

02-569-CD
EDITH O'BRIEN etux -vs- LARA M. ALLMAN, D.P.M. etal

Edith O'Brien, James O'Brien vs. Lara M. Allman DPM, Advanced Foot & Ankle Associates of Northwestern P

Civil Other

Date		Judge
04/12/2002	Filing: Civil Complaint Paid by: Schweers, William S. Jr. (attorney for O'Brien, James) Receipt number: 1841123 Dated: 04/12/2002 Amount: \$80.00 (Check) Two CC Sheriff One CC Attorney Schweers	No Judge ✓
05/06/2002	Praecipe For Appearance on behalf of Defendants, LARA M. ALLMAN, D.P.M. and ADVANCED FOOT 7 ANKLE ASSOC. OF NORTHWESTERN PA. Filed by s/Frank J. Hartye, Esq. no cc 1 copy CA	No Judge ✓
05/09/2002	Sheriff Returns, April 26, 2002, served complaint on Advanced Foot & Ankle Assoc. of Northwestern PA and Lara M. Allman, D.P.M., So Answers, Chester A. Hawkins by s/Marilyn Hamm \$56.35 paid by attorney No CC	No Judge ✓
06/12/2002	Answer and New Matter to Plaintiffs' Complaint filed. no cc	No Judge ✓
06/18/2002	Notice of Service of Interrogatories and Request for Production of Documents Directed to Plaintiffs. Filed by s/Frank J. Hartye, Esq. no cc	No Judge ✓
06/24/2002	Plaintiffs' Reply To New Matter of Defendants' Lara M. Allman, D.P.M., and Advanced Foot & Andle Associates of Northwestern Pa. filed by s/William S. Schweers, Jr., Esq. Verification s/William S. Schweers, Jr., Esq. Certificate of Service no cc	No Judge ✓
07/01/2002	Verification To Be Attached To Plaintiffs' Reply To New Matter of Defendants' Lara M. Allman, D.P.M. and Advanced Foot & Ankle Associates of Northwestern Pa. Filed by s/William C. Schweers, Jr., Esq. Certificate of Service no cc	No Judge ✓
11/04/2002	Motion To Compel Discovery. filed by s/Frank J. Hartye, Esquire no cc	No Judge ✓
11/08/2002	Rule Returnable, filed. 2 cert. to Atty. Hartye Rule returnable on lthe 13th day of Dec., 2002.	John K. Reilly Jr. ✓
02/19/2003	Notice of Depositions of EDITH O'BRIEN and JAMES O'BRIEN c/o WilliamS. Schweers, Jr., Esquire on 13th day of May, 2003, at 11:00 a.m. filed by s/Frank J. Hartye, Esquire no cc	John K. Reilly Jr. ✓
03/24/2003	Notice of Deposition of Defendant, LARA M. ALLMAN, D.P.M. s/William S. Schweers, Jr., Esquire no cc	John K. Reilly Jr. ✓
	Notice of Service of First Set of Interrogatories and Request For Production of Documents Directed to Defendant, Lara M. Allman, D.P.M. and Advance Foot & Ankle Associates of Northwestern Pa. upon FRANK J. HARTYE, ESQUIRE. s/William S. Schweers, Jr., Esquire no cc	John K. Reilly Jr. ✓
05/08/2003	Notice of Service of Answers to First Set of Interrogatories and Request for Production of Documents Directed to Defendants, Lara M. Allman, D.P.M. and Advanced Foot & Ankle Associates of Northwestern PA. filed by s/Frank J. Hartye, Esquire no cc	John K. Reilly Jr. ✓
02/06/2004	Motion to Compel Production of Expert Reports, no cert. copies.	John K. Reilly Jr. ✓
02/10/2004	Rule Returnable, And Now, this 9th day of February, 2004, a Rule is hereby granted to show cause why the Motion To Compel Production of Expert Reports on Behalf of Defendants should not be granted. This Rule is returnable on the 3rd day of March, 2004, at 2:00 p.m. in Courtroom No. 2. by the Court, s/PEC, J. 2 cc to Atty	Paul E. Cherry ✓
03/04/2004	ORDER, NOW, this 3rd day of March, 2004, re: Motion to Compel Production of Expert Reports filed on behalf of the Defendants is hereby GRANTED. Plaiantiffs shall file all expert reports within 30 days of the date of this Order. Any expert whose reports have notbeen filed by this deadline shall be precluded from testifying at time of trial. by the Court, s/PEC, J. 2 cc Atty Schweers, Hartye	Paul E. Cherry ✓

Date: 05/05/2004

Clearfield County Court of Common Pleas

User: BANDERSON

Time: 02:14 PM

ROA Report

Page 2 of 2

Case: 2002-00569-CD

Current Judge: Paul E. Cherry

Edith O'Brien, James O'Brien vs. Lara M. Allman DPM, Advanced Foot & Ankle Associates of Northwestern P

Civil Other

Date		Judge
04/16/2004	Motion For Summary Judgment. filed by, s/Frank J. Hartye, Esquire no cc	Paul E. Cherry ✓
04/20/2004	ORDER, NOW, this 19th day of April, 2004, re: Argument on Defendant's Motion for Summary Judgment has been scheduled for the 12th day of May, 2004, at 9:00 a.m. in Courtroom No. 2. by the Court, s/PEC, J. 2 cc & Service Memo to Atty Hartye	Paul E. Cherry ✓
04/22/2004	Certificate of Service, Order upon William S. Schweers, Jr., Esquire filed by, s/Frank J. Hartye, Esquire no cc	Paul E. Cherry ✓

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs,

vs.

LARA M. ALLMAN, D.P.M., and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN PA,

Defendants.

CIVIL DIVISION

No. 02-569-CO

PLAINTIFFS' COMPLAINT

Filed on behalf of EDITH O'BRIEN
and JAMES O'BRIEN, her husband,
PLAINTIFFS

Counsel of Record for this Party:

WILLIAM S. SCHWEERS, JR., ESQUIRE
PA I.D. #27625

HARRINGTON SCHWEERS DATTILO
& McCLELLAND, P.C.
Firm #949
100 Ross Street
Pittsburgh, PA 15219

Telephone: (412) 391-3477
Facsimile: (412) 391-7397

FILED

APR 12 2002

MA 12:19 PM atty Schweers
William A. Shaw pd \$ 80.00
Prothonotary
2cc Sherry
1cc atty Schweers

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDITH O'BRIEN and JAMES O'BRIEN,)	CIVIL DIVISION
her husband,)	
)	No.
Plaintiffs,)	
)	
vs.)	
)	
LARA M. ALLMAN, D.P.M., and)	
ADVANCED FOOT & ANKLE)	
ASSOCIATES OF NORTHWESTERN PA,)	
)	
Defendants.)	

NOTICE TO DEFEND

YOU have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you by the Court without further Notice for any money claimed in the Complaint or for any claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

**DAVID S. MEHOLICK, COURT ADMIN.
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
(814) 765-2641, ext. 5982**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDITH O'BRIEN and JAMES O'BRIEN,)	CIVIL DIVISION
her husband,)	
)	No.
Plaintiffs,)	
)	
vs.)	
)	
LARA M. ALLMAN, D.P.M., and)	
ADVANCED FOOT & ANKLE)	
ASSOCIATES OF NORTHWESTERN PA,)	
)	
Defendants.)	

PLAINTIFFS' COMPLAINT

AND NOW COME the Plaintiffs, by their Attorney, WILLIAM S. SCHWEERS, JR., and file a **Complaint** upon a cause of action whereof the following is a statement:

1. **Plaintiffs, Edith O'Brien and James O'Brien**, are individuals, husband and wife, and reside at 1097 Treasure Lake, DuBois, Clearfield County, Pennsylvania 15801.
2. **Defendant, Lara M. Allman, D.P.M. (hereinafter referred to as Defendant Allman)**, is a doctor of podiatric medicine and is licensed to practice podiatric medicine in the Commonwealth of Pennsylvania. At all times material to Plaintiffs' cause of action, Defendant Allman maintained an office for the practice of her specialty located at Advanced Foot & Ankle Associates of Northwestern PA, 207 Beaver Drive, DuBois, Clearfield County, Pennsylvania 15801.
3. **Defendant, Advanced Foot & Ankle Associates of Northwestern PA**, is a corporation formed for the purpose of providing medical services to the public with offices located at 207 Beaver Drive, DuBois, Clearfield County, Pennsylvania 15801.

4. At all times material to Plaintiffs' cause of action, it is averred that Defendant Allman was an ostensible agent, servant and/or employee of Defendant, Advanced Foot & Ankle Associates of Northwestern PA

5. On August 18, 2002, wife Plaintiff, Edith O'Brien, was admitted to DuBois Regional Medical Center under the care of Defendant Allman. The purpose of admission was correction of hammertoe deformity of the right foot. The patient was taken to surgery and Defendant Allman performed arthrodesis on toes 2 through 4 of the right foot, and arthroplasty of the right 5th toe. In addition, snap tenotomies were performed on toes 2 through 5. During the course of the procedure, bioresorbable pins were placed across toes 2 through 4 for the arthrodesis.

6. Postoperatively, wife Plaintiff, Edith O'Brien, developed pain and disability in her right foot. She was referred to a physician for a second opinion. It was determined that wife Plaintiff, Edith O'Brien, had developed recurrent right 3rd, 4th, and 5th hammertoes with pseudoarthrosis of the proximal interphalangeal joints. For this reason, in January of 2001, wife Plaintiff, Edith O'Brien, was required to undergo a 3rd, 4th, and 5th toe revision on the right and proximal interphalangeal resection arthroplasty. Wife Plaintiff, Edith O'Brien, has continued to suffer pain and disability.

Count I
Edith O'Brien and James O'Brien, her husband, Plaintiffs,
vs.
Lara M. Allman, D.P.M., Defendant.
(NEGLIGENCE)

7. Plaintiffs incorporate paragraphs 1 through 6 as if fully set forth herein.

8. The injuries and damages hereinafter set forth were caused solely by the negligence of Defendant Allman in the following respects:

(a) In using bioresorbable pins in the attempted performance of arthrodesis;

- (b) In using an outmoded technique in the performance of attempted arthrodesis;
- (c) In using bioresorbable materials when it was known or should have been known that said materials lack sufficient strength and stiffness and are associated with an unacceptable complication rate;
- (d) In failing to use metallic pins in the performance of the surgery;
- (e) In failing to achieve arthrodesis;
- (f) In failing to diagnose non-union;
- (g) In permitting weight-bearing when Defendant Allman knew or should have known that wife Plaintiff had a non-union.

9. Directly as a result of the negligence of Defendant Allman as aforesaid, wife Plaintiff sustained the following injuries and damages:

- (a) She has in the past and will in the future experience great pain, suffering, inconvenience, embarrassment and mental anguish;
- (b) She has in the past and may in the future be disabled;
- (c) She has in the past and will in the future incur large sums of money for medical and surgical attention;
- (d) Her health, strength, and vitality have been impaired;
- (e) She has been unable to enjoy the ordinary pleasures of life;
- (f) Other severe and serious injuries.

WHEREFORE, Plaintiffs bring this suit to recover an amount in excess of TWENTY THOUSAND (\$20,000.00) DOLLARS.

A JURY TRIAL IS DEMANDED.

Count II
Edith O'Brien and James O'Brien, her husband, Plaintiffs,
vs.
Advanced Foot & Ankle Associates of Northwestern PA, Defendant.
(NEGLIGENCE)

10. Plaintiffs incorporate paragraphs 1 through 9 as if fully set forth herein.

11. The injuries and damages hereinafter set forth were caused solely by the negligence of Defendant, Advanced Foot & Ankle Associates of Northwestern PA, by and through its agents, servants, and/or employees, in the following respects:

- (a) In that its agents, servants and/or employees used bioresorbable pins in the attempted performance of arthrodesis;
- (b) In that its agents, servants and/or employees used an outmoded technique in the performance of attempted arthrodesis;
- (c) In that its agents, servants and/or employees used bioresorbable materials when it was known or should have been known that said materials lack sufficient strength and stiffness and are associated with an unacceptable complication rate;
- (d) In that its agents, servants and/or employees failed to use metallic pins in the performance of the surgery;
- (e) In that its agents, servants and/or employees failed to achieve arthrodesis;
- (f) In that its agents, servants and/or employees failed to diagnose non-union;
- (g) In that its agents, servants and/or employees permitted weight-bearing when Defendant knew or should have known that wife Plaintiff had a non-union.

12. Directly as a result of the negligence of Defendant, Advanced Foot & Ankle Associates of Northwestern PA, by and through its agents, servants, and/or employees as aforesaid, wife Plaintiff sustained the following injuries and damages:

- (a) She has in the past and will in the future experience great pain, suffering, inconvenience, embarrassment and mental anguish;
- (b) She has in the past and may in the future be disabled;
- (c) She has in the past and will in the future incur large sums of money for medical and surgical attention;
- (d) Her health, strength, and vitality have been impaired;
- (e) She has been unable to enjoy the ordinary pleasures of life;
- (f) Other severe and serious injuries.

WHEREFORE, Plaintiffs bring this suit to recover an amount in excess of TWENTY THOUSAND (\$20,000.00) DOLLARS.

A JURY TRIAL IS DEMANDED.

Count III
James O'Brien, husband Plaintiff,
vs.
Lara M. Allman, D.P.M. and
Advanced Foot & Ankle Associates of Northwestern PA, Defendant.

13. Plaintiffs incorporate paragraphs 1 through 12 as if fully set forth herein.

14. As a result of the negligence of the Defendants as aforesaid, husband Plaintiff, James O'Brien, has been deprived of the services and consortium of his spouse, Edith O'Brien.

WHEREFORE, Plaintiffs bring this suit to recover an amount in excess of TWENTY THOUSAND (\$20,000.00) DOLLARS.

A JURY TRIAL IS DEMANDED.

Respectfully submitted,

HARRINGTON SCHWEERS DATTILO &
McCLELLAND, P.C.

Firm #949

100 Ross Street

Pittsburgh, PA 15219

(412) 391-3477

BY: 

William S. Schweers, Jr., Esquire

PA I.D. #27625

Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF ALLEGHENY

)
) ss:
)

AFFIDAVIT

Before me, the undersigned authority, personally appeared **EDITH O'BRIEN and JAMES O'BRIEN, her husband**, Plaintiffs herein, who being first duly sworn according to law, depose and say that the averments contained in the foregoing **COMPLAINT**, are true and correct to the best of their information, knowledge and belief.

Edith C. O'Brien
Edith O'Brien

James E. O'Brien
James O'Brien

Sworn to and subscribed before me,

this 10 day of April, 2002.

Mary J. Williams
NOTARY PUBLIC

Notarial Seal
Mary J. Williams, Notary Public
Pittsburgh, Allegheny County
My Commission Expires Dec. 28, 2004
Member, Pennsylvania Association of Notaries

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

ISSUE:
PRAECIPE FOR APPEARANCE

Filed on Behalf of Defendants:
LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE ASSOC.
OF NORTHWESTERN PA

Counsel of Record:

Frank J. Hartye, Esquire
PA I.D. #25568

McINTYRE, DUGAS, HARTYE &
SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 3RD DAY OF **MAY, 2002.**


Attorneys for Defendants

FILED

MAY 08 2002
m/1.40/ndcc 1 copy CA

William A. Shaw
Prothonotary



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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

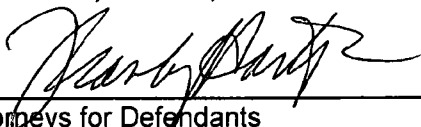
JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Kindly enter my appearance as counsel of record for the Defendants, LARA M.
ALLMAN, D.P.M. and ADVANCED FOOT & ANKLE ASSOCIATES OF
NORTHWESTERN PA, in the above-captioned action.

McINTYRE, DUGAS, HARTYE & SCHMITT


Attorneys for Defendants

Frank J. Hartye, Esquire
PA I.D. #25568
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12384

O'BRIEN, EDITH & JAMES

02-569-CD

VS.

ALLMAN, LARA M. , D.P.M. al

PLAINTIFF'S COMPLAINT

SHERIFF RETURNS

NOW APRIL 26, 2002 AT 10:40 AM DST SERVED THE WITHIN PLAINTIFFS
COMPLAINT ON ADVANCED FOOT & ANKLE ASSOCIATES OF NORTHWESTERN
PA., DEFENDANT AT EMPLOYMENT, 207 BEAVER DRIVE, DUBOIS, CLEARFIELD
COUNTY, PENNSYLVANIA BY HANDING TO HOLLY A. KRUEPILAK, RECPT. A TRUE
AND ATTESTED COPY OF THE ORIGINAL PLAINTIFFS COMPLAINT AND MADE
KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: COUDRIET

NOW APRIL 26, 2002 AT 10:40 AM DST SERVED THE WITHIN PLAINTIFFS
COMPLAINT ON LARA M. ALLMAN, D.P.M. DEFENDANT AT EMPLOYMENT,
207 BEAVER DRIVE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY
HANDING TO HOLLY A. KRUEPILAK, RECPT. A TRUE AND ATTESTED COPY OF
THE ORIGINAL PLAINTIFFS COMPLAINT AND MADE KNOWN TO HER THE CONTENTS
THEREOF.
SERVED BY: COUDRIET

Return Costs

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

FILED

012:12
MAY 09 2002

W.A. Shaw
William A. Shaw
Prothonotary

Sworn to Before Me This

9th Day Of *May* 2002
William A. Shaw

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

So Answers,

Chester A. Hawkins
by Marilyn Hawkins
Chester A. Hawkins
Sheriff

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

ISSUE:
ANSWER AND NEW MATTER
TO PLAINTIFFS' COMPLAINT

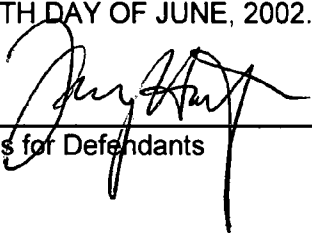
Filed on Behalf of Defendants:
LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE ASSOC.
OF NORTHWESTERN PA

Counsel of Record:

Frank J. Hartye, Esquire
PA I.D. #25568

McINTYRE, DUGAS, HARTYE &
SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 11TH DAY OF JUNE, 2002.


Attorneys for Defendants

FILED

JUN 12 2002
m1120/ncc
William A. Shaw
Prothonotary

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

JURY TRIAL DEMANDED

ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT

AND NOW, comes the defendants, LARA M. ALLMAN, D.P.M. and ADVANCED FOOT & ANKLE ASSOCIATES OF NORTHWESTERN PA, by and through their attorneys, McINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Answer and New Matter to Plaintiffs' Complaint.

1. The allegations contained in Paragraph 1 are true to the best of defendants' knowledge.
2. Admitted.
3. It is admitted that Advanced Foot & Ankle Associates of Northwestern PA, is a corporation with offices located at 207 Beaver Drive, DuBois, Clearfield County, Pennsylvania. The remaining allegations are denied as stated.
4. It is admitted that Dr. Allman was an employee of Advanced Foot & Ankle Associates of Northwestern PA. The remaining allegations are conclusions of law and no further response is required.

5. It is admitted that on August 18, 2000 that Edith O'Brien was admitted to DuBois Regional Medical Center under the care of Dr. Allman for the purpose of correcting a hammertoe deformity and contracted MTPJ 2 through 5 on her right foot. This surgical procedure is more specifically identified and explained in the operative note dictated by Dr. Allman. The remaining allegations are denied only to the extent that they maybe inconsistent with the operative notes. Three 2mm OrthoSorb pins were placed across the DIPJ and PIPJ for arthrodesis of toes 2 through 4.

6. It is admitted that Edith O'Brien had pain postoperatively. It is admitted that Edith O'Brien told Dr. Allman that she was going for an appointment with a physician in Pittsburgh and that she has seen Dr. Krot. As to the remaining allegations, after reasonable investigation defendants are without sufficient knowledge or information as to the truth of these averments and therefore they are denied and strict proof thereof is demanded at the time of trial.

Count I
Edith O'Brien and James O'Brien, her husband, Plaintiffs,
vs.
Lara M. Allman, D.P.M., Defendant.
(NEGLIGENCE)

7. Defendant incorporates by reference the previous paragraphs of the within Answer and New Matter as though the same were set forth herein and at length.

8. Denied. It is denied that Lara M. Allman, D.P.M. was negligent or careless in any manner. To the contrary the care and treatment provided by Lara M. Allman met the standards of care applicable to her as a podiatrist. Therefore all the allegations contained in Paragraph 8 and the subparagraphs thereof are specifically denied and strict proof thereof is demanded at the time trial.

9. Denied. It is denied that Lara M. Allman, D.P.M., was negligent or careless in any manner. It is further denied that any action or inaction on the part of Dr. Allman either caused or contributed to the alleged injuries and damages set forth and therefore all of the allegations contained in Paragraph 9 and the subparagraphs thereof are specifically denied and strict proof thereof is demanded at the time of trial.

WHEREFORE, Lara M. Allman, D.P.M., demands judgment in her favor with cost of suit awarded to defendant.

Count II
Edith O'Brien and James O'Brien, her husband, Plaintiffs,
vs.
Advanced Foot & Ankle Associates of Northwestern PA, Defendant.
(NEGLIGENCE)

10. Defendant incorporates by reference the previous paragraphs of the within Answer and New Matter as though the same were set forth herein and at length.

11. Denied. It is denied that Advanced Foot & Ankle Associates of Northwestern PA or any of its agents, servants or employees were negligent or careless in any manner. It is further denied that any action or inaction on the part of defendant Advanced Foot & Ankle Associates of Northwestern PA or any of its agents, servants or employees either caused or contributed to the alleged injuries and damages set forth and therefore all of the allegations contained in Paragraph 11 and the subparagraphs thereof are specifically denied and strict proof thereof is demanded at the time of trial.

12. Denied. It is denied that Advanced Foot & Ankle Associates of Northwestern PA or any of its agent, servants or employees were negligent or careless in any manner. It is further denied that any action or inaction on the part of Advanced Foot & Ankle Associates of Northwestern PA or any of its agents, servants or employees

either caused or contributed to the alleged injuries and damages set forth and therefore all of the allegations contained in Paragraph 12 and subparagraphs thereof are denied and strict proof thereof is demanded at the time of trial.

WHEREFORE, Advanced Foot & Ankle Associates of Northwestern PA, demands judgment in its favor with cost of suit awarded to defendant.

Count III
James O'Brien, husband Plaintiff,
vs.
Lara Allman, D.P.M. and
Advanced Foot & Ankle Associate of Northwestern PA, Defendants.

13. Defendants incorporate by reference the previous paragraphs of the within Answer and New Matter as though the same were set forth herein and at length.

14. Denied. It is denied that defendants were negligent or careless in any manner. It is further denied that any action or inaction on the part of defendants caused or contributed to the alleged injuries and damages set forth and therefore all of the allegations in Paragraph 14 are denied.

WHEREFORE, defendants demand judgment in their favor with cost of suit awarded to defendants.

NEW MATTER

By way of further and more complete Answer defendants aver the following New Matter.

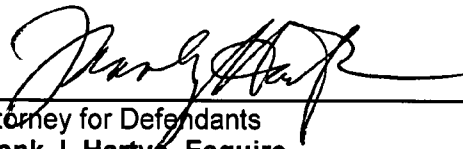
15. All care and treatment provided by Dr. Allman through Advanced Foot & Ankle Associates of Northwestern PA was proper, prudent and with the informed consent of Edith O'Brien, the plaintiff, who was aware of the possible risks and

complications of the surgical procedure performed and therefore plaintiffs have failed to set forth a cause of action upon which relief can be granted.

16. If it is determined that the plaintiff Edith O'Brien did not follow the post operative instructions of Lara M. Allman, D.P.M., then the plaintiff, Edith O'Brien was contributorially negligent and her actions bar any recovery in this action.

WHEREFORE, defendants demand judgment in their favor cost of suit awarded to defendants.

McINTYRE, DUGAS, HARTYE & SCHMITT

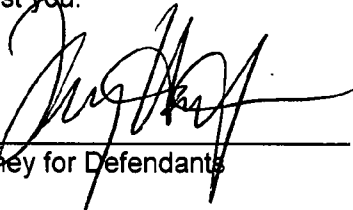


Attorney for Defendants
Frank J. Hartye, Esquire
PA I.D. #25568
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581
(814) 696-9399 – Fax

Notice to Plead

To: Edith O'Brien and James O'Brien, her husband

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.

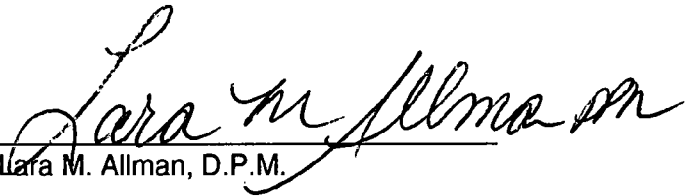


Attorney for Defendants

VERIFICATION

I, **Lara M. Allman, D.P.M.**, do hereby verify that I have read the foregoing **Answer and New Matter to Plaintiffs' Complaint**. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification are 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.


Lara M. Allman, D.P.M.

Date: 6/3/02

VERIFICATION

I, LARA M. ALLMAN DPM., of **Advanced Foot and Ankle**

Associates of Northwestern PA do hereby verify that I have read the foregoing **Answer and New Matter to Plaintiffs' Complaint**. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification are 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.

**ADVANCED FOOT & ANKLE ASSOCIATES OF
NORTHWESTERN PA**

Lara Allman

Date: 06/3/02

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

ISSUE:

NOTICE OF SERVICE OF
INTERROGATORIES and REQUEST
FOR PRODUCTION OF DOCUMENTS
DIRECTED TO PLAINTIFFS
DATED: 6/17/02

Filed on Behalf of Defendants:

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE ASSOC.
OF NORTHWESTERN PA

Counsel of Record:

Frank J. Hartye, Esquire
PA I.D. #25568

McINTYRE, DUGAS, HARTYE &
SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 17th DAY OF JUNE, 2002.


Attorneys for Defendants

FILED

JUN 18 2002
mjl:ls/nacc
William A. Shaw
Prothonotary



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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

JURY TRIAL DEMANDED

**NOTICE OF SERVICE OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO PLAINTIFFS – DATED: 6/17/02**

TO: PROTHONOTARY

You are hereby notified that on the 17th day of JUNE, 2002, Defendants served Interrogatories and Request for Production of Documents Directed to Plaintiffs dated 6/17/02 by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

William S. Schweers, Jr., Esquire
100 Ross Street
Pittsburgh, PA 15219

McINTYRE, DUGAS, HARTYE & SCHMITT



Attorneys for Defendants
Frank J. Hartye, Esquire
PA I.D #: 25568
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs,

vs.

LARA M. ALLMAN, D.P.M., and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN PA,

Defendants.

CIVIL DIVISION

No. 2002-00569-CD

PLAINTIFFS' REPLY TO NEW MATTER
OF DEFENDANTS' LARA M. ALLMAN,
D.P.M., and ADVANCED FOOT &
ANKLE ASSOCIATES OF
NORTHWESTERN PA

Filed on behalf of EDITH O'BRIEN
and JAMES O'BRIEN, her husband,
PLAINTIFFS

Counsel of Record for this Party:

WILLIAM S. SCHWEERS, JR., ESQUIRE
PA I.D. #27625

HARRINGTON SCHWEERS DATTILO
& McCLELLAND, P.C.
Firm #949
100 Ross Street
Pittsburgh, PA 15219

Telephone: (412) 391-3477

Facsimile: (412) 391-7397

FILED

JUN 24 2002
m/j/14/ndcc
William A. Shaw
Prothonotary *WAS*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDITH O'BRIEN and JAMES O'BRIEN,)	CIVIL DIVISION
her husband,)	
)	No. 2002-00569-CD
Plaintiffs,)	
)	
vs.)	
)	
LARA M. ALLMAN, D.P.M., and)	
ADVANCED FOOT & ANKLE)	
ASSOCIATES OF NORTHWESTERN PA,)	
)	
Defendants.)	

**PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANTS,
LARA M. ALLMAN, D.P.M. and ADVANCED FOOT & ANKLE ASSOCIATES OF
NORTHWESTERN PA**

AND NOW COME the Plaintiffs, by and through their Attorneys, HARRINGTON SCHWEERS DATTILO & McCLELLAND, P.C., and file the following **Reply to New Matter of Defendants, Lara M. Allman, D.P.M. and Advanced Foot & Ankle Associates of Northwestern PA:**

15. Paragraph 15 of Defendants' New Matter is specifically denied. It is specifically denied that all care and treatment provided by Dr. Allman through Advanced Foot & Ankle Associates of Northwestern PA was proper, prudent and with the informed consent of Edith O'Brien, the Plaintiff.

To the contrary, it is averred that Plaintiff's injuries and damages were caused solely by the negligence of the Defendants as fully set forth in the Plaintiffs' Complaint.

HARRINGTON SCHWEERS DATTILO &
McCLELLAND, P.C.
Firm #949
100 Ross Street
Pittsburgh, PA 15219
(412) 391-3477

BY: 

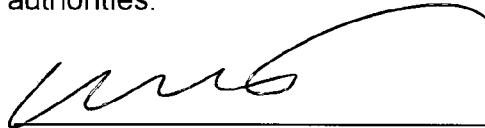
William S. Schweers, Jr., Esquire
PA I.D. #27625

Attorney for Plaintiffs.

VERIFICATION

I verify that the statements made in the foregoing writing and any attachments thereto are true and correct to the best of my knowledge and belief. I understand that false statements which are made herein are made subject to penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: June 21, 2002



William S. Schweers, Jr., Esquire
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **PLAINTIFFS' REPLY TO
NEW MATTER OF DEFENDANTS' LARA M. ALLMAN, D.P.M. and ADVANCED FOOT
& ANKLE ASSOCIATES OF NORTHWESTERN PA,** was served via **first-class U.S.
Mail, postage prepaid**, this 21st day of June, 2002, on the following:

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P. O. Box 533
Hollidaysburg, PA 16648

HARRINGTON SCHWEERS DATTILO &
McCLELLAND, P.C.

BY: 

William S. Schweers, Jr., Esquire
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs,

vs.

LARA M. ALLMAN, D.P.M., and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN PA,

Defendants.

CIVIL DIVISION

No. 2002-00569-CD

VERIFICATION TO BE ATTACHED TO
PLAINTIFFS' REPLY TO NEW MATTER
OF DEFENDANTS' LARA M. ALLMAN,
D.P.M., and ADVANCED FOOT &
ANKLE ASSOCIATES OF
NORTHWESTERN PA

Filed on behalf of EDITH O'BRIEN
and JAMES O'BRIEN, her husband,
PLAINTIFFS

Counsel of Record for this Party:

WILLIAM S. SCHWEERS, JR., ESQUIRE
PA I.D. #27625

HARRINGTON SCHWEERS DATTILO
& McCLELLAND, P.C.
Firm #949
100 Ross Street
Pittsburgh, PA 15219

Telephone: (412) 391-3477
Facsimile: (412) 391-7397

FILED

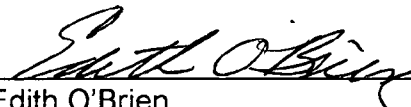
JUL 01 2002

William A. Shaw
Prothonotary

VERIFICATION

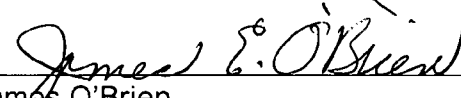
Plaintiffs, Edith O'Brien and James O'Brien, her husband, do hereby verify that the statements made in the foregoing writing and any attachments thereto are true and correct to the best of our knowledge and belief. I understand that false statements which are made herein are made subject to penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: 6/24/02



Edith O'Brien

Date: 6/24/02



James O'Brien

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **VERIFICATION TO BE ATTACHED TO PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANTS' LARA M. ALLMAN, D.P.M. and ADVANCED FOOT & ANKLE ASSOCIATES OF NORTHWESTERN PA**, was served **via first-class U.S. Mail, postage prepaid**, this 27th day of June, 2002, on the following:

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P. O. Box 533
Hollidaysburg, PA 16648

HARRINGTON SCHWEERS DATTILO &
McCLELLAND, P.C.

BY: 

William S. Schweers, Jr., Esquire
Attorney for Plaintiffs

68

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

**ISSUE:
MOTION TO COMPEL DISCOVERY**

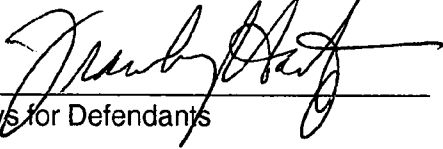
Filed on Behalf of Defendants:
LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE ASSOC.
OF NORTHWESTERN PA

Counsel of Record:

Frank J. Hartye, Esquire
PA I.D. #25568

McINTYRE, DUGAS, HARTYE &
SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 1st DAY OF **NOVEMBER, 2002.**


Attorneys for Defendants

FILED

NOV 04 2002

William A. Shaw
Prothonotary

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD


JURY TRIAL DEMANDED

RULE RETURNABLE

AND NOW, this 8th day of November, 2002, a Rule is hereby
granted to show cause why the Motion to Compel Discovery on behalf of Defendants, LARA M.
ALLMAN, D.P.M. and ADVANCED FOOT & ANKLE ASSOCIATES OF NORTHWESTERN, PA,
should not be granted.

This Rule is returnable on the 13 day of December, 2002, at 2:30
P.m. in Court Room No. 1.

BY THE COURT,



J.

FILED

NOV 08 2002

William A. Shaw
Prothonotary

FILED

013:40-841
NOV 08 2002

2 cc

Attg Hasty

TCW

William A. Shaw
Prothonotary

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

EDITH O'BRIEN and JAMES O'BRIEN, :
her husband, : No. 02 – 569 CD

Plaintiffs :

vs. :

LARA M. ALLMAN, D.P.M. and :
ADVANCED FOOT & ANKLE :
ASSOCIATES OF NORTHWESTERN :
PA, :

Defendants : JURY TRIAL DEMANDED

ORDER

AND NOW, this _____ day of _____, 2002, upon consideration of defendants' Motion to Compel Discovery, it is hereby ORDERED, DIRECTED and DECREED that the Motion is hereby granted and plaintiffs shall file full and complete Answers to Interrogatories and Responses to Request for Production of Documents within twenty (20) days of the date of this Order.

Should plaintiffs fail to comply with this Order, the Court, upon Motion will consider appropriate sanctions.

By the Court,

_____ J.

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

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AND NOW, comes the defendants, LARA M. ALLMAN, D.P.M. and ADVANCED FOOT & ANKLE ASSOCIATES OF NORTHWESTERN, PA, by and through their attorneys, McINTYRE, DUGAS, HARTYE & SCHMITT and files the following Motion to Compel to Discovery.

1. Plaintiff initiated the within action by filing a Complaint on or about April 12, 2002 alleging various acts of negligence against Dr. Allman and Advanced Foot & Ankle Associates of Northwestern, PA.

2. Defendants filed an Answer and New Matter denying all allegations of negligence.

3. On June 17, 2002, defendants served upon the plaintiffs through their counsel a set of Interrogatories and Request for Production of Documents.

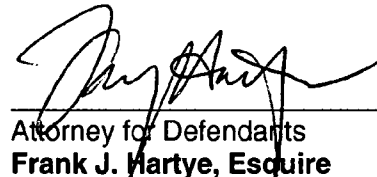
4. No responses have been forthcoming. By letter dated September 4, 2002, defendants' counsel requested that discovery responses be filed when no responses had been forthcoming.

5. Pennsylvania Rule of Civil Procedure 4006(a)(2) requires Answers to Interrogatories to be filed within thirty (30) days after service. Likewise Rule 4009.12(a) provides that Responses to Request for Production must be filed within thirty (30) days.

6. Plaintiffs, despite requests, have failed to comply with the Pennsylvania Rules of Civil Procedure. This prevents the defendants from adequately preparing a defense in this action.

WHEREFORE, defendants requests this Honorable Court to enter an Order requiring plaintiffs to file full and complete Answers to Interrogatories and Responses to Request for Production of Documents within twenty (20) days of the date of the Court's Order or suffer sanctions as the Court may deem appropriate.

McINTYRE, DUGAS, HARTYE & SCHMITT



Attorney for Defendants
Frank J. Hartye, Esquire
PA I.D. #25568
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581
(814) 696-9399 – Fax

LAW OFFICES
McINTYRE, DUGAS, HARTYE & SCHMITT

P. O. BOX 533

HOLLIDAYSBURG, PA 16648-0533

JOHN L. McINTYRE
STEPHEN L. DUGAS
FRANK J. HARTYE
LOUIS C. SCHMITT, JR.
HEATHER A. HARRINGTON
MICHAEL A. SOSNOWSKI

(814) 696-3581

FAX (814) 696-9399

www.mdhslaw.com

September 4, 2002

Our Reference: P 217 MH

William S. Schweers, Jr., Esquire
HARRINGTON, SCHWEERS, DATTILO
& McCLELLAND, P.C.
100 Ross Street
Pittsburgh, PA 15219

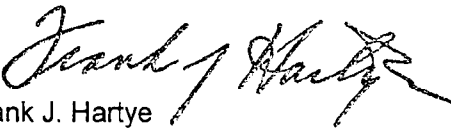
Re: Edith O'Brien and James O'Brien, her husband vs. Lara M.
Allman, D.P.M. and Advanced Foot & Ankle Associates of
Northwestern PA
No. 2002 – 569 CD (Clearfield Co.)

Dear Mr. Schweers:

Back in June, I served Interrogatories and Request for Production of Documents upon the plaintiffs through your office. At this point I have not received any responses. Could you please file discovery responses within the next 20 days so that I can get a better idea of what this lawsuit is all about?

Thank you for your courtesy and cooperation in these matters.

Sincerely,


Frank J. Hartye

FJH/eh

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

ISSUE:
NOTICE OF DEPOSITIONS

Filed on Behalf of Defendants:
LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE ASSOC.
OF NORTHWESTERN PA

Counsel of Record:

Frank J. Hartye, Esquire
PA I.D. #25568

McINTYRE, DUGAS, HARTYE &
SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 18TH DAY OF FEBRUARY, 2003.


Attorneys for Defendants

FILED

FEB 19 2003

William A. Shaw
Prothonotary

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

No. 02 – 569 CD

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

JURY TRIAL DEMANDED

NOTICE OF DEPOSITIONS

TO: Edith O'Brien and James O'Brien
c/o William S. Schweers, Jr., Esquire
100 Ross Street
Pittsburgh, PA 15219

Sargent's Court Reporting Service
210 Main Street
Johnstown, PA 15901

Please take notice that the depositions of **Edith O'Brien and James O'Brien** shall be taken upon oral examination by an official **Court Reporter at Sargent's Court Reporting Service, 106 N. Second Street, Clearfield, PA 16830**, on the **13th day of May, 2003**, commencing at **11:00 a.m.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, DUGAS, HARTYE & SCHMITT



Attorney for Defendants

FRANK J. HARTYE, ESQUIRE

PA I.D.#: 25568

P.O. Box 533

Hollidaysburg, PA 16648-0533

(814) 696-3581

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs,

vs.

LARA M. ALLMAN, D.P.M., and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN PA,

Defendants.

CIVIL DIVISION

No. 2002-00569-CD

NOTICE OF DEPOSITION OF
DEFENDANT, LARA M. ALLMAN, D.P.M.

Filed on behalf of EDITH O'BRIEN
and JAMES O'BRIEN, her husband,
PLAINTIFFS

Counsel of Record for this Party:

WILLIAM S. SCHWEERS, JR., ESQUIRE
PA I.D. #27625

HARRINGTON SCHWEERS DATILO
& McCLELLAND, P.C.

Firm #949
100 Ross Street
Pittsburgh, PA 15219

Telephone: (412) 391-3477
Facsimile: (412) 391-7397

FILED

MAR 24 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDITH O'BRIEN and JAMES O'BRIEN,)	CIVIL DIVISION
her husband,)	
)	No. 2002-00569-CD
Plaintiffs,)	
)	
vs.)	
)	
LARA M. ALLMAN, D.P.M., and)	
ADVANCED FOOT & ANKLE)	
ASSOCIATES OF NORTHWESTERN PA,)	
)	
Defendants.)	

NOTICE OF DEPOSITION OF DEFENDANT, LARA M. ALLMAN, D.P.M.

To: Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P. O. Box 533
Hollidaysburg, PA 16648

PLEASE TAKE NOTICE that pursuant to the Pennsylvania Rules of Civil Procedure, the **deposition of Defendant, LARA M. ALLMAN, D.P.M.**, will be taken on oral examination for purposes of discovery, at the offices of **SARA SARGENT'S COURT REPORTING SERVICE, 106 N. Second Street, Clearfield, PA 16830**, on **TUESDAY, MAY 13, 2003**, commencing at **1:00 P.M.**, before an official court stenographer, or by some other person.

AND BRING WITH YOU:

1. An updated curriculum vitae.
2. The original medical chart, including x-ray films, pertaining to Plaintiff, Edith O'Brien.

You are invited to appear at said deposition and take part as shall be fitting and proper.

HARRINGTON SCHWEERS DATTILO &
McCLELLAND, P.C.
Firm #949
100 Ross Street
Pittsburgh, PA 15219
(412) 391-3477

BY: William S. Schweers, Jr.
William S. Schweers, Jr., Esquire
PA I.D. #27625

Attorney for Plaintiffs.

Date: March 21, 2003.

cc: Sara Sargent's Court Reporting Service

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs,

vs.

LARA M. ALLMAN, D.P.M., and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN PA,

Defendants.

CIVIL DIVISION

No. 2002-00569-CD

**NOTICE OF SERVICE OF
FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF
DOCUMENTS DIRECTED TO
DEFENDANT, LARA M. ALLMAN, D.P.M.
and ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN PA**

Filed on behalf of EDITH O'BRIEN
and JAMES O'BRIEN, her husband,
PLAINTIFFS

Counsel of Record for this Party:

WILLIAM S. SCHWEERS, JR., ESQUIRE
PA I.D. #27625

HARRINGTON SCHWEERS DATTILO
& McCLELLAND, P.C.
Firm #949
100 Ross Street
Pittsburgh, PA 15219

Telephone: (412) 391-3477
Facsimile: (412) 391-7397

FILED

MAR 24 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

EDITH O'BRIEN and JAMES O'BRIEN,)
her husband,)

Plaintiffs,)

vs.)

LARA M. ALLMAN, D.P.M., and)
ADVANCED FOOT & ANKLE)
ASSOCIATES OF NORTHWESTERN PA,)

Defendants.)

CIVIL DIVISION

No. 2002-00569-CD

NOTICE OF SERVICE

TO: WILLIAM SHAW, PROTHONOTARY

You are hereby notified that on the 21st day of March, 2003, Plaintiffs served a First Set of Interrogatories and Request for Production of Documents on Defendants, Lara M. Allman, D.P.M. and Advanced Foot & Ankle Associates of Northwestern PA, by mailing the original of same via first-class U. S. Mail, postage prepaid, addressed to the following:

Frank J. Hartye, Esquire
McINTYRE, DUGAS, HARTYE & SCHMITT
P. O. Box 533
Hollidaysburg, PA 16648

HARRINGTON SCHWEERS DATTILO &
McCLELLAND, P.C.

BY: William S. Schweers, Jr.
William S. Schweers, Jr., Esquire
Attorney for Plaintiffs

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

ISSUE:

Notice of Service of Answers to
First Set of Interrogatories and Request
for Production of Documents Directed to
Defendants, Lara M. Allman, D.P.M.
and Advanced Foot & Ankle Associates
of Northwestern PA

Filed on Behalf of Defendants:

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE ASSOC.
OF NORTHWESTERN PA

Counsel of Record:

Frank J. Hartye, Esquire
PA I.D. #25568

McINTYRE, DUGAS, HARTYE &
SCHMITT

P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 6th DAY OF **MAY, 2003.**

Attorneys for Defendants

FILED

MAY 08 2003

William A. Shaw
Prothonotary

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

JURY TRIAL DEMANDED

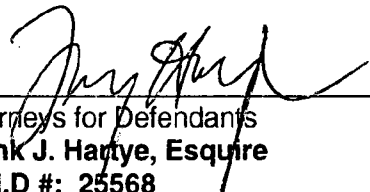
**ANSWERS TO
FIRST SET OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO DEFENDANTS, LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE ASSOCIATES OF NORTHWESTERN PA**

TO: PROTHONOTARY

You are hereby notified that on the 5th day of **MAY, 2003**, Defendants served
Answers to Interrogatories and Request for Production of Documents Directed to
Plaintiffs by mailing the original of same via First Class U.S. Mail, postage prepaid,
addressed to the following:

William S. Schweers, Jr., Esquire
100 Ross Street
Pittsburgh, PA 15219

McINTYRE, DUGAS, HARTYE & SCHMITT


Attorneys for Defendants
Frank J. Hartye, Esquire
PA I.D #: 25568
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

ISSUE:
MOTION TO COMPEL PRODUCTION
OF EXPERT REPORTS

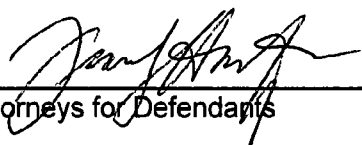
Filed on Behalf of Defendants:
LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE ASSOC.
OF NORTHWESTERN PA

Counsel of Record:

Frank J. Hartye, Esquire
PA I.D. #25568

McINTYRE, DUGAS, HARTYE &
SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 5th DAY OF FEBRUARY, 2004.


Attorneys for Defendants

FILED

FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

JURY TRIAL DEMANDED

RULE RETURNABLE

AND NOW, this 9th day of February, 2004, a Rule is hereby granted to show
cause why the Motion to Compel Production of Expert Reports on behalf of Defendants,
LARA M. ALLMAN, D.P.M. and ADVANCED FOOT & ANKLE ASSOCIATES OF
NORTHWESTERN, PA, should not be granted.

This Rule is returnable on the 3 day of March, 2004, at 2:00
p.m. in Court Room No. 2.

By the Court,

Paul E. Cherry, J.

FILED

FEB 10 2004

William A. Shaw

Prothonotary/Clerk of Courts

2 CENT to ATT

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

JURY TRIAL DEMANDED

ORDER

AND NOW, this _____ day of February, 2004, upon consideration of defendants' Motion to Compel Production of Expert Reports, it is hereby ORDERED, DIRECTED and DECREED that the Motion is hereby granted and plaintiffs shall file all expert reports on liability within forty-five (45) days of the date of this Order. Any liability expert whose reports have not been filed by this deadline shall be precluded from testifying at trial.

By the Court,

J.

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

JURY TRIAL DEMANDED

MOTION TO COMPEL PRODUCTION OF EXPERT REPORTS

AND NOW, come the defendants by and through their attorneys, McIntyre, Dugas, Hartye & Schmitt, and file the following Motion to Compel Production of Expert Reports.

1. Plaintiff initiated the within action by filing a Complaint on April 12, 2002.
2. Plaintiff's Complaint alleges negligence on behalf of Dr. Allman in the performance of foot surgery upon the plaintiff Edith O'Brien. The surgery occurred on August 18, 2000.
3. The depositions of the plaintiffs Edith and James O'Brien were taken on May 13, 2003. Likewise the deposition of Dr. Allman was taken that same day.
4. Defendants filed Interrogatories and Request for Production of Documents upon the plaintiffs on June 17, 2002. The Interrogatories (Numbers 57-59) requests the plaintiff to identify any experts who will be called to testify at time of trial and

requests a statement of their opinions. Plaintiffs replied that they intended to call an expert but had not determined whom they would call at time of trial.

5. It has been a year and a half since the discovery responses and six months or more since depositions and discovery have been completed but plaintiffs have failed to supplement discovery responses by filing expert reports.

6. This is a professional liability action whereby plaintiff is required to file expert reports in order to sustain a cause of action against the defendant.

7. Defendant cannot adequately prepare a defense and cannot properly list this matter for trial until plaintiff has filed expert reports setting forth the basis for this claim against Dr. Allman.

WHEREFORE, defendants request this Honorable Court to enter an Order requiring plaintiff to file all expert liability reports within forty-five (45) days of the date of the Court's Order.

McINTYRE, DUGAS, HARTYE & SCHMITT



Attorney for Defendants

Frank J. Hartye, Esquire

PA I.D. #25568

P.O. Box 533

Hollidaysburg, PA 16648

(814) 696-3581

(814) 696-9399 – Fax

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

EDITH O'BRIEN and JAMES
O'BRIEN, her husband

-VS-

No. 02-569-CD

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT AND ANKLE
ASSOCIATES OF NORTHWESTERN
PA

O R D E R

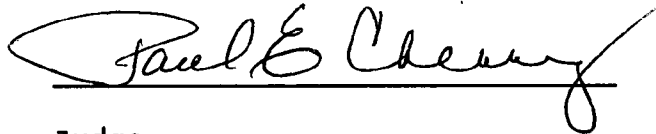
NOW, this 3rd day of March, 2004, this being the date set for argument on the Motion to Compel Production of Expert Reports filed on behalf of the Defendants; the Court noting Plaintiffs' counsel having failed to appear but the Court being advised that Plaintiffs are not in opposition to said Motion, it is the ORDER of this Court that the Motion be and is hereby granted and Plaintiffs shall file all expert reports within thirty (30) days of the date of this Order. Any expert whose reports have not been filed by this deadline shall be precluded from testifying at time of trial.

FILED

MAR 04 2004

William A. Shaw
Prothonotary

BY THE COURT,



Judge

FILED

O 1:15 PM

3000th Avenue
3000th Avenue

MAR 04 2004

Grub

William A. Shaw
Prothonotary

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

VS.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

ISSUE:
MOTION FOR SUMMARY JUDGMENT

Filed on Behalf of Defendants:
LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE ASSOC.
OF NORTHWESTERN PA

Counsel of Record:


Frank J. Hartye, Esquire
PA I.D. #25568

McINTYRE, DUGAS, HARTYE &
SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 15th DAY OF APRIL, 2004.


Attorneys for Defendants

FILED

APR 16 2004
m/12:15/uy
William A. Shaw
Prothonotary/Clerk of Courts
no c/c


EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

: IN THE COURT OF COMMON PLEAS
: OF CLEARFIELD COUNTY, PA
: CIVIL DIVISION

: No. 02 – 569 CD

: **JURY TRIAL DEMANDED**

ORDER

AND NOW, this _____ day of _____, 2004, the Court having
considered defendants' Motion for Summary Judgment, it is hereby ORDERED that said
Motion is granted.

By the Court:

_____. J.

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

: IN THE COURT OF COMMON PLEAS
: OF CLEARFIELD COUNTY, PA
: CIVIL DIVISION

: No. 02 – 569 CD

: **JURY TRIAL DEMANDED**

MOTION FOR SUMMARY JUDGMENT

AND NOW, come the defendants, by and through their attorneys, McIntyre,
Dugas, Hartye & Schmitt, and file the following Motion for Summary Judgment.

1. Plaintiffs filed the within action on April 12, 2002, alleging negligence on
behalf of Dr. Allman in the performance of foot surgery upon the plaintiff, Edith O'Brien.
The surgery occurred on August 18, 2000.

2. Depositions of the plaintiffs as well as Dr. Allman were taken in May of
2003.

3. On February 5, 2004, defendants filed a Motion to Compel Production of
Expert Reports. By Order dated March 3rd and filed March 4, 2004, this Honorable Court
entered an Order requiring plaintiffs to file all expert reports within 30 days of the date of
the Court's Order and that any expert whose reports have not been filed by this deadline
shall be precluded from testifying at trial. (See Exhibit "A")

4. More than 30 days has expired since the entry of this Court's Order and
no expert reports have been filed by the plaintiffs.

5. This is a professional liability action whereby plaintiff is required to file expert reports in order to sustain a cause of action against the defendants.

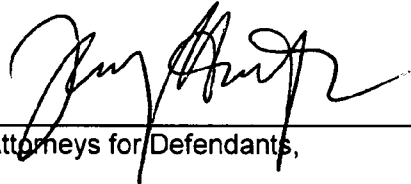
6. Without a medical expert to testify as to the standard of care, breach of the standard of care and causation between the alleged negligence and the plaintiff-wife's injuries, plaintiffs cannot sustain a cause of action.

WHEREFORE, defendants request this Honorable Court to grant their Motion for Summary Judgment and to dismiss plaintiffs' cause of action with prejudice.

Respectfully submitted,

McINTYRE, DUGAS, HARTYE & SCHMITT

By


Attorneys for Defendants,

Frank J. Hartye, Esquire
PA I.D. 25568
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

EDITH O'BRIEN and JAMES
O'BRIEN, her husband

-VS-

No. 02-569-CD

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT AND ANKLE
ASSOCIATES OF NORTHWESTERN
PA

O R D E R

NOW, this 3rd day of March, 2004, this being the date set for argument on the Motion to Compel Production of Expert Reports filed on behalf of the Defendants; the Court noting Plaintiffs' counsel having failed to appear but the Court being advised that Plaintiffs are not in opposition to said Motion, it is the ORDER of this Court that the Motion be and is hereby granted and Plaintiffs shall file all expert reports within thirty (30) days of the date of this Order. Any expert whose reports have not been filed by this deadline shall be precluded from testifying at time of trial.

BY THE COURT,

/s/ Paul E. Cherry

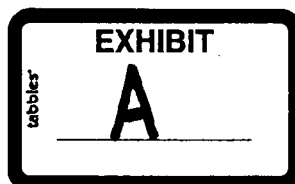
I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

Judge

MAR 04 2004

Attest.

Paul E. Cherry
Notary/
Clerk of Courts



CA

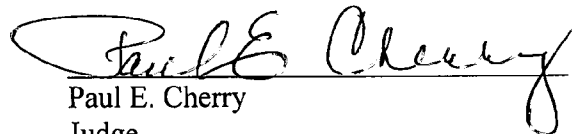
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

EDITH O'BRIEN and JAMES O'BRIEN, :
her husband :
 :
vs. : No. 02-569-CD
 :
LARA M. ALLMAN, D.P.M. and :
ADVANCED FOOT & ANKLE :
ASSOCIATES OF NORTHWESTER :
PA :

ORDER

NOW, this 19th day of April, 2004, it is the ORDER of the
Court that argument on Defendant's Motion for Summary Judgment in the above
matter has been scheduled for the 12 day of May, 2004, at
9:00 A.M. in Courtroom No. 2, Clearfield County
Courthouse, Clearfield, PA.

BY THE COURT:


Paul E. Cherry
Judge

FILED

APR 20 2004

Christine A. Smith
Prothonotary, Clearfield County, PA

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

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

No. 02 – 569 CD

ISSUE:

Certificate of Service

Filed on Behalf of Defendants:

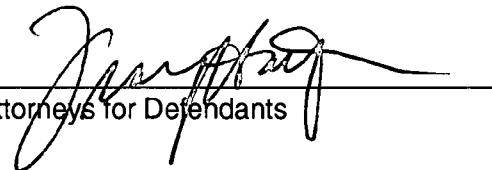
LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE ASSOC.
OF NORTHWESTERN PA

Counsel of Record:

Frank J. Hartye, Esquire
PA I.D. #25568

McINTYRE, DUGAS, HARTYE &
SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE WITHIN WAS
MAILED TO ALL COUNSEL OF RECORD
THIS 21st DAY OF APRIL, 2004.


Attorneys for Defendants

FILED

APR 22 2004

William A. Shaw
Prothonotary, Clerk of Courts

EDITH O'BRIEN and JAMES O'BRIEN,
her husband,

Plaintiffs

vs.

LARA M. ALLMAN, D.P.M. and
ADVANCED FOOT & ANKLE
ASSOCIATES OF NORTHWESTERN
PA,

Defendants

: IN THE COURT OF COMMON PLEAS
: OF CLEARFIELD COUNTY, PA
: CIVIL DIVISION

: No. 02 – 569 CD

: **JURY TRIAL DEMANDED**

CERTIFICATE OF SERVICE

I, Frank J. Hartye, Esquire, hereby certify that I have served a true and correct copy of the foregoing Order on behalf of defendants, LARA M. ALLMAN, D.P.M. and ADVANCED FOOT & ANKLE ASSOCIATES OF NORTHWESTERN PA, on the following persons by placing the same in the U.S. Mail, postage prepaid, on the 21st day of April, 2004:

William S. Schweers, Jr., Esquire
HARRINGTON, SCHWEERS, DATTILO
& McCLELLAND, P.C.
100 Ross Street
Pittsburgh, PA 15219

MCINTYRE, DUGAS, HARTYE
& SCHMITT


Attorneys for Defendants

FRANK J. HARTYE, ESQUIRE
PA. ID. No. 25568
P.O. Box 533
Hollidaysburg, PA 16648
814/696-3581

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

EDITH O'BRIEN and JAMES O'BRIEN, :
her husband :

vs. :

No. 02-569-CD

LARA M. ALLMAN, D.P.M. and :
ADVANCED FOOT & ANKLE :
ASSOCIATES OF NORTHWESTER :
PA :

ORDER

NOW, this 19th day of April, 2004, it is the ORDER of the
Court that argument on Defendant's Motion for Summary Judgment in the above
matter has been scheduled for the 12 day of May, 2004, at
9:00 A.M. in Courtroom No. 2, Clearfield County
Courthouse, Clearfield, PA.

BY THE COURT:

/s/ Paul E. Cherry

Paul E. Cherry
Judge

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

APR 20 2004

Attest.

William E. Cherry
Prothonotary/
Clerk of Courts

CP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

EDITH O'BRIEN and JAMES O'BRIEN :

VS. : NO. 02-569-CD

LARA M. ALLMAN, D.P.M. and :

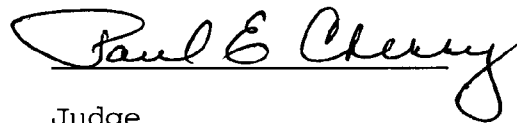
ADVANCED FOOT & ANKLE ASSOCIATES:

OF NORTHWESTERN PENNSYLVANIA :

O R D E R

AND NOW this 12th day of May, 2004, this being the date set for argument on Defendant's Motion for Summary Judgment; the Court being advised by William S. Schweers, Jr., Esquire, Counsel for Plaintiffs, that they do not oppose Defendant's Motion for Summary Judgment; and upon argument presented by Counsel for Defendants, Louis C. Schmitt, Jr., Esquire, it is the ORDER of this Court that Motion for Summary Judgment be and is hereby granted and Plaintiffs' cause of action is hereby dismissed with prejudice.

BY THE COURT,


Judge

FILED

MAY 13 2004

William A. Shaw
Prothonotary