

CERTIFICATE OF SERVICE

I do certify that I made service of Motion to Compel Discovery upon defendant, PCA International, Inc. through its attorney, Paul T. Grater, Esquire, by depositing the same in the United States mail, postage prepaid, this 29 th day of August, 2003, addressed as follows:

PCA International, Inc.
c/o Paul T. Grater, Esq.
233 Breeding Avenue
Pittsburgh, Pa., 15202-1924


John R. Carfley Esq.
Co-Counsel for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

FILED

AUG 29 2003
01:22:20
William A. Shaw
Prothonotary/Clerk of Courts

NO CASE TO BE


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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs

:
:
:
:
:
:
:

vs.

:

No. 02-378-CD

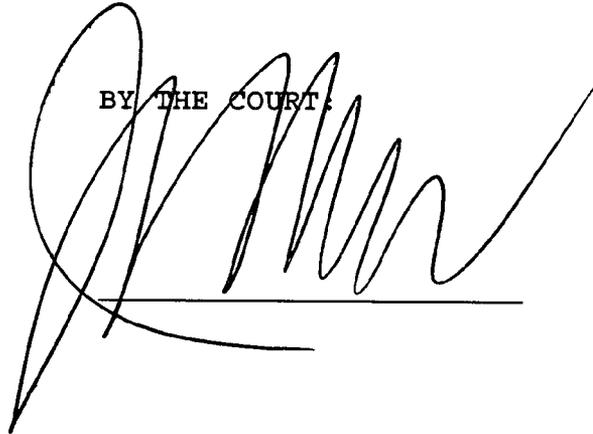
PCA INTERNATIONAL, INC.,
a corporation,
Defendant

:
:
:

RULE

AND NOW, this 15th day of ~~September~~, 2003, upon consideration of the foregoing Motion for Sanctions, a rule is hereby issued upon Defendant to Show Cause why the Motion should not be granted. Rule returnable the 13 day of ~~September~~ October, 2003, at 10:00 A.M. in Courtroom Number 1 for hearing thereon.

BY THE COURT:



FILED

SEP 15 2003

William A. Shaw
Prothonotary/Clerk of Courts



FILED 3cc
01:2:45 PM
SEP 15 2003
Amy Carstey
William A. Shaw
Prothonotary/Clerk of Courts

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

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :

vs. : No. 02-378-CD

PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

MOTION FOR SANCTIONS

AND NOW COMES the Plaintiff, Richard J. Lawson and Kim Eboch-Lawson, individually and as Guardians of Mariah C. Lawson, a minor child, who by and through their attorney, John R. Carfley, Esquire, move this Honorable Court for sanctions against the said defendant for failure to respond in full to Plaintiff's discovery requests and in support of said Motion aver as follows:

1. On June 11, 2003, Plaintiffs filed a request for production of documents based upon information referenced in a deposition conducted by Plaintiffs' counsel on June 8, 2003.

2. Various extensions of time were requested by the Defendant to produce this information which was clearly available through the corporate office where the incident took place as well as through the home office.

3. When the responses were ultimately received on August 20, 2003, they were inadequate and in the opinion of counsel

purposely designed to mislead counsel and prevent the Plaintiffs from acquiring clearly discoverable material for use in the preparatory stages of this matter for trial and for use in preparing and filing pre-trial motions including a Motion for Summary Judgment.

4. A Motion to compel the production of those items denied to the plaintiffs by the defendant was filed on August 28, 2003, and an Order was signed by this Court allowing a ten day period for defense counsel to acquire and produce the information requested.

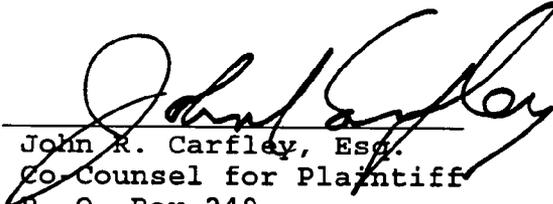
5. Said extension would have expired on September 7, 2003, as a result of which plaintiffs now seek the intervention of the Clearfield County Court to impose such sanctions upon the Defendant and its counsel as are consistent with Rule 4019 of the Pennsylvania Rules of Civil Procedure including the imposition of attorney's fees and costs coincident to the filing of the motion to compel and motion for sanctions.

6. Plaintiffs also move this court to impose sanctions against the Defendant which would preclude them from introducing by way of defense any of the information contained within the documents requested either in opposition to Plaintiffs' Motion for Summary Judgment or other motions in limine or pre-trial motions as well as in defense of its claims at time of trial.

7. Plaintiffs incorporate by reference the averments of its Motion to Compel the Production of the Documents which is attached hereto as Exhibit A and which clearly identifies the documents sought by Plaintiffs in its discovery package.

8. Defendant's failure to produce this information over the period of almost three months is clearly a tactical decision engaged in by the defendant to delay this proceeding and prevent the Plaintiffs from developing their case in an orderly and efficient fashion and is so dilatory, obdurate, and vexatious as to cause undue expense, annoyance, concern, and aggravation to the Plaintiffs and their counsel.

WHEREFORE, Plaintiffs request this Honorable Court to enter an Order directed to the Defendant through its counsel to appear and show cause why sanctions consistent with the averments and prayer of this motion should not be granted against counsel and/or his corporate client in such manner and as this Court may deem appropriate.



John R. Carfley, Esq.
Co-Counsel for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated: September 12, 2003

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

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :

vs. : No. 02-378-CD

PCA INTERNATIONAL, INC., : Type of Pleading:
a corporation, :
Defendant :

Motion to Compel Against
Defendant for Failure
to fully respond to
Plaintiff's Request for
Production of Documents
And ORDER
Counsel of Record for this
Party:

John R. Carfley, Esq.
Pa. ID# 17621
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

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

AUG 29 2003



Attest.

William L. Shaw
Prothonotary/
Clerk of Courts

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

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :

vs. : No. 02-378-CD

PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

ORDER OF COURT

AND NOW, this 29th day of August, 2003, upon consideration of Plaintiffs' Motion to Compel Discovery to Plaintiffs' Second Request for Production of Documents directed to Defendant on June 11, 2003, which Requests have not been fully and adequately addressed and/or answered in full, IT IS THE ORDER OF THIS COURT that Defendant file full and complete responses to Plaintiffs' Second Request for Production of Documents within ten (10) days or suffer appropriate sanctions to be imposed upon further application to the Court.

BY THE COURT:

/s/ JOHN K. REILLY, JR.

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

SEP 02 2003

Attest.

William L. Reilly
Prothonotary/
Clerk of Courts

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

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :

vs. : No. 02-378-CD

PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

MOTION TO COMPEL DISCOVERY

AND NOW COMES the Plaintiff, Richard J. Lawson and Kim Eboch-Lawson, individually and as Guardians of Mariah C. Lawson, a minor child, who by and through their attorney, John R. Carfley, Esquire, move this Honorable Court to compel the said defendant to respond in full to Plaintiff's discovery requests and in support of said Motion aver as follows:

I. PROCEDURAL HISTORY OF THE CASE

1. Plaintiffs filed the above action against the defendant citing a claim for personal injuries sustained when the minor child fell from a photographic table alledgedly as a result of the negligence of an employee and/or agent of the defendant.

2. Pre-trial discovery was engaged in by the Plaintiffs in this matter and in part consisted of depositions of employees of PCA International, Inc. during the course of which depositions certain information was elicited and documents were referenced

which warranted the filing of a Second Request for Production of Documents which was served on the Defendant through its counsel on June 11, 2003, a true and correct copy of said Requests is attached hereto and marked Exhibit A.

3. Answers to said Requests were due from the Defendant no later than Friday, July 11, 2003.

4. On July 9, 2003, counsel for defendant verbally requested an extension of time to produce the various documents requested by the plaintiff citing as the reasons for his delay in responding, the problem which counsel had experienced in acquiring such a volume of documents from the corporate defendant within the thirty day period. Counsel for the defendant also stated that delivery of the discovery packet had been delayed as a result of his move to new offices in the Pittsburgh area.

5. During the conversation which ensued between counsel no mention was ever made of any objections to the documents requested or the inability of counsel to secure said documents for production.

6. Based on those representations that counsel made with respect to his difficulties in acquiring the documents from his client and the delay in the receipt of the discovery packet, counsel, as a matter of professional courtesy, extended the discovery deadline for an additional thirty days but asked that counsel verify said extension in writing so that the record would be clear as to the request for the extension of time and the date upon which the extension would expire.

7. Counsel for the defendant failed to transmit any letter or other correspondence confirming the extension, however, counsel for the plaintiff noted in the file and on his day calendar the date of the request and the date when the said extension would expire.

8. On Monday, August 11, 2003, the date that said discovery was due, Plaintiffs' counsel dictated a letter to counsel for the defendant a copy of which letter dated August 12, 2003, is attached hereto as Exhibit B.

9. Counsel for the defendant still did not voice any objections to the substance of Plaintiff's request for documents nor did he state that the documents were untraceable or unavailable through the corporate offices or through his own resources.

10. Plaintiff's counsel did, however, in his letter to counsel for the defendant establish a firm date for delivery of documents which would not exceed Monday, August 18, 2003. Counsel further stated unequivocally that any documents transmitted subsequent to that date would be considered untimely.

11. On Wednesday, August 20, 2003, two days after the established deadline, Plaintiff received a packet of information apparently in response to the request for production of documents, a true and correct copy of said packet being attached hereto and marked Exhibit C.

12. It is averred that defense counsel has been guilty of engaging in similar evasive tactics while attempting to withhold items of clearly discoverable material from Plaintiff's counsel in his responses to Plaintiff's initial discovery requests which

prompted a similar motion to compel by plaintiff's counsel.

13. It is averred that defense counsel has consistently abused the professional courtesy extended by this court and co-counsel in that he has misrepresented the availability of witnesses for deposition and the availability of documents clearly within the control of his client.

14. It is submitted that each of the documents and/or items requested in this discovery packet were referenced in the depositions conducted of corporate agents and/or resulted from information provided in response to Plaintiff's earlier discovery requests so that the information now sought should be readily available to counsel and could and should be deliverable with a minimum of effort and expense.

15. Rule 4006, 4009.12, 4011 and 4012 provide the procedural rules under which a party seeking protective orders from the court with respect to another party's discovery may respond with respect to interrogatories, request for admissions, request for production of documents, and/or any other form of discovery.

16. The rules are clear in stating that answers to these written requests must be filed within thirty (30) days and any written objections must be noted within that period of time or said objections are untimely and may be considered waived by the court.

17. In the case at bar counsel for the defendant at no time from the original filing on June 11, 2003, until his response on August 20, 2003, stated any objection to the request for information sought by the plaintiff.

18. The responses submitted by the defendant pertaining to the reasonableness and relevancy of the discovery requests are, therefore, untimely and should be considered waived.

19. Moreover the determination of the relevancy, competency or likelihood of these documents leading to discovery of other substantive evidence is a matter for determination by the court and not counsel so that these answers are a blantant attempt to usurp the authority of the court in this arena.

20. It is believed and therefore averred that defense counsel misrepresented the factual basis of his request for additional time to counsel for the plaintiff in that he asserted, represented, and implied that the documents requested would be produced but that they were of such a nature that the corporate defendant would be required to research its records in order to produce the information requested when, in fact, it appears that defense counsel knew full well that he intended to object to the production of these documents and/or that he was going to argue their unavailability as well as their materialty and relevancy in the proceeding at bar.

21. Plaintiffs' counsel would ask the court to take note of the Defendant's responses to Plaintiff's initial discovery since these responses likewise required a Motion for Sanctions by Plaintiff's counsel in order to compel a reasonable response.

22. It is believed and therefore averred that this constitutes a pattern of behavior and the use of trial tactics and strategy which should not be tolerated by this court given

plaintiffs' clear and concise requests, and the need for such information in order to develop its case in chief.

23. It is believed and therefore averred that defendant has consistently failed to adequately provide information pertaining to incidents and/or documents which are clearly within the control of the corporate defendant and should be compelled to produce the information or be sanctioned in conformity with Rule 4019 of the Pennsylvania Rules of Civil Procedure.

24. Rule 4006 of the Pennsylvania Rules of Civil Procedure provides that each Interrogatory shall be answered fully and shall be signed by the person making the answers with any objections to be signed by the attorney making them.

25. The party and the attorney in this instance has failed to respond in an appropriate way to the discovery disseminated by the plaintiff in that no corporate officer has signed the answers to the interrogatories or verified that the information contained in the interrogatories is true and correct subject to 18 Pa. C.S.A. Section 4904.

26. In this instance the defendant has failed to answer the Interrogatories and Request for Production of Documents completely and has further violated the time limitations under the Rules of Discovery requiring answers within thirty days after service of the discovery requests.

27. Based on these provisions defendant should be ordered by this court to respond fully and completely to all of the discovery promulgated and be further sanctioned as the court deems

appropriate.

28. It is believed and therefore averred that defendant has failed to properly verify the responses to the Interrogatories and Request for Production of Documents even though two months were provided within which the defendant could secure corporate verification.

29. It is believed and therefore averred that in this instance the verification of counsel to these answers is insufficient and not in conformity or compliance with the procedural rules.

30. It is believed and therefore averred that the corporate defendant through its officers, employees, agents and/or staff should be required to properly verify these interrogatories and/or in the alternative should be required to certify that the documents requested do exist and in so doing to identify the proper repository for these documents or in the alternative to state that the said documents do not exist anywhere within the corporate structure of the defendant or any associated legal entities.

II. SPECIFIC OBJECTIONS TO DEFENDANT'S RESPONSES TO
PLAINTIFFS' REQUEST FOR PRODUCTION OF DOCUMENTS

31. In response to Paragraph 1 and Paragraph 2 of Plaintiffs' Request for Production of Documents Defendant has refused to produce the subject manual stating that the manual will be made available for inspection when, in fact, Plaintiffs specifically requested the production of the manuals so as to have access to information in the manual on a continuing basis so that Plaintiffs

could review said document and prepare for cross-examination of witnesses prior to trial, something which would be rendered impossible if Plaintiffs were limited to an inspection of the text only on corporate premises during normal working hours and after notice to the defendant.

32. Defendant's refusal to produce this document in its entirety thwarts the efforts of Plaintiffs to engage in reasonable discovery in order to develop the case for trial particularly in light of the fact that defendant was provided with over two months to secure a reproduction of this document, a task which could have been readily accomplished by transmittal of the manual to any copying service in the area for minimal cost and minimal disruption of business activities. It is also incomprehensible that duplicate copies of this manual are not readily available for distribution by the defendant in instances such as in the instant proceeding.

33. The responses of defense counsel to Request Number 5 and Request Number 8 are evasive, misleading and do not represent the position of the corporate officers who have failed to swear and/or verify the discovery responses. As a result counsel should be ordered by this court to exercise a due diligent search through its corporate offices and to produce these documents which were clearly mentioned in deposition and must be presumed to be available somewhere within the corporate structure.

34. It is averred that the defendant has violated the Pennsylvania Rules of Civil Procedure in its responses to

Plaintiffs' Request for Production of Documents Paragraphs 9, 10, 11, 12, 13, 14 in that these objections are untimely and not properly preserved under Rule 4006 Pa. R.C.P.

35. It is believed and therefore averred that in each of the instances cited above defendant has violated the Pennsylvania Rules of Civil Procedure by attempting to assert objections to Plaintiff's Requests in an untimely fashion and subsequent to the period of time envisioned by the Rules of Civil Procedure for objecting to the scope of the inquiry and further are a blatant attempt to usurp the authority of the court which is solely responsible for rulings on relevancy, competency and admissibility.

36. The responses of defense counsel to Request Number 16 and 17 are evasive in that the posing table is clearly within the possession of the defendant and could be described by way of photographic evidence, diagram and/or graphic drawings so that the responses of the defendant are clearly inadequate and sanctions are therefore appropriate unless drawings, photos or graphic reproductions of the unit are provided.

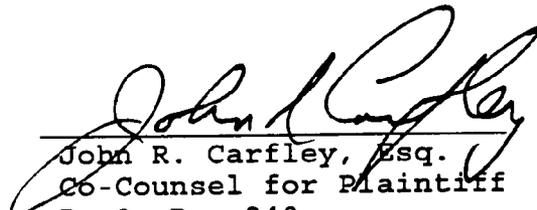
37. The responses of defense counsel to Request Number 18 and 19 are evasive in that the item requested is clearly within the possession and control of the defendant and could be described by means of photographic evidence, diagram and/or graphic drawings so that the responses of the defendant are clearly inadequate and sanctions are therefore appropriate unless drawings, photos or graphic reproductions of the unit are provided.

38. It is believed and therefore averred that the responses

to all of Plaintiffs' requests are responses formulated by defense counsel and not by corporate officers, agents, and/or employees entrusted with the formulation and/or compilation of the information sought by the plaintiffs.

39. In that respect defense counsel should be sanctioned individually for failure to produce those items as specified or in the alternative defense counsel and the corporation should be jointly and severally sanctioned as this court may see fit.

WHEREFORE, Plaintiff requests this Honorable Court to enter an Order directing the Defendant to file full and complete answers to Plaintiff's Discovery Packet within 10 days or suffer appropriate sanctions to be imposed under Rule 4019 of the Pennsylvania Rules of Civil Procedure.


John R. Carfley, Esq.
Co-Counsel for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated: August 28, 2003

JOHN R. CARFLEY
ATTORNEY AT LAW
222 PRESQUEISLE STREET
P. O. BOX 249
PHILIPSBURG, PENNSYLVANIA 16866

June 11, 2003

AREA CODE 814
TELEPHONE 342-5581
FAX 342-1127

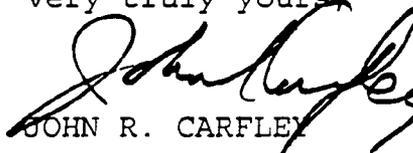
Paul T. Grater, Esq.
340 Chattam Center I
Pittsburgh, Pa., 15219

RE: Richard J. Lawson et. al.
vs. PCA International, Inc.
No. 02-378-CD

Dear Mr. Grater:

Please find enclosed an original and one copy of Plaintiffs' Request for Production of Documents, Second Set, for response by your client.

Very truly yours,


JOHN R. CARFLEY

JRC:sm

Encls.

CC: James Naddeo, Esq.



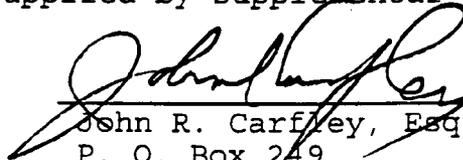
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :
vs. : No. 02-378-CD
PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

TO: PCA INTERNATIONAL, INC.
c/o Paul T. Grater, Esq.
340 Chattam Center I
Pittsburgh, Pa., 15219

PLEASE TAKE NOTICE that you are hereby required, pursuant to Pennsylvania Rules of Civil Procedure No. 4001, et seq., to serve upon the undersigned, within thirty (30) days after service of this Notice, the following Request for Production of Documents, Second Set:

These Request for Production of Documents are deemed to be continuing and any other information secured subsequent to the filing of Defendant answers which would have been includable or available, are to be supplied by supplemental answers.


John R. Carfrey, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: June 11, 2003

REQUEST FOR PRODUCTION OF DOCUMENTS, SET II

1. Please produce the PCA document referred to in the deposition of Susan Barkley completed on June 9, 2003 as the Studio Manual together with any projected revisions of the manual in later publications or editions or approved for publication by any responsible committee, individual and/or agent in charge of revisions for the corporation.

2. Please produce the Studio Manual referenced in the deposition of Susan Barkley on June 9, 2003, which was being utilized by PCA and its photographic units and personnel in March of 2000 at or about the date of this incident.

3. Please produce any and all current revised manuals available for use by supervisors, photographers, or other employees of PCA including but not limited to the manual entitled "PCA Portrait Studio Certification Program", Associate Manual, earlier produced as Exhibit A in response to previous discovery and the PCA International, Inc. PCA Portrait Studio Portrait Safety Manual originally dated January, 1996, and reproduced as Exhibit C in response to earlier discovery requests.

4. Please produce any customer completed accident form submitted by the plaintiff coincident to the incident which is the subject of this litigation.

5. Please produce the completed customer statement reproduced in generic form as a blank document in response to Plaintiff's earlier discovery requests and labelled as Exhibit B therein.

6. Please produce any medical examination reimbursement and information form which was completed by the customer or studio personnel on the date of this incident and forwarded to PCA International, Inc. 815 Matthews Mint Hill Road, Matthews, N.C. 28105, Attention: Risk Mangement Department.

7. Please produce the completed customer accident investigation form which form represents an internal document to be completed and sent to corporate risk management along with a copy of medical reimbursement forms and addressed to the Risk Management Department at the above cited address:

8. Please produce any written narrative completed by the photographer involved or any other person or employee of PCA or Walmart concerning the incident which gave rise to this cause of action which written narrative may or may not have been incorporated into the formal customer accident form hereinabove referenced.

9. Please produce any and all documents, pleadings, motions, and other information pertinent to the Cambria County case of Kevin & Janet Barnosky, as Parents and Guardians of the Minor, Bethany Barnosky, vs. PCA International, Inc. and Walmart, which case is filed to Docket Number 2002-3104 in the Court of Common Pleas of Cambria County, Pennsylvania.

10. Please produce all documents related to the following incidents including but not limited to the medical examination reimbursement and information form and customer accident investigation form: The claim number for these incidents are as noted on the Reliance claims form attached as Exhibit A to the Supplemental Response to Plaintiff's Request for Production of Documents and are as follows:

- (a) Claim Number 419950250
- (b) Claim Nunber 79952984
- (c) Claim Number 79951761
- (d) Claim Number 79952433
- (e) Claim Number 79953452
- (f) Claim Number 79953149
- (g) Claim Number 79955200
- (h) Claim Number 79955916
- (i) Claim Number 79962434
- (j) Claim Number 70150046
- (k) Claim Number 70052131

11. Please produce the same documents as requested in Request Number 10 for those incidents reported on Exhibit B of the Supplemental Response to Plaintiff's Discovery referenced under the name of the claimant as follows:

- (a) Prinkey, Ethan
- (b) Donner, Stephanie
- (c) Lynch, Katelyn
- (d) Scott, Leland
- (e) Bennett, Cody
- (f) Boyle, Alana

12. For the information requested in Request for Production of Document Number 10, please provide the age of the individual involved in the incident and the location where the incident occurred.

13. With respect to the Claimants listed in Paragraph 11, please provide the age of the individual involved in the incident and the location of the studio.

14. Please produce a location code corresponding to the location of all stores and/or PCA units operating in the Commonwealth of Pennsylvania.

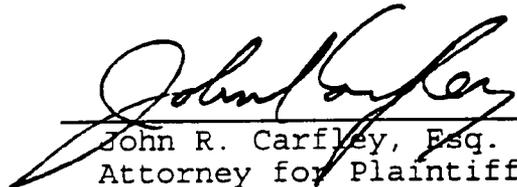
15. Please produce copies of any and all signs placed in the studio at Clearfield Walmart at or about the time of this incident to warn parents to care for the child, to remain seated near the child, or beside the child at all times, which signs are said to be comprised in part of four orange signs with black lettering situate throughout the studio.

16. Please produce information pertaining to the size of the posing table including length, width, height, and the dates when the variable height posing table was rendered stationary and the reasons therefore.

17. Please identify the individual and/or the individuals within the corporation who were responsible for the decision to enlarge the size of the top of the table and who is responsible for the decision to lock the table in place at a certain height, again stating the height in terms of feet and inches from the floor so that it would not be capable of lowering as suggested in Page 42 of the Associates Manual.

18. Please provide the dimensions for the poser table being used in the photo lab in March of 2000 and the dimensions of the paser table utilized at present in the PCA/Walmart Photo Labs.

19. Please provide the brand name or manufacturer of the poser table utilized in March of 2000 and the manufacturer or brand name of the poser table utilized at present in the PCA/Walmart Photo Labs.


John R. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated: June *11*, 2003

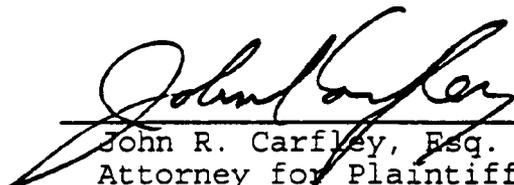
15. Please produce copies of any and all signs placed in the studio at Clearfield Walmart at or about the time of this incident to warn parents to care for the child, to remain seated near the child, or beside the child at all times, which signs are said to be comprised in part of four orange signs with black lettering situate throughout the studio.

16. Please produce information pertaining to the size of the posing table including length, width, height, and the dates when the variable height posing table was rendered stationary and the reasons therefore.

17. Please identify the individual and/or the individuals within the corporation who were responsible for the decision to enlarge the size of the top of the table and who is responsible for the decision to lock the table in place at a certain height, again stating the height in terms of feet and inches from the floor so that it would not be capable of lowering as suggested in Page 42 of the Associates Manual.

18. Please provide the dimensions for the poser table being used in the photo lab in March of 2000 and the dimensions of the passer table utilized at present in the PCA/Walmart Photo Labs.

19. Please provide the brand name or manufacturer of the poser table utilized in March of 2000 and the manufacturer or brand name of the poser table utilized at present in the PCA/Walmart Photo Labs.

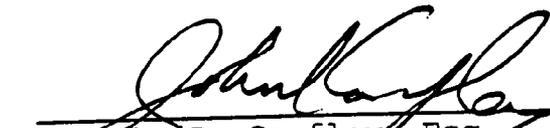

John R. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated: June *11*, 2003

CERTIFICATE OF SERVICE

I do certify that I made service of the foregoing document upon defendant, PCA International, Inc. through its attorney, Paul T. Grater, Esquire, by depositing the same in the United States mail, postage prepaid, this 11TH day of June, 2003, addressed as follows:

PCA International, Inc.
c/o Paul T. Grater, Esq.
340 Chattam Center I
Pittsburgh, Pa., 15219


John R. Carfley, Esq.
Attorney for Plaintiff

JOHN R. CARLEY
ATTORNEY AT LAW
222 PRESQUEISLE STREET
P. O. BOX 249
PHILIPSBURG, PENNSYLVANIA 16866

AREA CODE 814
TELEPHONE 342-5581
FAX 342-1127

August 12, 2003

Paul Grater
233 Breeding Avenue
Pittsburgh, PA 15202

Lawson Vs. PCA International

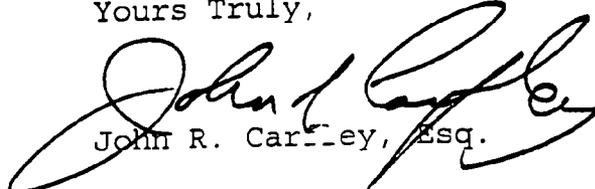
Dear Paul,

My calendar indicates that the responses to my interrogatories and request for production of documents were due on Monday, August 11, 2003, which date reflects the 30-day extension which I provided you as per telephone conversation. I had asked that you confirm our agreement in writing, however, my records do not indicate any correspondence addressing this issue.

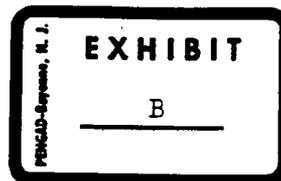
I did, however, note our conversation and would like to request your immediate attention to this matter so as to avoid the necessity of filing any type of motion for a protective order.

If you require a few extra days to complete your discovery package, I would be more than happy to accommodate you. However, the extension will not exceed seven days or August 18, 2003.

Yours Truly,


John R. Carley, Esq.

cc: James A. Naddeo



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents
and natural guardians of MARIAH C.
LAWSON, a minor,**

Plaintiffs,

vs.

**PCA INTERNATIONAL, INC., a
corporation,**

Defendant.

CIVIL DIVISION

No. 02-378-CD

**DEFENDANT'S RESPONSE TO
PLAINTIFFS' REQUEST FOR
PRODUCTION (Second Set)**

Issue No.:

Code:

**Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant**

**Counsel of record for
this party:**

**PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560**

**233 Breeding Avenue
Pittsburgh, PA 15202
412-734-4595**



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

DEFENDANT'S RESPONSE TO PLAINTIFFS'
REQUEST FOR PRODUCTION (Second Set)

NOW comes the defendant, PCA International, Inc., by its undersigned counsel,
and files this following response to the plaintiffs' Request for Production of Documents
(Second Set) as follows:

1. The subject manual will be made available for inspection by the plaintiffs' representatives at the subject store, during normal business hours and upon reasonable notice.
2. To the extent that the document referenced in Request Number 2 is the same document as referenced in Request Number 1, see response to Request Number 1 above.

3. The manual referenced as the "PCA Portrait Studio Certification Program," associate manual, which was produced earlier in response to the plaintiffs' previous request, is the manual currently in use. As to the second request contained in Request Number 3, the current safety manual, updated as of August 2001, is attached hereto as Exhibit "A."

4. The defendant believes that the referenced form was produced to plaintiffs' counsel at the time of the deposition of Christina Russell in November 2002. A copy thereof is attached hereto as Exhibit "B."

5. To the best of the answering party's information, the subject document is not presently within the defendant's position. If such document is located, pending further search, it will be produced pursuant to supplemental response.

6. The subject document is attached hereto as Exhibit "C."

7. See documents attached hereto, as referenced above.

8. The answering party is not in possession of any document which meets the description contained in Request Number 8.

9. Objection. The defendant objects to Request Number 9 on the grounds that the materials requested are neither relevant nor calculated to lead to evidence admissible on any issue in dispute in the within cause. By way of further answer, and without waiving the said objection, it is the answering party's belief that the subject documents are public records, and are available to the inquiring party at the office of the Prothonotary, Cambria County, Pennsylvania.

10. Objection. The defendant objects to Request Number 10 on the grounds that the documents requested are neither relevant nor calculated to lead to evidence admissible on any matter at issue in the within cause.

11. Objection. The defendant objects to Request Number 11 on the grounds that the documents requested are neither relevant nor calculated to lead to evidence admissible on any matter at issue in the within cause.

12. See response to Request Number 10 above.

13. See response to Request Number 11 above.

14. Objection. The defendant objects to Request Number 14 on the grounds that the documents requested are neither relevant nor calculated to lead to evidence admissible on any matter at issue in the within cause.

15. See Exhibit "D" attached.

16. The defendant is not in possession of any document which meets the description contained in Request Number 16. By way of further response, the subject posing table will be made available for inspection by the plaintiffs' representatives at the subject studio, during normal business hours and upon reasonable notice.

17. The defendant is not in possession of any document which meets the description contained in Request Number 17, or which contains the information referenced in this Request.

18. The defendant is not in possession of any document which contains the information requested in Request Number 18. By way of further response, see answer to Request Number 16 above.

19. To the best of the defendant's knowledge or information, the subject poser table does not bear any manufacturer's name plate from which the requested information can be obtained.

LAW OFFICES OF PAUL T. GRATER

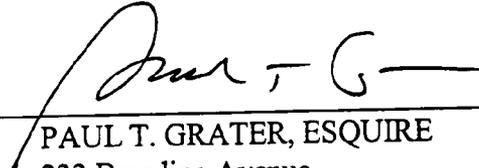
By: 
PAUL T. GRATER, ESQUIRE
Attorney for Defendant

PROOF OF SERVICE

I hereby certify that a true and correct copy of the attached Defendant's Response to Plaintiffs' Request for Production (Second Set) was served upon the following person(s) by First-Class Mail, Postage Pre-paid on this 18th day of August 2003.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 1/2 E. Locust Street
P.O. Box 552
Clearfield, PA 16830

By: 
PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202



SAFETY MANUAL



<u>CONTENTS</u>	<u>PAGE</u>
→ Camera Room Safety	3
→ Associate Safety	5
→ Safety Instructions for the Parent/Legal Guardian	9
→ Safety Guidelines for Sitters & Groups	11
→ Unsafe Poses	13
→ Lifting Children In Photography Sessions	14
→ Handling Children In Photography Sessions	15
→ Inappropriate Poses/Props	16
→ Customer Accidents	17
→ Reporting Customer Injury/Accident	19
→ Customer Accident Forms	22
→ Reporting "On-the-Job" Associate Injuries	23
→ Restricted Duty Program	26
	28

EXHIBIT

A

tabbles

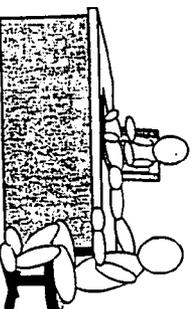
This page intentionally blank.

CAMERA ROOM SAFETY

YOU are the person who is in control of what takes place in your studio! Courtesy is important! However, politely instruct all persons where and how they are to be seated and/or posed.

- Whenever there is a child on the poser, the parent/legal guardian must be seated next to and facing the poser with his/her hand holding the child between exposures during the entire photography session!
- When posing NON-SITTERS (infants up about 8 months of age), the parent/legal guardian must keep a hand on the child at all times!
- SITTERS (children from about 8 months to 7 years) are more accident prone than non-sitters because they are more active. The parent/legal guardian must still stay seated next to the poser at all times, with his/her hand holding the child between exposures during the entire photography session!
- To ensure the safety of all children, no child should be allowed to stand on the poser at any time for any reason. If a child should stand up or the parent/legal guardian request that you photograph his/her child in a standing pose, you should politely ask the parent/legal guardian to assist and have his/her child sit down on the poser. Explain to the parent/legal guardian that our procedures are to ensure the safety of their child.
- At no time should one child be posed sitting and/or lying on top of another child.
- When escorting the customer to the posing area, point out any change in elevation of the carpet.
- Do not allow additional adult family members to stand around the sides of the camera or the subject area as they might distract you, the child on the poser and/or the parent/legal guardian seated beside the child. Children and/or adults not being photographed should be seated or asked to wait outside of the camera room.
- Be alert to possible hazards in your studio such as sharp objects, electrical cords, frayed carpet, objects lying on the floor, etc.

Stay seated beside the poser!



Always hold your child!

CAMERA ROOM SAFETY (cont.)

As a studio employee, routinely during the day, you should be continuously aware of any potential trip and fall hazards that exist within the studio or in the aisle way surrounding the studio. Following is a partial list of those items you should be constantly aware of:

- Water on the floorspilled drinks.
- Food on the floor.
- Props on the floor used during a session.
- Paper or misc. trashmaybe from an overfilled trash can.
- Electrical cords that have gotten into an aisle.
- Children's toys, bottles, etc.
- Uncontrolled children.

Electric shock is powerful enough to cause serious injury or death to you or a customer. Follow these guidelines in making sure that electrical hazards are controlled within the studio:

- Keep safety caps in exposed unused receptacle outlets.
- Never overload an electrical outlet or drop cord; this can result in serious shock or a fire.
- Keep water away from electrical equipment, i.e.; cameras, wiring, computers. Water is a conductor for electricity and can magnify its impact.
- Keep all doors shut and locked to exposed wiring, especially those under the camera operation. The open door can present itself as an "attractive nuisance" to a child and may result in a serious injury.
- Be sure all circuits are dead before attempting to work on them.
- All electrical wiring, cords, and conduits should be secured and kept away from general traffic areas and anywhere people could trip over them, brush against them or otherwise be inadvertently exposed to them. In all traveling promotions, cords must be securely taped to the floor or carpet!
- Call the Corporate Construction Department at 1-800-438-0894 for assistance in correcting any electrical hazards within a studio.

It is your responsibility to make sure hazardous situations in the studio are corrected immediately! Always notify your DM of any hazardous situation. Should you observe an unsafe condition anywhere else within the Store, notify the Store Manager.

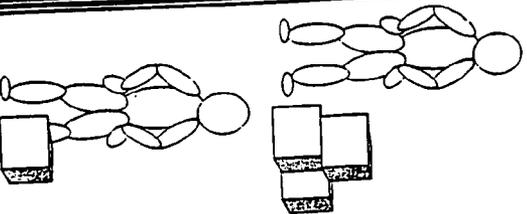
ASSOCIATE SAFETY

Follow these guidelines to help ensure your own safety in the PCA studio or promotion:

HELPFUL HINTS:

- **PUSH.....DON'T PULL THAT LOAD** - When you have to move something that's on a cart, dolly or hand truck, push the load. Pushing puts less strain on your back.
- **MOVE.....DON'T REACH** - Organize things in your work area so that they are in easy reach for you. Overreaching for objects can cause unnecessary strain on your back and shoulders. If you can't get things within easy reach....move your entire body closer to them.
- **SQUAT.....DON'T BEND** - Whenever you have to reach down low, you should squat down, bending at the knees, rather than bending your back. If you have to reach into a deep container, prevent injury by resting your free hand on the top edge of the container for support. As you straighten up, push down on the container edge to push yourself back up.
- **TURN...DON'T TWIST** - Twisting is not the thing to do. Sudden twists are responsible for lots of back injuries. Instead of twisting, pivot your whole body in the direction you want to go.

LIFTING TECHNIQUES

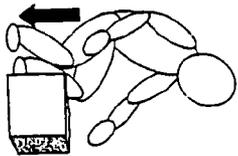


Think before you lift! If the load appears to be too much for you, break it down into smaller components or arrange for a cart or a hand truck to help move the load.

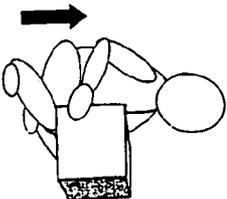
Stand close to the load with feet apart.

ASSOCIATE SAFETY

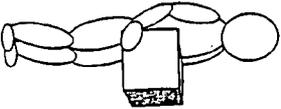
LIFTING TECHNIQUES (cont.)



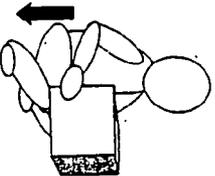
Squat down, bending at the hips and knees.



As you grip the load, arch your lower back inward by pulling your shoulders back and sticking your chest out.....Push up using your leg muscles rather than just lifting up using your back or shoulder muscles.



Be sure to keep the load close to your body. The closer the load is to your body, the less pressure it exerts on your back.



When you set the load down, squat down, bending at the hips and knees, keeping your lower back arched in.

ASSOCIATE SAFETY (cont.)

LIFTING FROM A HIGH SHELF

Ask these questions *before* you make a move...

- Can I move the load myself?
- Will I be able to grasp the load firmly when it's above or below my head and shoulders?
- Do I need a stepladder?
- Will I need someone or something below me to help take the load?
- Do I have a clear place in which I can set the load down safely and easily?

Once you've answered these questions, move the load as follows:

- If the load is above you and must be brought down, test its weight by pushing up on it.
- Make sure you have a firm footing and a solid grasp before you move the load. In other words, don't try to move anything if the only way you can reach it is on the tips of your toes with your arms stretched way above your head. If you must, use a ladder to bring yourself up to the load, but never try to lift and move a load this way by yourself especially if the load is too large.
- After lifting the load, position it close to your body so that the weight is centered.

PROPER CARRYING TECHNIQUES

The best posture to maintain when you have to walk and carry something is the one that comes closest to normal standing.

- Keep your body aligned correctly.....your ears, shoulders and hips should be aligned to keep your body from being awkwardly positioned.
- Hold the load close to your body. If you hold the load away from your body, you place unnecessary strain on your arms, shoulders and back. Make sure that you can see over the load and never carry so much that you block your vision.
- Keep your elbows resting against your sides. This secures the load and prevents sudden shifts, which could cause sudden strains.
- Keep the weight of the load evenly balanced. This way, no one part of your body has to bear more than its share of the weight.
- If you have to carry something in only one arm, place it as close as possible to your elbow. This will give you extra support. You can also rest a large load against your hip for support.

ASSOCIATE SAFETY (cont.)

- ➔ Rest large loads against your hip for even better support. This will give your arms and shoulders a break and allow you to carry the load for longer distances without getting tired.
- ➔ Turn, don't twist. If you need to turn, turn your whole body; don't just twist at the waist.
- ➔ If the load is too bulky or large for you to carry alone... break it down...make two trips. Never run the risk of back injury in order to save time.

REMEMBER THE FOLLOWING BACK SAFETY TIPS!

- ➔ When you lift something, follow proper lifting procedures making sure to keep the load close to your body.
- ➔ If a load is too heavy or bulky to carry alone, ask someone to help you or arrange for a cart, buggy or other equipment to transport it.
- ➔ Practice good standing posture; Keep your ears, shoulders and hips aligned.
- ➔ When you have to pick something up off the floor, squat down rather than bend at the waist.
- ➔ **REMEMBER TO LIFT USING YOUR LEGS** not with just your arms and shoulders.
- ➔ Use a ladder to reach loads that are too high for you to reach safely from the ground.
- ➔ When you set a load down, squat down, being sure to bend at the hips and knees.

INSTRUCTIONS FOR MAINTAINING PROPER CAMERA ANGLE

In a situation that requires a camera angle that prevents you from seeing into the viewfinder while standing on the floor, you may have to stand on something to properly frame and size the subject. In this situation, follow these guidelines:

- ➔ Raise the camera tripod to the proper height while standing on the floor. Make sure the tripod crank is locked in position and that the safety pin is properly engaged!
- ➔ Use a wooden (never foam) PCA posing block positioned beside the camera to stand on while you are framing and sizing a pose that requires a higher camera angle. NOTE: Do not use plastic stepping stools or other store-bought stepladders!
- ➔ As soon as you have framed and sized the pose, move the wooden posing block safely out of your way and work for expression *while standing on the floor.*

SAFETY INSTRUCTIONS FOR THE PARENT/LEGAL GUARDIAN

At all times, be polite to your customers when giving them instructions as to what they are to do before, during, and after the sitting and where they should sit or stand. Also, be polite to store management and personnel when asking for assistance. Our intent is to prevent any possible accident and/or injury and to ensure the customer's safety at all times during the photography session.

- ➔ Always insist the parent/legal guardian sit next to the poser at all times when you are posing and photographing children of any age (non-sitters, sitters, school age children). This procedure applies without exception!
- ➔ Enlist the parent/legal guardian's assistance in the safe posing of his/her child by instructing them in a polite manner such as:
"During the photography session, I need you (the parent/legal guardian) to lift your child onto the poser and to remain seated next to the poser. For the safety of your child, please hold on to your child and do not let go."
- ➔ Show the parent/legal guardian whom to sit and whom to place his/her child on the poser. At all times, the parent/guardian must be seated next to the poser. The child must never be left alone before, during, or after the photography session!

Situation 1: A parent is physically able but refuses to lift his/her child onto the poser, or refuses to be seated next to the poser and hold his/her child.



Action: STOP THE SESSION and politely restate that our policy is for the purpose of ensuring the safety of his/her child.

Situation 2: A parent stands up, moves away, and leaves his/her child alone on the poser.



Action: STOP THE SESSION! Immediately move quickly to the poser and hold the child to ensure the child does not fall. Politely say to the parent/guardian... "Excuse me, your child's safety is my main concern. Before I can resume the photography session, you will need to remain seated next to the poser and hold your child."

SAFETY INSTRUCTIONS FOR THE PARENT/LEGAL GUARDIAN (cont.)

Situation 3: The parent/legal guardian continues to refuse after you have repeatedly asked him/her to remain seated next to the poser, lift his/her child onto or off of the poser, or refuses to remain seated next to the poser and hold his/her child.



Action: **STOP THE SESSION!** Politely ask the parent to wait while you:

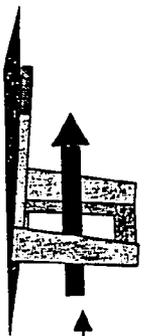
- Call the store manager and ask for assistance in explaining to the parent/legal guardian that you cannot continue with the photography session until he/she complies with our safety procedures.
- If the store manager asks you to continue the photography session in violation of PCA's safety policy, politely ask the store manager to call the PCA Customer Service Department (Store Manager Hotline, 1-800-438-1999) for direction before proceeding.
- It will be the PCA Customer Service Department and/or PCA Senior Management's responsibility to address our safety procedures with the store manager.



SAFETY GUIDELINES FOR POSING NON-SITTERS

Situation 1: To safely position a non-sitter in a full body pose, follow these steps:

- Raise the backrest of the infant seat on the PCA poser. (NOTE: If using a posing table/poser without the built-in infant seat, you should position a PCA approved separate infant seat in the middle of the posing table.)
- Position a rubber-backed rug over the backrest so that the slit cut into the rug is aligned with the reach-through hole on the backrest of the infant seat. **NOTE: All posing drapes/rugs must have a slit cut into them for the parent's hand if they are to be used with a non-sitter!**
- Instruct the parent/legal guardian to place their baby into the infant seat with the baby's back firmly against the backrest. It is important that the baby is sitting up straight and not leaning back into the seat.
- While holding the child in position, instruct the parent/legal guardian to sit next to and facing the poser.
- Direct the parent/legal guardian to reach under the rug, through the backrest and through the slit in the rug and to firmly hold on to the baby throughout the entire sitting. Make sure the parent/legal guardian understands by instructing: "Please make sure that you do not let go of your child at any time."



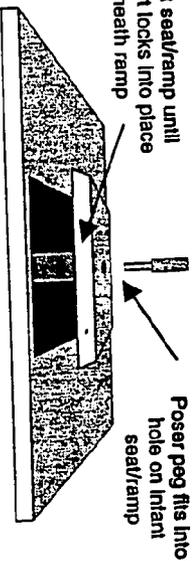
Parent must reach through the backrest, through the slit in the rug, and firmly hold the child's clothing.

- Do not release your hold on the child until you are sure that the parent/legal guardian is following your instructions and firmly holding the child.
- Never turn your back on the child.
- If the parent/legal guardian lets go of the child or gets up from his/her position next to the poser, immediately STOP THE SESSION and move quickly to the poser to hold the child! Politely ask the parent to return to his/her position next to the poser. Remind them that our policy is for the purpose of ensuring the safety of his/her child. (see page 3)
- After you have completed the full body pose(s), instruct the parent/legal guardian to lift the baby off the poser. No PCA Associate may lift a child from the poser at any time other than those exceptions listed under "Lifting of Children" (see page 5).

SAFETY GUIDELINES FOR POSING NON-SITTERS

Situation 2: To safely position a non-sitter in a tummy pose, follow these steps:

- ➔ Raise and secure the tummy ramp on the PCA poser. (NOTE: If using a posing table/poser without the built-in infant seat/ramp, you should position a PCA approved separate infant seat in the middle of the posing table and turn it so that the raised side of the infant seat is facing the camera.)



- ➔ If using a PCA poser, position the shaft of the poser peg into one of the holes in the middle of the tummy ramp.
- ➔ Cover the ramp with a rubber backed posing rug. Position the rug so that the peg sticks up through the slit in the posing rug.
- ➔ Instruct the parent/legal guardian to lay the baby onto the poser ramp. The baby's legs should be straddling the poser peg.
- ➔ While holding the child in position, instruct the parent/legal guardian to sit next to and facing the poser.
- ➔ Instruct the parent/legal guardian to place one of their hands on the child's bottom. (Make sure they keep their arm low enough so it is not visible in the portrait.) Make sure the parent/legal guardian understands by instructing: "Please make sure that you do not let go of your child at any time."
- ➔ If the parent/legal guardian lets go of the child or gets up from his/her position next to the poser:



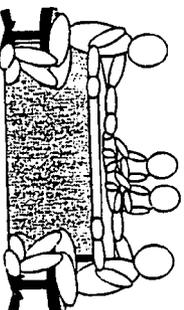
STOP THE SESSION and move quickly to the poser to hold the child! Politely ask the parent to return to his/her position next to the poser. Remind them that our policy is for the purpose of ensuring the safety of his/her child. (see page 3)

- ➔ After you have completed the full body pose(s), instruct the parent/legal guardian to lift the baby off the poser. No PCA Associate may lift a child from the poser at any time other than those exceptions listed under "Lifting of Children" (see page 15).

SAFETY GUIDELINES FOR POSING SITTERS AND GROUPS OF TWO OR MORE

Situation 1: Children between the ages of 8 months and school age (approximately 7 years) are more accident-prone because they are more mobile and active. **WATCH THESE CHILDREN AT ALL TIMES!** When posing sitters and/or groups of children, follow these steps:

- ➔ Instruct the parent/legal guardian to lift the child(ren) onto the poser. Remember, the PCA poser only supports up to 125 pounds!
- ➔ Direct the parent/legal guardian to his/her position sitting next to and facing the poser throughout the sitting. **IMPORTANT:** If you are posing a group of children on the poser, you should recruit another parent to stand/sit on the other side of the poser and help watch the children throughout the sitting. Remember, the posing stools only support up to 200 pounds!
- ➔ It is important that the parent/legal guardian understand that you are depending on him/her to help safeguard his/her child(ren) throughout the sitting.
- ➔ Instruct the parent/legal guardian to hold his/her child at all times except when you are taking an exposure. As soon as you have taken an exposure, remind the parent/legal guardian to hold his/her child. **NOTE:** In groups of two or more children the parent(s) must maintain hand contact with their children at all times (except during an exposure) while the children are seated on the poser.
- ➔ Always be careful when using an arm poser with a sitter and with a sitter and a non-sitter together. Instruct the parent/legal guardian to keep one hand on the child and one hand on the leg of the arm poser.
- ➔ If at any time during the sitting the parent/legal guardian moves away from their position next to the poser, you should **STOP THE SESSION** and move quickly to the poser to hold the child(ren)! Politely ask the parent to return to his/her position next to the poser. Remind them that our policy is for the purpose of ensuring the safety of his/her child(ren). (see page 3)



Recruit a second parent when photographing a group of children on the poser!

UNSAFE POSES

During the course of a photography session, a PCA Associate may be requested by the parent/legal guardian to pose a child and/or an adult in an unsafe pose. **You should always decline a customer request for an unsafe pose.**

Unsafe poses can be dangerous to the safety of the child or the adult and could result in an avoidable injury. Such requests may come in the form of a pose of the child standing on the poser, the child being held upside down, a child sitting on a prop on top of the poser, or other "trick" or unacceptable and unsafe poses outside of PCA guidelines.

If you receive a customer request for an unsafe pose, you should simply and politely reply that in the interest of safety, you are not allowed to photograph poses which may be unsafe!

UNSAFE PROPS

The utilization of props during the portrait session is a creative tool used to produce a distinctive portrait. However, only those props approved, purchased and issued by PCA are permitted.

An exception to this is the use of a prop (if appropriate) brought in by a parent/guardian to personalize or enhance the portrait of their child. (i.e.; special articles of clothing, hats, toys, etc.)

Any props that would put the child at risk of injury are prohibited (even if provided by parent/guardian). Examples are as follows:

- All chairs
- Any item with wheels that may move on the poser table
- Ladders
- Washtubs
- Baskets
- Mirrors

Any prop that prevents the child from sitting directly on the draped poser is prohibited. The only exception is one 2" posing block or one 4" posing block placed underneath the poser/drape to adjust the height of the child.

Unauthorized prop usage is monitored by the Editing Department at PCA's Corporate Laboratory and violations are reported to the Senior Vice President of Operations. Violation of this policy may lead to final written warning and/or termination.

Our goal is to provide both a creative and safe environment for a child to be photographed in. When in doubt about a particular prop's usage, contact your immediate manager/supervisor or call PCA's Operations Department, 1-800-438-0894.

LIFTING CHILDREN IN PHOTOGRAPHY SESSIONS

The safe placement and removal of the child from the poser should only be done by the parent/legal guardian or, in rare instances, with your assistance. The handling and placement of a child on the poser is a critical moment in the photography session. Small children can become upset when approached by a stranger (the photographer).

Follow these procedures regarding the lifting of children in photography sessions:

- PCA Associates should not lift children onto or off of the poser except when the parent/legal guardian is unable to perform this task. The only acceptable circumstances where a PCA Associate may lift or assist a parent/legal guardian are as follows:
 - Expectant mothers who ask for assistance
 - A handicapped or disabled parent/legal guardian who is unable to lift the child or is incapacitated (wheel chair, blind, etc.) and needs assistance.
 - A parent/legal guardian with more than one child, one of which is a non-sitter
 - When posing a parent/legal guardian with a child
 - In all of the above circumstances, the PCA Associate should assist the parent/legal guardian only as needed to safely complete the sitting. **Remember, the primary individual responsible for lifting a child remains the parent/legal guardian!**
- Situation 1: A parent refuses to lift a child onto the poser.
Action: STOP THE SESSION and politely explain that you cannot continue the sitting unless he/she follows our safety procedures.
- Stress to the parent/legal guardian the importance of his/her handling of his/her child and that such a procedure does not indicate that we are unwilling to be of assistance. For safety purposes, we have no choice but to ask him/her to place the child on the poser.
- Situation 2: A parent still refuses to lift a child to or from the poser.
Action: Politely remind the parent/legal guardian that you cannot continue the sitting unless he/she follows our safety procedures.
- If a child is four years or older, place a wooden PCA posing block next to the poser and ask the parent/legal guardian to hold the child's hand while the child steps up to the poser.
 - Assist the parent/legal guardian as they position his/her child on the poser to safely complete the sitting.

HANDLING CHILDREN IN PHOTOGRAPHY SESSIONS

Because parents place their trust in us when photographing their child, each PCA Associate must respect this trust with a high degree of professionalism. Treat each child as you would want your child or yourself to be treated!

- ➔ Approach each child with a pleasant manner, smiling and reassuring the child. Remember that you are trying to create a positive atmosphere in which to obtain a memorable and valuable portrait. It is not appropriate to yell, shout, or make loud noises to get the child's attention.
- ➔ If you must adjust or position a child seated on the poser, ask the parent/legal guardian to assist you. *If it is necessary for you to move the child in any way, inform the parent/legal guardian of your intentions and get his/her approval before touching the child.*
- ➔ You should not squeeze, twist, pinch, poke, or jerk a child in order to adjust his/her pose as this might upset the child and/or be viewed by the parent/legal guardian as being rough with his/her child.
- ➔ If you must adjust a child's clothing to straighten a wrinkle, correct details, etc. *you must first ask the parent/legal guardian to assist you and for his/her approval before making adjustments.*

Special Notes

- ➔ There are times when you will be asked to photograph a subject with physical disabilities and/or handicaps. It is PCA's policy to provide all customers with the same high level of service. As a PCA Professional, you should exhibit sensitivity to the special needs of any handicapped or disabled individual. Make every effort to provide exemplary service to the disabled customer as well as to their family who may be present. It is perfectly acceptable to photograph an individual in his/her wheelchair without requesting that he/she be moved to the poser or a stool. Associates should always ask for the parent/legal guardian's assistance when handling a child. If a child has a runny nose or if the child is drooling, offer a clean tissue to the parent to wipe/clean the child's face. Make sure not to offer the same tissue to more than one child! Good hygiene and sanitation are a must when handling small children!
- ➔ All Associates should be aware of how his/her own personal hygiene and conduct are perceived by our customers.

INAPPROPRIATE POSES AND PROPS

SUGGESTIVE & NUDE POSING

PCA policy does not permit Associates to photograph subjects in suggestive or nude poses! This includes poses of adult subjects who are wearing swimsuits, lingerie, or other revealing clothing of any kind. *Violation of this policy is grounds for final written warning!* The only exception to this policy is a child one year old or less who may be photographed without clothes from the waist up. **In no case may a child be photographed without clothes from the waist down!**

If a customer requests to be photographed in a nude or suggestive pose or that his/her child be photographed in a nude or suggestive pose, politely explain our policy and decline the request. If the customer is persistent, give the customer our toll free Customer Service number (1-877-763-4456) and politely ask them to contact a supervisor.

If a customer requests to change their child's clothing during a photography session, follow these steps:

- ➔ Ask the customer to change or undress the child in a private area. PCA Associates should not be present when a parent/legal guardian is changing and/or undressing his/her child.
- ➔ Do not offer to assist the parent/legal guardian with the changing, undressing, dressing, handling of a non-sitter.
- ➔ Do not allow the customer to change a child's diaper or clothing on the poser or on any of the poser drapes.

WEAPON/FIREARM PROPS

PCA policy does not permit Associates to photograph subjects with weapons or firearms! Weapons and firearms include knives, handguns, rifles, or other life-threatening items, whether they are real, replicas, or just toys.

The only exception to this policy is a pose of a child in costume (for example, wearing a cowboy/cowgirl costume that includes a holster and toy gun). However, at no time should a toy gun be pointed at the subject, at another subject or at the camera.

INANIMATE OBJECTS

If a customer requests that you photograph an inanimate object such as an antique, a doll, a painting, etc., follow these steps:

- ➔ Inform the customer that you will be glad to photograph the object(s) and print any number of portraits they wish as long as they pay for all sitting fees and portrait dollars in full when placing their order.

INAPPROPRIATE POSES AND PROPS (cont.)

PETS

As a rule, we do not photograph pets in our studios due to sanitation, health, and safety concerns. For the same reasons, many of our host locations do not allow pets to be brought into their facility. The only exception is a seeing eye dog accompanied by its owner.

- ➔ If a visually impaired customer asks you to photograph them with their seeing eye dog, politely inform the customer that to do so, they will need to provide a clean posing cloth or blanket to use with the animal. *It is a violation of PCA policy to photograph an animal using the same posing drape or blanket that is used for posing children.*

If any other customer requests to be photographed with their pet, politely decline the request and explain our policy. If the customer insists that you photograph their pet and states they have Store Manager permission, follow these steps:

- ➔ Inform the customer that you will be glad to print any number of portraits they wish as long as they pay for all sitting fees and portrait dollars *in full* when placing their order.
 - ➔ Politely ask the Store Manager to provide a clean blanket or cloth to cover the poser. *Do not use the PCA posing blankets or cloths to photograph a pet!*
 - ➔ Ask a member of store management to remain at the studio during the photography session to ensure other customer's safety.
 - ➔ Ask the customer to handle their pet, to move them into position to be photographed, and to remain at their side throughout the entire session. *Do not attempt to move or handle the pet yourself!*
 - ➔ If the pet behaves aggressively, if you feel there is any potential for personal injury or any danger to the safety of other customers, you should discontinue the sitting immediately!
- Use your best judgment on any other questionable poses or props. You have the authority to refuse to photograph a customer in any pose that you feel is unsafe, depicts violence, or is in bad taste.*

MINORS NOT ACCOMPANIED BY A PARENT AND/OR LEGAL GUARDIAN

Persons or subjects under the age of 18 must be accompanied by a parent or legal guardian when photographed in a PCA studio. The only exception to this policy is when the person or subject being photographed (who is under the age of 18) is a parent himself or herself.

CUSTOMER ACCIDENTS

ACCIDENT DEFINITIONS (revised July 10, 2001)

- ➔ **Accident:** An unfortunate event such as a slip, trip, fall, hit by, bumped by or cut from, etc. which occurs in or around our portrait studio.
- ➔ **Reportable Accident:** Any accident.
- ➔ **Preventable Accident:** An accident resulting from carelessness, unawareness, or a combination of causes which may have been prevented if proper procedures had been followed.
- ➔ **Serious Accident:** An accident in which any of the following occur: 1) any bone is broken, 2) loss of consciousness by involved party or 3) if stitches are required.

ACCIDENT DISCIPLINARY MEASURES (revised July 10, 2001)

The following are reasons for immediate employee termination:

- 1) Studio Manager is terminated if an accident occurs in their studio as a result of the poser not being converted (or converted properly).
- 2) Photographer is terminated if the accident is determined to be "serious". (See definition above) The photographer is suspended, with pay, pending investigation.
- 3) Photographers with 3 "preventable" accidents within a rolling 12 month period. (See definition above)
- 4) Photographers do not report "reportable" accidents. (See definition above)

CUSTOMER ACCIDENTS

HANDLING A CUSTOMER ACCIDENT

THE FIRST RESPONSE TO ACCIDENTS should be as follows:

- ➔ As a studio employee, your first response and concern in the event of an accident is to obtain qualified medical care as soon as possible for the injured person when required.
- ➔ If there is a visible injury, call for medical assistance at once.
- ➔ Ask the Store Manager or waiting customers for assistance in calling for a doctor or ambulance at once.
- ➔ **DO NOT** leave the injured party. It is important to remember that you are not qualified or authorized by PCA to provide medical first aid, however, you should make the injured party as comfortable as possible until medical assistance arrives.

ACCIDENT & EMERGENCY RESPONSE GUIDELINES

As stated, your first response and concern in the event of an accident is always to obtain qualified medical care as soon as possible for the injured person when required. Please note, however, that you are not qualified or authorized by PCA to implement first aid to an injured party. You can only be aware of certain conditions and support the parent/guardian until qualified help arrives.

The following emergency guidelines are given for your general information only. They are not intended as and should never be used in lieu of qualified medical advice.

UNCONSCIOUSNESS - CALL for Emergency Medical Service (911 - where available)

EXTERNAL BLEEDING INJURIES: CALL for Emergency Medical Service (911 - where available)

If the parent/guardian chooses to they can apply direct pressure to the injury with sterile dressing (if available). Do not remove any dressing if it becomes soaked, continue to add more bandages and apply even, direct pressure until help arrives. Arm/leg injuries may be elevated above the heart to slow bleeding. **DO NOT USE THIS PROCEDURE FOR HEAD INJURIES.** allow blood to flow from nose, ears or mouth.

INTERNAL BLEEDING INJURIES: CALL for Emergency Medical Service (911 - where available)

Some of the signs or symptoms of an Internal Bleeding Injury can be bruises on the chest or signs of fractured ribs, bruised, swollen tender abdomen, blood in vomit, difficulty breathing, cool, moist skin. If bleeding externally, follow procedure for External Bleeding Injuries.

CUSTOMER ACCIDENTS (cont.)

HEAD/NECK/SPINE INJURIES: Call for Emergency Medical Service (911 - where available)

If the victim has received a possible head or neck injury from a fall and is unconscious **they should not be moved until EMS arrives.** Have the parent/guardian stabilize their head/neck by placing a hand on the front and backside of the neck. Always assume in this scenario that the victim may also have a spine injury. If you must relocate them, it should be done very carefully to avoid further injury. If the victim is bleeding from the ears, nose, or mouth, allow bleeding to flow freely.

FRACTURES: Call for Emergency Medical Service (911 - where available)

Signs and symptoms include the following: the sound of bone "snapping", a grating sensation of bones rubbing together, obvious deformities, pain, tenderness, swelling, bruising, and an inability to move the injured part. Victims with fractured ribs may feel pain as they breathe. Make the person as comfortable as possible until help arrives.

DISLOCATIONS: Call for Emergency Medical Service (911 - where available)

Signs and symptoms of a dislocation are similar to those of a fracture. They include swelling, deformity, pain in the joint, loss of movement and tenderness. Make the person as comfortable as possible until help arrives.

SIMPLE BRUISES:

Simple bruises to arms, legs or other body parts where other signs of trauma (ex: confusion, vomiting, breathing difficulty) are not present may be treated with ice packs applied by the parent/guardian to keep tissues from swelling until they can see a physician.

SPRAINS:

Sprains are stretched or torn tendons, ligaments and blood vessels around joints, often at the ankle. Signs and symptoms include pain at the joint, tenderness when touched, discoloration and swelling. The person should usually relieve pressure from the body part by sitting down, elevate it and be taken to their doctor for examination. This is generally not considered a medical emergency requiring EMS attention.

STRAINS:

Strains are stretched or torn muscles. The person should discontinue activity and be seen by their physician before resuming activity. A person with an incapacitating serious back strain should be seen by a doctor before resuming activity. The signs and symptoms of strains include sharp pain, stiffness and possible swelling. This is not generally considered a medical emergency requiring EMS attention, however, they should be seen by their physician for proper diagnosis and treatment.

REPORTING A CUSTOMER INJURY/ACCIDENT

PCA is concerned about the safety and well being of its customers. In the unfortunate event that an accident should occur, PCA, out of its humanitarian concern for its customers, wants to make every effort to assure them of the Company's concern for their well being. Because of this, the company volunteers to reimburse our customers for a doctor visit when necessary to alleviate their concerns.

However, in order to effectively control PCA's costs associated with accidents that occur during routine business operation, it is critical that Corporate Risk Management be notified as soon as possible of an accident when it occurs. The customer accident forms and handling guidelines have been designed to assist you to efficiently manage the accident as well as reporting important facts relative to each claim.

- Quickly evaluate the situation.
 - Seek medical help for the injured person if the situation requires it or if requested by the parent/guardian. **NOTE:** Never make judgment calls regarding the health and well being of a customer. Let the parent/guardian decide what is best for the situation.
 - **Complete and sign the MEDICAL EXAMINATION REIMBURSEMENT AND INFORMATION FORM** (revised 9/01). The customer should complete the top portion of the form along with their signature for accepting or declining our offer for medical attention. If they refuse to do so, you should complete the form and note that the customer refused to complete. Give the customer the pink copy of the form.
 - The Studio Manager should complete a **CUSTOMER ACCIDENT INVESTIGATION FORM**. Forward a copy of both the Customer Accident Investigation Form and the Medical Examination and Reimbursement Form to Risk Management at the following address:

PCA International, Inc.
815 Matthews-Mint Hill Road
Matthews, North Carolina 28105
ATTENTION: RISK MANAGEMENT DEPARTMENT
 - Notify your District Manager.
 - Call Risk Management at 1-800-438-0894, ext.2427 if the accident is serious.
- Please call 1-800-438-0894 (Risk Management Department) with any questions or concerns that may arise during an accident or regarding these instructions.*

CUSTOMER ACCIDENT FORMS

The following should be completed for each accident:

- **PCA MEDICAL EXAMINATION REIMBURSEMENT & INFORMATION FORM** - available in English, Spanish, and French- (see example next page) complete this form whether the customer decides to go to the doctor or not. If they do make a doctor or emergency room visit, all invoices for payment should be sent directly to the address shown on the form. **NOTE:** The customer should complete their part of the form, however, should they refuse to do so, you should complete and note that the customer refused to complete. *Give the customer the pink copy of the form.*

- **CUSTOMER ACCIDENT INVESTIGATION FORM** - available in English, Spanish, and French- (see example on page after next) as soon as possible after an accident occurs the Studio manager should complete a thorough review of events surrounding each accident. Corrective action should be taken to prevent additional injuries or other accidents. Any defective materials, equipment, furniture, etc. should be tagged with the CIC Week, Roll and Customer Number and the words "Customer Accident/Customer Name" and returned to Purchasing/ Warehouse. This form should be sent to Corporate Risk Management along with the Medical Examination Reimbursement Form.

- In addition, you should always:**
- Notify you District Manager. If your District Manager is not available, notify your Regional Director.



MEDICAL EXAMINATION REIMBURSEMENT AND INFORMATION FORM

(English version = Stock # 001010; French version = Stock #001017;
Spanish version = Stock #001016)

PCA International, Inc.

MEDICAL EXAMINATION REIMBURSEMENT AND INFORMATION FORM

As a condition to the safety and well being of our customers, PCA makes it a general policy to offer to pay for a medical examination of a customer or their estate in the event of an accident while using our services. PCA agrees to pay the cost of a medical examination by a licensed physician, provided the examination takes place within 24 hours of the physician's being notified and provided in light of the injury and provided the examination is conducted within 24 hours of its occurrence.

By accepting this offer you give your consent for PCA to receive a copy of the medical record relating to the examination including the diagnosis and recommendations, if any, by the examining physician, and you agree to cooperate with PCA in taking any necessary steps to obtain for PCA a copy of such medical record.

PCA asks this form be completed for the following reasons:

- 1. To obtain information regarding the accident.
- 2. To obtain information regarding the cost and completion of these forms to reduplicate an impression or retention of liability on PCA's behalf.

TO BE COMPLETED BY CUSTOMER

DUPLICATED PARTY'S NAME: _____ IDENTIFY: _____

DESCRIPTION OF ACCIDENT: _____

NATURE OF BODILY: _____ DATE: _____

CUSTOMER ACCEPTED: _____ DATE: _____

CUSTOMER DECLINED: _____ DATE: _____

STORAGE/INSTITUTION NUMBER: _____ ACCIDENT DATE: _____

ADDRESS: _____ (street) _____ (city) _____ (state)

NAME OF DUPLICATED PERSON: _____

ADDRESS OF DUPLICATED PERSON: _____

NAME OF WAREHOUSE/QUADRANT: _____

TELEPHONE NUMBER: _____ (area) _____ (number)

CIC (customer information card) NUMBER OF DUPLICATED PERSON: _____ (Street /Vial/ Field /Customer #)

At the Time of the Accident: YES NO

Was the general/you/you had taking the order? YES NO

ANY OTHER WITNESSES: _____ STORE/INSTITUTIONAL MANAGER _____

PCA REPRESENTATIVE: _____ (Print) _____ (Print)

PCA International, Inc.
815 Matthews-Mint Hill Road
Matthews, North Carolina 28105
ATTENTION: RISK MANAGEMENT DEPT.

NOTICE TO PHYSICIAN/HOSPITAL
Please direct inquiries to the following address:

DISTRIBUTION:
Original (White) to PCA CORPORATE
Second (Yellow) to Studio Manager
Third (Pink) to Customer

Form # 001010
Revised 8/01

CUSTOMER ACCIDENT INVESTIGATION FORM

(English version = Stock # 001026; French version = Stock #001019;
Spanish version = Stock #001018)

PCA International, Inc.

CUSTOMER ACCIDENT INVESTIGATION FORM

ACCIDENT DATE: _____ STUDIO NUMBER: _____

CUSTOMER NAME: _____ (Last, Middle, First and Surname)

TYPE OF ACCIDENT: _____ (Radio, Scooter, Truck, etc.)

DESCRIBE THE ACCIDENT: _____

WHAT WAS THE PRIMARY CAUSE OF THE ACCIDENT? _____

WAS MEDICAL HELP PROVIDED/REQUIRED TO INJURED PARTY? _____

IF REQUIRED, WAS COLLECTIVE ACTION TAKEN TO PREVENT ANOTHER INJURY? _____

WERE THERE ANY WITNESSES? (CUSTOMER EMPLOYEES/CUSTOMERS)? IF SO, PLEASE OBTAIN THEIR NAMES/ADDRESSES/STATEMENT. (ATTACH TO FORM) _____

IF AN OBJECT WAS INVOLVED, DESCRIBE OBJECT: _____

WAS IT REPAIRABLE/REPLACED? _____

IF STILL ON TRAILER INVOLVED WAS IT CLEANED UP? _____

ARE THERE CIRCUMSTANCES THAT STILL NEED TO BE CONNECTED TO PREVENT ANOTHER INJURY FROM OCCURRING? _____

DID ANYTHING ABOUT THE ACCIDENT SEEM QUESTIONABLE OR STRANGETH IF SO PLEASE describe: _____

ADDITIONAL COMMENTS/RECOMMENDATIONS: _____

DATE OF SIGNATURE: _____ DATE: _____

Original should be mailed to the following address:

PCA International, Inc.
815 Matthews-Mint Hill Road
Matthews, North Carolina 28105
ATTENTION: RISK MANAGEMENT DEPT.

IMPORTANT: THIS FORM IS AN INTERNAL DOCUMENT AND SHOULD BE COMPLETED AND SENT TO CORPORATE RISK MANAGEMENT ALONG WITH THE COPY OF THE MEDICAL REIMBURSEMENT FORM. THIS FORM SHOULD BE COMPLETED FOR ALL ACCIDENTS INVOLVING CUSTOMERS.

Form # 001026
Revised 8/01

REPORTING "ON-THE-JOB" EMPLOYEE INJURIES

If you are injured on the job, Corporate Risk Management must be informed as soon as possible in order to get you proper medical care. It is also mandatory that you notify your District Manager, so that your studio can be properly covered. It is the responsibility of every employee to report an on-the-job injury directly to Corporate Risk Management and their District Manager.

REPORT EVERY ON THE JOB INJURY WITHIN 24 HOURS OF OCCURRENCE AS FOLLOWS:

- ➔ **CALL IN THE ACCIDENT INFORMATION** - All job-related injuries should be reported directly to **RISK MANAGEMENT** at 1-800-438-0894, ext. 2427. Be prepared to give the following information:
 - * Employee name; * Social Security Number;
 - * Studio (or promotion) Number; Address
 - * Description of the Accident; * Description of the Injury
 - * DATE and TIME of accident; * Exact location of accident
- ➔ **NOTIFY YOUR DISTRICT MANAGER.**
- ➔ **ASSOCIATES IN THE U.S. MUST ARRANGE TO HAVE A DRUG TEST** - Call 1-800-257-9570 to arrange to have a drug test performed within 24 hours of the accident. This phone service is available 24 hours a day, 7 days a week, 365 days a year.
- ➔ **GO TO THE DOCTOR - "ROUTINE INJURY"**
RISK MANAGEMENT will direct your medical care unless an emergency.
- ➔ **GO TO THE DOCTOR - LIFE THREATENING EMERGENCY**
When immediate MEDICAL TREATMENT is needed for a life-threatening emergency situation, call 911 or go directly to the medical facility nearest your location.
- ➔ **GET A MEDICAL RELEASE FORM COMPLETED** by the treating physician and forward it to Risk Management at PCA.
- ➔ **FOLLOW-UP TREATMENT** must be authorized by the insurance company.

EVERY ACCIDENT IS REPORTABLE!

REPORTING "ON-THE-JOB" EMPLOYEE INJURIES (cont.)

- ➔ **BE AWARE OF PCA'S RESTRICTED DUTY POLICY:** It is your responsibility to inform your treating physician of PCA's Restricted Duty Policy. The policy is described on the page after next.
- ➔ **DIRECT BILLINGS FOR TREATMENT AS FOLLOWS:** Corporate Risk Management will provide billing information upon the reporting of your accident.
- ➔ **BE AWARE THAT FOLLOW UP TREATMENT MUST BE AUTHORIZED:** In most states follow up treatment must be authorized through the Insurance Carrier, you should contact your claim adjuster or Risk Management to confirm authorization for treatment.
- ➔ **IF AN INJURY OCCURS OVER THE WEEKEND:** Report the injury to your District Manager; If IMMEDIATE medical care is necessary it should be obtained through your local walk-in medical facility or emergency room. For all U.S. Associates, it is mandatory that a drug test be performed within 24 hours of the accident. For all Associates, it is mandatory that injuries be reported to **CORPORATE RISK MANAGEMENT** on **MONDAY** if an injury occurs over a weekend.
- ➔ **WORKERS' COMPENSATION PAY DOES NOT BEGIN IMMEDIATELY DUE TO AN ON-THE-JOB INJURY:** You are required to use your open sick days or vacation leave during the waiting period that varies by state. In order to avoid an interruption in your pay, it is in your best interest to advise your physician of PCA's restricted duty program.

Questions concerning your claim should be directed to Corporate Risk Management at 1-800-438-0894. Restricted duty work and return to work scheduling will be coordinated through your District Manager.

RESTRICTED DUTY PROGRAM

POLICY:

It is PCA's policy to provide a modified work position (may be referred to as light duty or restricted duty) to any employee who has been injured on the job and has been released by their treating physician to return to work with physical restrictions and/or hours limitations.

GENERAL:

Restricted duty is offered for the following reasons:

- ➔ To assist in the employee's transition from injury to productive work status;
- ➔ To prevent the employee from losing wages due to an on-the-job injury;
- ➔ To comply with Labor Laws, specifically the various caveats of the Family Medical Leave Act;
- ➔ To seek to lower insurance costs through lowering company claims experience.

GUIDELINES:

- ➔ Restricted Duty will be offered to all employees once their doctor has released them to return to a modified duty position.
- ➔ FMLA will run concurrently from the date of the incident for up to a total of twelve weeks for those who qualify.
- ➔ The employee has the right to refuse the restricted duty position. In this case, the FMLA leave will continue to be applied.
- ➔ In some states, the employee's refusal to return to work on restricted duty may also result in discontinuance of their indemnity benefit under the state's statutory workers' compensation law.

RESTRICTED DUTY PROGRAM (cont.)

- ➔ Employees will be required to use their open sick days and vacation leave during the waiting period (varies by state) before workers compensation will begin to make indemnity payments.
- ➔ Depending upon the restrictions given the employee, paid hours may be applied through the workers' compensation budget for employees returning to work under restricted accommodations due to an on-the-job injury.

RISK MANAGEMENT

Risk Management will actively seek to insure that District Managers and/or Regional Directors are aware of the restricted duty policy. Additionally, we will offer assistance in coordinating job duties within the employee's restrictions.

Risk Management will also actively seek full duty releases through the Insurance adjusters to insure that the light duty employee makes a progressive transition back to full duty. These employees will be returned to full duty as soon as a doctors' full release can be obtained.



DIV. ___ REG ___ DIST ___

STORE# / CITY / STATE Clearfield PA
STORE PHONE# () 724-7013

INCIDENT REPORT

DATE / TIME OF INCIDENT: 3-28-00 4:00

ASSOCIATES NAME: K. Russell

NAME OF PERSON ALLEGEDLY INJURED: Mariah AGE 3yr.

NAME OF PARENT OR GUARDIAN: Kim Lawson

ADDRESS / PHONE NUMBER: 623 E Spruce St.
Philipsburg PA 16801 / 342-7420

DESCRIBE THE ALLEGED INCIDENT AND INJURY IN DETAIL: Was trying to get smile. Child sat leaned back to tickle Mom, who was sitting next to child. Caught her leg but she still hit the floor

DOES PARENT OR GUARDIAN THINK THAT CHILD IS INJURED: YES OR NO
WAS PARENT OR GUARDIAN SITTING BY POSER: YES OR NO
WAS PARENT OR GUARDIAN HOLDING CHILD: YES OR NO
NUMBER OF TIMES PARENT OR GUARDIAN WAS ASKED TO REMAIN AT POSER WITH CHILD: once

PARENT OR GUARDIAN'S COMMENTS REGARDING ALLEGED INCIDENT: Mariah was being tickled when she leaned back & fell off platform. She landed on head & then twisted onto right shoulder. Her feet were over her head when she initially fell

PARENT OR GUARDIAN SIGNATURE: Kim Lawson DATE: 03-28-00
REPORT COMPLETED BY (NAME/TITLE): Kristina Russell / Studio Manager
DATE: 03-28-00

WITNESS INFORMATION:
NAME: Carol Epoch
ADD/PHONE: 814-342-6187
Rt 1 Box 58C
West Decatur PA 16808

NAME: _____
ADD/PHONE: _____

CALIF. THE SAFETY DEPARTMENT IMMEDIATELY AT 3803 OR 3747 AND FAX THIS WITHIN 8 HOURS OF THE INCIDENT TO 1-800-553-0054 MAIL HARD COPY ASAP.

#5503110

Note: Mom insisted we finish session.

EXHIBIT
B

LAWSON

PCA International, Inc.
MEDICAL EXAMINATION REIMBURSEMENT AND INFORMATION FORM

As a commitment to the safety and well being of our customers, PCA makes it a general policy to offer to pay for a medical examination should one of our customers or their children be involved in an accident while visiting our studio. PCA agrees to pay the cost of a medical examination by a licensed physician, provided the examination includes only those matters deemed by the physician to be necessary and prudent in light of the injury and provided the examination is conducted within 24 hours of its occurrence.

By accepting this offer you give your consent for PCA to receive a copy of the medical record reflecting the examination, including the diagnosis and recommendations, if any, by the examining physician, and you agree to cooperate with PCA in taking any necessary steps to obtain for PCA a copy of each medical record.

PCA asks this form to be completed for the following reasons:

- a) As confirmation that PCA offered to pay the cost of the medical examination
- b) To obtain information regarding the accident.

The medical examination reimbursement offer and the completion of these forms does not constitute an acceptance or admission of liability on PCA's behalf.

TO BE COMPLETED BY CUSTOMER:

INJURED PARTY'S NAME: MARIAH LAWSON BIRTHDATE: 03 02 97

DESCRIPTION OF ACCIDENT: MARIAH WAS being tickled when she leaned back & fell off platform. She landed on head & then twisted onto right shoulder. Her feet went over her head when she initially fell.

NATURE OF INJURY: Hit back, neck, head & shoulders

CUSTOMER ACCEPTED: [Signature] EBOCH-LAWSON DATE: 3-28-00

CUSTOMER DECLINED: _____ DATE: _____

(Customer Signature)

TO BE COMPLETED BY STUDIO PERSONNEL:

STORE/INSTITUTION NUMBER: 2129 ACCIDENT DATE: 03-28-00

ADDRESS: 100 Supercenter Dr Clearfield PA 16830

(street) (city) (state)

NAME OF INJURED PERSON: Mariah Lawson

ADDRESS OF INJURED PERSON: 623 E. Spruce St Philadelphia PA 19106

NAME OF PARENT/GUARDIAN: Kim Eboch-LAWSON

TELEPHONE NUMBER: 342-7420 768-4734

(home) (work)

CIC (customer information card) NUMBER OF INJURED PERSON: _____

Accident Occurred: Before _____ During X After _____ the sitting. (School/Work/Reil/Customer)

At the Time of the Accident:

1) Was the parent/guardian seated next to the power? YES X NO _____

2) Was the parent/guardian holding the child? YES _____ NO X

ANY OTHER WITNESSES: Carol Eboch

PCA REPRESENTATIVE: [Signature] STORE/INSTITUTIONAL MANAGER: _____

(Print) (Print)

NOTICE TO PHYSICIAN/HOSPITAL:

Please direct invoices to the following:

PCA International, Inc.
815 Matthews-Mint Hill Road
Matthews, North Carolina 28105
ATTENTION: RISK MANAGEMENT DEPT.

DISTRIBUTION:

Original (White) to PCA CORPORATE
Second (Yellow) to Studio Manager
Third (Pink) to Customer D-325

Form # 001010
Revised: 1/96

Dm - Javada Hicks

Rm - Cassin Dunn

EXHIBIT

C

tabbies

800-735-5375

133 491

For Comfort & Safety,
Please Keep A Firm Hand
On Your Child
During Photography.
Thank You.

EXHIBIT
<u>D</u>



FILED 3 cc
12:44 PM
SEP 12 2003
Aly Casfley


William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents
and natural guardians of MARIAH C.
LAWSON, a minor,

Plaintiffs,

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

No. 02-378-CD

**NOTICE OF SERVICE OF
DEFENDANT'S SUPPLEMENTAL
RESPONSE TO PLAINTIFFS'
REQUEST FOR PRODUCTION (Second
Set)**

Issue No.:

Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

233 Breading Avenue
Pittsburgh, PA 15202
412-734-4595

FILED

SEP 17 2003
m/12:20/...
William A. S...
Prothonotary/Clerk of Court
No Court Costs

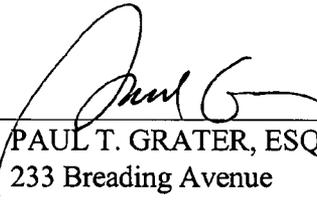
PROOF OF SERVICE

I hereby certify that a true and correct copy of the attached Defendant's Supplemental Response to Plaintiffs' Request for Production (Second Set) was served upon the following person(s) by First-Class Mail, Postage Pre-paid on this 15th day of September 2003.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 1/2 E. Locust Street
P.O. Box 552
Clearfield, PA 16830

By: _____



PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

RICHARD J. LAWSON and
KIM EBOCH-LAWSON, husband and
wife, and parents and natural guardians of
MARIAH C. LAWSON, a minor

02-378-CJ

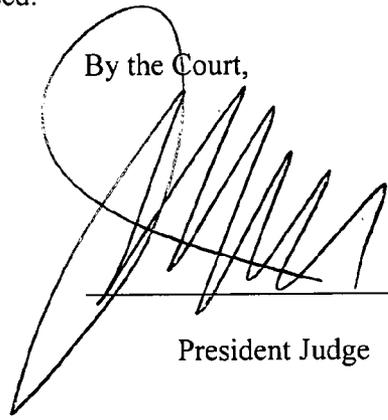
- vs -

PCA INTERNATIONAL, INC.,
a corporation

ORDER

NOW, this 13th day of October, 2003, upon consideration of Plaintiffs' Motion for Sanctions and argument thereon, it is the ORDER of this Court that Defendant shall submit to counsel for Plaintiffs photographs of the subject table involved in the proceedings together with full and complete measurements of all its dimensions, and further, shall fully comply with paragraphs 9 through 14 of Plaintiffs' Request for Production of Documents or if unable to do so, shall state the reason for such inability, and finally, shall provide verification to all of the above requests, all of which to be submitted to Plaintiffs within 30 days from date hereof failing which sanctions shall be imposed.

By the Court,



President Judge

FILED

OCT 13 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED

0/31528H
OCT 13 2003

William A. Shaw
Prothonotary/Clerk of Courts

1 cc Atty Maddeo

1 cc Atty Cassley

1 cc Atty Grater

Et
~~Al~~

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents
and natural guardians of MARIAH C.
LAWSON, a minor,

Plaintiffs,

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

No. 02-378-CD

**NOTICE OF SERVICE OF
DEFENDANT'S SECOND
SUPPLEMENTAL RESPONSE TO
PLAINTIFFS' REQUEST FOR
PRODUCTION (Second Set)**

Issue No.:

Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
412-734-4595

FILED

NOV 17 2003

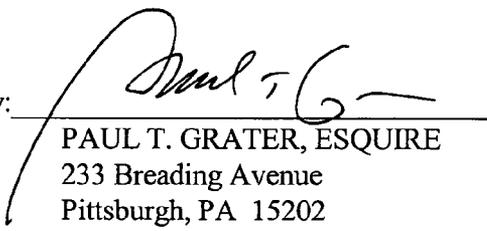
William A. Shaw
Prothonotary/Clerk of Courts

PROOF OF SERVICE

I hereby certify that a true and correct copy of the attached Defendant's Second Supplemental Response to Plaintiffs' Request for Production (Second Set) was served upon the following person(s) by overnight mail, Postage Pre-paid on this 12th day of November 2003.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

By: _____


PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs

:
:
:
:
:
:
:

FILED

DEC 03 2003

William A. Shaw

William A. Shaw

Prothonotary/Clerk of Courts

1 case to admit

WAS

vs.

:

No. 02-378-CD

PCA INTERNATIONAL, INC.,
a corporation,
Defendant

:
:
:

AFFIDAVIT IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

COMMONWEALTH OF PENNSYLVANIA :

COUNTY OF :

Personally appeared before me the undersigned, John R. Carfley, Esquire, who being duly sworn according to law deposes and states as follows:

1. I am co-counsel of record in the above captioned matter being licensed to practice law within the Commonwealth of Pennsylvania.

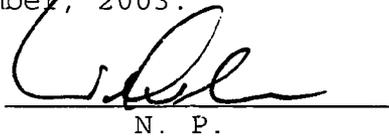
2. In support of Plaintiffs' Motion for Summary Judgment counsel submits a multi-page document consisting of five exhibitis made up of deposition testimony secured from representatives, agents and employees of the defendant and various manuals and documents produced by the defendant through discovery. Various references are made to these documents in the Motion for Summary judgment and in support of Plaintiffs' Motion for Relief.

3. The documents produced are true and correct copies of the originals compiled by the defendant and received by the Plaintiffs in this matter.



John J. Copley

Sworn to and subscribed
before me this 3rd day of
December, 2003.



N. P.

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

31 da

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

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :

vs. : No. 02-378-CD
PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

FILED

DEC 03 2003
01 12:55 / W
William A. Shaw
Prothonotary/Clerk of Courts

2 sent to atty
E (2)

MOTION FOR SUMMARY JUDGMENT

AND NOW COMES the Plaintiffs, Richard J. Lawson and Kim Eboch-Lawson, individually and as Parents and Natural Guardians of Mariah C. Lawson, a minor child, who by and through their attorney, John R. Carfley, Esquire, move this Honorable Court for Summary Judgment as to liability in the above matter and in support of said Motion aver as follows:

1. Movants are the parents and natural guardians of Mariah C. Lawson, a minor child, presenting residing at 623 East Spruce Street, Philipsburg, Pennsylvania.

2. Non-moving party is PCA International, Inc., a Foreign Corporation believed to have incorporated in the State of North Carolina but with a principal place of business located in the Walmart Center, Clearfield, Clearfield County, Pennsylvania.

3. Plaintiffs filed the above action against the defendant asserting a claim for personal injuries sustained when the minor child fell from a photographic table alledgedly as a result of the

negligence of an employee/agent of the defendant.

4. Pre-trial discovery was engaged in by the Plaintiffs in this matter and in part consisted of depositions of employees of PCA International, Inc. during the course of which depositions certain information was elicited concerning several safety and service training manuals. The manuals were later produced and confirmed the established corporate standards, duties and protocols which were binding on all corporate employees and agents during the subject time and thereby created an internally structured and binding duty of care for these employees as to all persons utilizing the services of the defendant.

5. At the time of this incident the minor child was three years of age and, therefore, conclusively presumed incapable of negligence and/or of contributory negligence as a matter of law.

6. The safety manuals and employee manuals utilized by the Defendant for the training of its employees served as a governing standard and manual for the conduct of its employees and clearly created a duty of care to the minor plaintiff and further established a protocol for those situations wherein a breach of that duty would result from the conduct of its employee which contradicted and contravened its own established standards of conduct and care especially as in the principal case where said conduct proved to be the proximate cause of injuries sustained by the plaintiffs herein.

7. The said defendant through its agents and employees violated numerous provisions of their own safety code and standards

as referenced in the safety manuals and employee manuals produced and mentioned in the depositions of the corporate officials and employees.

8. The violation of these safety standards resulted in a breach of defendant's duty of care to the plaintiff and constitutes negligence as a matter of law entitling plaintiff to summary judgment on the issue of liability.

9. The standards established by the defendant and referred to by their employees in the various manuals and ultimately violated by these agents included but were not limited to the following standards set forth in the safety manual and service manuals produced by PCA International, Inc.:

(a) The manual specifically designated the photographer as "the person in control of what takes place in your studio" and therefore established the responsibility for instructing all clients as to where and how the individual subject was to be seated, posed, and/or protected.

(b) Imposed responsibility upon the photographer to insure that the parent/legal guardian is seated next to and facing the poser with his or her hand holding the child between exposures and during the entire photography session.

(c) Imposed upon the photographer the responsibility for protecting those children designated as "sitters" who are children between the ages of eight months and seven years who are deemed to be more accident prone than nonsitters because they are more active and require the parent and legal guardian to stay seated next to

the poser at all times with his or her hand holding the child between exposures and during the entire photography session.

(d) Imposed on the photographer the duty to warn the parent or legal guardian of their responsibility to remain seated next to the poser and/or to immediately stop the session and move to the poser to provide support to the child in the event that the parent either through inadvertence failed to remain at or near their assigned position.

(e) Imposed on the photographer the duty to secure the assistance of the parent in the session so as to insure the safety of the child at all times and/or instruct the parent to remain at his or her position next to the poser and remind the parent of company policy and of the role the parent had to play to insure the safety of his or her child.

(f) Imposed on the photographer the duty to secure the permission of the parent/legal guardian prior to touching the child with a prop utilized by the photographer in the photographic session, to wit: the photographer utilized a feather duster which was thrust into the face of the child without the permission of the parent, in order to attempt to draw a response from the child which would make the pose more conducive to the photo session undertaken.

(g) Did not follow company policy with respect to squeezing, poking or proding a child in order to adjust his or her pose or elicit a specific response during the photographic session.

(h) Utilized an inappropriate prop, to wit: a feather duster which was apparently designed to elicit a specific response from

the child who was known by the photographer to be fussy and in ill humor throughout the sitting.

(i) Failed to secure the permission of the parent/legal guardian prior to utilizing a prop to elicit certain responses from the minor child.

(j) Utilized a prop which clearly placed the child at risk for injury since the feather duster falls into the same category as a reflective device or mirror designed to elicit a certain reaction and/or response from the child when the prop is thrust at the child or placed near the child's face at or about the time of the taking of the photograph.

(k) Utilized aggressive and physical antics and/or tricks in order to elicit certain responses from the child in direct violation of the PCA International photographic procedures, standards and protocol.

10. These standards cited were breached by the employees of the defendant in the following respects:

(a) Failed to maintain control of what took place in the studio and assume responsibility for instructing the parent/legal guardians of their role in the photographic session and in insuring the safety of the child.

(b) Failed to insure that the corporate motto of "safety first" was adhered to and administered.

(c) Failed to insure that the child seated on the poser had their parent or responsible adult seated beside them at all times holding the child firmly between exposures.

(d) The studio associate failed to assume responsibility for making each parent or other adult aware of his or her role in keeping the child safe within the studio.

(e) Violated the rules applicable to customers in the following respects:

(1) Failed to instruct the parent/responsible adult to be seated next to and hold the child seated on the poser table.

(2) Failed to insure that the parent/responsible adult held the child at all times.

(3) Failed to recognize that unsafe posers or props could be dangerous to the safety of the child or adult and result in an avoidable injury.

(4) Failed to adhere to the proposition that when dealing with a minor child to always obtain permission from the parent/responsible adult before touching the child.

(5) Failed to insure the safety of the child by utilizing unsafe props, to wit: any prop that would put the child at risk of injury even if provided or approved by the parent or responsible adult.

(6) Utilized inappropriate props including inanimate objects such as the feather duster employed by the photographer in question.

11. The deposition testimony of Kristina Russell, the photographer charged with the responsibility of completing the photographic session on or about the day of the incident contains admissions and/or references to the safety manuals and/or employee

manuals and/or otherwise references facts essential to this Motion for Summary Judgment as follows:

(a) Pages 16 and 17 dealing with the responsibility of the photographer to place the parent beside the child when photographs are being taken.

(b) Page 37-39 commenting on the conduct of the child during the photographic session and the mood which the minor child exhibited throughout the session.

(c) Pages 41-44 comments concerning the requirement to maintain an adult present in the room and near the subject in the case of minor child classified within the group of sitters and the overall conduct and misbehavior of the subject child at or about the time of this incident.

(d) Pages 46-50 dealing with the use of the prop, ie: the feather duster to elicit responses from the child.

12. The deposition of the Supervisor, Susan L. Barkley dealing with overall training and safety standards established by PCA International references standards and violations thereof as follows:

(a) Pages 25-28 instructions provided by the deponent to the trainee Kristina Russell on safety measures to be implemented during the process of photographic sessions.

(b) Pages 28-32 - proper and safe use of props.

(c) Pages 33-36 Utilization of a feather duster as a prop and the means necessary to implement such a prop.

(d) Pages 37-40; 41-44; 49-52 dealing with instructions

provided within the studio as to parents responsibilities with respect to minor children engaged in a photographic session.

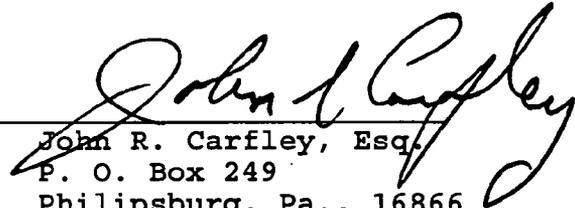
(e) Pages 53-56 Actions undertaken by the resident photographer to control the photographic session.

13. Defendant undertook a duty of care to the plaintiff as specified in these manuals which duty was breached as a result of the actions of its employees and/or agents and which breach constituted the proximate cause of the injuries sustained by the minor child who fell from the posing table solely as a result of the actions of the employee/agent and through no act or failure to act on the part of the minor child or her parent.

14. Under the Pennsylvania Rules of Civil Procedure, a party may move for summary judgment after the relevant pleadings are closed and after the completion of all discovery relevant to the motion, if an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the defense which in a jury trial would require the issues to be submitted to a jury. (See Rule 1035.2 Pa. R.C.P.)

15. If the court considers the record in this matter, it is submitted that no genuine issues of material fact exist; moreover, Defendant lacks evidence sufficient to permit a jury to find facts essential to the defense which is posed by this defendant. As a result, thereof, Plaintiff is entitled to judgment as a matter of law.

WHEREFORE, your Movant respectfully requests this Honorable Court to enter Partial Summary Judgment as to Liability against Defendant PCA International, Inc.



John R. Carfley, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: December 3, 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents
and natural guardians of MARIAH C.
LAWSON, a minor,

Plaintiffs,

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

No. 02-378-CD

**ANSWER TO PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

Issue No.:

Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
412-734-4595

FILED

JAN 14 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

ANSWER TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

NOW comes the defendant, PCA International, Inc., by its undersigned counsel,
and responds as follows to the plaintiffs' Motion for Summary Judgment:

1. The plaintiffs' Motion, taken as a whole, essentially requests that the Court determine the facts surrounding the event of which the plaintiffs complain, a determination which is not within the Court's province on a Motion for Summary Judgment.

2. The issue of whether or not an employee of this defendant violated an internal safety policy promulgated by the defendant, or acted consistent with such policy, is a question of fact.

3. The circumstances out of which the injury allegedly occurred involve the interplay between the child's parent and the defendant's employee, and are the subject of oral testimony whose credibility is for the jury to determine.

4. Whether or not the photographer's efforts to act consistently with company safety policies were frustrated by the conduct of the parent/plaintiff is a question of fact.

5. Whether the conduct of the photographer, or the parent/plaintiff, was reasonable under the circumstances, a fundamental element of a cause of action for negligence, is a question for the jury.

6. Whether the parent/plaintiff acted in accordance with the admonition of the safety sign posted at the photographer's station, (attached hereto as Exhibit "A"), is a question for the jury.

7. In effect, the plaintiffs' Motion seeks to have the Court make a finding of "negligence per se," based on an alleged violation of internal safety standards, which the Court cannot do on a Motion for Summary Judgment.

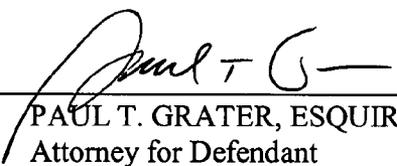
8. The plaintiffs' Motion improperly seeks to characterize the testimony of the defendant's employee/photographer as "admissions," when the said employee is neither an officer nor party competent to make an admission on behalf of the corporate defendant.

9. On a Motion for Summary Judgment, the Court must examine the record in the light most favorable to the non-moving party, and must resolve any doubts as to the existence of a genuine issue of fact against the moving party.

10. Summary Judgment may be entered by the Court only where the case is clear and free from doubt.

WHEREFORE, PCA International respectfully prays this Honorable Court will deny the plaintiffs' Motion.

LAW OFFICES OF PAUL T. GRATER

By: 
PAUL T. GRATER, ESQUIRE
Attorney for Defendant

◆

For Comfort & Safety,
Please Keep A Firm Hand
On Your Child
During Photography.

Thank You.

◆

EXHIBIT

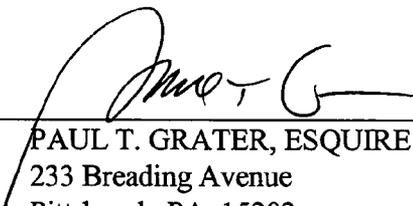
A

tabbles

PROOF OF SERVICE

I hereby certify that a true and correct copy of the attached *Answer to Plaintiffs' Motion for Summary Judgment* was served upon the following person(s) by hand delivery, on this 14th day of January 2004.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

By: 
PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents
and natural guardians of MARIAH C.
LAWSON, a minor,

Plaintiffs,

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

No. 02-378-CD

**ANSWER TO PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

Issue No.:

Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
412-734-4595

FILED
JAN 14 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

ANSWER TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

NOW comes the defendant, PCA International, Inc., by its undersigned counsel,
and responds as follows to the plaintiffs' Motion for Summary Judgment:

1. The plaintiffs' Motion, taken as a whole, essentially requests that the Court determine the facts surrounding the event of which the plaintiffs complain, a determination which is not within the Court's province on a Motion for Summary Judgment.

2. The issue of whether or not an employee of this defendant violated an internal safety policy promulgated by the defendant, or acted consistent with such policy, is a question of fact.

3. The circumstances out of which the injury allegedly occurred involve the interplay between the child's parent and the defendant's employee, and are the subject of oral testimony whose credibility is for the jury to determine.

4. Whether or not the photographer's efforts to act consistently with company safety policies were frustrated by the conduct of the parent/plaintiff is a question of fact.

5. Whether the conduct of the photographer, or the parent/plaintiff, was reasonable under the circumstances, a fundamental element of a cause of action for negligence, is a question for the jury.

6. Whether the parent/plaintiff acted in accordance with the admonition of the safety sign posted at the photographer's station, (attached hereto as Exhibit "A"), is a question for the jury.

7. In effect, the plaintiffs' Motion seeks to have the Court make a finding of "negligence per se," based on an alleged violation of internal safety standards, which the Court cannot do on a Motion for Summary Judgment.

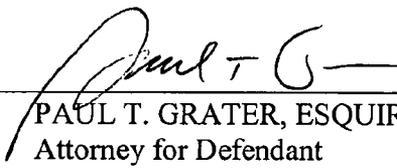
8. The plaintiffs' Motion improperly seeks to characterize the testimony of the defendant's employee/photographer as "admissions," when the said employee is neither an officer nor party competent to make an admission on behalf of the corporate defendant.

9. On a Motion for Summary Judgment, the Court must examine the record in the light most favorable to the non-moving party, and must resolve any doubts as to the existence of a genuine issue of fact against the moving party.

10. Summary Judgment may be entered by the Court only where the case is clear and free from doubt.

WHEREFORE, PCA International respectfully prays this Honorable Court will deny the plaintiffs' Motion.

LAW OFFICES OF PAUL T. GRATER

By:  _____
PAUL T. GRATER, ESQUIRE
Attorney for Defendant

◆

For Comfort & Safety,
Please Keep A Firm Hand
On Your Child
During Photography.

Thank You.

◆

EXHIBIT

A

tabbles

PROOF OF SERVICE

I hereby certify that a true and correct copy of the attached *Answer to Plaintiffs' Motion for Summary Judgment* was served upon the following person(s) by hand delivery, on this 14th day of January 2004.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

By: _____



PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

CA

34

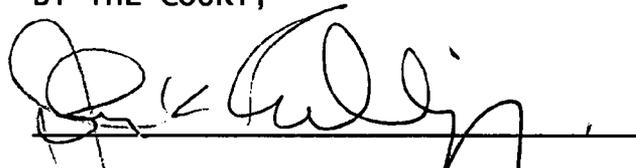
IN THE COURT OF COMMON PLEAS
 OF CLEARFIELD COUNTY, PENNSYLVANIA
 CIVIL DIVISION

RICHARD J. LAWSON and KIM	:	
EBOCH-LAWSON, husband and	:	
wife, and Parents and	:	
natural Guardians of	:	
MARIAH C. LAWSON, a minor	:	
	:	
-vs-	:	No. 02-378-CD
	:	
PCA INTERNATIONAL, INC.,	:	
a corporation	:	

O R D E R

NOW, this 14th day of January, 2004, following argument into Plaintiffs' Motion for Summary Judgment, it is the ORDER of this Court that counsel for Plaintiff supply the Court with appropriate brief by no later than February 16, 2004. Counsel for Defendant shall have thirty (30) days thereafter to respond in kind.

BY THE COURT,



THE HONORABLE JOHN K. REILLY, JR.
 Senior Judge, Specially Presiding

FILED

JAN 15 2004

William A. Shaw
 Prothonotary/Clerk of Courts

123

FILED
JAN 15 2004
William A. Shaw
Prothonotary/Clerk of Courts
acc Amy Costley
acc Amy Grater
acc Amy Maddox

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

RICHARD J. LAWSON and KIM :
EBOCH-LAWSON, husband and wife, :
and Parents and Natural Guardians of :
MARIAH C. LAWSON :

vs. : No. 02-378-CD

PCA INTERNATIONAL, INC., a :
corporation :

FILED

JAN 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

ORDER

AND NOW, this 23rd day of January, 2004, it is the ORDER of the Court that a status conference in the above matter has been scheduled for **Wednesday, February 25, 2004 at 2:00 P.M.** before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and Natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs,

v.

PCA INTERNATIONAL, INC.,
a corporation,
Defendant.

*
*
*
*
*
*
*
*
*
*
*
*

No. 02 - 378 - CD

PRAECIPE TO LIST FOR TRIAL

TO THE PROTHONOTARY:

Please place the above-captioned matter on the next list for trial. In support thereof I certify the following:

1. There are no Motions outstanding.
2. Discovery has been completed and the case is ready for trial.
3. The case is to be heard by jury.
4. Notice of the Praecipe has been given to opposing counsel.
5. The time for trial is estimated at 3-4 days.


James A. Naddeo, Esquire
Attorney for Plaintiffs

Date: February 24, 2004

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

RICHARD J. LAWSON and	*	
KIM EBOCH-LAWSON,	*	
husband and wife, and	*	
Parents and Natural	*	
Guardians of MARIAH C.	*	
LAWSON, a minor,	*	
Plaintiffs,	*	
	*	
v.	*	No. 02 - 378 - CD
	*	
PCA INTERNATIONAL, INC.,	*	
a corporation,	*	
Defendant.	*	

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Praecipe to List for Trial filed in the above-captioned action was served on the following person and in the following manner on the 24th day of February, 2004:

First-Class Mail, Postage Prepaid

Paul T. Grater, Esquire
233 Breeding Avenue
Pittsburgh, PA 15202


James A. Naddeo, Esquire
Attorney for Plaintiffs

JAMES A. NADDEO
ATTORNEY AT LAW
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

36

Lap over margin

FILED
FEB 24 2004
12:43 PM
William A. Shaw
Prothonotary/Clerk of Courts
No cc
Copy to CIA
WAS

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FILED

FEB 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

RICHARD J. LAWSON and
KIM EBOCH-LAWSON, husband
and wife, and parents and
natural guardians of
MARIAH C. LAWSON, a minor

-vs-

No. 02-378-CD

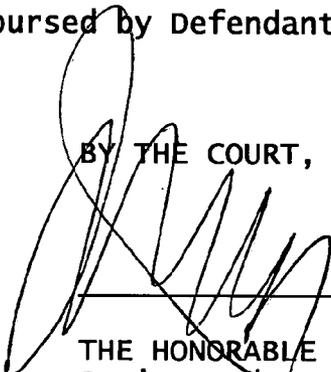
PCA INTERNATIONAL, INC, a
corporation

O R D E R

NOW, this 25th day of February, 2004, following status conference into the above captioned matter; upon agreement of the parties, it is the ORDER of this Court that all Discovery, including the independent medical examination requested by Defendant, shall be completed within ninety (90) days from the date of this Court's ruling on the Plaintiffs' Motion for Summary Judgment.

It is the further ORDER of this Court that all expenses incurred by Plaintiffs in attendance at said IME shall be fully reimbursed by Defendant.

BY THE COURT,



THE HONORABLE JOHN K. REILLY, JR.
Senior Judge, Specially Presiding

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

RICHARD J. LAWSON and KIM :
EBOCH-LAWSON, husband and :
wife, Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor :

-vs-

No. 02-378-CD

PCA INTERNATIONAL, INC. :

O R D E R

NOW, this 1st day of April, 2004, this being the date set for Civil Call; the Court noting that the case continues to be assigned to now Senior Judge John K. Reilly, Jr. for purposes of determination of the Motion for Summary Judgment; upon request of counsel for the Defendant and there being no opposition by counsel for the Plaintiff, it is the ORDER of this Court that the matter be and is hereby continued until the fall Term of Court.

BY THE COURT,

President Judge

FILED

APR 07 2004

William A. Shaw
Prothonotary-Clerk of Courts

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

RICHARD J. LAWSON, et al :
VS. : NO. 02-378-CD
PCA INTERNATIONAL, INC. :

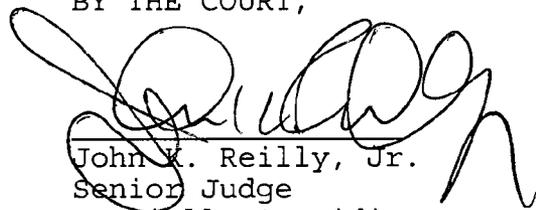
OPINION AND ORDER

This matter comes before the Court on Plaintiff's Motion for Partial Summary Judgment seeking to have this Court declare judgment in their favor on the issue of liability from this personal injury action. Following briefs and argument thereon, this Court is satisfied that there are relevant questions of fact on the issue that must be submitted to a jury and, therefore, enters the following

O R D E R

NOW this 19th day of April, 2004, following argument and briefs in Plaintiff's Motion for Partial Summary Judgment, it is the ORDER of this Court that said Motion be and is hereby dismissed.

BY THE COURT,


John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED

APR 19 2004

William A. Shaw
Prothonotary Clerk of Courts

FILED

ICC Atty's Naddeo, Carfley, Grater

APR 21 3 39 PM '04
APR 19 2004
KEL

William A. Smith
Director, Secretary of State

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

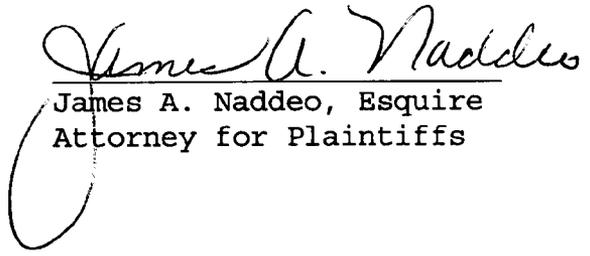
RICHARD J. LAWSON and	*
KIM EBOCH-LAWSON,	*
husband and wife, and	*
Parents and Natural	*
Guardians of MARIAH C.	*
LAWSON, a minor,	*
Plaintiffs,	*
	*
v.	*
	No. 02 - 378 - CD
	*
	*
PCA INTERNATIONAL, INC.,	*
a corporation,	*
Defendant.	*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Request for Production of Documents filed in the above-captioned action was served on the following person and in the following manner on the 27th day of May, 2004:

First-Class Mail, Postage Prepaid

Paul T. Grater, Esquire
233 Breeding Avenue
Pittsburgh, PA 15202


James A. Naddeo, Esquire
Attorney for Plaintiffs

JAMES A. NADDEO
ATTORNEY AT LAW
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

46

Lap over margin

FILED

0 3:35 PM-10322

MAY 27 2004



William A. Shaw
Prothonotary

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

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, Husband and Wife, and
Parents and Natural Guardians of
MARIAH C. LAWSON, A Minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC.,
A Corporation,
Defendant

NO. 02 – 378 - CD

Type of Pleading:

MOTION TO COMPEL

Filed on behalf of:
Plaintiffs

Counsel of Record for
this Party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED
0/3:4387 1cc
JUL 02 2004 Amy Naddeo
William A. Shaw
Prothonotary/Clerk of Courts

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

02-378-CD

ORDER

AND NOW, this 6 day of July, 2004, upon consideration of Plaintiff's Motion to Compel response to Plaintiff's Request for the Production of Documents Directed to Defendant served upon Defendant on May 27, 2004, which Documents have neither been answered nor has Defendant filed objections thereto, it is the ORDER of this Court that Defendant file full and complete responses to Plaintiff's Request for the Production of Documents within ~~ten (10)~~ ^{twenty (20) PJA} days or suffer appropriate sanctions to be imposed upon further application to the Court.

BY THE COURT,


Judge

FILED

JUL 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, Husband and Wife, and
Parents and Natural Guardians of
MARIAH C. LAWSON, A Minor,

Plaintiffs,

v.

NO. 02 – 378 - CD

PCA INTERNATIONAL, INC.,
A Corporation,

Defendant

**MOTION TO COMPEL AGAINST DEFENDANT
FOR FAILURE TO ANSWER PLAINTIFF'S
REQUEST FOR PRODUCTION OF DOCUMENTS**

TO THE HONORABLE JUDGE OF THE COURT:

Plaintiff, by his undersigned counsel, James A. Naddeo, Esquire respectfully requests that the Court enter the attached Order pursuant to Pa. R.C.P. No. 4019(a)(1)(vii) directing Defendant to respond to Plaintiff's Request for the Production of Documents or suffer sanctions, and in support thereof avers as follows:

1. The above-captioned matter was commenced on or about March 14, 2002. As part of the Plaintiff's discovery and in order to properly develop his claim against the Defendant, Plaintiff's Request for the Production of Documents Directed to Defendant was served upon Defendant on or about May 27, 2004. A copy of Plaintiff's Request for the Production of Documents Directed to Defendant is attached hereto and marked as Exhibit "A".

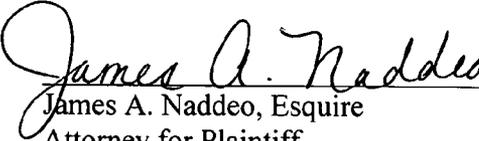
2. Pursuant to Pa.R.C.P. No. 4009.12, Defendant's Response and Objections, if any, were due on or before June 28, 2004.

3. No objections to Plaintiff's Request for the Production of Documents were filed by Defendant.

4. The information requested by Plaintiff is necessary to the proper development and presentation of Plaintiff's case.

5. For the foregoing reasons, Plaintiff believes and avers that Defendant will not fully and completely answer Plaintiff's Request for the Production of Documents absent a Court Order pursuant to Pa. R.C.P. No. 4019(a)(1)(vii).

WHEREFORE, Plaintiff respectfully requests that this Court enter an Order directing the Defendant to file a full and complete response to Plaintiff's Request for the Production of Documents within ten (10) days or suffer appropriate sanctions to be imposed upon further application to the Court.


James A. Naddeo, Esquire
Attorney for Plaintiff

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
Of MARIAH C. LAWSON, a minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC.,
A corporation
Defendant.

No. 02- 378 - CD

**REQUEST FOR PRODUCTION OF
DOCUMENTS DIRECTED TO THE DEFENDANT**

This Request is deemed to be continuing insofar as if any of the requested documents and/or items are secured subsequent to the date herein for the production of same, said documents and/or items are to be provided to Plaintiff's counsel immediately upon receipt of same.

The term "document" for the purposes of this Request shall mean any written, printed or other graphic matter of any kind or nature however produced or reproduced; whether sent or received or neither, including draft and copies bearing notations or marks not found on the original, and including, but not limited to: all contracts, agreements, representations, warranties, certificates and opinions; and all letters or other form of correspondence or communication; all memoranda, reports, notes, transcripts, tabulations, studies, evaluations, projections, work papers and compilations.

You are hereby requested to produce in accordance with Rule 4009 of the Pennsylvania Rules of Civil Procedure the below listed documents and/or items. These documents can be photocopies and forwarded without any inconvenience or hardship to the parties hereto. The below listed documents and/or items are to be forwarded to the office of James A. Naddeo, Esquire, 207 East Market, P.O. Box 552, Clearfield, Pennsylvania, 16830, within thirty (30) days of the date herein:

1. Independent Medical Evaluation Report of Imad T. Jarjour, M.D., F.A.A.P. from the April 23, 2004 evaluation of Mariah Lawson.

ANSWER:


James A. Naddeo, Esquire
Attorney for Plaintiff

JAMES A. NADDEO
ATTORNEY AT LAW
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

FILED

JUL 02 2004

William A. Straw
Prothonotary/Clerk of Courts

SM
7/1

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

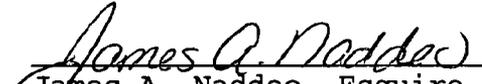
RICHARD J. LAWSON and	*
KIM EBOCH-LAWSON,	*
husband and wife, and	*
Parents and Natural	*
Guardians of MARIAH C.	*
LAWSON, a minor,	*
Plaintiffs,	*
	*
v.	*
	No. 02 - 378 - CD
	*
PCA INTERNATIONAL, INC.,	*
a corporation,	*
Defendant.	*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and certified copy of Motion to Compel and Order filed in the above-captioned action was served on the following person and in the following manner on the 6th day of July, 2004:

First-Class Mail, Postage Prepaid

Paul T. Grater, Esquire
233 Breeding Avenue
Pittsburgh, PA 15202


James A. Naddeo, Esquire
Attorney for Plaintiffs

JAMES A. NADDEO
ATTORNEY AT LAW
P.O. BOX 352
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

FILED
JUL 07 2004
William A. Shaw
Prothonotary/Clerk of Courts

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs

:
:
:
:
:
:
:

vs.

:

No. 02-378-CD

PCA INTERNATIONAL, INC.,
a corporation,
Defendant

:
:
:

MOTION FOR SANTIONS

AND NOW COMES the Plaintiff, Richard J. Lawson and Kim Eboch-Lawson, individually and as Guardians of Mariah C. Lawson, a minor child, who by and through their attorneys, James A. Naddeo, Esquire and John R. Carfley, Esquire, move this Court for sanctions against the said defendant and in support of said Motion aver as follows:

1. Plaintiff is involved in litigation involving the defendant based upon a claim for personal injuries allegedly sustained when the minor child fell from a photographic table as a result of the negligence of the employees and/or agents of the defendant.

2. On or about November 25, 2002, co-counsel for the plaintiff prepared, filed and transmitted Interrogatories and Request for Production of Documents to the defendant.

3. Responses to the Interrogatories and Request for Production of Documents were due thirty days subsequent to the date

of service as provided by the Pennsylvania Rules of Civil Procedure.

4. The defendant failed to respond adequately and timely to these written interrogatories and request for production of documents requiring plaintiff's counsel to file several motions as per the local rules to secure compliance with these requests.

5. Plaintiff's counsel on several occasions during the discovery period of this case also scheduled depositions of witnesses within the control of the defendant and/or its counsel which depositions were unilaterally cancelled by defense counsel without proper notice to plaintiff's counsel causing counsel to incur costs associated with the retention of a court reporter to stenographically record the proceeding as well as suffering the inconvenience of appearing at the deposition together with co-counsel.

6. This matter was placed on the trial list by plaintiff's counsel believing that all discovery had been completed and that the matter was ready for trial, the complaint having been filed on March 14, 2002.

7. At the call of the list defense counsel appeared and complained that discovery was still ongoing as a result of which the matter was continued in order to allow defense counsel time to schedule and conduct an independent medical examination by his own medical expert despite the fact that plaintiff's medical report had been in the possession of defense counsel for months without any activity being taken by counsel to confirm or deny the findings of

plaintiff's expert as it pertained to the issue of permanent disability of the child.

8. Based on the representations of defense counsel the court entered an order continuing the case from the trial list and thereafter defense counsel scheduled and conducted an independent medical examination on March 27, 2004, at his expert's offices in Pittsburgh, however, a medical report has not been forthcoming despite repeated requests from plaintiff's counsel for the production of this report as well as the standard curriculum vitae for the examining physician.

9. This matter has now been set down for the call of the list on July 27, 2004, although the report has still not been produced.

10. Based upon defendant's history of noncompliance, Plaintiff's counsel filed all of the necessary motions required by local practice for the impositions of sanctions failing compliance with the production of this medical report.

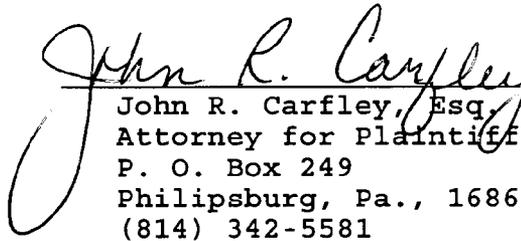
11. Most recently this court executed an order prepared and submitted by plaintiff's counsel allowing defense counsel an additional twenty (20) days within which to produce his expert report or suffer such sanctions as this court deems appropriate. A true and correct copy of said order is attached hereto as Exhibit A.

12. Counsel has failed to produce the expert report, and plaintiff now moves for sanctions pursuant to Rule 4019 of the Pennsylvania Rules of Civil Procedure including but not limited to those sanctions set forth in Rule 4019(a)(1)(viii).

13. Plaintiff further requests this court to enter an order pursuant to Rule 4019 disallowing the defendant from opposing the claim of disability or from introducing into evidence testimony or other physical or mental findings disputing the medical condition of the plaintiff.

14. Plaintiff further requests that defendant be prohibited from utilizing this expert witness, his report and/or any other information subsequently produced and/or made available by the witness which contradicts the reports and findings of the plaintiff's experts and to enter such other sanctions as this court may deem appropriate.

WHEREFORE, Plaintiff requests this Honorable Court to enter an Order consistent with the requests set forth in this pleading including but not limited to the restrictions pertaining to the expert and the report produced or to be produced in conjunction with this proceeding.


John R. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated: July 27, 2004

JAMES A. NADDEO
ATTORNEY AT LAW
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

43

Lap over margin

FILED

JUL 27 2004

William A. Shaw
Prothonotary Clerk of Courts

4-1 CA

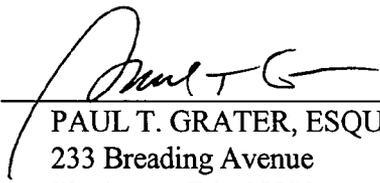
02-378-02

PROOF OF SERVICE

I hereby certify that a true and correct copy of the attached *Defendant's Pre-Trial Statement* was served upon the following person(s) by first class mail, on this 5th day of August 2004.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 1/2 East Locust Street
Marino Building
P.O.Box 552
Clearfield, PA 16830

By: 
PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

FILED ^{NO} ^{CC}
9/3/10/04
AUG 06 2004
EJB

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents
and natural guardians of MARIAH C.
LAWSON, a minor,**

Plaintiffs,

vs.

**PCA INTERNATIONAL, INC., a
corporation,**

Defendant.

CIVIL DIVISION

No. 02-378-CD

**DEFENDANT'S PRE-TRIAL
STATEMENT**

Issue No.:

Code:

**Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant**

**Counsel of record for
this party:**

**PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560**

**233 Breading Avenue
Pittsburgh, PA 15202
412-734-4595**

RECEIVED

AUG 08 2004

COURT ADMINISTRATOR'S
OFFICE

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

RICHARD J. LAWSON and	*
KIM EBOCH-LAWSON,	*
husband and wife, and	*
Parents and Natural	*
Guardians of MARIAH C.	*
LAWSON, a minor,	*
Plaintiffs,	*
	*
v.	*
	No. 02 - 378 - CD
	*
PCA INTERNATIONAL, INC.,	*
a corporation,	*
Defendant.	*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Plaintiffs' Pre-Trial Statement filed in the above-captioned action was served on the following person and in the following manner on the 4th day of August, 2004:

First-Class Mail, Postage Prepaid

Paul T. Grater, Esquire
233 Breeding Avenue
Pittsburgh, PA 15202

John R. Carfley, Esquire
222 Presqueisle Street
P.O. Box 249
Philipsburg, PA 16866

FILED ^{no} cc
013:08
AUG 06 2004
William A. Shaw
Prothonotary/Clerk of Courts

James A. Naddeo
James A. Naddeo, Esquire
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FILED

AUG 13 2004

William A. Shaw
Prothonotary/Clerk of Courts

RICHARD C. LAWSON and *
KIM EBOCH-LAWSON, husband *
and wife, parents and natural *
guardians of MARIAH C. LAWSON, *
a minor, *

Plaintiffs *

vs. *

No. 2002-378-C.D. *

PCA INTERNATIONALS, INC., *
a corporation, *
Defendant *

ORDER

NOW, this 12th day of August, 2004, following Pre-Trial Conference with counsel for the parties as set forth above, with the Court noting that Attorney John R. Carfley, Esquire has appeared on behalf of Plaintiffs' counsel James A. Naddeo, Esquire, it is the ORDER of this Court as follows:

1. Jury Selection will be held on August 26, 2004 commencing at 9:30 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

2. Jury Trial is hereby scheduled for three days, October 27, 2004, October 28, 2004 and October 29, 2004 commencing at 9:00 a.m. each day in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

3. All depositions which are to be used for trial presentation purposes shall be completed by absolutely no later than ninety (90) days prior to the commencement of trial or the

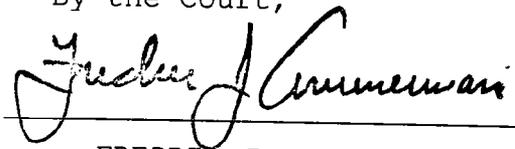
same will not be available for use at trial. A copy of the transcript of any such deposition(s) shall be provided to opposing counsel within no more than fifteen (15) days following completion of the deposition(s).

4. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of Trial shall submit said objections to the Court, in writing, no later than thirty (30) days prior to the commencement of Trial. All objections shall reference specific page and line numbers within the deposition(s) in question along with that party's brief relative same. The opposing party shall submit its brief in opposition to said objections no later than fifteen (15) days prior to the commencement of Trial.

5. Any party filing any Motion or Petition regarding limitation or exclusion of evidence or testimony to be presented at time of trial, including but not limited to Motions in Limine, shall file the same no more than thirty (30) days prior to the trial date. The party's Petition or Motion shall be accompanied by an appropriate brief. The responding party thereto shall file its Answer and submit appropriate response brief no later than fifteen (15) days prior to trial.

6. In addition, the Plaintiffs' Motion for Sanctions filed on July 27, 2004 is hereby dismissed as moot.

By the Court,



FREDRIC J. AMMERMAN
President Judge

FILED

EGK

012:2004
AUG 13 2004

William A. Shaw
Prothonotary/Clerk of Courts

2 certified copies to James A. Naddeo, Esquire
2 certified copies to John R. Carfley, Esquire
2 certified copies to Paul T. Grater, Esquire
1 copy to President Judge Ammerman
1 copy to Court Administrator

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents
and natural guardians of MARIAH C.
LAWSON, a minor,

Plaintiffs,

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

No. 02-378-CD

**NOTICE OF VIDEOTAPED
DEPOSITION OF RAJIV R. VARMA,
M.D.**

Issue No.:

Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
412-734-4595

FILED *10 cc*
m/3:00/ST
AUG 26 2004
E/AS
William A Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

NOTICE OF VIDEOTAPED DEPOSITION
OF RAJIV R. VARMA, M.D.

TO: Rajiv R. Varma, M.D.
1811 Boulevard of the Allies
Pittsburgh, PA 15219

TAKE NOTICE that the video deposition of *Rajiv R. Varma, M.D.* shall be taken for use at trial pursuant to the Pennsylvania Rules of Civil Procedure, as amended, before a Notary Public duly authorized to administer oaths on *Friday, September 17, 2004*, starting at *10:00 a.m.* at the offices of *Rajiv R. Varma, M.D., 1811 Boulevard of the Allies, Pittsburgh, PA 15219*, and at any adjournments thereof, at which time and place you are invited to appear and take such part as shall be fitting and proper.

By: 

PAUL T. GRATER, ESQUIRE
Attorney for Defendant

cc: James A. Naddeo, Esquire
John R. Carfley, Esquire
Wordz R Us, Court Reporters

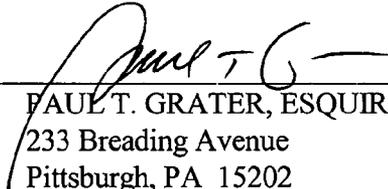
PROOF OF SERVICE

I hereby certify that a true and correct copy of the attached *Notice of Videotaped Deposition of Rajiv R. Varma, M.D.* was served upon the following person(s) by first class mail, on this 24th day of August 2004.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 ½ East Locust Street
Marino Building
P.O.Box 552
Clearfield, PA 16830

By: _____


PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents
and natural guardians of MARIAH C.
LAWSON, a minor,

Plaintiffs,

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

No. 02-378-CD

**NOTICE OF DEPOSITION OF GLENN
A. STAYER, M.D.**

Issue No.:

Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, ESQUIRE
Pa. I. D.: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
412-734-4595

FILED EGK

SEP 17 2004

m/2:55/
William A. Shaw

Prothonotary/Clerk of Courts

no c/c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

PCA INTERNATIONAL, INC., a
corporation,

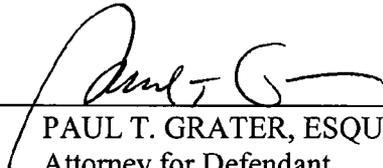
Defendant.

NOTICE OF DEPOSITION OF GLENN A. STAYER, M.D.

TO: Glenn A. Stayer, M.D.
Geisinger Medical Center
100 North Academy Avenue
Danville, PA 17822
(570) 271-6012

TAKE NOTICE that the deposition of *Glenn A. Stayer, M.D.* shall be taken for use at trial pursuant to the Pennsylvania Rules of Civil Procedure, as amended, before a Notary Public duly authorized to administer oaths on *Thursday, September 16, 2004*, starting at *1:00 p.m.* at the offices of *Glenn A. Stayer, M.D., Geisinger Medical Center, 100 North Academy Avenue, Danville, PA 17822*, and at any adjournments thereof, at which time and place you are invited to appear and take such part as shall be fitting and proper.

By: _____


PAUL T. GRATER, ESQUIRE
Attorney for Defendant

cc: James A. Naddeo, Esquire
John R. Carfley, Esquire

PROOF OF SERVICE

I hereby certify that a true and correct copy of the attached *Notice of Deposition of Glenn A. Stayer, M.D.* was served upon the following person(s) by first class mail, on this 3rd day of September 2004.

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 ½ East Locust Street
Marino Building
P.O.Box 552
Clearfield, PA 16830

By: _____


PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

CA

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

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :

vs. : No. 02-378-CD

PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

RULE

AND NOW, this 29 day of Sept, 2004, upon consideration of the foregoing Motion in Limine, a rule is hereby issued upon Defendant to Show Cause why the Motion should not be granted. Rule returnable the 13 day of October, 2004, for filing written response and the 15 day of October, 2004, at 2:30 P.M. in Courtroom Number 1, Clearfield, Pennsylvania, for hearing thereon.

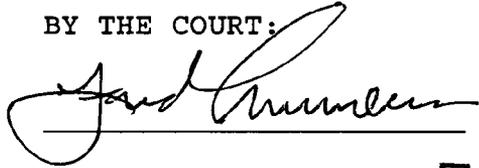
NOTICE

A MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING MOTION, YOU MUST TAKE ACTION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE MOVANT. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

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

COURT ADMINISTRATOR
COURTHOUSE
CLEARFIELD, PENNSYLVANIA, 16830
(814) 765-2641

BY THE COURT:



FILED ^{ilok} _{4cc}
02-4201
SEP 29 2004
Atty. Costley

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs

vs.

No. 02-378-CD

PCA INTERNATIONAL, INC.,
a corporation,
Defendant

MOTION IN LIMINE

FILED ^{4cc}
d/1:08/04 ^{Atty}
SEP 23 2004 ^{Carfley}

William A. Shaw
Prothonotary/Clerk of Court

1ST
MOTION
①

AND NOW COME the Plaintiffs, Richard J. Lawson and Kim Eboch-Lawson, individually and as Guardians of Mariah C. Lawson, a minor child, who by and through their attorneys, James A. Naddeo, Esquire, and John R. Carfley, Esquire, move this Court for an Order excluding certain documents and in support thereof aver as follows:

1. Plaintiffs have filed a claim against PCA International alleging negligent conduct by an employee of PCA which occurred during a photographic session involving the minor plaintiff, and which conduct resulted in a head injury that allegedly caused migraine headaches which will persist over the lifetime of the child.

2. The plaintiff originally sought council from an attorney in Pittsburgh who attempted to elicit information from the plaintiff's treating physician pertaining to the viability of the

claim. This request for information was directed to Dr. Glenn A. Stayer, a pediatric neurologist located at Geisinger Medical Center.

3. It is believed and therefore averred that this information falls within the purview of Rule 4003.5(a) of the Pennsylvania Rules of Civil Procedure in that the information sought was a work product and/or privileged information requested by the attorney from an expert whom the attorney did not intend to call at time of trial.

4. The letter directed to Dr. Stayer from counsel in Pittsburgh was dated November 20, 2000, but did not prompt a response from Dr. Stayer until March 14, 2001, at which time the doctor wrote a letter to counsel in which he expressed a medical opinion which was inconsistent with his working diagnosis formulated seven (7) days prior to the date of his letter as evidenced by his clinical notes. In these clinical notes the Doctor diagnosed the child's condition as one characterized by headaches, post concussive syndrome; said letter was likewise inconsistent with the notes from two additional examinations which occurred on June 20, 2001, and November 21, 2001.

5. When the defendant sought to conduct its own independent medical examination of the minor plaintiff and enlisted the services of Doctor Rajiz R. Varma, M.D., a pediatric neurologist, this report was produced by the records custodian at Geisinger Medical Center and contained this opinion evidence.

6. Rule 4003.6 of the Pennsylvania Rules of Civil Procedure limits the information that may be obtained from the treating physician of a party to that information which can be acquired with the written consent of that party or through a method of discovery authorized by Rule 4001 et seq.

7. It is uncertain how this information came to be in the possession of defense counsel or how said information was released to defense counsel without the permission of the minor plaintiff, however, it is believed that the delivery of this information to counsel and/or defendants' independent medical examiner violates Plaintiff's right to privacy as well as the Pennsylvania Rules of Civil Procedure relating to discovery.

8. Defense counsel at no time sought to acquire through any type of pre-trial discovery including interrogatories, request for admissions or otherwise a statement as to the substance of the expert opinion which Dr. Stayer would be called upon to present at time of trial.

9. An expert witness may not be called upon to testify as to information beyond the fair scope of pre-trial discovery (see Pa. R.C.P. 4003.5(c)) and an objection may be entered where the question delves into an area beyond the fair scope of the expert's pre-trial report since any testimony on this point would result in both surprise and prejudice to the opposing party; on this basis the letter report should be stricken and the jury should not be allowed to consider it for any purpose.

10. When Doctor Stayer's deposition was conducted on Thursday, September 16, 2004, Attorney James A. Naddeo, at the outset, requested an offer of proof from defense counsel on the content of the testimony sought to be elicited from Doctor Stayer.

11. In response to counsel's request for the offer of proof, Attorney Grater, stated that the witness would be called not as an opinion witness but rather as a fact witness.

12. Notwithstanding this offer, at the opportune time Attorney Grater attempted to advance questions leading to the admission of this report containing the opinions stated therein rather than the facts or the factual basis for this letter.

13. Attorney Naddeo entered a timely objection on the record seeking to exclude this report and it is this objection which is now before the court for resolution.

14. It is believed and therefore averred that Rule 4003.5 of the Pennsylvania Rules of Civil Procedure specifically addresses the issue of the production of expert reports and the ability of counsel to redact information from these reports when the services of an expert has been sought and retained but the expert is not intended to be called as an expert witness at the time of trial.

15. It is believed therefore that said report is excludable by the court for these reasons.

16. In addition it is believed that plaintiff never provided authority to release this information to either Dr. Varma or defense counsel as required by Rule 4003.6 and as the minor plaintiff's treating physician, Dr. Stayer, had no basis to release

this information under privacy standards or under those standards relating to privilege which standards alone necessitate the exclusion of this report from consideration by the jury.

17. In addition defense counsel exceeded the bounds of his direct examination at deposition by inquiring as to the opinion of Dr. Stayer with respect to the causal relationship between the accident and the symptoms of migraine headaches which the minor plaintiff experiences when, in fact, his offer of proof specifically stated that Dr. Stayer would be a fact witness who would verify information contained within the clinical notes and/or other records of treatment; therefore all attempts to extract an opinion from the witness as to the causal connection between the incident in question and the injuries sustained by the minor plaintiff was improper and should be excluded.

18. It is believed and therefore averred that defense counsel may not utilize this report nor may it be utilized by Dr. Varma or mentioned in any way in Dr. Stayer's deposition since Dr. Stayer was called as a fact witness, not an opinion witness and therefore was under no legal obligation to express an opinion with respect to this patient.

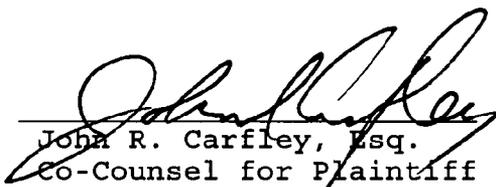
19. In fact medical ethics and Dr. Stayer's responsibilities under his Hippocratic oath would dictate that Dr. Stayer could not legitimately and/or ethically state an opinion and/or share an opinion with respect to the diagnosis of the underlying condition of the minor plaintiff nor disclose this information to third parties without the express consent and approval of the minor

and/or her guardian something which this individual did not seek or acquire prior to disclosing this information.

20. Plaintiff believes and therefore avers that this information is privileged and that the court should enter an order directing that the working report be excluded completely or that the information relating to his conclusions inconsistent with the clinical records and his working diagnosis should be redacted from the report so as to render it unusable by defense counsel or an independent medical examiner.

21. The transcript of the deposition conducted on September 16, 2004 has not been reproduced as of this filing; consequently plaintiff reserves the right to supplement its motion upon receipt and review of this document.

WHEREFORE, Plaintiff requests this Honorable Court to enter an Order excluding this report in so far as it contains an opinion as to the caused relationship of the accident and the minor plaintiffs' existing condition.


John R. Carfley, Esq.
Co-Counsel for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866

Dated: September 22, 2004

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs

:
:
:
:
:
:
:

vs.

No. 02-378-CD

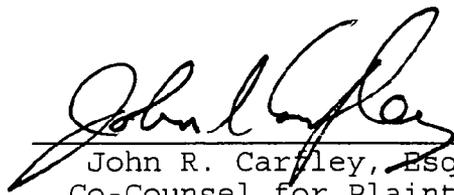
PCA INTERNATIONAL, INC.,
a corporation,
Defendant

:
:
:

CERTIFICATE OF SERVICE

I do certify that I made service of Motion in Limine upon defendant, PCA International, Inc. through its attorney, Paul T. Grater, Esquire, by depositing the same in the United States mail, postage prepaid, this 24th day of September, 2004, addressed as follows:

PCA International, Inc.
c/o Paul T. Grater, Esq.
233 Breeding Avenue
Pittsburgh, Pa., 15202-1924



John R. Carlyle, Esq.
Co-Counsel for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

FILED ^{EGK}
M 12:07 PM 10/24/04 1cc to atty

SEP 24 2004

William A. Shaw
Prothonotary

JOHN R. CARFLEY
ATTORNEY AT LAW
222 PRESQUEISLE STREET
P. O. BOX 249
PHILIPSBURG, PENNSYLVANIA 16866

September 23, 2004

AREA CODE 814
TELEPHONE 342-5581
FAX 342-1127

William Shaw,
Prothonotary
Court House
Clearfield, Pa., 16830

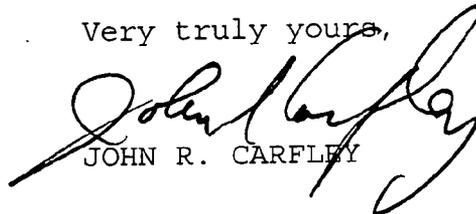
RE: Richard J. Lawson et. al.
vs. PCA International, Inc.
No. 02-378-CD

Dear Mr. Shaw:

Please find enclosed a Certificate of Service indicating that on this date I served a copy of the Motion in Limine upon Defendant's Counsel. I have provided Mr. Grater with a courtesy copy even though the date of hearing has not been assigned by the Court Administrator in order to give him notice of the motion as far in advance of trial as possible.

Should you have any questions concerning this matter please to not hesitate to contact us.

Very truly yours,


JOHN R. CARFLEY

JRC:sm

Encls.

CC: Paul T. Grater, Esq.

lawson2.pro

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM EBOCH-
LAWSON, husband and wife, and Parents
and natural guardians of MARIAH C.
LAWSON, a minor,

Plaintiffs,

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

No. 02-378-CD

**MOTION FOR CONTINUANCE and
FOR LEAVE TO WITHDRAW AS
COUNSEL**

Issue No.:

Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for
this party:

PAUL T. GRATER, Esquire
Pa ID: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
(412)734-4595

FILED
m/12864
NO CC
OCT 12 2004

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

MOTION FOR CONTINUANCE
and FOR LEAVE TO WITHDRAW AS COUNSEL

NOW comes the defendant, PCA International, Inc., (hereinafter PCA) by its undersigned counsel, and respectfully moves the Court to grant relief by way of a continuance of the within the matter, and leave to withdraw as counsel, and in support thereof states as follows:

1. Defendant's counsel has accepted employment as a member of a corporate legal staff, effective Monday October 11th 2004. (Exhibit A, attached) .
2. Under the requirements of counsel's new employment, the handling of any external matters, including this case, is precluded, and the continued handling of this instant case will constitute a violation of the terms of employment.
3. In recognition of the obligations of the new employment, defendant's counsel has undertaken to effect a timely and orderly transfer of this file to substitute counsel.
4. That transfer has been complicated by the additional fact that simultaneous with these developments this case has now come under the auspices and control of the North Carolina Insurance Guaranty Association, (NCIGA), as a result of the insolvency of the defendant's liability insurer.
5. At the time of the subject incident, in March 2000, PCA was insured for liability under a policy issued by the Reliance Insurance Company, which was later declared insolvent by order of the Commonwealth Court of Pennsylvania. However, PCA, a domiciliary of the state of North Carolina, maintained a self-insured retention, in the form

of a deductible in the amount of \$250,000 per occurrence, subject to an annual aggregate. Upon exhaustion of the annual deductible aggregate, PCA, having no more self-insured retention, would come under the provisions of the North Carolina Insurance Guaranty Association Act. (NC General Statutes §58-48-1, et seq.)

6. Approximately one month ago, PCA determined that it had exhausted its self-insured retention for the subject year, and so reported that to the North Carolina Guaranty Association. (Letter of September 10th 2004 attached as exhibit B.)

7. While the NCIGA has undertaken an investigation to determine its statutory obligations toward PCA under the Act, defense counsel has been unable to obtain the necessary permission to effect the transfer of the file to substitute counsel.

8. On Thursday, October 7th 2004, the NCIGA acknowledged that it was obligated under the North Carolina statute to undertake the defense of PCA due to the exhaustion of PCA's aggregate self-insured retention and the insolvency of Reliance. (E-mail correspondence of October 7th 2004 attached as exhibit C.)

9. Although counsel has attempted to obtain the permission of NCIGA to transfer this matter to substitute counsel, in recognition of the mandate of counsel's new employment, such permission has not been forthcoming.

10. The unwillingness of NCIGA to grant permission to transfer the file to substitute counsel for trial leaves defense counsel in an untenable position of conflict, with respect to the professional obligation to remain on this case in contravention of the practical mandate imposed by his new employment.

11. The NCIGA Act, referenced above, provides that: "all proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court or before any administrative agency or the North Carolina Industrial Commission shall be stayed automatically for 120 days and such additional time thereafter as may be determined by the court from the date the insolvency is determined or any ancillary proceedings are initiated in this state, whichever is later, to permit proper defense by the association of all pending causes of action. (NC G.S. §58-48-85, copy attached as exhibit D.)"¹

12. Inasmuch as the exhaustion of PCA's self-insured retention and the determination of that exhaustion by NCIGA is the first trigger of NCIGA's obligation to defend under the statute, the provisions of the North Carolina Act now become applicable to this pending action.

13. In light of the conflict in which defense counsel has been placed, and the exigent circumstances under which this arises, the moving party has no recourse but to seek the Court's intervention, pursuant to the applicable statute referenced above, and respectfully

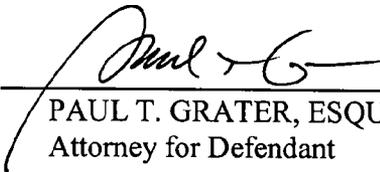
¹ Under the comparable Pennsylvania statute, a similar stay of proceedings is provided, for a term of 90 days. (40 PAC.S.A. §1701.602.)

requests that the trial of this matter be continued for such time as will enable the NCIGA to appoint counsel of its choice to represent the interests of the defendant PCA.

Wherefore, the defendant PCA, through its counsel, respectfully prays that this honorable court will enter an order permitting the withdrawal of Paul T. Grater Esq. as defense counsel, and continuing the trial of this matter for such time as will enable the NCIGA to appoint counsel of its choice.

Respectfully submitted,

LAW OFFICES OF PAUL T. GRATER

By: 
PAUL T. GRATER, ESQUIRE
Attorney for Defendant



SELECTIVE

Selective Insurance Company of America
40 Wantage Avenue
Branchville, New Jersey 07890
Tel: 973 948 1276
Fax: 973 948 0292
E-mail: robert.jackson@selective.com

September 14, 2004

VIA UPS 2-DAY AIR

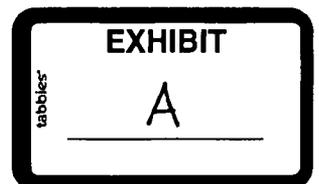
Mr. Paul T. Grater
233 Breeding Avenue
Pittsburgh, PA 15202

Dear Paul:

On behalf of Selective Insurance, it gives me great pleasure to welcome you to our team and to congratulate you on your decision to join Selective Insurance Company of America!

I would like to take this opportunity to confirm the terms of our employment offer. You will be joining Selective's Pittsburgh Staff Counsel office, as *Managing Attorney*, grade 15, to be effective Monday, October 11, 2004. Your responsibilities include handling major litigation and managing the Pittsburgh staff. In this capacity, you will

Content not material is deleted.



This offer is contingent upon the satisfactory completion of a comprehensive background investigation. Please complete the enclosed "Waiver and Release of Information", which authorizes us to complete the investigation. On your first day of employment, you will be required to present documents verifying your identity and work authorization as required by the Immigration Reform and Control Act of 1986. We have included the INS Form I-9, along with the list of acceptable documents. Please carefully review the document list. You must have either one document from column A or one document from Column B and one document from Column C. You must bring these original documents with you on your first day of employment. Also included is the Work Opportunity Tax Credit/Welfare to Work forms. Additional forms that require completion by you are contained in the enclosed new hire packet.

Unless other arrangements have been made, new hire orientation will take place in Corporate Human Resources at 8:00 a.m. on your first day of employment.

In summary:

- **Immediately** – Complete the waiver and release of information and sign this offer letter. Complete all the other forms except the Immigration form, I-9. Return the completed forms in the envelope provided.
- **On your first day** – New hire orientation takes place in Corporate Human Resources at 8:00 a.m. Bring with you the I-9 form and your **original** supporting document(s). You and the human resources manager will complete the form together. Also bring with you the new hire packet (with its contents).

We are very excited about having you join our team and look forward to a mutually rewarding relationship! If you should have any questions, please do not hesitate to call me at (973) 948-1276 or Tom Fay at (973) 948-1311.

Sincerely,



Robert C. Jackson
Administrative Manager
Corporate Human Resources

I, Paul T. Grater, understand and accept the employment offer from Selective Insurance as stated above.



Signature



Date

cc: Tom Fay



NORTH CAROLINA INSURANCE GUARANTY ASSOCIATION
5401 Six Forks Road • Raleigh NC • 27609
(919) 783-9813 • www.ncrb.org

Donna P Kallianos
Casualty Claims Supervisor
Direct: (919) 582-1046
Fax: (919) 783-5262
Email: dpk@ncrb.org

September 10, 2004

PCA International, Inc.
Attn: Kelly Coco, Asst. Vice President of Risk Management
815 Matthews-Mint Hill Road
Matthews, NC 28105

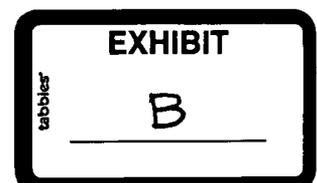
RE: Reliance Insurance Company, In Liquidation
Reliance Insured PCA International, Inc.
Plaintiff Mariah Lawson
Guaranty File # RLIA-6079
Date of Loss March 28, 2000

Dear Ms. Coco,

This will serve as a follow up to your conversation with Bill Delbridge requesting that The North Carolina Insurance Guaranty Association ("NCIGA") assume the defense of the above referenced case which is apparently scheduled for trial next month.

Your request arises out of PCA's general liability policy written through Reliance Insurance Company which you are aware was declared insolvent by Order of the Commonwealth Court of Pennsylvania on October 3, 2001. Coverage was afforded to PCA under Reliance policy number VQ 2673035, effective dates 8/24/99 - 8/24/00. It includes a \$250,000 deductible per occurrence as well as a \$2,620,000 deductible aggregate which allegedly has been exhausted. Because the NCIGA would only have an obligation with respect to this claim when the aggregate amount has been exhausted, the NCIGA will require specific documentation of the exhaustion of the aggregate before the NCIGA will take any steps in connection with this claim. The mere assertion that the aggregate has been exhausted, without specific documentation, is not sufficient. The documentation of the aggregate amount spent should include both indemnity and defense payments on a per claim basis during the policy year.

In addition, the NCIGA is not at the current time in a position to determine the extent of any obligations it may have in connection with this particular claim. Pursuant to N.C. Gen. Stat. § 58-48-35(a)(1), the NCIGA's statutory liability cap of \$300,000 is reduced by the amount of any self-insured retention, which includes the amount of any large deductible. Accordingly, the NCIGA requests documentation of all amounts expended in connection with Mariah Lawson's claim up to the point that PCA reached the aggregate amount stated in the Reliance policy (assuming the aggregate amount has been reached).



Please provide this information as soon as possible so it can be evaluated by the NCIGA. If our review indicates that the NCIGA has any statutory obligation in connection with this claim, the NCIGA will proceed accordingly. Until this information is provided, PCA needs to continue to protect its own interests in connection with Mariah Lawson's claim.

The NCIGA preserves all rights, obligations and defenses available to it under the North Carolina Insurance Guaranty Association Act.

Should you have any additional questions, please do not hesitate to contact me.

Sincerely,



Donna Kallianos

CC: Broadspire
Attn: Anthony Moreira
PO Box 608
Berkeley Heights, NJ 07922

Paul T. Grater
233 Breeding Avenue
Pittsburgh, PA 15202

Subj: **Mariah Lawson vs PCA #224 LN 217486 d/l 3/28/2000**
Date: 10/7/2004 2:21:09 PM Eastern Daylight Time
From: tmoreira@choosebroadspire.com
To: GRATERLAW@aol.com
CC: KCoco@pcaintl.com, dpk@ncrb.org

Paul,

Donna Kallianos at the NCIGA confirmed in this afternoon's telephone conference that the Guaranty Fund is taking over the handling of this matter due to Reliance's insolvency!

All future reporting should be sent to her attention. I believe you have been in touch with her.

I will be closing my file out shortly.

----- Forwarded by Tony M. Moreira on 10/07/2004 02:17 PM -----

To: GRATERLAW@aol.com
cc: KCoco@pcaintl.com
From: Tony M. Moreira
Branch Claims/Berkeley Heights

Date: 10/06/2004 12:17 PM
Subject: Re: Mariah Lawson vs PCA #224 LN 217486 d/l
3/28/2000(Document link: Tony M. Moreira)

I will be speaking to Kelly Coco & the Guaranty Fund tomorrow morning and hope to have an answer afterwards.

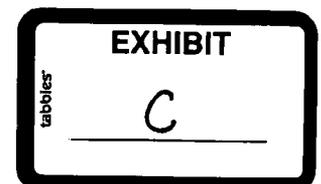
To: tmoreira@choosebroadspire.com
cc:
From: GRATERLAW@aol.com

Date: 10/06/2004 11:59 AM
Subject: Re: Mariah Lawson vs PCA #224 LN 217486 d/l 3/28/2000

Hi Tony,

Have you heard anything further on this? I did speak with a Margolis partner on Friday evening, and am advised that they can handle this. As the Margolis firm is the panel counsel of choice for Kemper-/Broadspire, I trust it would be appropriate for me to transfer the file to them. It seems highly unlikely that the NC guaranty association would choose to send the case to some other counsel in PA. But time is of the essence. I will need to get the file to them asap. Please advise.

-Paul



Westlaw.

Page 1

N.C.G.S.A. § 58-48-85

West's North Carolina General Statutes Annotated Currentness

Chapter 58. Insurance

▣ Article 48. Postassessment Insurance Guaranty Association (Refs & Annos)

→ § 58-48-85. Stay of proceedings; reopening of default judgments

All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court or before any administrative agency or the North Carolina Industrial Commission shall be stayed automatically for 120 days and such additional time thereafter as may be determined by the court from the date the insolvency is determined or any ancillary proceedings are initiated in this State, whichever is later, to permit proper defense by the Association of all pending causes of action. Any party to any proceeding which is stayed pursuant to this section shall have the right, upon application and notice, to seek a vacation or modification of such stay. Any covered claims arising from any judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend an insured, shall, upon application and notice by the Association be vacated and set aside by the same court in which such judgment, order, decision, verdict, or finding is entered and the Association either on its own behalf or on behalf of any insured or an insolvent insurer, shall be permitted to defend against such claim on the merits. Any party who has obtained any such judgment or order shall have the right, upon application and notice, to have the judgment or order restored if within 90 days following the entry of the judgment or order the Association has not notified such party and the court that it intends to defend the matter on the merits.

Added by Laws 1971, c. 670, § 1. Amended by Laws 1989, c. 206, § 8; S.L. 2003-167, § 4, eff. June 10, 2003.

HISTORICAL AND STATUTORY NOTES

2003 Legislation

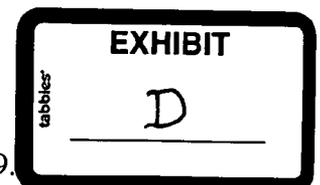
S.L. 2003-167, § 4, eff. June 10, 2003, in the first sentence, substituted "or before any administrative agency or the North Carolina Industrial Commission" for "in this State".

S.L. 2003-167, § 5, provides:

"This act is effective when it becomes law and applies to claims associated with insurers that become insolvent on or after that date."

N.C.G.S.A. § 58-48-85, NC ST § 58-48-85

Copr. © 2004 West. No Claim to Orig. U.S. Govt. Works.



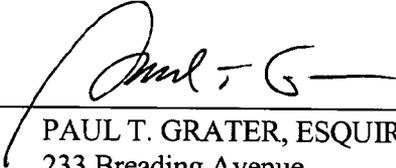
PROOF OF SERVICE

I hereby certify that a true and correct copy of the attached *Motion for Continuance and for Leave to Withdraw As Counsel* was served upon the following person(s) by first class mail, on this 8th day of October 2004, addressed as follows:

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 ½ East Locust Street
Marino Building
P.O.Box 552
Clearfield, PA 16830

By: _____


PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD J. LAWSON and KIM EBOCH-LAWSON, husband and wife, and Parents and natural guardians of MARIAH C. LAWSON, a minor,

Plaintiffs,

vs.

PCA INTERNATIONAL, INC., a corporation,

Defendant.

CIVIL DIVISION

No. 02-378-CD

DEFENDANT'S ANSWER TO PLAINTIFF'S MOTION IN LIMINE

Issue No.:

Code:

Filed on behalf of:
PCA INTERNATIONAL, INC.,
Defendant

Counsel of record for this party:

PAUL T. GRATER, Esquire
Pa ID: 27560

233 Breeding Avenue
Pittsburgh, PA 15202
(412)734-4595

*ANSWER
TC
1ST
MOTION*

FILED *E6K*
NO CC
m12:57/BJ
OCT 13 2004
Prothonotary Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

DEFENDANT'S ANSWER TO PLAINTIFF'S MOTION IN LIMINE

NOW comes the defendant, PCA International, Inc., (hereinafter PCA) by its undersigned counsel, and answers plaintiffs Motion In Limine as follows:

1. Without admitting its validity, the defendant does not deny that the plaintiff has made such claim.

2. To the extent that plaintiff's counsel made an initial inquiry seeking information of the plaintiff's treating physician, that inquiry does not of itself constitute an identification of Dr. Stayer as an expert witness for trial, and Dr. Stayer was not so identified by the plaintiff.

3. Denied as stated. the contents of Dr. Stayer's records, which included a narrative letter of the doctor, are neither privileged under the circumstances of this case nor do they constitute an attorney's work product.

4. Insofar as the doctor's records speak for themselves, it is denied that the records are internally inconsistent. To the extent that counsel's interpretation of the records may suggest inconsistencies to counsel, that may constitute a potential basis for cross-examination, but not for preclusion of the record's admissibility.

5. It is admitted that records provided to Dr. Rajiv Varma for purposes of an independent medical examination included records of Dr Stayer and of the Geisinger Medical Center, where the plaintiff was treated.

6. It is admitted that rule 4003.6 provides for discovery of information from a treating physician.

7. The plaintiff's medical records, including those of Dr. Glenn Stayer and the Geisinger medical Center, were released pursuant to the express authorization of the plaintiff.

8. Denied. On May 17th 2002 the plaintiff, Kim Eboch-Lawson, executed a written authorization specifically providing to defendant's counsel the authority to obtain the subject records from the plaintiff's treating physician. (A copy of the authorizations provided to Geisinger Clinic and Dr. Stayer are attached hereto as Exhibits A and B.)

9. It is denied that rule 4003.5 is applicable under the circumstances of the instant case. It is denied that the plaintiff is surprised or prejudiced by the contents of her own treating physician's records, which records have been available to the plaintiff for a period of more than three years.

10. It is admitted that counsel requested an offer of proof.

11. Denied as stated. To the contrary, the actual content of defense counsel's offer was as indicated in the excerpt of the transcript attached hereto as exhibit C.

12. The doctor's written report in question, dated March 14th 2001, was a part of the historical record produced by Dr. Stayer pursuant to the plaintiff's express authorization. Counsel's questioning of the doctor merely authenticated that historical record and did not seek to elicit a formulation of the doctor's current opinion as an expert.

13 – 15. Counsel's reference to rule 4003.5 is misplaced under the circumstances, inasmuch as Dr. Stayer was at no time identified as an expert witness by the plaintiff, nor did defense counsel's questions to the doctor seek to establish the formulation of a current expert opinion, beyond the authentication of the doctor's historical record as the plaintiff's treating physician.

16. Denied. The plaintiff specifically authorized the release of Dr. Stayer's records, and those of the Geisinger clinic, by way of a written authorization, copies of which are attached hereto.

17. Denied. The doctor was requested to read various excerpts of the records produced pursuant to the plaintiff's authorization, and thereby to "verify information contained within the clinical notes and/or other records of treatment."

18. Denied. The contents of paragraphs 1 through 17 above are incorporated.

19. Denied. The plaintiff provided a written authorization permitting the disclosure of the entire contents of Dr. Stayer's records, which included the written report with which the plaintiff now takes issue.

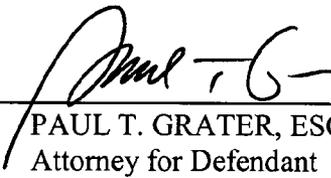
20. Denied as stated above. To the extent that plaintiff's counsel believed there to be inconsistencies in the doctor's records, such belief may provide a basis for cross examination of the doctor, but does not mandate the exclusion or redaction of those portions of the record, authorized for production in their entirety by the plaintiff, which are then later considered unsatisfactory to plaintiff's view of the case.

21. No answer required.

WHEREFORE, the Defendant PCA respectfully requests that this Honorable Court deny the plaintiff's Motion in Limine.

Respectfully submitted,

LAW OFFICES OF PAUL T. GRATER

By: 
PAUL T. GRATER, ESQUIRE
Attorney for Defendant

**AUTHORIZATION FOR EXAMINATION OF
MEDICAL RECORDS**

TO: Geisinger Clinic
100 N. Academy Avenue
Danville, PA 17822-4322

This will be your Authorization to permit the Law Offices of **Paul T. Grater**, Attorneys, or their representatives, to examine and to receive copies of your records in connection with the confinement and/or treatment of Mariah C. Lawson.

**A COPY OF THIS AUTHORIZATION MAY BE USED
INSTEAD OF THE ORIGINAL**

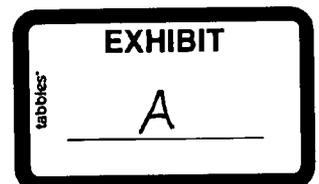
Date: 5-17-02

LEBOCH-LAWSON

Kim Eboch-Lawson
Parent/Natural Guardian of
Mariah C. Lawson, a minor

Date of Birth: 03/02/97
S.S. No.:

Present Address:
623 East Spruce Street
Philipsburg, PA 16866



**AUTHORIZATION FOR EXAMINATION OF
MEDICAL RECORDS**

TO: Glenn A. Stayer, M.D.
Geisinger Clinic
100 N. Academy Avenue
Danville, PA 17822-4322

This will be your Authorization to permit the Law Offices of **Paul T. Grater**, Attorneys, or their representatives, to examine and to receive copies of your records in connection with the confinement and/or treatment of **Mariah C. Lawson**.

**A COPY OF THIS AUTHORIZATION MAY BE USED
INSTEAD OF THE ORIGINAL**

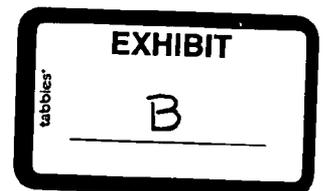
Date: 5-17-02

LEBOCH-LAWSON

Kim Eboch-Lawson
Parent/Natural Guardian of
Mariah C. Lawson, a minor

Date of Birth: 03/02/97
S.S. No.:

Present Address:
623 East Spruce Street
Philipsburg, PA 16866



1 MR. NADDEO: I would request to have an offer
2 of proof put on the record for the reason which you are
3 calling the doctor as a witness.

4 MR. GRATER: I am calling Dr. Strayer to
5 authenticate certain records which were provided; to testify
6 to the care provided to Mariah C. Lawson, and to then
7 authenticate those records.

8 MR. NADDEO: You are not calling him as an
9 expert?

10 MR. GRATER: That is correct.

11 MR. NADDEO: You do not anticipate asking his
12 opinions?

13 MR. GRATER: I am not going to call the Doctor
14 to formulate any current opinions. I am going to validate
15 his notes and opinions expressed in earlier writings, only
16 to the extent I am authenticating these existing records.

17 MR. NADDEO: Thank you.

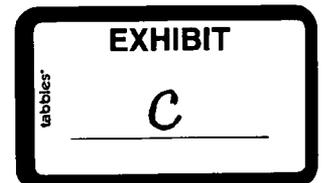
18
19 GLENN A. STAYER, M.D., called, sworn
20 according to law, and examined by Mr. Grater.

21
22 DIRECT EXAMINATION

23
24 BY MR. GRATER:

25 Q. Does that make any sense, Doctor?

Cheri Brennan, RPR
Columbia County Courthouse
Bloomsburg, PA 17815
(570) 389-5668



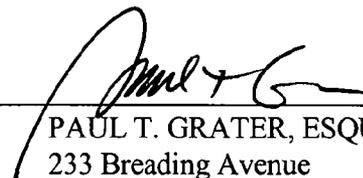
PROOF OF SERVICE

I hereby certify that a true and correct copy of the attached *Defendat's Answer to Plaintiff's Motion in Limine* was served upon the following person(s) by first class mail, on this 9/16 day of October 2004, addressed as follows:

John R. Carfley, Esquire
222 Presqueisle Street
P.O.Box 249
Philipsburg, PA 16866

James A. Naddeo, Esquire
211 ½ East Locust Street
Marino Building
P.O.Box 552
Clearfield, PA 16830

By: _____



PAUL T. GRATER, ESQUIRE
233 Breeding Avenue
Pittsburgh, PA 15202

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

RICHARD J. LAWSON and	*
KIM EBOCH-LAWSON,	*
husband and wife, and	*
Parents and Natural	*
Guardians of MARIAH C.	*
LAWSON, a minor,	*
Plaintiffs,	*
	*
v.	*
	No. 02 - 378 - CD
	*
	*
PCA INTERNATIONAL, INC.,	*
a corporation,	*
Defendant.	*

MOTION FOR CONTINUANCE

NOW comes James A. Naddeo, Esquire, attorney for Plaintiffs, in the above-captioned matter, and sets for the following:

1. That trial of this case is scheduled to commence on October 27, 2004.

2. That to date of this Motion, Defendant, PCA International, Inc., has made no offer to Plaintiffs to settle this action nor did Defendant provide its counsel with settlement authority at the Pre-Trial of this case.

3. That Defendant's insurance carrier, Reliance Insurance Company, is in bankruptcy to the extent that all claims for which Reliance Insurance Company would owe indemnity

to its insureds are being processed by the North Carolina Guaranty Fund.

4. That counsel for Defendant has informed Plaintiffs that the North Carolina Guaranty Fund is in the process of evaluating this claim and that a settlement offer will be made to Plaintiffs.

5. That counsel for Plaintiffs has reviewed this circumstance with his client and concluded that it would be in the best interests of the Plaintiffs to attempt settlement of this case prior to committing to a trial.

6. That due to the late involvement of the North Carolina Guaranty Company there is insufficient time to engage in meaningful settlement negotiations with Defendant within the time available prior to trial.

7. That Plaintiffs believe and therefore aver that a continuance to the next term of Court would provide the North Carolina Guaranty Company sufficient time to properly evaluate Plaintiffs' claim and to effect a satisfactory settlement.

8. That counsel for Defendant joins in Plaintiffs' request for a continuance.

WHEREFORE, Plaintiffs respectfully request your Honorable Court to continue trial of this case to the next term of Civil Court.

Respectfully submitted,



James A. Naddeo, Esquire
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD J. LAWSON and KIM
EBOCH-LAWSON, husband and wife, and
Parents and natural guardians of MARIAH
C. LAWSON, a minor,

Plaintiffs,

No.: 02-378-CD

vs.

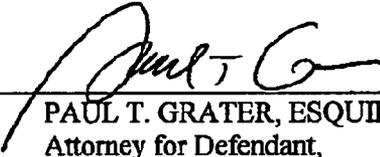
PCA INTERNATIONAL, INC., a
corporation,

Defendant.

JOINDER IN MOTION FOR CONTINUANCE

I hereby join in the Motion for Continuance filed herein on behalf of the Plaintiff.

By: _____


PAUL T. GRATER, ESQUIRE
Attorney for Defendant,
PCA International, Inc.

GA

52

JAMES A. NADDEO
ATTORNEY AT LAW
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

————— Lap over margin —————

ZA

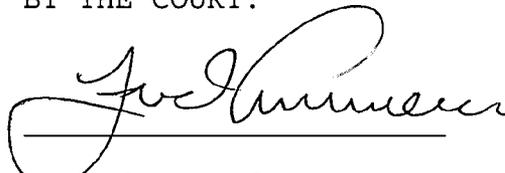
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RICHARD J. LAWSON, et al :
VS. : NO. 02-378-CD
PCA INTERNATIONAL, INC. :

ORDER

NOW this 15th day of October, 2004, following argument on the Defendant's Motion for Continuance and for Withdraw of Counsel, it is the ORDER of this Court that the said motions be and are hereby denied. The jury trial scheduled for October 27th, 28th and 29th, 2004, shall continue as scheduled and all counsel of current record shall be present.

BY THE COURT:



President Judge

EGK
FILED 100
OCT 22 2004
Augs:
Castley
Maddox
Grater

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and Natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs,

v.

PCA INTERNATIONAL, INC.,
a corporation,
Defendant.

*
*
*
*
*
*
*
*
*
*
*
*
*
*
*

No. 02 - 378 - CD

O R D E R

AND NOW this 21 day of October, 2004, upon Motion of Plaintiff with the joinder of Defendant, it is the ORDER of this Court that trial of this case be continued to the next term of Civil Court. It is the further ORDER of this Court that no further continuances will be granted to either party.

BY THE COURT,



etk
sec
Atty Naddeo
011/13/04
OCT 22 2004

54

54

JAMES A. NADDEO
ATTORNEY AT LAW
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

FILED
OCT 22 2004

1

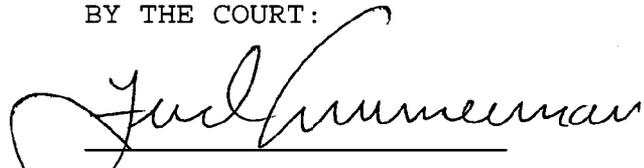
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RICHARD J. LAWSON, et al :
VS. : NO. 02-378-CD
PCA INTERNATIONAL, INC. :

O R D E R

NOW, this 21st day of October, 2004, in consideration of the Court's Order issued this date continuing the above-captioned case to the next Term of Court, the Court hereby grants the prior request of Defense counsel, Paul T. Grater, Esquire, to withdraw from the case. The Prothonotary shall note the withdrawal of Attorney Grater as attorney for the Defendant.

BY THE COURT:



President Judge

FILED ^{EGK}
100
11:15 AM
OCT 22 2004
Atty's:
Car-fleg
MaddeB
Grater
William A. Sp...
Prothonotary, Clerk of Court

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and Natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs,

v.

PCA INTERNATIONAL, INC.,
a corporation,
Defendant.

*
*
*
*
*
*
*
*
*
*
*
*
*
*
*

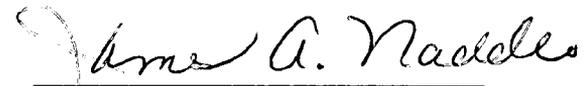
No. 02 - 378 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and certified copy of Motion for Continuance and Order filed in the above-captioned action were served on the following person and in the following manner on the 25th day of October, 2004:

First-Class Mail, Postage Prepaid

Paul T. Grater, Esquire
233 Breeding Avenue
Pittsburgh, PA 15202


James A. Naddeo, Esquire
Attorney for Plaintiffs

JAMES A. NADDEO
ATTORNEY AT LAW
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

OCT 25 2004

ORIGINAL

53

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

NO. 02-378-CD

PRAECIPE FOR APPEARANCE

Filed on behalf of defendant:
PCA INTERNATIONAL, INC.

Counsel of Record for this party:
John M. Giunta, Esquire
Pa. I.D. 44754

Rawle & Henderson LLP
The Henry W. Oliver Building
Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700

FILED

m/10:15/aw.
NOV 03 2004

FOK

William A. Shaw
Prothonotary/Clerk of Courts

(sent to Atty)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

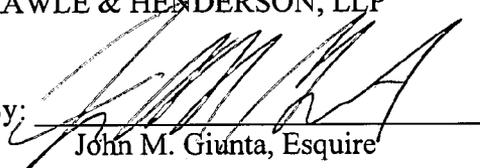
PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Kindly enter our appearance on behalf of defendant PCA International, Inc.

Respectfully submitted,

RAWLE & HENDERSON, LLP

By: 

John M. Giunta, Esquire

535 Smithfield Street, Suite 1000
Pittsburgh, PA 15222

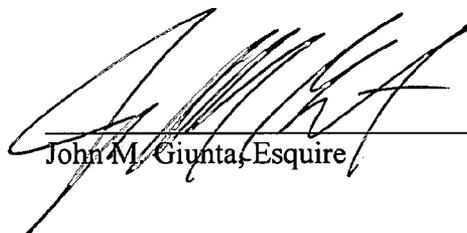
CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of November, 2004 a true and correct copy of the foregoing **Praeipie for Appearance** was mailed by first-class mail, postage prepaid to the following:

John R. Carfley, Esq.
222 Presqueisle Street
PO Box 429
Philipsburg, PA 16866

James A. Naddeo, Esq.
211 ½ E. Locust Street
PO Box 552
Clearfield, PA 16830

RAWLE & HENDERSON, LLP


John M. Giunta, Esquire

CP

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

56

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :

2nd
MOTION

vs. : No. 02-378-CD

PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

(2)

RULE

AND NOW, this 6th day of December, 2004, upon consideration of the foregoing Motion in Limine, a rule is hereby issued upon Defendant to Show Cause why the Motion should not be granted. Rule returnable the day of , 2004, for filing written response and the 17 day of December, 2004, at 9:30 A. M. in Courtroom Number 1, Clearfield, Pennsylvania, for hearing thereon.

NOTICE

A MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING MOTION, YOU MUST TAKE ACTION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE MOVANT. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

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

COURT ADMINISTRATOR
COURTHOUSE
CLEARFIELD, PENNSYLVANIA, 16830
(814) 765-2641

FILED ^{EBK}
see to Atty Corfiley

BY THE COURT:
Frederick J. Cassman

DEC 06 2004

William A. Shaw
Prothonotary

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

RICHARD J. LAWSON and
KIM EBOCH-LAWSON,
husband and wife, and
Parents and natural
Guardians of MARIAH C.
LAWSON, a minor,
Plaintiffs

:
:
:
:
:
:
:

vs.

:

No. 02-378-CD

PCA INTERNATIONAL, INC.,
a corporation,
Defendant

:
:
:

FILED

NOV 23 2004

(R)

0 | 2:30h
William A. Shaw
Prothonotary

MOTION IN LIMINE
PLAINTIFF'S REQUEST FOR BINDING INSTRUCTIONS
WITH RESPECT TO THE ISSUE OF CAUSATION

? Cont to Att

AND NOW COME the Plaintiffs, Richard J. Lawson and Kim Eboch-Lawson, individually and as Guardians of Mariah C. Lawson, a minor child, who by and through their attorney, John R. Carfley, Esquire, file this Motion to determine whether the court should issue binding instructions to the jury on causation if the jury finds the defendant's conduct in this matter was negligent; in support of said motion Plaintiffs aver as follows:

1. Plaintiffs filed the above action against the Defendant citing a claim for personal injuries sustained when the minor child fell from a photographic table allegedly as a result of the negligence of the defendant's employee.

2. The matter has now been listed for trial in the January term of court and it is expected that the matter will proceed to jury trial during that term.

3. It is further anticipated that the Plaintiff will present sufficient evidence to establish that the defendant's employee was

negligent during her session with the minor plaintiff and that the jury as a result will then be required to determine whether that negligence was the proximate cause of the injury and the subsequent medical condition now afflicting the plaintiff.

4. It is believed and therefore averred that the plaintiff who at the time was three (3) years of age was incapable of negligence as a matter of law.

5. The question to be presented to the jury is whether the fall and subsequent blow to the head were the proximate cause of the injury and the condition now afflicting the minor plaintiff and whether the plaintiff is entitled to binding instructions on the issue of causation based upon the concurring, uncontradicted testimony of the various medical experts.

6. Plaintiff's expert, Dr. Michael Moncman, has testified as to a direct causal relationship between the blow to the head and the condition he observed.

7. The Defendant's independent medical expert, Dr. Rajiv R. Varma, testified that the medical history of the plaintiff indicated a familial history of migraine headaches and that the blow to the head sustained when the minor plaintiff fell from the photographic table was the precipitating event giving rise to her present condition.

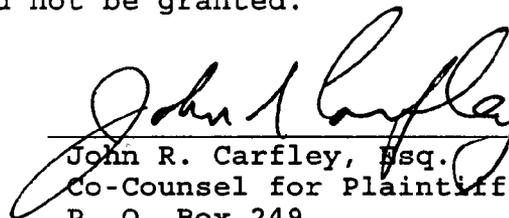
8. The minor plaintiff's treating physician, Dr. Glenn A. Stayer, consistently reported in his medical records that the minor plaintiff suffered from post concussive syndrome with associated migraine headaches.

9. Plaintiff contends that the plaintiff is entitled to binding instructions with respect to the proximate cause of her medical condition if the jury finds that the defendant was negligent in her actions during the photographic session.

10. Binding instructions may be granted by the court where proximate cause is established as a matter of law. Pennsylvania Suggested Standard, Civil Jury Instructions 3.25 (Legal Cause).

11. Based upon the concurring, uncontradicted opinions of the medical experts it is plaintiff's contention that the minor plaintiff would be entitled to binding instructions with respect to the issue of proximate cause if the jury finds that the defendant was negligent in this matter.

WHEREFORE, Plaintiff requests this Honorable Court to enter an Order directed to the Defendant to appear and show cause why the prayer of this Motion should not be granted.


John R. Carfley, Esq.
Co-Counsel for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866

Dated: November 23, 2004

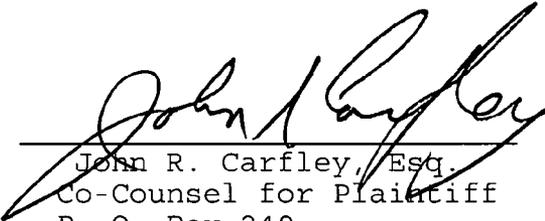
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :
vs. : No. 02-378-CD
PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

CERTIFICATE OF SERVICE

I do certify that I made service of Motion in Limine upon defendant, PCA International, Inc. through its attorney, John M. Giunta, Esquire, by depositing the same in the United States mail, postage prepaid, this 23rd day of November, 2004, addressed as follows:

PCA International, Inc.
c/o John M. Giunta, Esq.
RAWLE & HENDERSON
535 Smithfield Street
Oliver Building, Suite 100
Pittsburgh, Pa., 15222


John R. Carfley, Esq.
Co-Counsel for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

EGK
NO CC
FILED
02:47
NOV 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

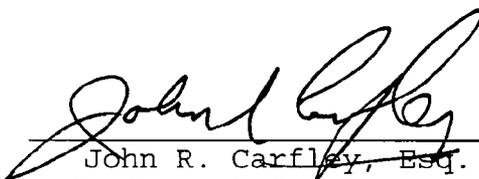
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RICHARD J. LAWSON and	:	
KIM EBOCH-LAWSON,	:	
husband and wife, and	:	
Parents and natural	:	
Guardians of MARIAH C.	:	
LAWSON, a minor,	:	
Plaintiffs	:	
vs.	:	No. 02-378-CD
PCA INTERNATIONAL, INC.,	:	
a corporation,	:	
Defendant	:	

CERTIFICATE OF SERVICE

I do certify that I made service of Motion in Limine/Rule Returnable scheduled for December 17, 2004, at 9:30 A.M. upon defendant, PCA International, Inc. through its attorney, John M. Giunta, Esquire, by depositing the same in the United States mail, postage prepaid, this 7th day of December, 2004, addressed as follows:

PCA International, Inc.
c/o John M. Giunta, Esq.
RAWLE & HENDERSON
535 Smithfield Street
Oliver Building, Suite 100
Pittsburgh, Pa., 15222



John R. Carfley, Esq.
Co-Counsel for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

EUK **FILED** *No CC*
m/1:30/61
DEC 08 2004

William A. Shaw
Prothonotary/Clerk of Courts

EGK
FILED
D 2:17 PM 1cc atty Presenta
/ CC atty Conpley
DEC 15 2004

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

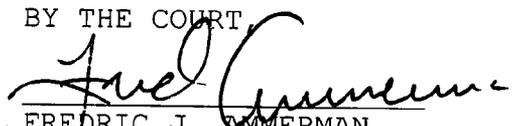
RICHARD LAWSON, and KIM :
EBOCH LAWSON, husband and :
wife, and Parents and :
natural guardians of :
MARIAH C. LAWSON, a minor, :
Plaintiffs :
:
vs. :
:
PCA INTERNATIONAL, INC., a :
corporation, :
Defendant. :

NO. 02-378-CD

William A. Shaw
Prothonciary

ORDER

AND NOW, this 14th day of December, 2004, upon consideration of the letter-request of defense counsel and with the agreement of plaintiff's counsel, it is hereby ORDERED that the Rule that was issued upon defendant to Show Cause why the Motion in Limine - Plaintiff's Request for Binding Instructions with Respect to the Issue of Causation should not be granted, will be returnable for a filing a written response and for argument on the 4th day of January, 2005, at 10:30 a.m. in Courtroom 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

RAWLE & HENDERSON LLP



JOHN M. GIUNTA
412-261-5705
jgiunta@rawle.com

The Nation's Oldest Law Offices - Established in 1703

www.rawle.com

THE HENRY W. OLIVER BUILDING
SUITE 1000, 535 SMITHFIELD ST.
PITTSBURGH, PA 15222

TELEPHONE: (412) 261-5700
FACSIMILE: (412) 261-5710

December 13, 2004

VIA FAX / 814-765-7649

The Honorable Fredric J. Ammerman
President Judge
Clearfield County Court of Common Pleas
230 East Market Street
Clearfield, PA 16830

**RE: *Lawson v. PCA International, Inc.*
No. 02-378-CD, Civil Division
*Our File No. 100430***

Your Honor:

With reference to the above case, I have recently entered my appearance on behalf of the defendant, at the request of the North Carolina Insurance Guaranty Association. Your Court Administrator has confirmed that the case will be placed on the Call of the List on January 4, 2005 at 11:00 a.m. I am presently reviewing the file contents received from prior counsel.

I am writing at this time to respectfully request a continuance of the December 17, 2004 returnable date that was set in the Court's Rule dated December 6, 2004, with respect to plaintiff's "Motion in Limine, Plaintiff's Request for Binding Instructions with Respect to the Issue of Causation." Enclosed for reference is a copy of the Rule and Motion.

My request is that I be permitted to respond to the Rule Returnable and appear to argue the merits on the same date that the case is called on January 4, 2005, prior to the 11:00 call of the list. I was advised by your Court Administrator that the Court does hear certain trial motions prior to the Call and I believe this Motion could be argued at that time. I was also advised that the case will be scheduled for a Pretrial Conference before the Court on January 20 or 21, 2005 and that it was likely to be given a trial date in March or April 2005 if it does not settle.

1080129 v.1

RAWLE & HENDERSON LLP

December 13, 2004

Page 2

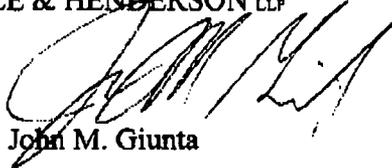
In separate calls on December 13, 2004, both plaintiff's counsel have agreed to my request to file a response to the Motion and argue the matter on January 4 if the Court grants my request, and I acknowledge same and thank them for that courtesy.

A member of your staff suggested that I place this request in writing and I appreciate the opportunity to address the Court in this fashion. I have attached a proposed Order setting a returnable date and time for January 4, 2005 at 10:30 a.m., which time was picked based on my call with the Court Administrator. Any other time that date is of course acceptable. I appreciate the Court's consideration of this request.

Very truly yours,

RAWLE & HENDERSON LLP

By:


John M. Giunta

JMG/sma
Enclosure

cc:

John R. Carfley, Esq.
222 Presqueisle Street
PO Box 429
Philipsburg, PA 16866
Fax: 814-342-1127

James A. Naddeo, Esq.
211 ½ E. Locust Street
PO Box 552
Clearfield, PA 16830
Fax: 814-765-8142

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

NO. 02-378-CD

ORDER OF COURT

Filed on behalf of defendant:
PCA INTERNATIONAL, INC.

Counsel of Record for this party:
John M. Giunta, Esquire
Pa. I.D. 44754

Rawle & Henderson LLP
The Henry W. Oliver Building
Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

ORDER OF COURT

AND NOW this _____ day of _____, 2004, upon consideration of the
letter-request of defense counsel and with the agreement of plaintiff's counsel, it is hereby
ORDERED that the Rule that was issued upon defendant to Show Cause why the Motion in
Limine – Plaintiff's Request for Binding Instructions with Respect to the Issue of Causation
should not be granted, will be returnable for filing a written response and for argument on the 4th
day of January, 2005 at 10:30 a.m. in Courtroom No. 1, Clearfield, Pennsylvania.

BY THE COURT:

Fredric J. Ammerman J.

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of December, 2004 a true and correct copy of the foregoing **Order of Court** was faxed to the following:

John R. Carfley, Esq.
222 Presqueisle Street
PO Box 429
Philipsburg, PA 16866

James A. Naddeo, Esq.
211 1/2 E. Locust Street
PO Box 552
Clearfield, PA 16830

RAWLE & HENDERSON, LLP



John M. Giunta, Esquire

FACSIMILE MESSAGE
FROM
RAWLE & HENDERSON LLP

DATE: 12/13/04 FILE #: 100430

ATTY #: 862

FROM: John M. Giunta, Esq

TELEPHONE: (412)261-5705

NUMBER OF PAGES INCLUDING COVER PAGE: 6

TO: The Honorable Fredric J. Ammann COMPANY:

FAX NUMBER: 814-765-7649 COMPANY NUMBER:

TO: COMPANY:

FAX NUMBER: COMPANY NUMBER:

TO: COMPANY:

FAX NUMBER: COMPANY NUMBER:

COMMENT: Re: Lawson v. PCA International
No. 02-378-CD

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL (412) 261-5700.
RAWLE & HENDERSON - PITTSBURGH OFFICE FAX NO.: (412) 261-5710.

*****CONFIDENTIALITY NOTE*****

The documents accompanying this telecopy transmission contain information from the law firm of Rawle & Henderson which is confidential and/or legally privileged. The information is intended only for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited, and that the documents should be returned to this Firm immediately. In this regard, if you have received this telecopy in error, please notify us by telephone immediately so that we may arrange for the return of the original documents to us at no cost to you.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

NO. 02-378-CD

**RESPONSE TO PLAINTIFFS' MOTION
IN LIMINE – PLAINTIFFS' REQUEST
FOR BINDING INSTRUCTIONS WITH
RESPECT TO THE ISSUE OF
CAUSATION**

Filed on behalf of defendant:
PCA INTERNATIONAL, INC.

Counsel of Record for this party:
John M. Giunta, Esquire
Pa. I.D. 44754

Rawle & Henderson LLP
The Henry W. Oliver Building
Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700

FILED *no cc*
0/10:1304
JAN 04 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

**RESPONSE TO PLAINTIFFS’
MOTION IN LIMINE – PLAINTIFFS’
REQUEST FOR BINDING INSTRUCTIONS
WITH RESPECT TO THE ISSUE OF CAUSATION**

AND NOW comes the defendant, PCA International, Inc., by its attorneys, Rawle & Henderson LLP and files this Response to Plaintiffs’ Motion in Limine – Plaintiffs’ Request for Binding Instructions With Respect to the Issue of Causation, as follows:

1. Admitted.
2. Admitted.
3. The averments of paragraph 3 of the Motion in Limine constitute conclusions of law to which no response is required. To the extent a response may be required, which is denied, then, in the alternative, the defendant admits that it is anticipated that plaintiff will present evidence that the defendant’s employee was negligent during her session with minor-plaintiff. It is denied that plaintiff will present sufficient evidence to establish that point; to the contrary, the

defendant has denied and continues to deny negligence on the part of its employee. In the alternative, if said negligence is established, which is and has been denied, then in that alternative, it is admitted that the jury as a result will then be required to make a causation determination, which is why said Motion should not be granted. By way of further response, and in that same alternative, it is denied that the jury will be asked to determine whether that negligence was the proximate cause; to the contrary, it is anticipated that the jury will be instructed in the discretion of the Court and pursuant to the Pennsylvania Standard Suggested Jury Instructions and after due consideration of any other points for charge submitted to the Court, which may not include issues of "proximate cause". By way of further response, "the injury and the subsequent medical condition now afflicting the plaintiff" have been put at issue in the lay and medical testimony in this matter and will involve matters of weighing evidence and credibility, and as such, it is admitted that the assessment of the injury and that medical condition will be a matter for the jury's determination.

4. The averments of paragraph 4 constitute a conclusion of law to which no response is required.

5. The averments of paragraph 5 constitute conclusions of law to which no response is required. To the extent a response is required, which is denied, then in that alternative, it is anticipated that the question to be presented to the jury will be in the discretion of the Court and pursuant to the Pennsylvania Standard Suggested Jury Instructions and after due consideration of any other points for charge submitted to the Court, which may not include issues of "proximate cause", which may include but not be limited to Pa. SSJI 3.25 (Civ.) Factual Cause. By way of further response, issues concerning the onset and extent of any damages should negligence be found will be separately determined and are not conceded by the various medical experts. As

such, it is denied that the testimonies of those experts are “concurring and uncontradicted”; to the contrary, the medical testimony in this case includes matters in dispute, for resolution by the jury.

6. In response to paragraph 6, the testimony of Michael Moncman, D.O., an expert employed by the plaintiffs, speaks for itself and said interpretation in paragraph 6 is denied as stated, as not including all aspects of direct and cross, including matters of credibility, qualifications and admissions regarding the organic nature of the condition at issue. (*See, e.g.* Moncman deposition at 28)

7. In response to paragraph 7, the defendant objects to same as it purports to characterize the deposition of the independent medical expert Rajiv Varma M.D., which entailed a detailed examination of the medical aspects of this case, and which transcript speaks for itself. By way of further response, the characterization set forth is denied as stated in part, as the doctor stated that the reported blow to the head may have precipitated the reported migraine but certainly did not cause the migraine, with further explanation of that view provided. (*See, e.g.* Varma deposition at 13 and *passim*). Furthermore, the doctor’s testimony, which speaks for itself, notes credibility issues as between the physicians and the parent-plaintiffs which are to be resolved by the jury on the issue of causation and the onset and extent of any damages in this case.

8. In response to paragraph 8, the characterization set forth is denied as stated, as the records of Glenn Stayer, M.D., minor-plaintiff’s treating physician, are documents which speak for themselves. Furthermore, said averment does not fully characterize the extent that Dr. Stayer’s opinion, as set forth in his deposition testimony in this case and in his report to plaintiffs’ prior counsel, including but not limited to his opinion that the minor’s symptoms as

described by parent-plaintiff were atypical of post-traumatic headache symptoms, and Dr. Stayer's conclusion that he cannot, with a reasonable degree of medical certainty, infer that the headaches were caused by the traumatic injury on March 28, 2000, despite the firm belief of the minor-plaintiff's family. (*See, e.g.* Stayer deposition at 13-15). As such, the contention in paragraph 8 is denied as stated, as it does not fully characterize the details, scope and nature of the medical records or the treatment of Dr. Stayer.

9. The averment of paragraph 9 of the Motion is a conclusion of law to which no responsive pleading is required. To the extent a further response would be required, the defendant denies that binding instructions are indicated with regard to the issue of causation if negligence is found, as there are numerous factual issues present based on disagreement between the medical witnesses as well as underlying issues of credibility for the jury's analysis. In the alternative, said request is premature at this stage of the proceedings, prior to the introduction of all of the evidence in the case.

10. Paragraph 10 of plaintiffs' Motion is a conclusion of law to which no responsive pleading is required. By way of further response, the reference that is made is to the prior Pennsylvania Suggested Standard Civil Jury Instructions 3.25, and the present instruction is captioned "Factual Cause". By way of further response, because of the several factual issues of causation of injury and damages, the onset and extent of alleged damages, and matters of credibility, binding instructions are not warranted and furthermore, the assessment of same is premature at the Motion in Limine stage.

11. Paragraph 11 of plaintiffs' Motion is a conclusion of law to which no responsive pleading is required. To the extent a response may be required, the defendant denies that the opinions of the medical experts are concurring and uncontradicted. To the contrary, the medical

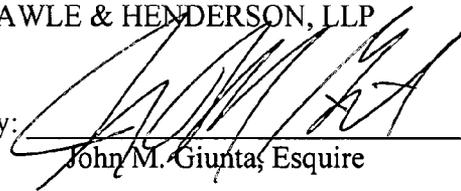
experts do not concur on many points, and there are contradictions among and between the medical testimony and the lay testimony and therefore, it is denied that the minor-plaintiff would be entitled to binding instructions with respect to the causation issue upon a finding of negligence, for reasons set forth in this Response.

WHEREFORE, defendant demands judgment in its favor and dismissal of suit against it and avers that it has shown cause why the prayer of this Motion should not be granted.

Respectfully submitted,

RAWLE & HENDERSON, LLP

By:

A handwritten signature in black ink, appearing to read "John M. Giunta", is written over a horizontal line. The signature is stylized and cursive.

John M. Giunta, Esquire

535 Smithfield Street, Suite 1000
Pittsburgh, PA 15222

JURY TRIAL DEMANDED

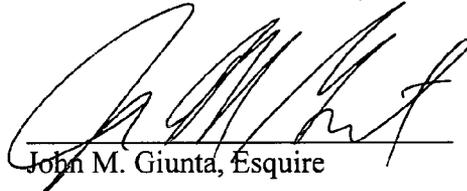
CERTIFICATE OF SERVICE

I hereby certify that on this 3^d day of JANUARY, 2005, a true and correct copy of the foregoing **RESPONSE TO PLAINTIFFS' MOTION IN LIMINE – PLAINTIFFS' REQUEST FOR BINDING INSTRUCTIONS WITH RESPECT TO THE ISSUE OF CAUSATION** was sent via telefax to the following:

John R. Carfley, Esq.
222 Presqueisle Street
PO Box 429
Philipsburg, PA 16866

James A. Naddeo, Esq.
211 ½ E. Locust Street
PO Box 552
Clearfield, PA 16830

RAWLE & HENDERSON, LLP



John M. Giunta, Esquire

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

RICHARD J. LAWSON and *
KIM EBOCH-LAWSON, *
husband and wife, and *
Parents and Natural *
Guardians of MARIAH C. *
LAWSON, a minor, *
Plaintiffs, *

v. *

No. 02 - 378 - CD

PCA INTERNATIONAL, INC., *
a corporation, *
Defendant. *

ANSWER TO AMENDED NEW MATTER

NOW COME the Plaintiffs, Richard J. Lawson and Kim Eboch-Lawson, husband and wife, and parents and natural guardians of Mariah C. Lawson, a minor, and by their attorney, James A. Naddeo, Esquire, sets forth the following:

27. Plaintiffs incorporate their Answer to Defendant's previous New Matter by reference and make it a part hereof.

28. Admitted.

29. Admitted.

30. Denied. After reasonable investigation Plaintiffs are without knowledge or information sufficient to form a belief as to the truth of said averment.

31. Denied. After reasonable investigation Plaintiffs are without knowledge or information sufficient to form a belief as to the truth of said averment.

32. States a conclusion of law to which no answer is required.

31. States a conclusion of law to which no answer is required.

32. States a conclusion of law to which no answer is required.

33. States a conclusion of law to which no answer is required. To the extent that an answer may be required, Plaintiffs allege that there is no other applicable insurance policy to compensate the minor Plaintiff other than medical insurance maintained by her parents.

34. It is admitted that minor Plaintiff's medical bills have been paid by a policy of medical insurance maintained by her parents who are otherwise entitled to recover for payment of their daughter's medical expenses.

35. It is admitted that NCIGA has asserted that minor Plaintiff's recovery is reduced by insurance payments made on behalf of the minor Plaintiff. It is denied, however, that said prohibition applies to medical expenses paid by minor Plaintiff's parents who have asserted a separate cause of action for reimbursement.

36. States a conclusion of law to which no answer is required.

37. States a conclusion of law to which no answer is required.

38. Admitted.

39. Admitted.

40. Admitted but in further answer thereto, it is alleged that to the extent that the Proof of Claim constitutes a release, partial or otherwise, of minor Plaintiff's rights against the tortfeasor, said release is unenforceable against the minor Plaintiff as a matter of law in that said release was not approved by the Court.

41. States a conclusion of law to which no answer is required. To the extent that an answer may be required, Plaintiffs incorporate their answer to Paragraph 40 of Defendant's Amended New Matter by reference.

Respectfully submitted,



James A. Naddeo, Esquire
Attorney for Plaintiffs

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

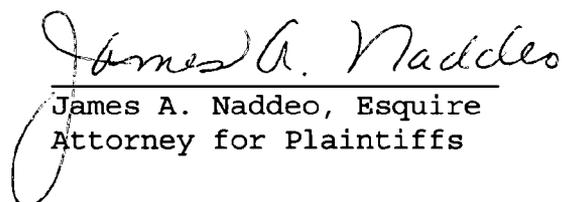
RICHARD J. LAWSON and	*
KIM EBOCH-LAWSON,	*
husband and wife, and	*
Parents and Natural	*
Guardians of MARIAH C.	*
LAWSON, a minor,	*
Plaintiffs,	*
	*
v.	*
	No. 02 - 378 - CD
	*
PCA INTERNATIONAL, INC.,	*
a corporation,	*
Defendant.	*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and certified copy of Answer to Amended New Matter filed in the above-captioned action was served on the following person and in the following manner on the 12th day of January, 2005:

First-Class Mail, Postage Prepaid

John M. Giunta, Esquire
RAWLE & HENDERSON, LLP
The Henry W. Oliver Building
Suite 1000, 535 Smithfield St.
Pittsburgh, PA 15222


James A. Naddeo, Esquire
Attorney for Plaintiffs

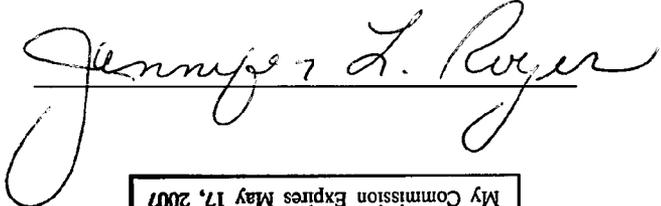
COMMONWEALTH OF PENNSYLVANIA)
)
) ss.
COUNTY OF CLEARFIELD)

Before me, the undersigned officer, personally appeared KIM EBOCH-LAWSON, who being duly sworn according to law, deposes and states that the facts set forth in the foregoing Answer are true and correct to the best of her knowledge, information and belief.



Kim Eboch-Lawson

SWORN and SUBSCRIBED before me this 12th day of January, 2005.



Notarial Seal
Jennifer L. Royer, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires May 17, 2007

JAMES A. NADDEO
ATTORNEY AT LAW
207 EAST MARKET STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

NO. 02-378-CD

STIPULATION

Filed on behalf of defendant:
PCA INTERNATIONAL, INC.

Counsel of Record for this party:
John M. Giunta, Esquire
Pa. I.D. 44754

Rawle & Henderson LLP
The Henry W. Oliver Building
Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700

FILED ^{NO} ^{CC}
6/10 *m/10:16/2005*
JAN 12 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

STIPULATION

AND NOW, this 10th day of JANUARY, the parties, by their undersigned
counsel, consent to the filing of the Amended New Matter by the Defendant, PCA International, Inc., pursuant
to Pa. R.C.P. 1033.

IT IS SO STIPULATED.

Dated: 1/10/05

BY: James A. Naddeo by John Giunta
James A. Naddeo, Esquire
Attorney for Plaintiff
*per telephone
approval on
1/10/05*

RAWLE & HENDERSON, LLP

Dated: 1/10/05

BY: John M. Giunta
John M. Giunta, Esquire
Attorney for Defendant

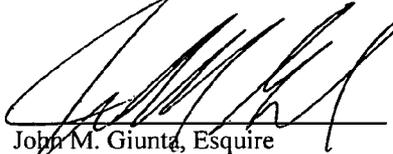
CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of January, 2005, a true and correct copy of the foregoing Stipulation was sent via telefax, to the following:

James A. Naddeo, Esq.
211 ½ E. Locust Street
PO Box 552
Clearfield, PA 16830
Fax: 814-765-8142

John R. Carfley, Esq.
222 Presqueisle Street
PO Box 429
Philipsburg, PA 16866
Fax: 814-342-1127

RAWLE & HENDERSON, LLP



John M. Giunta, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

NO. 02-378-CD

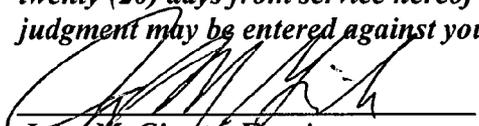
AMENDED NEW MATTER

Filed on behalf of defendant:
PCA INTERNATIONAL, INC.

Counsel of Record for this party:
John M. Giunta, Esquire
Pa. I.D. 44754

TO: ALL PARTIES

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



John M. Giunta, Esquire

Rawle & Henderson LLP
The Henry W. Oliver Building
Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700

FILED *No cc*
OK m/10:10:01
JAN 12 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

AMENDED NEW MATTER

27. This Defendant incorporates by reference its previously filed New Matter.

28. This defendant was insured under a policy issued by Reliance Insurance Company or one of its former subsidiaries that were merged into Reliance Insurance Company (collectively "Reliance").

29. The Commonwealth Court of Pennsylvania entered an Order of Liquidation with a finding of insolvency against Reliance on October 3, 2001.

30. Under the terms of the Reliance policy, the insurer's obligations would trigger upon the exhaustion of a deductible aggregate.

31. In September 2004, the defendant advised the North Carolina Insurance Guaranty Association (NCIGA) of defendant's understanding that the deductible aggregate amount had been exhausted, and after investigation, NCIGA commenced handling of this matter in October 2004.

32. Any and all liability of this defendant or NCIGA for any claim of any party in this action, which liability is and has been expressly denied, is barred or limited by the provisions of the N.C. Gen. Stat. 58-48-1 et seq. (the "Guaranty Act").

31. As a result of the Liquidation Order, the provisions of N.C. Gen. Stat. 58-48-55 apply to plaintiffs' claim.

32. Pursuant thereto, plaintiffs are required to exhaust first their rights under any insurance policy, except for policies of an insolvent insurer.

33. Any failure to exhaust other insurance bars plaintiffs' recovery, if any, in this action.

34. Upon information and belief, bills or damages related to the loss for which plaintiffs seek recovery in this action were paid or are payable under other insurance.

35. NCIGA has asserted that any amount that may be payable by it on behalf of this defendant is reduced by the amount of plaintiffs' recovery under other insurance.

36. Plaintiffs' recovery under other insurance reduces any amount that may be found to be payable by this defendant in this action, to the same extent as the recovery reduces any amount payable by NCIGA.

37. Any claim against this defendant or the North Carolina Insurance Guaranty Association, including but not limited to claims for contribution and indemnity, are barred to the extent that such claim includes any amount due any reinsurer, insurer, insurance pool or underwriting association, as subrogation or contribution recoveries, based on an assignment, or otherwise. N.C. Gen. Stat. 58-48-20, 58-48-55(c)

38. On January 29, 2002, a Proof of Claim was filed In The Matter of Reliance Insurance Company (In Liquidation) by minor-plaintiff in this action, Mariah Lawson, by Kim D. Eboch-Lawson, identified as the minor's Parent and Natural Guardian, in the amount of 1,000,000. A copy of the Proof of Claim (Proof of Claim No. 1116901) is attached hereto as Exhibit A.

39. The Proof of Claim is based on a liability claim against an insured of Reliance for policy benefits, and is based on allegations that form the basis for the within action, arising from the March 28, 2000 incident.

40. The final Paragraph of the Proof of Claim is printed in boldface type and states as follows:

If the foregoing Proof of Claim alleges a claim against a Reliance insured (third party claim), the undersigned hereby releases any and all claims which have been or could be made against such Reliance insured based on or arising out of the facts supporting the above Proof of Claim up to the amount of the applicable policy limit and subject to coverage being accepted by the Liquidator, regardless of whether any compensation is actually paid to the undersigned.

(emphasis in original).

41. As such, the claims that have been made against this defendant, the Reliance insured, which arise out of the facts supporting the above Proof of Claim, have been released by the minor plaintiff up to the

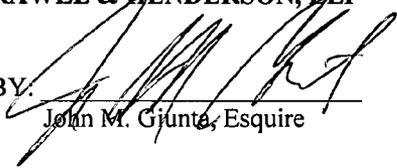
amount of the applicable policy limit of \$1,000,000, and said Proof of Claim and release are pleaded herein as a bar or limitation to any recovery in this matter.

WHEREFORE, Defendant demands judgment in its favor and dismissal of suit against it.

JURY TRIAL DEMANDED.

Respectfully submitted,

RAWLE & HENDERSON, LLP

BY: 

John M. Giunta, Esquire

VERIFICATION

Kelly Coce, in my capacity as Risk Manager of
PCA International Inc., have read the within **AMENDED NEW MATTER**. The statements
contained therein are true and correct to the best of my personal knowledge, information and
belief.

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

Date: January 3, 2025

Kelly Coce
Representative
PCA International, Inc.

#100430

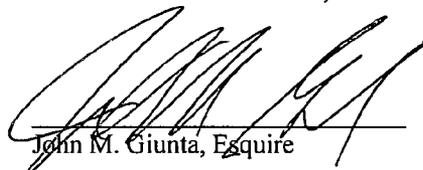
CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of January, 2005, a true and correct copy of the foregoing Amended New Matter was sent via telefax, to the following:

John R. Carfley, Esq.
222 Presqueisle Street
PO Box 429
Philipsburg, PA 16866

James A. Naddeo, Esq.
211 ½ E. Locust Street
PO Box 552
Clearfield, PA 16830

RAWLE & HENDERSON, LLP



John M. Giunta, Esquire

02-378-CJ

CA

64

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of January, 2005, a true and correct copy of the foregoing FIRST SUPPLEMENTAL PRETRIAL STATEMENT was sent via U.S. Mail, postage prepaid, to the following:

John R. Carfley, Esq.
222 Presqueisle Street
PO Box 429
Philipsburg, PA 16866

James A. Naddeo, Esq.
211 1/2 E. Locust Street
PO Box 552
Clearfield, PA 16830

RAWLE & HENDERSON, LLP



John M. Giunta, Esquire

FILED ¹⁶ ^{cc}
01/3:53 AM
JAN 14 2005
WILLIAM A. ...
Prothonotary, Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

NO. 02-378-CD

**FIRST SUPPLEMENTAL PRETRIAL
STATEMENT**

Filed on behalf of defendant:
PCA INTERNATIONAL, INC.

Counsel of Record for this party:
John M. Giunta, Esquire
Pa. I.D. 44754

Rawle & Henderson LLP
The Henry W. Oliver Building
Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700

1000
1000
13:50/64
JAN 25 2005
icc
Arlys: 65
Maddeo
Carley
Giunta
Grater
6K

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

RICHARD J. LAWSON and KIM :
EBOCH-LAWSON, husband and wife, :
Parents and natural guardians of :
MARIAH C. LAWSON, a minor, :
Plaintiffs :
vs. : NO. 02-378-CD
PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

ORDER

NOW, this 21st day of January, 2005, following Pre-Trial Conference among the Court and counsel it is the ORDER of this Court as follows:

1. Trial is hereby scheduled for April 6, 7 and 8, 2005 and start at 9:00 a.m. on each day in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury selection is hereby scheduled for 9:00 a.m. on Thursday, January 27th, 2005 in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.
3. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of Trial shall submit said objections to the Court, in writing, no later than

thirty (30) days prior to the commencement of Trial. All objections shall reference specific page and line numbers within the deposition(s) in questions along with that party's brief relative same. The opposing party shall submit its brief in opposition to said objections no later than fifteen (15) days prior to the commencement of Trial.

4. Any party filing any Motion or Petition regarding limitation or exclusion of evidence or testimony to be presented at time of trial, including but not limited to Motions in Limine, shall file the same no more than thirty (30) days prior to the trial date. The party's Petition or Motion shall be accompanied by an appropriate brief. The responding party thereto shall file its Answer and submit appropriate response brief no later than fifteen (15) days prior to trial.
5. Counsel shall supply the Court with proposed Verdict slip, and any requested points for charge by no later than 9:00 a.m. on April 6, 2005.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

RICHARD J. LAWSON and	:	
KIM EBOCH-LAWSON,	:	
Husband and wife, and Parents	:	
and natural Guardians of MARIAH	:	
C. LAWSON, a minor,	:	
Plaintiffs,	:	
	:	
v.	:	No. 02-378-CD
	:	
PCA INTERNATIONAL, INC.,	:	
A corporation,	:	
Defendant.	:	

ORDER

AND NOW, this 1st day of February 2005, after reviewing the Party's pleadings and oral argument on Plaintiffs' first Motion in Limine (Motion) filed with the Court on September 29, 2004 and oral argument on the same the Court finds as follows:

That it is apparent that the evidence that Plaintiffs seek to have declared privileged and/or work product does not fall within the purview of Rule 4003.5 of the Pennsylvania Rules of Civil Procedure. Consequently, the Court HEREBY DENIES said Motion.

By the Court



 President Judge

FILED ^{et}
D 12:29 04 3006, atty
radler
 FEB 01 2005

William A. Shaw
Prothonotary

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

RICHARD J. LAWSON and	:	
KIM EBOCH-LAWSON,	:	
Husband and wife, and Parents	:	
and natural Guardians of MARIAH	:	
C. LAWSON, a minor,	:	
Plaintiffs,	:	
	:	
v.	:	No. 02-378-CD
	:	
PCA INTERNATIONAL, INC.,	:	
A corporation,	:	
Defendant.	:	

ORDER

AND NOW, this 1st day of February, 2005, following oral argument and the submission of Plaintiffs' Motion in Limine: Plaintiff's Request for Binding Instructions with Respect to the Issue of Causation and Defendant's Response to same, the Court HEREBY DENIES Plaintiff's Motion.

By the Court,



 President Judge

FILED⁶⁴
 012:27 378 CCC's Atty
 maked
 FEB 01 2005

William A. Shaw
Prothonotary

submitted to Richard J. and Kim Eboch-Lawson demanding submission of the Proof of Claim in order to perfect the minor's interest in any potential settlement or in default thereof, to waive any and all rights which the child would eventually be able to assert for the injuries she allegedly sustained through the negligence of the Defendant's employee.

5. The issue having been framed in such a way that the minor child would be prejudiced notwithstanding the choice adopted by the parent and natural guardian on behalf of the minor child, a Proof of Claim was prepared and submitted to the North Carolina Guaranty Fund, as a result of which the said Fund now asserts a waiver of any recovery up to and including \$1,000,000, all of which was set forth in New Matter pled by the Defendants just prior to the submission of the case for jury selection in January, 2005. A true and correct copy of the Defendant's pleadings as well as the Proof of Claim is attached to this Motion as Plaintiffs' Exhibit "A".

6. Situations involving minors as parties are covered in the Pennsylvania Rules of Civil Procedure commencing with Rule 2026 of the Pennsylvania Rules of Civil Procedure, which requires inter alia, that any settlement of a claim filed on behalf of a minor be submitted to the Court for approval by the presiding Judge. Reference, for example, Pa. R.C.P. 2039 dealing with compromise, settlement, discontinuance and distribution).

7. In the case at bar, no action was undertaken by the parent and/or natural guardian to submit any document to the Court for pre-approval of the filing of a Proof of Claim or in lieu of a settlement.

8. More importantly, for this proceeding, the said Proof of Claim, if read in the manner asserted by the Defendant, which is most detrimental to the minor's interest, would eliminate any claim for recovery up to \$1,000,000 (See Proof of Claim attached hereto as Exhibit "A".)

9. It would appear that there is no exchange of consideration in this particular instance since no offer of settlement was presented by the Defendant to the parent and/or natural guardian in return for the waiver of claims for any agreed upon amount.

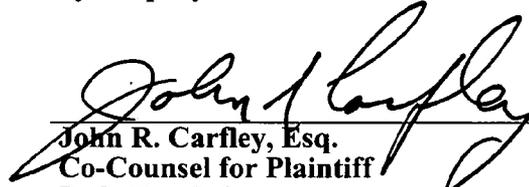
10. For all intents and purposes, the minor child lost significant legal rights and settlement potential by virtue of the filing of the Proof of Claim without just compensation and without court approval of the settlement.

11. At a minimum, the said minor was forced to waive significant bargaining rights upon the submission of said claim, all without exchange of consideration and without approval of any Court of competent jurisdiction.

12. The said Defendant now asks this Court to give this document effect as a release rather than as any Proof of Claim, all to the detriment of the minor child and without court consideration and approval, which is a condition precedent to granting such documents legal effect based upon Pennsylvania's procedure rules.

13. Since the Court exercised no control or jurisdiction over any settlement negotiations and/or proposals, this document should be declared void ab initio and the claim of the minor child should be reinstated for all sums up to and including those amounts previously eliminated from consideration allegedly as a result of this partial release.

WHEREFORE, Plaintiff requests this Honorable Court to enter an Order directed to the Defendant to appear and show cause why the prayer of this Motion should not be granted.



John R. Carfley, Esq.
Co-Counsel for Plaintiff
P. O. Box 249
Philipsburg, PA 16866

Dated: 2-25-05

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

NO. 02-378-CD

AMENDED NEW MATTER

Filed on behalf of defendant:
PCA INTERNATIONAL, INC.

Counsel of Record for this party:
John M. Giunta, Esquire
Pa. J.D. 44754

TO: ALL PARTIES
*You are hereby notified to file a written
response to the enclosed New Matter within
twenty (20) days from service hereof or a
judgment may be entered against you.*

Rawle & Henderson LLP
The Henry W. Oliver Building
Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700

John M. Giunta, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM EBOCH-LAWSON, husband and wife, and Parents and natural guardians of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a corporation,

Defendant.

AMENDED NEW MATTER

27. This Defendant incorporates by reference its previously filed New Matter.

28. This defendant was insured under a policy issued by Reliance Insurance Company or one of its former subsidiaries that were merged into Reliance Insurance Company (collectively "Reliance").

29. The Commonwealth Court of Pennsylvania entered an Order of Liquidation with a finding of insolvency against Reliance on October 3, 2001.

30. Under the terms of the Reliance policy, the insurer's obligations would trigger upon the exhaustion of a deductible aggregate.

31. In September 2004, the defendant advised the North Carolina Insurance Guaranty Association (NCIGA) of defendant's understanding that the deductible aggregate amount had been exhausted, and after investigation, NCIGA commenced handling of this matter in October 2004.

32. Any and all liability of this defendant or NCIGA for any claim of any party in this action, which liability is and has been expressly denied, is barred or limited by the provisions of the N.C. Gen. Stat. 58-48-1 et seq. (the "Guaranty Act").

31. As a result of the Liquidation Order, the provisions of N.C. Gen. Stat. 58-48-55 apply to plaintiffs' claim.

32. Pursuant thereto, plaintiffs are required to exhaust first their rights under any insurance policy, except for policies of an insolvent insurer.

33. Any failure to exhaust other insurance bars plaintiffs' recovery, if any, in this action.
34. Upon information and belief, bills or damages related to the loss for which plaintiffs seek recovery in this action were paid or are payable under other insurance.
35. NCIGA has asserted that any amount that may be payable by it on behalf of this defendant is reduced by the amount of plaintiffs' recovery under other insurance.
36. Plaintiffs' recovery under other insurance reduces any amount that may be found to be payable by this defendant in this action, to the same extent as the recovery reduces any amount payable by NCIGA.
37. Any claim against this defendant or the North Carolina Insurance Guaranty Association, including but not limited to claims for contribution and indemnity, are barred to the extent that such claim includes any amount due any reinsurer, insurer, insurance pool or underwriting association, as subrogation or contribution recoveries, based on an assignment, or otherwise. N.C. Gen. Stat. 58-48-20, 58-48-55(c)
38. On January 29, 2002, a Proof of Claim was filed In The Matter of Reliance Insurance Company (In Liquidation) by minor-plaintiff in this action, Mariah Lawson, by Kim D. Eboch-Lawson, identified as the minor's Parent and Natural Guardian, in the amount of 1,000,000. A copy of the Proof of Claim (Proof of Claim No. 1116901) is attached hereto as Exhibit A.
39. The Proof of Claim is based on a liability claim against an insured of Reliance for policy benefits, and is based on allegations that form the basis for the within action, arising from the March 28, 2000 incident.
40. The final Paragraph of the Proof of Claim is printed in boldface type and states as follows:
- If the foregoing Proof of Claim alleges a claim against a Reliance insured (third party claim), the undersigned hereby releases any and all claims which have been or could be made against such Reliance insured based on or arising out of the facts supporting the above Proof of Claim up to the amount of the applicable policy limit and subject to coverage being accepted by the Liquidator, regardless of whether any compensation is actually paid to the undersigned.**
- (emphasis in original).
41. As such, the claims that have been made against this defendant, the Reliance insured, which arise out of the facts supporting the above Proof of Claim, have been released by the minor plaintiff up to the

amount of the applicable policy limit of \$1,000,000, and said Proof of Claim and release are pleaded herein as a bar or limitation to any recovery in this matter.

WHEREFORE, Defendant demands judgment in its favor and dismissal of suit against it.

JURY TRIAL DEMANDED.

Respectfully submitted,

RAWLE & HENDERSON, LLP

BY: _____
John M. Giunta, Esquire

RECEIVED
 FOR OFFICIAL USE ONLY
 PROOF OF CLAIM NO. 1116901
 DATE RECEIVED: JAN 29 2005

**PROOF OF CLAIM
 IN THE MATTER OF
 RELIANCE INSURANCE COMPANY (IN LIQUIDATION)**

Deadline for filing December 31, 2003

READ ALL MATERIALS CAREFULLY BEFORE COMPLETING THIS FORM. COMPLETE ALL SECTIONS
 FILL IN ALL BLANKS - PLEASE PRINT CAREFULLY OR TYPE

Main connections to Name & Address below.		POC # 001116901 Lawson Mariah 623 E. Spruce St. Philipsburg, PA 16866-1433
Claimant Name: <u>Mariah Lawson, Minor</u> Age <u>4</u>		
Address 1: <u>623 E. Spruce St.</u>		
Address 2:		
City: <u>Philipsburg</u> State: <u>PA</u> Zip Code: <u>16866</u>		
County: <u>Clearfield</u>		
Social Security/E.I.N. #: <u>205-76-3249</u> e-mail:		
Daytime Phone #: (include area code) <u>(814) 768-4734</u>		

Name of Insured: N/A
 Policy Number: N/A Claim Number: (if previously filed) _____
 Date of Loss: March 28, 2000 Agent Number: _____

Claim is for (Check X or specify Below)

1	<input checked="" type="checkbox"/> POLICY HOLDER or THIRD PARTY CLAIM	Claim by insured of Reliance Insurance under a Reliance Insurance Policy for POLICY Benefits or Liability claim against an insured of Reliance Insurance for POLICY BENEFITS.
2	RETURN of UNEARNED PREMIUM or OTHER PREMIUM REFUNDS	Portion of paid premium not earned due to early cancellation of policy or retro or audit adjustment.
3	GENERAL CREDITOR	Attorney fees, Adjuster fees, Vendors, Landlords, Lessors, Consultants, Cedents and Reinsurers.
4	AGENT BALANCES	Agents Earned Commissions.
5	ALL OTHER	Describe

In the space below give a Concise Statement of the Facts giving rise to your claim. Attach additional sheets if required. On 3/28/00 family took child (Mariah Lawson) to Wal-Mart Supercenter, Pennsylvania, to obtain family portrait. The portrait center was operated by PCA International, Inc. Child was placed on a 28" x 39" table with no side supports. The table was 32" high extending to a concrete floor. The photographer placed a feather duster in child's face which caused her to fall backwards from the table striking her head on the concrete floor. AMOUNT OF CLAIM: \$ 1,000,000.00 The child now suffers from traumatic migraine headaches.

Is there OTHER INSURANCE that may cover this claim? Yes () No (X)
 IF YES provide name of insurer(s) and policy number(s): _____

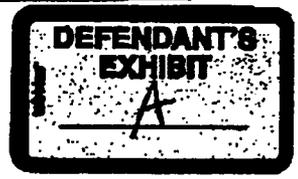
Does AN ATTORNEY REPRESENT you? Yes (X) No () IF YES provide attorney's name, address & telephone number:
James A. Naddeo, Esquire, 211 1/2 E. Locust St., Marino Building, P.O. Box 552, Clearfield PA 16830 (814) 765-1601

Has a Lawsuit or other LEGAL ACTION been instituted by anyone regarding this claim? Yes () No (X) IF YES provide the following:
 Court Where Filed: _____
 DATE FILED & DOCKET NUMBER: _____
 PLAINTIFF(S): _____
 DEFENDANT(S): _____

The undersigned subscribes and affirms as true under the penalties of perjury as follows: that the undersigned has the right and authority to sign and submit this proof of claim; that the undersigned has read the foregoing Proof of Claim and knows the contents thereof; that the said claim against Reliance Insurance Company (Reliance) (in Liquidation) is true to the best of the undersigned's own knowledge except as matters therein stated to be alleged upon information and belief and as to those matters the undersigned believes to be true; that no payment of or on account of the aforesaid claim has been made except as above stated; that there are no effects or counterclaims thereto; and that the undersigned is not a secured creditor or claimant, or has no security interest except as stated above.

If the foregoing Proof of Claim alleges a claim against a Reliance Insured (third party claim), the undersigned hereby releases, waives and all claims which have been or could be made against such Reliance Insured based on or arising out of the facts supporting the above Proof of Claim up to the amount of the applicable policy limit and subject to coverage being accepted by the Liquidator, regardless of whether any compensation is actually paid to the undersigned.

Kim D. Beach-Lawson 1-29-02
 Claimant Signature Date
 Parent and Natural Guardian of Mariah Lawson



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

RICHARD J. LAWSON and	:
KIM EBOCH-LAWSON,	:
husband and wife, and	:
Parents and natural	:
Guardians of MARIAH C.	:
LAWSON, a minor,	:
Plaintiffs	:
vs.	: No. 02-378-CD
PCA INTERNATIONAL, INC.,	:
a corporation,	:
Defendant	:

SCHEDULING ORDER

AND NOW, this 28th day of February, 2005, upon consideration of the Motion in Limine filed by Plaintiffs, a rule is hereby issued upon Defendant to Show Cause why the Motion should not be granted.

Rule returnable the 7 day of March, 2005, at 9:30 A.M. in Courtroom Number 1, of the Clearfield County Courthouse, Clearfield, Pennsylvania, for hearing thereon.

Judith J. Aronson
J.

FILED
FEB 28 2005
0/11:50
William A. Shaw
Prothonotary/Clerk of Courts
2 copy to Amy

CA

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

RICHARD J. LAWSON and	:	
KIM EBOCH-LAWSON,	:	
husband and wife, and	:	
Parents and natural	:	
Guardians of MARIAH C.	:	
LAWSON, a minor,	:	
Plaintiffs	:	
	:	
vs.	:	No. 02-378-CD
	:	
PCA INTERNATIONAL, INC.,	:	
a corporation,	:	
Defendant	:	

FILED

FEB 25 2005

0/12:30 (u)
William A. Shaw

Prothonotary/Clerk of Courts

2 copy to ATL

MOTION IN LIMINE
TO DETERMINE WHETHER DEFENDANT RETAINS THE RIGHT
TO CALL ITS EXPERT WITNESS AT TRIAL AFTER HAVING
NOTICED THE SAME EXPERT FOR VIDEOTAPE DEPOSITION, ALL TO
THE DETRIMENT AND PREJUDICE OF THE PLAINTIFFS

AND NOW come the Plaintiffs, Richard J. Lawson and Kim Eboch-Lawson, individually and as Guardians of Mariah C. Lawson, a minor child, who by and through their attorney, John R. Carfley, Esq., moves the Court to rule on Defendant's right to call its expert to appear as a witness at trial in the above matter, and in support of said Motion, Plaintiffs aver as follows:

1. Plaintiffs filed the above action against the Defendant citing a claim for personal injuries sustained when the minor child fell from a photographic table allegedly as a result of the negligence of the Defendant's employee.

2. The matter is currently scheduled for trial from April 6th through April 8th, 2005, and it is expected that the matter will proceed without any further delays.

3. The said expert who is the subject of this Motion, was prepped for deposition and his testimony was preserved for trial by virtue of a videotape deposition conducted in the office of the medical expert located in Pittsburgh on September 17, 2004.

4. Former counsel for the Defendant, on numerous occasions, reiterated to Plaintiffs' counsel the substantial difficulty which he had encountered while attempting to schedule the deposition of Dr. Varma prior to the time when the date was finally secured.

5. It is unclear at the present time why the Defendant has chosen to call its expert as a live witness at the time of trial rather than submit the testimony and opinions of the expert by virtue of the videotape deposition as had originally been agreed upon by counsel of record.

6. It is Plaintiffs' opinion that if the defense intends to alter or change its legal theory of defense or assert new matter or counterclaims not previously disclosed to Plaintiffs' counsel, that this would be objectionable on the basis of surprise and would constitute significant prejudice to the Plaintiffs and warrant the imposition of sanctions, including but not limited to, the preclusion from a live appearance at time of trial. Moreover, this would significantly and substantially prejudice the Plaintiffs since the Plaintiffs would be unable to depose the Defendant's expert prior to trial which has now been scheduled for April 6th through April 8th, 2005.

7. In that event, Plaintiff would also be unable to secure its own expert to rebut any unique theories or contradictory testimony not originally presented by the Defendant's expert in his original report and/or at the videotape deposition.

8. Since Plaintiffs' counsel has no independent knowledge of the content of the expert's new testimony and could neither schedule the Defendant's expert's deposition for purposes of discovery, nor could it adequately prepare its own expert to combat and/or rebut as yet unknown and undisclosed theories or defenses which might be asserted, the Defendant would be guilty of surprise and Plaintiffs would be prejudiced to such a degree that no cautionary instructions from the Court, nor any other action undertaken by the Court would help protect the Plaintiffs from the adverse effect and/or influence which would be asserted on the jury as a result of this tactic. Plaintiff believes, and therefore avers, that the opinions of the defense expert were adequately explored in the comprehensive deposition previously conducted and were thoroughly expressed, both on direct examination and on cross-examination, leaving little in the way of unresolved issues, either factual or legal in nature.

9. It is Plaintiffs' opinion that the Defendant should be sanctioned by a disallowance of the right to revisit his expert's testimony by permitting defense counsel to attempt a second bite at the apple, now knowing full well the strategy undertaken by the Plaintiffs and the theories which were advanced by its experts, as well as those of the Plaintiff.

10. The said matter was previously scheduled for jury trial when the Defendant's primary attorney asked for leave of court to withdraw because of an

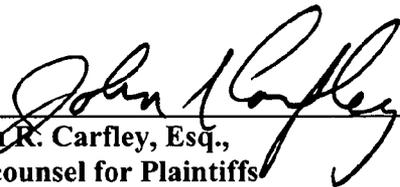
alleged change in employment status. While counsel for the Plaintiff, as a matter of professional courtesy, allowed counsel to withdraw and for substitute counsel to be appointed, it was with the understanding that the rights of the Plaintiff would not be prejudiced, nor would the trial schedule established by the Court be disturbed.

11. Permitting the Defendant to gain an unfair advantage and attempt to introduce surprise at the time its expert witness testified would be unfair and prejudicial to the Plaintiffs and the minor child.

12. At a minimum, Defendant, through its counsel, should be required to submit to the Court and to the Plaintiff, a comprehensive offer of proof outlining the manner in which the testimony of the Defendant's expert would vary from the testimony presented by the doctor at his original deposition and why it is imperative that this testimony be presented in a live format as opposed to the videotape as originally agreed.

13. Should the Court disallow Plaintiff's request to compel a comprehensive and specific offer of proof well in advance of trial for use by the Plaintiff in preparing its expert witness for rebuttal, which offer of proof would be in the form of a response normally required by parties to expert interrogatories, the only way Plaintiff would be able to prevent the Defendant from gaining an unfair advantage would be by compelling its own expert to attend the trial during the testimony of the defense expert so as to be in a position to contradict the testimony of this expert in the rebuttal stage of the trial.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant Plaintiff's Motion in Limine directing the Defendant to appear and show cause why Defendant's expert testimony should not be limited to that testimony presented in the videotape deposition, or in the alternative, to submit a comprehensive offer of proof so as to enlighten Plaintiffs' counsel as to the areas which Plaintiff may be required to address through its own expert, or by means of cross-examination.



**John R. Carfley, Esq.,
Co-counsel for Plaintiffs
P. O. Box 249
Philipsburg, PA 16866**

Dated: 2-25-05

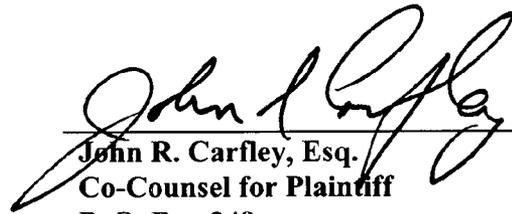
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RICHARD J. LAWSON and :
KIM EBOCH-LAWSON, :
husband and wife, and :
Parents and natural :
Guardians of MARIAH C. :
LAWSON, a minor, :
Plaintiffs :
 :
vs. : **No. 02-378-CD**
 :
PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

CERTIFICATE OF SERVICE

I do certify that I made service of the foregoing Motion in Limine to Determine Defendant's Right to Call its Expert Witness at Trial upon Defendant, PCA International, Inc. through its attorney, John M. Giunta, Esquire, by depositing the same in the United States mail, postage prepaid, this 25th day of February, 2005, addressed as follows:

PCA International, Inc.
c/o John M. Giunta, Esq.
RAWLE & HENDERSON
535 Smithfield Street
Oliver Building, Suite 100
Pittsburgh, PA 15222


John R. Carfley, Esq.
Co-Counsel for Plaintiff
P. O. Box 249
Philipsburg, PA 16866
(814) 342-5581

nature and/or the dangerous propensity of the units and/or props utilized by the Defendant's agents.

4. While evidence of similar accidents may not, per se, be admissible to establish a pattern of negligence, it may be admitted to show that a party had notice that a dangerous condition existed. Notice can also be proven by evidence that a party knew of another accident or occurrence that was substantially similar to the one at issue.

5. It is believed, and therefore averred, that evidence of an occurrence of similar accidents is admissible for the purpose of establishing the character of the place where they occurred, their cause and the imputation of notice, constructive or actual, to the proprietors of the establishment of the potential defect and the eventual likelihood of injuries.

6. Under the Pennsylvania Rules of Evidence, relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.

7. Under this Rule, any evidence which shows that similar incidents occurred prior to the date of the incident in question and that the incidents occurred on a relatively frequent basis under conditions similar to the situation in the case at bar would render such testimony admissible in order to show that the activity was more or less probable and is more or less likely to have occurred than to have not occurred under circumstances similar to the case at bar.

8. Pennsylvania Rule of Evidence 406 states as follows:

“Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eye witnesses is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.”

9. In this particular instance, this rule would allow evidence that the common standards and practice of the Defendant throughout its stores and locales was to place minor children on a table of sufficient height to cause serious injuries where a fall occurred

and where sufficient safeguards were not implemented to prevent the child from falling from the table and/or where the child fell on an area of the floor which was not protected through the use of padding or other protective devices.

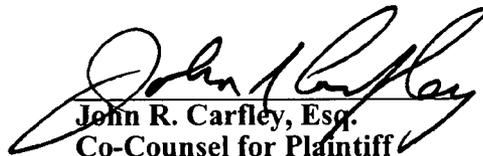
10. The occurrence of eighteen (18) such incidents in such a short period of time prior to March, 2000 would indicate that the common practices of the Defendant were of such nature as to provide notice or evidence of the shortcomings of this procedure and practice and as such, would be admissible to establish notice as to the past history of activity sufficient to warrant a finding of negligence.

11. In the case at bar, evidence of the prior falls of the minor children and the resulting injuries suffered by those children is relevant to show the prior knowledge of the Defendant as well as the lack of precautions taken which constitutes a contributing factor to the injuries sustained by the minor Plaintiff.

12. The probative value of the admission of said evidence far outweighs any potential prejudice that would be suffered by the Defendant as a result of its admission.

13. It is further believed and averred that the jury, as the ultimate trier of fact, is positioned to make a proper determination as to the credibility and weight to be given to the evidence of these prior falls and whether the same should have provided a reasonable man with notice of the potential defect or the danger of the equipment and/or procedures being utilized in the photographic studio.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant Plaintiff's Motion in Limine allowing evidence of prior falls from tables in the Defendant's photographic studios to be admitted at time of trial.


John R. Carfley, Esq.
Co-Counsel for Plaintiff
P. O. Box 249
Philipsburg, PA 16866

Dated: 2-25-05

71
CA

FJA - NO

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

NO. 02-378-CD

**MOTION TO CONTINUE RULE
RETURNABLE DATE AND HEARING
DATE**

Filed on behalf of defendant:
PCA INTERNATIONAL, INC.

Counsel of Record for this party:
John M. Giunta, Esquire
Pa. I.D. 44754

Rawle & Henderson LLP
The Henry W. Oliver Building
Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700

FILED

MAR 02 2005

(Signature)

m / 1:10 / was
William A. Shaw
Prothonotary

1 COPY TO ATTY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

MOTION TO CONTINUE RULE RETURNABLE DATE AND HEARING DATE

AND NOW comes the defendant, PCA International, Inc., by its attorneys, Rawle & Henderson LLP and files the within Motion to Continue Rule Returnable Date and Hearing Date as follows:

1. On February 28, 2005, undersigned counsel received three (3) Motions in Limine from one of plaintiffs' attorneys, John Carfley.
2. Upon reference to the Court's January 21, 2005 Order governing pre-trial matters, (attached hereto as Exhibit "A") , it is stated at paragraph 4 that the due date for such Motions is thirty (30) days before the April 6 trial (by March 7) and that a party responding such Motions shall file its Answer and submit appropriate response brief no later than fifteen (15) days prior to trial (by March 22, 2005).

3. Defense counsel had noted those dates and also planned to monitor receipt of an accompanying brief with the Motions in Limine as also contemplated by Paragraph 4 of the Order, although either way, planned to file an Answer and response brief by March 22, 2005.

4. On March 1, 2005, defense counsel received three (3) Scheduling Orders dated February 28, 2005, setting a Rule Returnable and hearing on the three (3) Motions in Limine for March 7, 2005 at 9:30 a.m. in Courtroom No. 1.

5. Upon receipt of the Scheduling Orders, undersigned counsel attempted to contact both plaintiffs' attorneys and left messages. Following that contact, undersigned counsel contacted Deputy Court Administrator, Marcy Kelley by telephone.

6. Undersigned counsel advised Ms. Kelley that he is scheduled to commence a jury trial in Allegheny County on March 7, 2005, in the case of Marino v. R & J Grocery, which may extend through the week. Counsel also raised the timing issues from the Order, noted above.

7. After advising that she would inquire, Ms. Kelley subsequently advised defense counsel by telephone that the aforesaid due dates from the pre-trial Order remain in place, and that a request to continue the March 7 hearings based on counsel's statements should be made in writing. This Motion to the Court follows, by telefax and express mail given the timing issues.

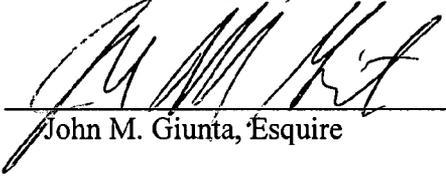
8. Because the subject of the Motions are of great importance to both litigants in this case and involve some complexity, it is respectfully requested that the Rule Returnable date and hearing date on these Motions that was set for March 7, 2005 be continued to an argument date either on or after March 22, 2005, or alternatively, at any time after the likely completion of defense counsel's trial, ie., on or after March 15, 2005, to allow for the analysis of the issues raised and argument by undersigned counsel.

9. Defense counsel subsequently spoke to Attorney John Carfley for the plaintiffs in a telephone conversation on March 1, 2005. Mr. Carfley advised that he would not oppose the relief that defense counsel advised that he would be requesting in the attached Order, which defense counsel acknowledges and appreciates.

WHEREFORE, it is respectfully requested that this Honorable Court enter the attached Order continuing the Rule Returnable Date and Hearing Date on the Motions in Limine.

Respectfully submitted,

RAWLE & HENDERSON, LLP

By: 

John M. Giunta, Esquire

535 Smithfield Street, Suite 1000
Pittsburgh, PA 15222

JURY TRIAL DEMANDED

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

RICHARD J. LAWSON and KIM :
EBOCH-LAWSON, husband and wife, :
Parents and natural guardians of :
MARIAH C. LAWSON, a minor, :
Plaintiffs :
vs. :
PCA INTERNATIONAL, INC., :
a corporation, :
Defendant :

RECEIVED
JAN 27 2005

BY:.....

NO. 02-378-CD

ORDER

NOW, this 21st day of January, 2005, following Pre-Trial Conference among the Court and counsel it is the ORDER of this Court as follows:

1. Trial is hereby scheduled for April 6, 7 and 8, 2005 and start at 9:00 a.m. on each day in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury selection is hereby scheduled for 9:00 a.m. on Thursday, January 27th, 2005 in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.
3. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of Trial shall submit said objections to the Court, in writing, no later than

DEFENDANT'S
EXHIBIT
"A"

thirty (30) days prior to the commencement of Trial. All objections shall reference specific page and line numbers within the deposition(s) in questions along with that party's brief relative same. The opposing party shall submit its brief in opposition to said objections no later than fifteen (15) days prior to the commencement of Trial.

4. Any party filing any Motion or Petition regarding limitation or exclusion of evidence or testimony to be presented at time of trial, including but not limited to Motions in Limine, shall file the same no more than thirty (30) days prior to the trial date. The party's Petition or Motion shall be accompanied by an appropriate brief. The responding party thereto shall file its Answer and submit appropriate response brief no later than fifteen (15) days prior to trial.
5. Counsel shall supply the Court with proposed Verdict slip, and any requested points for charge by no later than 9:00 a.m. on April 6, 2005.

I hereby certify this to be a true and correct copy of the original filed with the Court.

JAN 25 2005

Attorney

[Signature]
F. J. Ammerman
Clerk of Courts

BY THE COURT,

/s/ Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

ORDER OF COURT

AND NOW this ____ day of _____, 2005, upon consideration
of defendant's Motion to Continue Rule Returnable Date and Hearing Date, it is hereby
ORDERED that argument on the Motions in Limine and any subsequent Motions in Limine filed
by March 7, 2005, will be held on March ____, 2005 in Courtroom 1, and that Answers and
Response Briefs to Motions in Limine remain due by March 22, 2005, which is fifteen (15) days
prior to trial, pursuant to the Court's Order of January 21, 2005.

BY THE COURT:

J.

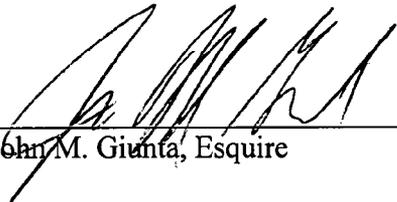
CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of March, 2000, a true and correct copy of the foregoing document was sent via telefax to the following:

John R. Carfley, Esq.
222 Presqueisle Street
PO Box 429
Philipsburg, PA 16866
(fax: 814-342-1127)

James A. Naddeo, Esq.
211 ½ E. Locust Street
PO Box 552
Clearfield, PA 16830
(fax: 814-765-8142)

RAWLE & HENDERSON, LLP



John M. Giunta, Esquire

Varma's supplemental testimony shall be filed within no more than five (5) days thereafter.

BY THE COURT,

A handwritten signature in cursive script, appearing to read "Justice J. Aronson", is written over a solid horizontal line.

President Judge

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

RICHARD J. LAWSON and KIM :
EBOCH-LAWSON, husband and :
wife, Parents and natural :
guardians of MARIAH C. :
LAWSON, a minor :
:
-vs- : No. 02-378-CD
:
PCA INTERNATIONAL, INC. :

12 CA
FILED 100
Attys:
03:34 PM
MAR 08 2005
Maddeo
Carley
William A. Snow
Prothonotary/Clerk of Courts
Giunta
Grater

ORDER

NOW, this 7th day of March, 2005, following argument on the Plaintiffs' Motion in Limine to Admit Evidence as to Past Incidents, it is the ORDER of this Court that counsel for the Defense provide the Court with its brief by no later than Tuesday, March 15, 2005.

In regard to the Plaintiffs' Motion in Limine to Determine the Effect of Proof of Claim Document, it is the ORDER of this Court that counsel for the Defense provide the Court with its brief by no later than March 22, 2005. However, by no later than March 16, 2005, Defense shall supply Plaintiff with appropriate documentation confirming the belief of Defense counsel present today that the North Carolina Guarantee Company will provide coverage up to and including the verdict of Three Hundred Thousand (\$300,000.00) Dollars and that any waiver is above that

limit up to One Million (\$1,000,000.00) Dollars.

BY THE COURT,

A handwritten signature in cursive script, appearing to read "Justice J. Aronson", is written over a horizontal line.

President Judge

B CA

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

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,
Plaintiffs

*
*
*
*
*
*
*
*

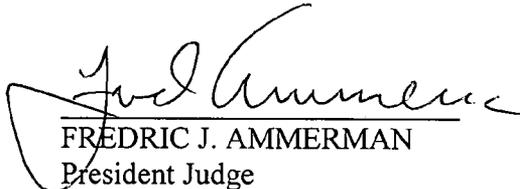
NO. 02-378-CD

vs.
PCA INTERNATIONAL, INC., a
corporation,
Defendant

ORDER

NOW, this 21 day of March, 2005, upon consideration of Plaintiffs' Motion in
Limine, it is hereby ORDERED that Plaintiffs' Motion is DENIED and IT IS FURTHER
ORDERED that Plaintiffs are precluded from referring to or attempting to offer any evidence
of prior accidents at the trial in this matter.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

FILED
of 4:00 PM
MAR 21 2005

William A. Shaw
Prothonotary/Clerk of Courts

icc Atty's:
Naddeo
Cortley
Giunta
Grater

(CR)

94
CA

No Action
File

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

NO. 02-378-CD

**OFFER OF PROOF RELATIVE TO THE
IN-COURT TRIAL TESTIMONY OF DR.
RAJIV R. VARMA**

Filed on behalf of defendant:
PCA INTERNATIONAL, INC.

Counsel of Record for this party:
John M. Giunta, Esquire
Pa. I.D. 44754

Rawle & Henderson LLP
The Henry W. Oliver Building
Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700

FILED *no cc*
m/12:30
MAR 22 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

**OFFER OF PROOF RELATIVE TO
THE IN-COURT TRIAL TESTIMONY OF DR. RAJIV R. VARMA**

AND NOW comes the defendant, PCA International, Inc. (hereinafter "PCA"), by its attorneys, Rawle & Henderson LLP and files the within Offer of Proof Relative to the In-Court Trial Testimony of Dr. Rajiv R. Varma, pursuant to the Order of this Court of March 7, 2005, as follows:

I. INTRODUCTION

This written Offer follows the above-referenced Order and oral argument on March 7, 2005, relative to plaintiffs' Motion in Limine to Determine Defendant's Right to Call its Expert Witness at Time of Trial.

As an introductory point, defendant notes that at the Pre-Trial Conference on January 21, 2005, defendant's counsel informed plaintiffs' attorneys and the Court of defendant's intention to call Dr. Varma live or by way of a supplemental video deposition for use at trial, which latter

step would have avoided one of plaintiffs' counsel's primary concerns as stated in the Motion. Defense counsel also received the impression from plaintiffs' counsel that they had already been planning to call Dr. Moncman, plaintiffs' expert, live at trial, based on statements made at and following the conference that day. The only objection heard that day from plaintiffs' counsel was to defense counsel's offer to proceed by way of a second video deposition for use at trial on a strictly supplemental basis. Since plaintiffs' attorney did not object at that time to the calling of Dr. Varma live, and since they gave the impression of planning to call Dr. Moncman in any event, defendant reasonably believed the issue was resolved, until plaintiffs' Motion was filed on February 25, 2005. In any event, defense counsel stands ready to discuss any alternative means of providing the supplemental testimony of Dr. Varma, discussed herein, before the jury.

As another point, the video deposition of Dr. Varma was not a discovery deposition, nor could it have been under Pa.R.Civ.P. 4003.5(a)(1)(b) and 4003.5 (a)(2). Defense counsel would in fact be willing to have the video testimony of Dr. Varma played at trial under Rule 4020(a)(5), to be followed by the live testimony of Dr. Varma as the first witness on Friday, April 8, 2005, which is when Dr. Varma has advised undersigned counsel that he can be available in Clearfield during the three day trial period. Alternatively, Dr. Varma can provide his anticipated trial testimony, noted below, in conjunction with reiterating his previously stated opinions given at the videotaped deposition and permit the plaintiffs to cross examine on the totality of the live testimony.

Under all of the circumstances, should plaintiffs' counsel or the Court have any objection or concern regarding the scheduling of Dr. Varma live the morning of April 8, 2005, defense counsel would be willing to preserve that additional trial testimony by other means, preferably videotaped deposition, and also would be amenable to a telephone deposition for use at trial.

Defendant's counsel has stood ready to accommodate any request to take such alternative measures since January 27, 2005, when defendant's plans were first set forth to plaintiffs' counsel. In the interest of fairness and given the unusual and altered posture of the case over the past several months, defense counsel would respectfully request that this scheduling issue be addressed one way or another, in this context.

Finally, the following information sets forth the defendant's intentions with regard to elicitation of testimony from its designated expert at time of trial, pursuant to the applicable civil rules. The defendant does not contend that anything presented will be novel or surprising in any aspect, but rather will attempt to clarify and focus areas that were covered to varying degrees, without objection, at the video deposition of Dr. Varma. The video deposition has already provided plaintiff's counsel with a better view of Dr. Varma's testimony, in addition to the information ordered by the Court herein, than would have been possessed by plaintiffs had the decision been made to call Dr. Varma for the first and only time at trial.

II. OFFER OF PROOF

A. Probable Onset of Migraine

Following the January 21, 2005 Pre-Trial Conference, undersigned counsel did advise plaintiffs' counsel that this subject would be the primary area of expanded testimony through the Varma trial testimony. The point was made generally, and given the Court's Order, the Offer follows in more specificity.

Dr. Varma opined that Mariah Lawson would still have gotten the migraine syndrome, even had the March 28, 2000 incident not occurred. Dr. Varma stated that he did not know when it would start. (Varma Dep. at 14).

Dr. Varma will be asked when the migraine condition, the symptoms of which he opines Mariah would have inevitably experienced at some point due to her organic predisposition, would have been likely to manifest. Specifically, in light of Mariah's subsequent head injury in August 2001, the doctor will note that this incident likely would have precipitated the migraine syndrome, had the onset not been previously experienced.

In terms of the likely initial onset of migraines in general, the doctor will note that the majority of migraine sufferers of all ages will spontaneously experience migraine symptoms for the first time between the ages of 1 and 10, and the remainder of true migraine sufferers will typically note symptoms by the end of high school. He will base the opinion on his treatment of patients as a pediatric neurologist and his awareness of the literature in this area.

The doctor will note that the natural course of the migraine sufferer is not affected by whether it is a spontaneous onset or an onset precipitated by a blow to the head, and the subjective symptoms are not aggravated or prolonged by the manner of onset. Also, the time of first onset does not affect the natural course of the migraine syndrome.

B. Absenteeism

Dr. Varma was asked whether he would be surprised that Mariah has missed 16 days of school in first grade and over 10 days in kindergarten because of these headaches. Records supplied to present defense counsel from plaintiffs' counsel since the deposition show absences of 12 days in first grade attributable to migraines by plaintiff, of 10 days in kindergarten, and with no record of her present situation in second grade.

Dr. Varma stated that he has "patients who miss 30, 40 days of school, so, no, it would not surprise me at all." (Varma at 33).

After the initial Pre-Trial Statements were filed in August 2004, plaintiffs filed a Supplemental Pre-Trial Statement on January 12, 2005, pursuant to the case re-listing, attaching an economist's report of James Rodgers, PhD, whose opinion has as its primary factual basis the statement of Dr. Varma, as set forth above.

Dr. Varma would comment on that aspect of the report and will state that while he does have patients who have missed that many days, they are a very small minority. Many of his patients do not miss any time at all and whether time is missed and the amount of time missed depends on each patient's experience and tolerance. The amount of days used as a basis for Dr. Rodgers' opinions are not typical in general or in the specific experience of Mariah.

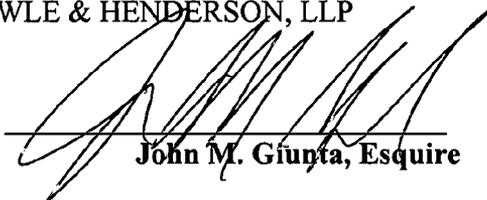
C. Trial Testimony and/or Video Deposition of Dr. Moncman and Trial Deposition of Dr. Stayer.

Dr. Varma reserves the opportunity to comment on the opinions of Dr. Moncman, to the extent that plaintiffs' counsel continues to plan to call him at trial and otherwise on the opinions expressed by Dr. Moncman at video deposition, based on his experience and training. Dr. Varma may also comment on the testimony of Dr. Stayer, which will be read into evidence at trial, consistent with his report and the above offer.

Respectfully submitted,

RAWLE & HENDERSON, LLP

By:



John M. Giunta, Esquire

Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700

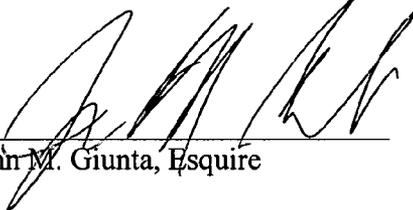
CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of March, 2005, a true and correct copy of the foregoing Offer of Proof Relative to the In-Court Trial Testimony of Dr. Rajiv R. Varma was sent via telefax to the following:

John R. Carfley, Esq.
222 Presque Isle Street
PO Box 429
Philipsburg, PA 16866

James A. Naddeo, Esq.
211 ½ E. Locust Street
PO Box 552
Clearfield, PA 16830

RAWLE & HENDERSON, LLP



John M. Giunta, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

ORDER OF COURT

AND NOW, this ____ day of _____, 2005, in consideration of the foregoing Offer of Proof Relative to the In-Court Trial Testimony of Dr. Rajiv R. Varma, the within Offer is accepted, and Dr. Varma may be called as a live witness at trial on Friday, April 8, 2005.

BY THE COURT:

_____ J.

75
OA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

NO. 02-378-CD

**ANSWER TO PLAINTIFFS' MOTION IN
LIMINE TO DETERMINE THE EFFECT
OF THE PROOF OF CLAIM FILED ON
BEHALF OF MINOR CHILD AS A
LIMITATION ON THE AMOUNT OF
RECOVERY FOR ECONOMIC AND
NON-ECONOMIC LOSS**

Filed on behalf of defendant:
PCA INTERNATIONAL, INC.

Counsel of Record for this party:
John M. Giunta, Esquire
Pa. I.D. 44754

Rawle & Henderson LLP
The Henry W. Oliver Building
Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700

FILED ^{NO} ^{CC}
m/4:0067
MAR 22 2005 ^{ik}

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

**ANSWER TO PLAINTIFFS' MOTION IN LIMINE TO DETERMINE THE EFFECT OF
THE PROOF OF CLAIM FILED ON BEHALF OF MINOR CHILD AS A LIMITATION
ON THE AMOUNT OF RECOVERY FOR ECONOMIC AND NON-ECONOMIC LOSS**

AND NOW comes the defendant, PCA International, Inc., by its attorneys, Rawle & Henderson LLP and files the within Answer to Plaintiffs' Motion in Limine To Determine The Effect Of The Proof Of Claim Filed On Behalf Of Minor Child As A Limitation On The Amount Of Recovery For Economic And Non-Economic Loss (hereinafter "Motion in Limine) averring as follows:

1. Admitted.
2. The averments of paragraph 2 of Plaintiffs' Motion in Limine constitute multiple legal conclusions to which no response is required.
3. In response to paragraph 3 of Plaintiffs' Motion in Limine, it is admitted that the insurer providing coverage to PCA International became insolvent, which resulted in the eventual delivery of this matter to the North Carolina Insurance Guaranty Association for the

handling of this case pursuant to the North Carolina statute, as pleaded in defendant's Amended New Matter, incorporated herein. The remainder of paragraph 3 is denied as stated.

4. In response to paragraph 4 of the Motion, it is admitted that in conjunction with the liquidation of Reliance, a Proof of Claim was submitted by Richard J. and Kim Eboch-Lawson. It is denied that said Proof of Claim demanded submission of the Proof of Claim; to the contrary, the Proof of Claim is a document which speaks for itself and contains no such demand for submission. A copy of the Proof of Claim as filed by Richard J. and Kim Eboch-Lawson, with the transmittal letter from their attorney, James A. Naddeo, is attached hereto collectively as Exhibit "A. The remaining averments of paragraph, to the extent they purport to interpret the document, are denied as stated, and the document is a writing which speaks for itself and furthermore, said averments constitute conclusions of law to which no response is required.

5. In response to paragraph 5, the averments constitute conclusions of law to which no response is required. To the extent a further response may be required, it is denied that the issue was framed in such a way that the minor child would be prejudiced notwithstanding the choice adopted by the parent and natural guardian; to the contrary, the issue is not framed in such a way that prejudice would result regardless of election. It is admitted that a Proof of Claim was prepared and submitted, but it is denied that the Proof of Claim was submitted to the North Carolina Guaranty Fund; to the contrary, the Proof of Claim was submitted to Reliance in Liquidation. It is denied that the Fund now asserts a waiver of any recovery up to and including \$1,000,000; to the contrary, the Release provision runs in favor of PCA relative to the amount between the guaranty fund coverage and the original coverage provided PCA by Reliance of \$1,000,000. It is admitted that the defense noted above was set forth in the Amended New Matter filed in January 2005, which Amended New Matter is incorporated herein.

6. The averments contained in paragraph 6 of Plaintiffs' Motion in Limine constitutes multiple legal conclusions to which no response is required.

7. This Defendant is without knowledge or information to form a belief to the averments contained in paragraph 7.

8. The averments of paragraph 8 constitute conclusions of law to which no response is required. To the extent a further response may be required, it is denied that the Proof of Claim, if read in the manner asserted by the defendant is most detrimental to the minor's interests; to the contrary, the said Proof of Claim, and the interpretation of the matter as set forth in the Amended New Matter, was filed in the interest of the minor in order to preserve a claim against the Estate of Reliance in Liquidation. Therefore, it is denied that such interpretation would eliminate any claim for recovery up to \$1,000,000; to the contrary, said Proof of Claim preserves potential recovery between the Guaranty coverage and \$1,000,000 as against Reliance in Liquidation. It is admitted that the Proof of Claim and the Release therein eliminates any claim against the insured of the insolvent insurer between the amount of Guaranty coverage and \$1,000,000, which was the coverage with the insolvent insurer.

9. It is admitted that no offer of settlement was presented by the defendant to the parent and/or natural guardian in return for the waiver of claims for any agreed upon amount. By way of further response, it is denied that the Proof of Claim is a contractual document, but rather is an election set forth by the legislature with regard to preservation of claims against the Estate of a liquidated insurer. (See defendant's Brief, filed concurrent herewith).

10. In response to paragraph 10 of plaintiffs' Motion, it is denied that there was a settlement; to the contrary, no settlement was made in this context. It is further denied that the minor child lost significant legal rights and settlement potential by virtue of filing the Proof of

Claim; to the contrary, there was no loss in legal rights but rather an election of a statutory remedy. While no compensation was made for the Proof of Claim at the time, the Proof of Claim preserved the possibility of compensation in the future and thus, paragraph 10 is denied as stated.

11. In response to paragraph 11, it is denied that the said minor was forced to waive significant bargaining rights upon the submission of the Proof of Claim; to the contrary, there was no compulsion to waive any rights whatsoever regarding the submission of a claim, but rather an election to proceed in that regard. It is admitted that there was no consideration provided at the time of the Proof of Claim, but rather, the potential right to participate in distribution of proceeds from the Estate of the insolvent insurer was elected by the plaintiffs. It is admitted that there was no approval of any Court but, by way of further response, no approval of any Court is required under the statutory provisions setting forth the Proof of Claim language including the Release language.

12. Paragraph 12 constitutes conclusions of law to which no response is required. To the extent a further response may be required, the defendant's Amended New Matter is a document which speaks for itself. It is admitted that the defendant now asks the Court to preserve as a defense to PCA the Release language contained in the Proof of Claim. It is denied that the defendant has asked that the Court not give the document effect as a Proof of Claim; to the contrary, no such statement has been made by the defendant in this matter. It is denied that the defendant seeks to have the Court enforce the Proof of Claim to the detriment of the minor child; to the contrary, the claim of the defendant is by way of defense to the defendant PCA. It is denied that the Court consideration and approval is a condition precedent to granting such

document's legal effect based upon Pennsylvania's procedure rules; to the contrary, for the reasons stated herein and in the Brief accompanying, no such condition precedent exists.

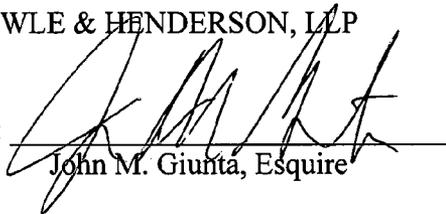
13. In response to paragraph 13, said paragraph constitutes conclusions of law to which no responsive pleading is required. To the extent a further response may be required, it is admitted that the Court exercised no control or jurisdiction over any settlement negotiations and/or proposals, which did not take place in this context. It is denied that because of that, the Proof of Claim should be declared *void ab initio* and that the claim of the minor child should be reinstated; to the contrary, the absence of control or jurisdiction by the Court has no effect on the Proof of Claim or the Release language contained herein which should be given full effect in accord with the defense pleaded in the Amended New Matter.

WHEREFORE, Defendant, PCA International, requests that this Honorable Court deny Plaintiffs' Motion and to mold any verdict in accordance with the Amended New Matter filed by this defendant.

Respectfully submitted,

RAWLE & HENDERSON, LLP

By:



John M. Giunta, Esquire

535 Smithfield Street, Suite 1000
Pittsburgh, PA 15222

Attorney for Defendant

JURY TRIAL DEMANDED

JAMES A. NADDEO
ATTORNEY AT LAW
211½ EAST LOCUST STREET
MARINO BUILDING
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

ASSOCIATE
LINDA C. LEWIS

TELEPHONE
(814) 765-1601
TELECOPIER
(814) 765-8142

January 30, 2002

Proof of Claim Department
Statutory Liquidator of Reliance Insurance Co.
P.O. Box 13527
Philadelphia, PA 19101-3527

Re: Mariah C. Lawson, Minor
Date of Birth: 3/2/97
SSA#: 205-76-3249
Date of Injury: 3/28/00

Gentlemen:

Enclosed is Proof of Claim to be filed on behalf of my clients,
Mariah C. Lawson and her parents.

Sincerely,

James A. Naddeo
James A. Naddeo

JAN/jr

Enclosure

Cc: Ms. Kim D. Eboch-Lawson



**PROOF OF CLAIM
IN THE MATTER OF
RELIANCE INSURANCE COMPANY (IN LIQUIDATION)**

RECEIVED FOR OFFICE USE ONLY
PROOF OF CLAIM NO. 1116901
DATE RECEIVED: NOV 29 2002

Deadline for filing December 31, 2003

READ ALL MATERIALS CAREFULLY BEFORE COMPLETING THIS FORM. COMPLETE ALL SECTIONS
FILL IN ALL BLANKS - PLEASE PRINT CAREFULLY OR TYPE

Make corrections to Name & Address below.		POC # 001116901 Lawson Mariah 623 E. Spruce St. Philipsburg, PA 16866-1433 
Claimant Name:	Mariah Lawson, Minor Age 4	
Address 1:	623 E. Spruce St.	
Address 2:		
City:	Philipsburg State: PA Zip Code: 16866	
Country:	Clearfield	
Social Security/E.I.N. #:	205-76-3249 e-mail:	
Daytime Phone #:	(include area code) (814) 768-4734	
Name of Insured:	N/A	
Policy Number:	N/A	Claim Number: (if previously filed)
Date of Loss:	March 28, 2000	Agent Number:

Claim is for (Check X or specify Below)

1	<input checked="" type="checkbox"/> POLICY HOLDER or THIRD PARTY CLAIM	Claim by insured of Reliance Insurance under a Reliance Insurance Policy for POLICY Benefits or Liability claim against an insured of Reliance Insurance for POLICY BENEFITS.
2	<input type="checkbox"/> RETURN OF UNEARNED PREMIUM or OTHER PREMIUM REFUNDS	Portion of paid premium not earned due to early cancellation of policy or retro or audit adjustment.
3	<input type="checkbox"/> GENERAL CREDITOR	Attorney fees, Adjuster fees, Vendors, Landlords, Lessors, Consultants, Cedants and Reinsurers.
4	<input type="checkbox"/> AGENT BALANCES	Agents Earned Commissions.
5	<input type="checkbox"/> ALL OTHER	Describe

In the space below give a Concise Statement of the Facts giving rise to your claim. Attach additional sheets if required. On 3/28/00 family took child (Mariah Lawson) to Wal-Mart Supercenter, Pennsylvania, to obtain family portrait. The portrait center was operated by PCA International, Inc. Child was placed on a 28" x 39" table with no side supports. The table was 32" high extending to a concrete floor. The photographer placed a feather duster in child's face which caused her to fall backwards from the table striking her head on the concrete floor.

AMOUNT OF CLAIM: \$ 1,000,000.00
 Is there OTHER INSURANCE that may cover this claim? Yes () No (x)
 If YES provide name of insurer(s) and policy number(s):
 The child now suffers from traumatic migraine headaches.

Does AN ATTORNEY REPRESENT you? Yes (x) No () If YES provide attorney's name, address & telephone number:
 James A. Naddeo, Esquire, 211 1/2 E. Locust St., Marino Building, P.O. Box 552, Clearfield PA 16830 (814) 765-1601

Has a Lawsuit or other LEGAL ACTION been instituted by anyone regarding this claim? Yes () No (x) If YES provide the following:
 Court Where Filed:
 DATE FILED & DOCKET NUMBER:
 PLAINTIFF(S):
 DEFENDANT(S):

The undersigned subscribes and affirms as true under the penalties of perjury as follows: that the undersigned has the right and authority to sign and submit this proof of claim; that the undersigned has read the foregoing Proof of Claim and knows the contents thereof; that the said claim against Reliance Insurance Company (Reliance) (In Liquidation) is true to the best of the undersigned's own knowledge except as matters therein stated to be alleged upon information and belief and as to those matters the undersigned believes to be true; that no payment of or on account of the aforesaid claim has been made except as above stated; that there are no offsets or counterclaims thereto; and that the undersigned is not a secured creditor or claimant, or has no security interest except as stated above.

If the foregoing Proof of Claim alleges a claim against a Reliance Insured (third party claim), the undersigned hereby releases any and all claims which have been or could be made against such Reliance Insured based on or arising out of the facts supporting the above Proof of Claim up to the amount of the applicable policy limit and subject to coverage being accepted by the Liquidator, regardless of whether any compensation is actually paid to the undersigned.

 1-29-02
 Claimant Signature Date
 Parent and Natural Guardian of Mariah Lawon

CERTIFICATE OF SERVICE

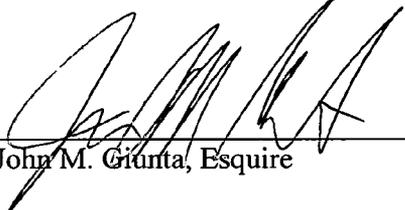
I hereby certify that on this 21st day of March, 2005, a true and correct copy of

the foregoing document was sent via telefax to the following:

John R. Carfley, Esq.
222 Presqueisle Street
PO Box 429
Philipsburg, PA 16866

James A. Naddeo, Esq.
211 ½ E. Locust Street
PO Box 552
Clearfield, PA 16830

RAWLE & HENDERSON, LLP



John M. Giunta, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

CIVIL DIVISION

NO. 02-378-CD

**OBJECTIONS TO EXCERPTS OF
DEPOSITION TESTIMONY OF DR.
MICHAEL G. MONCMAN AND BRIEF
IN SUPPORT**

Filed on behalf of defendant:
PCA INTERNATIONAL, INC.

Counsel of Record for this party:
John M. Giunta, Esquire
Pa. I.D. 44754

Rawle & Henderson LLP
The Henry W. Oliver Building
Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700

FILED *no cc*
m/12:48.61
MAR 23 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

**OBJECTIONS TO EXCERPTS OF DEPOSITION
TESTIMONY OF DR. MICHAEL G. MONCMAN
AND BRIEF IN SUPPORT**

AND NOW comes the defendant, PCA International, Inc., by its attorneys, Rawle & Henderson LLP and files the within Objections to Excerpts of Deposition Testimony of Dr. Michael G. Moncman and Brief in Support, as follows:

I. INTRODUCTION

The deposition of a medical expert witness for plaintiff, Michael-Gerard Moncman, D.O., was taken in this case on September 22, 2004. The deposition was noticed by the plaintiffs and was presumably intended for use at trial. After various discussions known to the Court, undersigned counsel was given the impression at the January 21, 2005 Pre-Trial Conference that Dr. Moncman would be called as a live witness at trial. Recent filings by plaintiffs have placed that impression into some doubt and on that basis, the defendant is advising the Court of two objections made during the course of the Moncman deposition and briefly setting forth

defendant's basis for objection and requesting a decision barring that testimony from being provided to the jury.

II. OBJECTIONS

- A. **Objection 1 – Moncman Deposition at p. 13, l. 22 to p. 14, l. 22 (See pp. 13-14, attached hereto as Exhibit “A”)**
- B. **Objection 2 – Moncman Deposition at pp. 23, l. 4 to p. 24, l. 6 (See pp. 22-24, attached hereto as Exhibit “B”)**

III. ARGUMENT

A. Objection 1

On pages 13 and 14 of the Moncman transcript, there is a discussion of the incident in question. At page 13, line 22, a question is put to the doctor regarding the mechanics of the fall, and the doctor responds with a technical discussion of gravitational force and speed, that is not found anywhere within the doctor's report, is beyond the doctor's expertise and is without any analytical foundation. The only support offered is that the doctor took an undergraduate physics class; this does not provide the type of expertise necessary. (p. 14, l. 17-18). The doctor states that the minor-plaintiff hit the ground with the force of between 20 and 30 miles an hour, concluding as follows: “so she fell – she fell with that amount of force as if she were catapulted out of a car or thrown into a wall at that rate of speed”. That comment is inherently unreliable, is of no relevance to liability or damages, and serves only to prejudice disposition of the real issues that the jury needs to decide in this case.

Dr. Moncman's report dated January 19, 2002 (attached hereto as Exhibit “C”), does not in any way cover this area of testimony, which is therefore contrary to Pa.R.Civ.P. 4003.5(c), as

going beyond the fair scope of that report. Furthermore, Dr. Moncman's expertise in this case does not derive from his undergraduate course in physics, and he clearly lacks the type of "scientific, technical or other specialized knowledge beyond that possessed by a lay person" that would permit expert testimony on that point by him. See Pa.R.Evd. 702.

Therefore, the defendant respectfully requests that the objection be granted and page 13, line 22 through p. 14, l. 22, and a related follow-up question on p. 36, l. 2-6 (attached as Exhibit "D", asked in the event the objection is not sustained) be stricken from the deposition testimony of Dr. Moncman, to the extent that it is used at trial, or otherwise, that the subject is to be precluded from Dr. Moncman's live trial testimony if such testimony is presented by plaintiffs.

B. Objection 2

On page 23, the doctor is asked whether he has observed the social ramifications of these types of injuries on similar patients.

An objection is lodged at page 23, lines 6 and 7 as beyond the scope of the doctor's report and a motion to strike is made on page 24, lines 4 through 6. This commentary on page 23 is speculative, beyond the scope of the report, and is not proper expert testimony. The doctor admits later that he refers his migraine patients to a neurologist, as he is a neurosurgeon. (See Moncman dep. at p. 25-26, attached as Exhibit "E"). Therefore, his general comments, in addition to being beyond the scope of his report, is also beyond his stated expertise and experience. As such, the defendant respectfully requests that the Court strike page 23, line 3 through page 24, line 6.

IV. CONCLUSION

For the above-stated reasons, the defendant, respectfully requests that the Court sustain the objections made during the course of the deposition of Dr. Moncman, or should Dr.

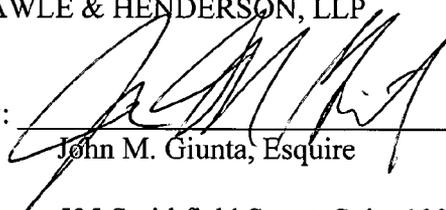
Moncman be called live at trial, that the Court preclude any testimony in the nature of that which is set forth herein.

WHEREFORE, the defendant, PCA International, Inc., respectfully requests that this Honorable Court grant the relief requested in the attached Order.

Respectfully submitted,

RAWLE & HENDERSON, LLP

By:



John M. Giunta, Esquire

535 Smithfield Street, Suite 1000
Pittsburgh, PA 15222
Attorney for Defendant

JURY TRIAL DEMANDED

1 Q At that time did you take a medical history from the
2 patient?

3 A Yes.

4 Q And what did that medical history reveal?

5 A Well, I came to find out that Mariah as I met her
6 was four years old and that she had suffered a head injury on
7 March 28th, 2000. The history was that she was having some
8 pictures taken at a photo studio at the Clearfield Wal-Mart.
9 In an attempt to get her to smile, she was tickled with a
10 feather according to the history that I had. In so doing, or
11 as this was occurring, she flipped straight backwards, falling
12 from a seated position of about a three foot high platform.
13 The described fall was that she fell onto the top of her head
14 and then had her neck flexed to the left.

15 So if you can imagine this little girl going
16 backwards and landing on the top of her head and then having
17 her head flexed so that she was trying to almost touch her
18 left ear to her left shoulder. So she comes down on her head
19 and her head forced -- is forced to one side and she ends up
20 on the floor in what is described, roughly, as the fetal
21 position. So on her side, arms and legs drawn up.

22 Q Okay. Doctor, can you relate the mechanics of that
23 fall in a manner that would be meaningful to the jury?

24 A Well, she falls with the force of gravity meaning
25 that she's falling at a rate of 32 feet per second. So if I

**DEFENDANT'S
EXHIBIT**

tabbies

A

1 dropped her from a height of 32 feet to the ground, it would
2 take one second to go 30 feet -- 32 feet to the ground. What
3 that really means is that she hit the ground with a force of
4 somewhere between 20 and 30 miles an hour. So she fell -- she
5 fell with that amount of force as if she were catapulted out
6 of a car or thrown into a wall at that rate of speed.

7 MR. GRATER: At this point in time so I can
8 interject an objection and move to strike that testimony
9 on the basis that it lacks foundation.

10 BY MR. NADDEO:

11 Q Doctor, were you aware of the height of the table?

12 A I was told it was approximately three feet high.

13 Q And is that the basis upon which you've described
14 the mechanics of the fall?

15 A Actually the basics of the description of the
16 mechanics of the fall was based on what mom told me, it was
17 about three feet high. And plus the fact that in getting a
18 Bachelor of Science in biology, I also had to take physics.
19 And I know that one of the natural laws is that the force of
20 gravity takes a free-falling object from point A to point B at
21 32 feet per second so that's how -- that's how the estimate
22 was made.

23 Q Now after taking a history of Mariah -- excuse me.
24 Did the history -- was there anything in the history relating
25 to a family history of migraine headaches, was that discussed

1 are very often the first stop for the pediatric population
2 that gets hurt. So, yeah, I mean, we see -- we see them of
3 all ages.

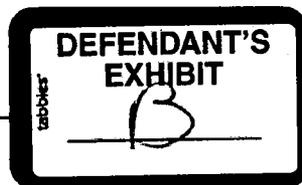
4 Q Have you had occasion in that experience to observe
5 the social ramifications of these type of injuries?

6 MR. GRATER: Object to that as beyond the scope of
7 the doctor's report or records.

8 MR. NADDEO: You may answer it.

9 THE WITNESS: Yes. Because sometimes trauma becomes
10 a family affair so you'll see mom and dad and the kids
11 who are all in the same crash or had the same trauma and
12 the social ramifications of this, especially in somebody
13 in this age group, and I saw her three years ago so she's
14 probably seven or so now.

15 The kinds of things that happen are, you know, if
16 she's -- if she has these headaches going forward she's
17 probably going to be missing school, missing Sunday
18 school, probably not going to parties. It is likely
19 she's going to get into issues with her own self-image.
20 She might be able to afford to miss some time in first
21 grade or kindergarten; It's going to be hard to get
22 ahead if she's missing a lot of time in high school.
23 It's going to be hard to get ahead if she's missing a lot
24 of time from a job. So there are far-reaching
25 ramifications to these kinds of headaches, and they can



1 also become internally disruptive just within a family
2 unit because in the vernicular nobody wants to see their
3 kid that way.

4 MR. GRATER: At this point I will move to strike
5 that based on the -- you know, based on sheer speculation
6 on the doctor's part.

7 BY MR. NADDEO:

8 Q Doctor, if the record in this case would reveal that
9 Mariah in fact missed ten days of school in kindergarten and
10 14 days of school in first grade as a result of the migraine
11 headaches that you've described, would that be consistent with
12 the answer which you have just given to the jury?

13 A Yes. It wouldn't -- it wouldn't surprise me if she
14 would miss time. I mean, she was missing playtime as I met
15 her so assuming that she's still having the headaches, and it
16 was my understanding that she does and that's what we're
17 talking about so it wouldn't surprise me at all.

18 Q Doctor, based on your education and experience and
19 your background, the medical records that you reviewed, your
20 physical examination of this patient, do you have an opinion
21 within a reasonable degree of medical certainty as to the
22 cause of the migraines experienced by Mariah Lawson?

23 A Yes. I believe that the migraines were caused by
24 her fall and head strike back on March 20th, 2000.

25

Michael-Gerard Monahan, D.O., M.Sc.
Neurosurgeon • Board Certified

Centru Pennsylvania Neurosurgical
Associates L.P.C.

CONFIDENTIAL

January 19, 2002

George Mosch II, M.D.
502 Park Avenue
Clearfield, PA 16830

RE: MARIAH LAWSON
DATE OF VISIT: JANUARY 15, 2001

Dear George:

Thank you for asking me to evaluate Mariah Lawson.

Mariah is a 4-year-old female who was having pictures taken at a Wal-Mart photo studio in Clearfield on March 28, 2000. In an attempt to get her to smile, she was tickled with a feather. She flipped straight backwards and fell from a seated position off an approximate three-foot high platform. By description she fell directly onto the vertex of her head and then had her neck flexed to the left and she ended on the floor in roughly a fetal position. After this the child began to complain of her head "freezing" or having "spiders" in or on her head. The child was evaluated by family medicine, pediatrics, and neurology. Temporally, the headaches seem to have begun with the fall. Mother and grandmother relate a history of headaches severe enough to cause the child to stop playing or headaches severe enough to cause her to need to lie down while in a car. The child is apparently intolerant of head bobbing, riding over railroad tracks, or spinning or dancing. She has several headaches per week that cause her to want to lie down and she has had nausea and vomiting with these headaches. She also has headaches that apparently last briefly and are frontally located. Mother relates headaches severe enough to cause the child to want to sleep or lie down in a dark room and request that noises be diminished.

The patient has been followed by Dr. Stayer, a pediatric neurologist from Geisinger. Dr. Stayer describes a family history of headaches that the mother and grandmother deny and does not endorse a specific history of posttraumatic cephalgia.

1701 12th Avenue, Suite F

Allison, PA 16601

814-944-7810

Fax 814-944-5327

cpnald@aol.com



PAGE 2

RE: MARIAH LAWSON

At age nine months the child engaged in some automatic behavior that apparently included leg scissoring or squeezing. Mother believes that this was due to an undiagnosed UTI or accidentally exposing the child to urine acidifying dietary substances. The records do not reflect any specific diagnosis of urinary tract infection. Apparently the child has essentially outgrown the automatic behavior.

The child currently uses Riboflavin 200 mg. daily. According to mother, the Riboflavin acted much like any other medication that has been tried. The child initially seemed to do well with the medication and then apparently developed some sort of resistance to it.

Mother relates that the child eats well and sleeps ten hours per night. She is engaged in preschool activity and seems to get on well with the other children. Mother tells me that the child does not engage in much physical activity. According to the mother and grandmother, milestones for growth and development have always been met.

My chart contains a detailed Health History Questionnaire that we reviewed.

PHYSICAL EXAMINATION:

Mariah is 43 inches tall and weighs 43 pounds. She is awake and alert, appropriately conversant for age and inquisitive about some of the books and furnishings in the examining room. She walks, runs, and skips without difficulty. She exhibits full spinal ranges of motion in all segments and has equal strength in the limbs. She is appropriately defensive to noxious stimuli. The pupils are round and react well to light. Extraocular muscles are intact. Fundoscopy is unrewarding. She has symmetrically present reflexes. She can walk on heels and toes and perform tandem gait maneuvers. She performs RAM's well. She squats without difficulty or assistance.

IMPRESSIONS:

1. I think it likely that this child did develop some degree of postconcussion syndrome and posttraumatic headaches after the fall.
2. It is likely that the fall precipitated some sort of a vascular headache or migraine-variant headache in this young lady.
3. By history, automatic behavior for reason or reasons unknown.

Mother and grandmother asked what I felt should be done next. I explained that the patient had unremarkable diagnostic studies to my review and, as such, does not specifically need the services of a neurosurgeon. They have expressed some frustration with the current medical situation. Because they asked, I suggested tertiary referral to a Children's Hospital at either end of the state or referral to Hershey Medical Center.

With reasonable medical certainty, this child developed headaches after a fall at Wal-Mart and, if the history is accurate, she continues to suffer from those headaches to this day.

PAGE 3
RE: MARIAH LAWSON

By observation I do not get a strong sense that the child derives any secondary gain from having complaints of headache. Mother and grandmother appear appropriately concerned but not overly doting and I did not detect anything that I would suggest represented learned behavior from adults to child.

Prognosis is guarded pending tertiary referral.

Thank you for seeking my opinion. Contact me if you have any questions or comments.

All the best,



Michael-G. Moncman, DO, MSc, FACOS
MGM/lis

D 01/15/02
T 01/19/02

done
rew?

1 BY MR. GRATER:

2 Q And at the physical rate of acceleration that you
3 quoted before, we can assume she did not fall from point 32
4 feet from the ground?

5 A No. But the rate in which she falls by natural law
6 is 32 feet per second.

7 Q And with respect to the history that you obtained
8 from mom as you've recited it, this little girl was sitting on
9 this photo table or platform?

10 A Some sort of a -- some sort of a flat surface raised
11 up, yeah.

12 Q And was being tickled too in an effort to get her to
13 smile, is that the history you got?

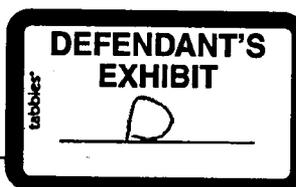
14 A That's my understanding.

15 Q And Mom didn't tell you that she was pushed off the
16 back of the table; did she?

17 A No, nobody -- nobody ever said that to me. It was
18 my impression from this that this little girl was challenged
19 with some sort of feather thing and back she went, but I don't
20 know that anybody ever said she was pushed, at least that I'm
21 aware of.

22 Q Doctor, your written narrative of your visit, I take
23 it, is the only written report that you've prepared in this
24 case?

25 A Yes.



1 Q Doctor, have the other opinions that you rendered
2 during the course of your testimony to the jury been offered
3 within a reasonable degree of medical certainty?

4 A Yes.

5 MR. NADDEO: I have no further questions.

6 MR. GRATER: Thank you. Doctor, we'll go off the
7 record momentarily while I take a look at your chart.

8 (Pause.)
9

10 CROSS-EXAMINATION

11 BY MR. GRATER:

12 Q Doctor, with regard to your practice I understand
13 from your earlier testimony that you see patients in a trauma
14 context to varying ages, is that right?

15 A That's right.

16 Q Among the patients that you continue to treat in
17 your practice, how many of those are pediatric patients?

18 A A small percentage, probably less than five percent.

19 Q You are in fact not board certified in pediatrics,
20 is that right?

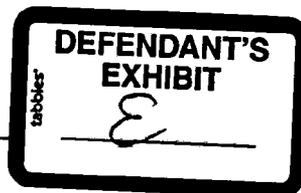
21 A That is correct.

22 Q And you're also not board certified in neurology?

23 A That is correct.

24 Q Your practice is limited to neurosurgery?

25 A Yes.



1 Q And that is a surgical approach to the repair of
2 injury, is that fair?

3 A In part, yes.

4 Q How many of your ongoing patients in your own
5 practice do you treat for migraine syndrome?

6 A I typically refer my migraine patients, if I've made
7 that diagnosis to a neurologist. I usually see -- I'm usually
8 seeing those patients for other associated problems or
9 sequelae from trauma, but also for the headache -- who also
10 have headaches.

11 Q And that referral would be because migraine syndrome
12 is a syndrome that is typically within the scope of practice
13 of a neurologist, is that right?

14 A Yes.

15 Q It's not a syndrome that warrants a surgical
16 treatment or result?

17 A Correct.

18 Q What is migraine?

19 A Migraine is a term given to a specific type of
20 headache, initially thought to be a vascular headache, or a
21 vasogenic type headache wherein local vascular pressures would
22 rise, stretching the vascular bed and probably putting some
23 traction on the dura or the meningial vessels causing pain.
24 Over the course of time some theories about migraine have
25 changed, suggesting now that it is actually more of a cortical

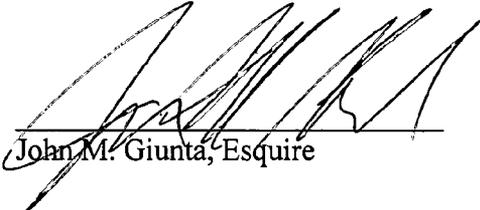
CERTIFICATE OF SERVICE

I hereby certify that on this 22^d day of March, 2005, a true and correct copy of
the foregoing document was sent via telefax to the following:

John R. Carfley, Esq.
222 Presqueisle Street
PO Box 429
Philipsburg, PA 16866

James A. Naddeo, Esq.
211 ½ E. Locust Street
PO Box 552
Clearfield, PA 16830

RAWLE & HENDERSON, LLP



John M. Giunta, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM
EBOCH-LAWSON, husband and
wife, and Parents and natural guardians
of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a
corporation,

Defendant.

ORDER OF COURT

AND NOW, this ____ day of _____, 2005, it is hereby ORDERED, ADJUDGED and DECREED that the Objections referenced in the Objections and Brief of the defendant to the two excerpts of the Dr. Moncman testimony are SUSTAINED and that should the deposition of Dr. Moncman be offered at trial, those references (at p. 13, l. 22 through p. 14, l. 22; p. 36, l. 2-6, and p. 23, l. 4 through p. 24, l. 6) are not to be read to the jury, nor should those topics arise in counsel's arguments. Should Dr. Moncman be called as a live trial witness, those questions and responses should not be reiterated in his testimony.

BY THE COURT:

_____ J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD LAWSON, and KIM EBOCH-LAWSON, husband and wife, and Parents and natural guardians of MARIAH C. LAWSON, a minor,

NO. 02-378-CD

Plaintiffs,

v.

PCA INTERNATIONAL, INC., a corporation,

Defendant.

ORDER OF COURT

AND NOW this 28 day of March, 2005, upon due consideration of Plaintiffs' Motion in Limine To Determine The Effect Of The Proof Of Claim Filed On Behalf Of Minor Child As A Limitation On The Amount Of Recovery For Economic And Non-Economic Loss, Defendant, PCA International, Inc.'s Answer and Brief in Opposition, Plaintiffs' Motion is denied, and the Release pleaded will be applied in the post-verdict stage of the case, if necessary.

BY THE COURT:



FILED 2cc
@ 11:30 AM
MAR 30 2005
Atty Giesta
(610)

William A. Shaw
Prothonotary/Clerk of Courts