

02-14197CD  
DANIEL L. MORRIS vs. ROMENA D. RICH, Executrix

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
DECEASED

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

CIVIL DIVISION

No. 02-1419-CO

**COMPLAINT IN CIVIL ACTION**

Filed on behalf of Plaintiffs, Daniel L.  
Morris and Joyce Morris, his wife

Counsel of Record for this Party:

MERLE KRAMER MERMELSTEIN,  
ESQUIRE  
Pa. I.D. #44773

SILBERBLATT MERMELSTEIN, P.C.  
Firm #645  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

(412) 232-0580

**FILED**

SEP 13 2002  
10/12:00 atty Mermelstein  
William A. Shaw  
Prothonotary  
pd  
\$ 80.00

JCC Shaw

**NOTICE**

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU SHOULD 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.

**CLEARFIELD COUNTY PROTHONOTARY  
P.O. BOX 549  
CLEARFIELD, PA 16830  
TELEPHONE NUMBER: 814-765-2641 (x5988)**

SIILBERBLATT MERMELSTEIN, P.C.

By Merle H. Mermelstein  
Merle Kramer Mermelstein

## **COMPLAINT IN CIVIL ACTION**

### **FIRST COUNT**

**DANIEL L. MORRIS vs. ROWENA D. RICH,  
EXECUTRIX OF THE ESTATE OF CLARK E. RICH, DECEASED  
and RICH CHIROPRACTIC CLINIC, P.C.**

1. Plaintiffs are residents of the Municipality of Woodland, County of Clearfield and Commonwealth of Pennsylvania.

2. Rowena D. Rich is the Executrix of the Estate of Clark E. Rich, deceased, having been duly appointed as Executrix by the Register of Wills of Clearfield County, Pennsylvania at No. 2002-191; the Executrix resides at Golden Rod Farms, P.O. Box 647, Clearfield, PA 16830.

3. At the time of the events hereinafter set forth and at all times pertinent hereto, the Defendant Decedent, Clark E. Rich, Deceased, was a chiropractor engaged in the practice of chiropractic medicine, maintaining a place of business at the Rich Chiropractic Clinic, located at Golden Rod Farms, P.O. Box 647, in the Municipality of Clearfield, County of Clearfield and Commonwealth of Pennsylvania, and at the time of the events hereinafter set forth, held himself out as one trained in the art and science of chiropractic medicine.

4. Defendant, Rich Chiropractic Clinic, is a professional corporation duly incorporated under and by virtue of the statutes of the Commonwealth of Pennsylvania, with a registered address at R.D. #2, Route 322 East, P.O. Box 647 in the Borough of Clearfield, County of Clearfield and Commonwealth of Pennsylvania.

5. Defendant, Rich Chiropractic Clinic, P.C., at the time of the incident hereinafter set forth and at all times pertinent hereto, was acting by and through its duly authorized agents, servants or employees, who were then and there acting on the business of this Defendant and who were then and there acting within the scope of their authority.

6. Defendant, Clark E. Rich, Deceased, at the time of the incident hereinafter set forth and at all times pertinent hereto, was acting individually and on behalf of himself and/or as the agent, servant or employee of the Defendant, Rich Chiropractic Clinic, P.C.

7. On July 18, 2001, man Plaintiff sustained a work-related injury to his low back and subsequently was referred for chiropractic treatment.

8. On July 18, 2001, man Plaintiff came under the care of the Rich Chiropractic Clinic, P.C. for treatment of his low back injury.

9. On July 18, 2001, at the time man Plaintiff entered the Defendant, Rich Chiropractic Clinic, P.C., he came under the care of Clark E. Rich, Deceased, for treatment of his low back injury.

10. On July 18, 2001, while man Plaintiff was a patient at the Rich Chiropractic Clinic, P.C., man Plaintiff immediately underwent a chiropractic adjustment and manipulation for treatment of his low back injury which was performed by the Defendant Decedent, Clark E. Rich, Deceased.

11. Man Plaintiff received chiropractic adjustments from the Defendants and each of them from July 18, 2001 through October 8, 2001 for treatment of his low back injury.

12. On October 8, 2001 when man Plaintiff came to the Defendant Decedent's office, he complained of neck pain and numbness in his right hand.

13. On October 8, 2001, man Plaintiff received chiropractic adjustment and manipulation of his entire spine, from his tailbone to his neck, performed by the Defendant Decedent, Clark E. Rich, Deceased.

14. On October 8, 2001, while man Plaintiff was being treated by the Defendant Decedent, Clark E. Rich, deceased, he immediately felt worse, he had severe pain and his legs became numb.

15. On October 15, 2001, while undergoing an MRI at Clearfield Hospital, the man Plaintiff collapsed, became paralyzed and was unable to move his legs and arms necessitating a helicopter flight to Pittsburgh, Pennsylvania for emergency surgery.

16. All of the resultant losses, damages and injuries sustained by the Plaintiffs were the direct and proximate result of the negligence of the Defendant Decedent, Clark E. Rich, Deceased, acting individually and on behalf of himself and/or acting as the agent, servant or employee of the Defendant, Rich Chiropractic Clinic, P.C. in the following particulars:

- a. In failing to provide the services, care and attention required under the circumstances; and/or
- b. In causing a herniation and/or rupture of man Plaintiff's cervical discs; and/or

- c. In adjusting and/or manipulating man Plaintiff's entire spine and neck, including "cracking" his neck and back; and/or
- d. In failing to treat only man Plaintiff's low back injury; and/or
- e. In adjusting and/or manipulating man Plaintiff's neck, when this Defendant knew, or in the exercise of reasonable care should have known, that man Plaintiff had sustained a work-related injury only to his low back; and/or
- f. In failing to perform a comprehensive chiropractic exam on man Plaintiff prior to treating man Plaintiff with adjustment and/or manipulation of his entire spine and neck, including "cracking" his neck and back; and/or
- g. In failing to perform neurological tests on man Plaintiff prior to treating man Plaintiff with adjustment and/or manipulation of his entire spine and neck, including "cracking" his neck and back; and/or
- h. In failing to perform active and passive range of motion testing on man Plaintiff prior to treating man Plaintiff with adjustment and/or manipulation of his entire spine and neck, including "cracking" his neck and back; and/or
- i. In failing to perform orthopedic testing on man Plaintiff prior to treating man Plaintiff with adjustment and/or manipulation of his entire spine and neck, including "cracking" his neck and back; and/or
- j. In failing to take a proper and complete set of x-rays prior to treating man Plaintiff with adjustment and/or manipulation of his entire spine and neck, including "cracking" his neck and back; and/or
- k. In failing to perform a cervical exam on man Plaintiff prior to performing an adjustment and/or manipulation of man Plaintiff's entire spine and neck, including "cracking" man Plaintiff's neck and back; and/or
- l. In failing to recognize and/or properly and timely recognize the significance of man Plaintiff's complaints of right hand numbness; and/or

- m. In failing to investigate the cause of the numbness of man Plaintiff's right hand prior to treating man Plaintiff with manipulation and/or adjustment of his entire spine and neck, including "cracking" his neck and back; and/or
- n. In failing to perform a comprehensive examination on man Plaintiff when the man Plaintiff complained of numbness of his right hand; and/or
- o. In failing to take a proper and complete set of x-rays when man Plaintiff complained of numbness of his right hand; and/or
- p. In failing to keep and maintain adequate and complete chiropractic records of man Plaintiff's injuries, complaints and treatment; and/or
- q. In failing to recognize and/or timely recognize the cause of the man Plaintiff's complaints of pain and numbness; and/or
- r. In misdiagnosing and/or underestimating the significant injuries caused by this Defendant's chiropractic adjustment and manipulation; and/or
- s. In failing to recognize and/or timely and accurately recognize the significance of man Plaintiff's complaints of pain and numbness; and/or
- t. In failing to properly and timely prepare an assessment and/or diagnosis of man Plaintiff's injuries; and/or
- u. In failing to properly and timely prepare a treatment plan for man Plaintiff's injuries; and/or
- v. In failing to refer man Plaintiff to or consult with an orthopedic surgeon and/or neurosurgeon; and/or
- w. In failing to immediately refer the man Plaintiff for emergency treatment and/or surgery; and/or
- x. In ignoring man Plaintiff's clinical complaints; and/or
- y. In permitting man Plaintiff to continue to suffer from ruptured and/or herniated cervical discs; and/or

- z. In delaying treatment for the man Plaintiff's ruptured and/or herniated cervical discs;
- aa. In adjusting and/or manipulating man Plaintiff's entire spine and neck, including "cracking" his neck and back in such a way as to cause a herniation and/or rupture of man Plaintiff's cervical discs; and/or
- bb. In failing to use that degree of care, skill and foresight required under the circumstances.

17. All of the resultant losses, damages and injuries sustained by the Plaintiffs were the direct and proximate result of the negligence of the Defendant, Rich Chiropractic Clinic, P.C. acting by and through its duly authorized agents, servants or employees, generally and in the following particulars:

- a. In failing to provide the services, care and attention required under the circumstances; and/or
- b. In causing a herniation and/or rupture of man Plaintiff's cervical discs; and/or
- c. In adjusting and/or manipulating man Plaintiff's entire spine and neck, including "cracking" his neck and back; and/or
- d. In failing to treat only man Plaintiff's low back injury; and/or
- e. In adjusting and manipulating man Plaintiff's neck, when this Defendant knew, or in the exercise of reasonable care should have known, that man Plaintiff had sustained a work-related injury only to his low back; and/or
- f. In failing to perform a comprehensive chiropractic exam on man Plaintiff prior to treating man Plaintiff with adjustment and/or manipulation of his entire spine and neck, including his "cracking" his neck and back; and/or
- g. In failing to perform neurological tests on man Plaintiff prior to treating man Plaintiff with adjustment and/or manipulation

of his entire spine and neck, including "cracking" his neck and back; and/or

- h. In failing to perform active and passive range of motion testing on man Plaintiff prior to treating man Plaintiff with adjustment and/or manipulation of his entire spine and neck, including "cracking" his neck and back; and/or
- i. In failing to perform orthopedic testing on man Plaintiff prior to treating man Plaintiff with adjustment and/or manipulation of his entire spine and neck, including "cracking" his neck and back; and/or
- j. In failing to take a proper and complete set of x-rays prior to treating man Plaintiff with adjustment and/or manipulation of his entire spine and neck, including "cracking" his neck and back; and/or
- k. In failing to perform a cervical exam on man Plaintiff prior to performing an adjustment and/or manipulation of man Plaintiff's entire spine and neck, including "cracking" man Plaintiff's neck and back; and/or
- l. In failing to recognize and/or properly and timely recognize the significance of man Plaintiff's complaints of right hand numbness; and/or
- m. In failing to investigate the cause of the numbness of man Plaintiff's right hand prior to treating man Plaintiff with manipulation and/or adjustment of his entire spine and neck, including "cracking" his neck and back; and/or
- n. In failing to perform a comprehensive examination on man Plaintiff when the man Plaintiff complained of numbness of his right hand; and/or
- o. In failing to take a proper and complete set of x-rays when man Plaintiff complained of numbness of his right hand; and/or
- p. In failing to keep and maintain adequate and complete chiropractic records of man Plaintiff's injuries, complaints and treatment; and/or

- q. In failing to recognize and/or timely recognize the cause of the man Plaintiff's complaints of pain and numbness; and/or
- r. In misdiagnosing and/or underestimating the significant injuries caused by this Defendant's chiropractic adjustment and manipulation; and/or
- s. In failing to recognize and/or timely and accurately recognize the significance of man Plaintiff's complaints of pain and numbness; and/or
- t. In failing to properly and timely prepare an assessment and/or diagnosis of man Plaintiff's injuries; and/or
- u. In failing to properly and timely prepare a treatment plan for man Plaintiff's injuries; and/or
- v. In failing to refer man Plaintiff to or consult with an orthopedic surgeon and/or neurosurgeon; and/or
- w. In failing to immediately refer the man Plaintiff for emergency surgery; and/or
- x. In ignoring man Plaintiff's clinical complaints; and/or
- y. In permitting man Plaintiff to continue to suffer from ruptured and/or herniated cervical discs; and/or
- z. In delaying treatment for the man Plaintiff's ruptured and/or herniated cervical discs;
- aa. In adjusting and/or manipulating man Plaintiff's entire spine and neck, including "cracking" his neck and back in such a way as to cause a herniation and/or rupture of man Plaintiff's cervical discs; and/or
- bb. In failing to use that degree of care, skill and foresight required under the circumstances.

18. As a result of the aforementioned incident, the man Plaintiff sustained a large C5-6 disc rupture with cord compression and acute paraplegia, bladder dysfunction causing incontinence, sexual dysfunction, and the muscles, ligaments,

tissues, tendons and nerves in, about, extending from and affected by the injured portions of his body were strained, torn and dislocated, all of which are or may be serious and permanent injuries. As a result of the surgery he underwent, man Plaintiff sustained permanent disfiguring scarring.

19. As a result of his injuries, man Plaintiff has suffered and may continue to suffer physical and mental anguish and pain, suffering and inconvenience.

20. As a result of his injuries, man Plaintiff has suffered and may continue to suffer shock and injury to his nerves and nervous system and has suffered and may continue to suffer emotional distress.

21. As a result of his injuries, man Plaintiff has been and/or may be deprived of the ordinary pleasures of life.

22. As a result of his injuries, man Plaintiff has been and may continue to be compelled to expend money for medical aid, medicines and the like.

23. As a result of his injuries, man Plaintiff's earning power has been and may continue to be greatly reduced, diminished and lessened.

24. As a result of his injuries, man Plaintiff has been and/or may be compelled to abstain from carrying on his ordinary occupation.

25. As a result of his injuries, man Plaintiff's earnings have been and/or may be greatly reduced, diminished and lessened.

WHEREFORE, man Plaintiff claims of the Defendants and each of them damages in a sum in excess of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.

**SECOND COUNT**

**JOYCE MORRIS, his wife vs. ROWENA D. RICH,  
EXECUTRIX OF THE ESTATE OF CLARK E. RICH, DECEASED  
and RICH CHIROPRACTIC CLINIC, P.C.**

26. Joyce Morris, man Plaintiff's wife, woman Plaintiff herein, incorporates by reference paragraphs 1 through 18, inclusive, with the same force and effect as though set forth at length herein.

27. As a result of the injuries to the man Plaintiff, woman Plaintiff has been and/or may be compelled to expend money for medical aid, medicines and the like.

28. As a result of the injuries to the man Plaintiff, woman Plaintiff has been and/or may be compelled to expend money for hiring help to perform the household duties previously performed by her husband.

29. As a result of the injuries to the man Plaintiff, woman Plaintiff has been and/or may be deprived of her husband's aid, comfort, assistance, companionship and consortium.

WHEREFORE, woman Plaintiff claims of the Defendants and each of them damages in a sum in excess of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.

SILBERBLATT MERMELSTEIN, P.C.

By Merle K. Mermelstein

Merle Kramer Mermelstein  
Counsel for Plaintiffs  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219  
(412) 232-0580

Dated: 9-11-02

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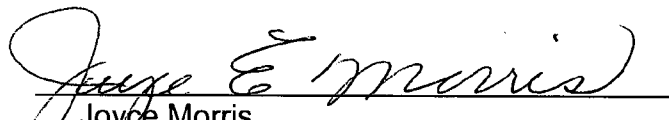
## **VERIFICATION**

I verify that the statements made in this **Complaint in Civil Action** are true and correct to the best of my knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: 7-15-02

  
Daniel L. Morris

Date: 7-15-02

  
Joyce Morris

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

-vs-

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: CIVIL DIVISION

: No. 02-1419-CD

: **TYPE OF DOCUMENT**

: Preliminary Objections Filed on Behalf of  
: Defendant, Rowena D. Rich, Executrix of the  
: Estate of Clark E. Rich, deceased

: **COUNSEL FOR DEFENDANT**

: Walter Fredrick Wall, Esquire  
: Pennsylvania ID #23657

: MEYER, DARRAGH, BUCKLER, BEBENEK  
: & ECK, PLLC  
: 120 Lakemont Park Boulevard  
: Altoona, PA 16602  
: (814) 941-4600

**FILED**

OCT 23 2002

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

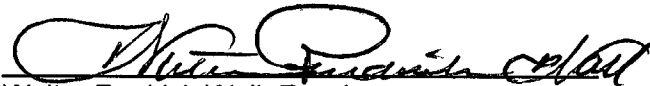
**PRAECIPE FOR ARGUMENT**

Please place the Preliminary Objections Filed on Behalf of Defendant, Rich  
Chiropractic Clinic, P.C., on the next available argument list.

Respectfully submitted,

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:



Walter Fredrick Wall, Esquire  
Counsel for Defendant, Rowena D. Rich, Executrix of the  
Estate of Clark E. Rich, deceased  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**PRELIMINARY OBJECTIONS FILED ON BEHALF OF  
DEFENDANT, ROWENA D. RICH, EXECUTRIX FOR THE ESTATE  
OF CLARK E. RICH, DECEASED**

AND NOW, comes Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, deceased, by and through her counsel, MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, and files the following Preliminary Objections to Plaintiffs' Complaint:

**I. MOTION TO STRIKE**

1.

Plaintiffs' repetitive, redundant and overbroad Complaint, in particular Paragraphs 16(a) through 16(bb), contains "boilerplate" allegations which fail to set forth material facts in a concise and summary form as required by Pa. R.C.P. §1019(a).

WHEREFORE, Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, deceased, requests that Plaintiffs' Complaint be stricken.

## II. MOTION FOR MORE SPECIFIC PLEADING

2.

Plaintiffs' repetitive, redundant and overbroad Complaint, particularly Paragraphs 16(a) through 16(bb), contains "boilerplate" allegations which fail to set forth material facts in a concise and summary form as required by Pa. R.C.P. §1019(a).

WHEREFORE, Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, deceased, requests this Honorable Court to direct Plaintiffs to file a more specific pleading.

## III. MOTION TO STRIKE

3.

Plaintiffs' repetitive, redundant and overbroad Complaint contains allegations of such general nature as to be contrary to the case law of the Commonwealth of Pennsylvania.

4.

Paragraphs 16(a), 16(g), 16(i) and 16(bb) are vague averments which would allow any number of theories to be developed after the pleadings are closed and thus should be stricken as violative of Connor v. Allegheny General Hospital, 501 Pa. 306, 461 A.2d 600 (1983).

WHEREFORE, Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, deceased, requests this Honorable Court to strike the objectionable material from Plaintiffs' Complaint.

#### IV. MOTION TO STRIKE

5.

Count II of Plaintiffs' Complaint purports to set forth causes of action not recognized in Pennsylvania.

6.

Wife-Plaintiff, Joyce Morris, attempts to recover at Paragraph 27 and 28 of the Complaint sums of money that have been or will be expended for medical aid, medicines and the like and to recover monies that have been or may be expended for hiring help to perform the household duties previously performed by her husband.

7.

Wife-Plaintiff has no separate cause of action to recover sums of money as alleged in Paragraphs 27 and 28.

8.


The loss of consortium claim is set forth in full at Paragraph 29.

WHEREFORE, Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, deceased, requests this Honorable Court to strike Paragraphs 27 and 28 in Count II of Plaintiffs' Complaint.

Respectfully submitted,

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:

  
Walter Fredrick Wall, Esquire  
Counsel for Defendant, Rowena D. Rich, Executrix of the  
Estate of Clark E. Rich, deceased  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**


I hereby certify that on the 15 day of October, 2002, a true and correct copy of the Preliminary Objections Filed on Behalf of Defendant, Rowena D. Rich, Executrix for the Estate of Clark E. Rich, Deceased, was served upon counsel of record by first class U.S. mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

Respectfully submitted,

MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, PLLC

BY:

  
Walter Fredrick Wall, Esquire  
Counsel for Defendant, Rowena D. Rich, Executrix  
of the Estate of Clark E. Rich, deceased  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

FILED

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OCT 23 2002

William A. Shaw  
Prothonotary

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

-vs-

ROWENA D. RICH, Executrix of the  
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deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: CIVIL DIVISION

: No. 02-1419-CD

: **TYPE OF DOCUMENT**

: Preliminary Objections Filed on Behalf of  
: Defendant, Rich Chiropractic Clinic, P.C.

: **COUNSEL FOR DEFENDANT**

: Walter Fredrick Wall, Esquire  
: Pennsylvania ID #23657

: MEYER, DARRAGH, BUCKLER, BEBENEK  
: & ECK, PLLC  
: 120 Lakemont Park Boulevard  
: Altoona, PA 16602  
: (814) 941-4600

**FILED**

OCT 23 2002

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
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Plaintiffs

: CIVIL DIVISION

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ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**PRAECIPE FOR ARGUMENT**

Please place the Preliminary Objections Filed on Behalf of Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, deceased, on the next available argument list.

Respectfully submitted,

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:



Walter Fredrick Wall, Esquire  
Counsel for Defendant, Rowena D. Rich, Executrix of the  
Estate of Clark E. Rich, deceased  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

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

DANIEL L. MORRIS and : CIVIL DIVISION  
JOYCE MORRIS, his wife, :  
Plaintiffs :  
:

-vs- : No. 02-1419-CD  
:

ROWENA D. RICH, Executrix of the :  
ESTATE OF CLARK E. RICH, :  
deceased, :  
:

-and- :  
:

RICH CHIROPRACTIC CLINIC, P.C., :  
Defendants : JURY TRIAL DEMANDED  
:

**PRELIMINARY OBJECTIONS FILED ON BEHALF OF  
DEFENDANT, RICH CHIROPRACTIC CLINIC, P.C.**

AND NOW, comes Defendant, Rich Chiropractic Clinic, P.C., by and through its counsel,  
MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, and files the following Preliminary  
Objections to Plaintiffs' Complaint:

**I. DEMURRER**

1.

Plaintiffs allege that Defendant, Rich Chiropractic Clinic, P.C., was negligent in its care of  
husband-Plaintiff, Daniel L. Morris, commencing July 18, 2001, and continuing until no later than  
October 15, 2001 (Complaint, Paragraphs 7 through 15).

2.

Defendant, Rich Chiropractic Clinic, P.C., did not exist at the time of the alleged medical  
malpractice.

3.

Defendant, Rich Chiropractic Clinic, P.C., will file an Affidavit of Non-Involvement pursuant to §506 of the Medicare Malpractice Tort Reform Act of March 20, 2002 (40 P.S. §1303.56).

WHEREFORE, Defendant, Rich Chiropractic Clinic, P.C., requests that Plaintiffs' Complaint against it be dismissed.

## **II. MOTION TO STRIKE**

4.

Plaintiffs' repetitive, redundant and overbroad Complaint, particularly Paragraphs 17(a) through 17(bb), contains "boilerplate" allegations which fail to set forth material facts in a concise and summary form as required by Pa. R.C.P. §1019(a).

WHEREFORE, Defendant, Rich Chiropractic Clinic, P.C., requests that Plaintiffs' Complaint be stricken.

## **III. MOTION FOR MORE SPECIFIC PLEADINGS**

5.

Plaintiffs' repetitive, redundant and overbroad Complaint, particularly Paragraphs 17(a) through 17(bb), contains "boilerplate" allegations which fail to set forth material facts in a concise and summary form as required by Pa. R.C.P. §1019(a).

WHEREFORE, Defendant, Rich Chiropractic Clinic, P.C., requests this Honorable Court to direct Plaintiffs to file a more specific pleading.

#### IV. MOTION TO STRIKE

6.

Plaintiffs' repetitive, redundant and overbroad Complaint contains allegations of such general nature as to be contrary to the case law of the Commonwealth of Pennsylvania.

7.

Paragraphs 17(a), 17(g), 17(i) and 17(bb) are vague averments which would allow any number of theories of liability to be developed after the pleadings are closed and thus should be stricken as violative of Connor v. Allegheny General Hospital, 501 Pa. 306, 461 A.2d 600 (1983).

WHEREFORE, Defendant, Rich Chiropractic Clinic, P.C., requests this Honorable Court to strike the objectionable material from Plaintiffs' Complaint.

#### V. MOTION TO STRIKE

8.

Count II of Plaintiffs' Complaint purports to set forth causes of action not recognized in Pennsylvania.

9.

Wife-Plaintiff, Joyce Morris, attempts to recover at Paragraph 27 and 28 of the Complaint sums of money that have been or will be expended for medical aid, medicines and the like and to recover monies that have been or may be expended for hiring help to perform the household duties previously performed by her husband.

10.

Wife-Plaintiff has no separate cause of action to recover sums of money as alleged in Paragraphs 27 and 28.


11.

The loss of consortium claim is set forth in full at Paragraph 29.

WHEREFORE, Defendant, Rich Chiropractic Clinic, P.C., requests this Honorable Court to strike Paragraphs 27 and 28 in Count II of Plaintiffs' Complaint.

Respectfully submitted,

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:   
Walter Fredrick Wall, Esquire  
Counsel for Defendant, Rowena D. Rich, Executrix of the  
Estate of Clark E. Rich, deceased  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**


I hereby certify that on the 15<sup>th</sup> day of October, 2002, a true and correct copy of the Preliminary Objections Filed on Behalf of Defendant, Rich Chiropractic Clinic, P.C., was served upon counsel of record by first class U.S. mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

Respectfully submitted,

MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, PLLC

BY:

  
Walter Fredrick Wall, Esquire  
Counsel for Defendant, Rowena D. Rich, Executrix  
of the Estate of Clark E. Rich, deceased  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

FILED

NOV 23 2007

William A. Shaw  
Prothonotary

242

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

-vs-

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: CIVIL DIVISION

: No. 02-1419-CD

: **TYPE OF DOCUMENT**

: Affidavit of Non-Involvement

: **FILED ON BEHALF OF**

: Rowena D. Rich, Executrix of the Estate of  
: Clark E. Rich, deceased; and Rich  
: Chiropractic Clinic

: **COUNSEL FOR DEFENDANT**

: Walter Fredrick Wall, Esquire  
: Pennsylvania ID #23657

: MEYER, DARRAGH, BUCKLER, BEBENEK  
: & ECK, PLLC  
: 120 Lakemont Park Boulevard  
: Altoona, PA 16602

**FILED**

OCT 23 2002

William A. Shaw  
Prothonotary

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**AFFIDAVIT OF NON-INVOLVEMENT**

NOW COMES Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich,  
deceased, being duly sworn, does state that:

1.

She was the secretary/treasurer of Rich Chiropractic Clinic, P.C., during the  
existence of that entity.

2.

Rich Chiropractic Clinic, P.C., was a healthcare provider as defined at 42 P.S.  
§1301.103.

3.

Rich Chiropractic Clinic, P.C., is a named Defendant in the above-captioned matter.

4.

Plaintiff, Daniel L. Morris, alleges negligent care and treatment was provided to him by Defendant, Rich Chiropractic Clinic, P.C., between the dates of July 18, 2001, and October 15, 2002.

5.

Rich Chiropractic Clinic, P.C., was no longer in existence at the time of the alleged negligent treatment or care.

6.

Dissolution of the professional corporation through the Department of State was accomplished prior to January 11, 1994.

7.

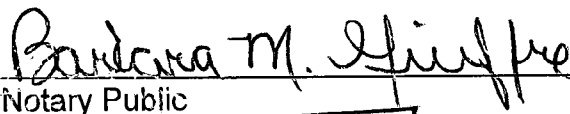
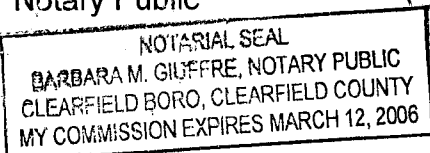
This Affidavit of Non-Involvement is filed pursuant to the Medical Care Availability and Reduction of Error Act, 40 P.S. §1303.506.



Rowena D. Rich  
Former secretary/treasurer of Rich Chiropractic  
Clinic, P.C.

Sworn to and subscribed before me this

16th day of October, 2002.

  
Notary Public

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22nd day of October, 2002, a true and correct copy of the Affidavit of Non-Involvement was served upon counsel of record by first class U.S. mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

Respectfully submitted,

MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, PLLC

BY:



Walter Fredrick Wall, Esquire  
Counsel for Defendant, Rowena D. Rich, Executrix  
of the Estate of Clark E. Rich, deceased; and Rich  
Chiropractic Clinic, P.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

FILED

M/11/17-201  
OCT 23 2002

William A. Shaw  
Prothonotary

cc  
[Signature]

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

-vs-

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: CIVIL DIVISION

: No. 02-1419-CD

: **TYPE OF DOCUMENT**

: Motion to Dismiss upon

: Affidavit of Non-Involvement

: **FILED ON BEHALF OF**

: Rowena D. Rich, Executrix of the Estate of

: Clark E. Rich, deceased

: **COUNSEL FOR DEFENDANT**

: Walter Fredrick Wall, Esquire

: Pennsylvania ID #23657

: MEYER, DARRAGH, BUCKLER, BEBENEK

: & ECK, PLLC

: 120 Lakemont Park Boulevard

: Altoona, PA 16602

**FILED**

NOV 04 2002

William A. Shaw  
Prothonotary

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**RULE TO SHOW CAUSE**

NOW THIS \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_, upon consideration of the within Petition and upon Motion of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, counsel for Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, deceased, a RULE is hereby issued upon Daniel L. Morris and Joyce Morris, his wife, to show cause, if any there may be, why the within requested relief should not be granted.

Said RULE returnable the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_, at \_\_\_\_\_ M., in Courtroom No. \_\_\_\_\_ at the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

\_\_\_\_\_  
J.

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**MOTION TO DISMISS UPON AFFIDAVIT OF NON-INVOLVEMENT**

NOW COMES Defendant, Rich Chiropractic Clinic, P.C., by and through its counsel, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, and files this Motion to Dismiss upon Affidavit of Non-Involvement pursuant to Pa. R.C.P. 1036, of which the following is a statement:

1.

Plaintiffs, Daniel L. Morris and Joyce Morris, his wife, filed their Complaint in this medical malpractice action on or about September 13, 2002.

2.

Rich Chiropractic Clinic, P.C., is a named Defendant in the above-captioned matter.

3.

Rich Chiropractic Clinic, P.C., has filed an Affidavit of Non-Involvement pursuant to the Medical Care Availability and Reduction of Error Act, 40 P.S. §1303.506 (a copy of said Affidavit of Non-Involvement is marked as Exhibit "A" and attached hereto).

4.

Rich Chiropractic Clinic, P.C., was no longer in existence after January 11, 1994, as indicated in the letter dated January 11, 1994, from the Commonwealth of Pennsylvania Department of Revenue Bureau of Compliance Business Clearance Section to Rich Chiropractic Clinic, P.C., indicating dissolution of corporation (a copy of said letter is marked as Exhibit "B" and attached hereto).

5.

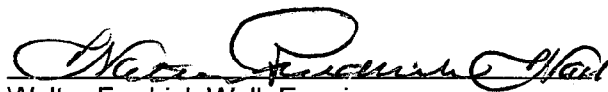
Rich Chiropractic Clinic, P.C., did not exist at the time of the alleged medical malpractice from July 2001 through October 2001.

WHEREFORE, Defendant, Rich Chiropractic Clinic, P.C., prays this Honorable Court enter an order dismissing the case against it based upon the Affidavit of Non-Involvement, 40 P.S. §1303.506, and Pa. R.C.P. 1036.

Respectfully submitted,

MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, PLLC

BY:



Walter Fredrick Wall, Esquire  
Counsel for Defendant, Rowena D. Rich, Executrix  
of the Estate of Clark E. Rich, deceased  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

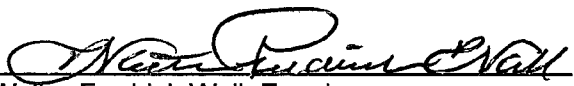
I hereby certify that on the 25<sup>th</sup> day of OCTOBER, 2002, a true and correct copy of the Motion to Dismiss upon Affidavit of Non-Involvement was served upon counsel of record by first class U.S. mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

Respectfully submitted,

MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, PLLC

BY:

  
Walter Fredrick Wall, Esquire  
Counsel for Defendant, Rowena D. Rich, Executrix  
of the Estate of Clark E. Rich, deceased  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

COPY

WFW/NDC/vjb/PRINCE-105291

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

-vs-

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: CIVIL DIVISION

: No. 02-1419-CD

: TYPE OF DOCUMENT

: Affidavit of Non-Involvement

: FILED ON BEHALF OF

: Rowena D. Rich, Executrix of the Estate of -  
: Clark E. Rich, deceased; and Rich  
: Chiropractic Clinic

: COUNSEL FOR DEFENDANT

: Walter Fredrick Wall, Esquire  
: Pennsylvania ID #23657

: MEYER, DARRAGH, BUCKLER, BEBENEK  
: & ECK, PLLC  
: 120 Lakemont Park Boulevard  
: Altoona, PA 16602

FILED

OCT 23 2002

William A. Shaw  
Prothonotary

EXHIBIT

"A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

AFFIDAVIT OF NON-INVOLVEMENT

NOW COMES Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich,  
deceased, being duly sworn, does state that:

1.

She was the secretary/treasurer of Rich Chiropractic Clinic, P.C., during the  
existence of that entity.

2.

Rich Chiropractic Clinic, P.C., was a healthcare provider as defined at 42 P.S.  
§1301.103.

3.

Rich Chiropractic Clinic, P.C., is a named Defendant in the above-captioned matter.

4.

Plaintiff, Daniel L. Morris, alleges negligent care and treatment was provided to him by Defendant, Rich Chiropractic Clinic, P.C., between the dates of July 18, 2001, and October 15, 2002.

5.

Rich Chiropractic Clinic, P.C., was no longer in existence at the time of the alleged negligent treatment or care.

6.

Dissolution of the professional corporation through the Department of State was accomplished prior to January 11, 1994.

7.

This Affidavit of Non-Involvement is filed pursuant to the Medical Care Availability and Reduction of Error Act, 40 P.S. §1303.506.

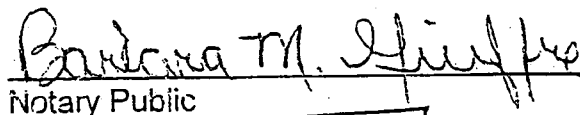
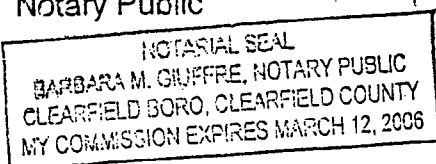


Rowena D. Rich

Former secretary/treasurer of Rich Chiropractic Clinic, P.C.

Sworn to and subscribed before me this

16th day of October, 2002.

  
Notary Public

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE


I hereby certify that on the 22nd day of October, 2002, a true and correct copy of the Affidavit of Non-Involvement was served upon counsel of record by first class U.S. mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

Respectfully submitted,

MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, PLLC

BY:

  
Walter Fredrick Wall, Esquire  
Counsel for Defendant, Rowena D. Rich, Executrix  
of the Estate of Clark E. Rich, deceased; and Rich  
Chiropractic Clinic, P.C.  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657



REV-586 CM (12-92)

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF REVENUE  
**BUREAU OF COMPLIANCE**  
**BUSINESS CLEARANCE SECTION**  
DEPT. 280947  
HARRISBURG, PA 17128-0702  
January 11, 1994

RICH CHIROPRACTIC CLINIC PC  
PO BOX 647  
CLEARFIELD PA 16830

RE: RICH CHIROPRACTIC CLINIC, P.C.

Enclosed is the PA Department of Revenue Corporate Clearance Certificate requested in connection with:

- ☒ Dissolution of corporation through the Department of State.
- ☐ Dissolution of corporation through Court of Common Pleas.
- ☐ Withdrawal of foreign corporation through the Department of State.
- ☐ Merger or consolidation of two or more corporations, where surviving corporation is not subject to the jurisdiction of Pennsylvania.
- ☐ Bulk Sales Clearance Certificate under Section 1403 of the Fiscal Code.
- ☐ Completion of contract by foreign corporation under provisions of the Act of 1947, P.L. 493.
- ☐ Division of the corporation into one or more corporations, where the surviving corporation or corporations are not subject to the jurisdiction of Pennsylvania.

**EXHIBIT**

"B"

Business Clearance Section

Sally Harris  
(717) 783-6058

Enclosure

WFW/msp/PRINCE-105291

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

COPY

**PRAECIPE TO WITHDRAW DEFENDANT, RICH CHIROPRACTIC CLINIC, P.C.'s**  
**MOTION TO DISMISS UPON AFFIDAVIT OF NON-INVOLVEMENT**

TO THE PROTHONOTARY:

Please enter upon record the Withdrawal of Defendant, Rich Chiropractic Clinic,  
P.C.'s Motion to Dismiss upon Affidavit of Non-Involvement.

MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC

BY:

  
WALTER FREDRICK WALL, ESQUIRE

Counsel for Defendants  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

COPY

FILED

NOV 15, 2002

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
DECEASED

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

CIVIL DIVISION

NO. 02-1419-CD

**PLAINTIFFS' RESPONSE TO  
PRELIMINARY OBJECTIONS FILED ON  
BEHALF OF DEFENDANT ROWENA D.  
RICH, EXECUTRIX OF THE ESTATE OF  
CLARK E. RICH, DECEASED, TO  
PLAINTIFFS' COMPLAINT**

Filed on behalf of Plaintiffs, Daniel L.  
Morris and Joyce Morris, his wife

Counsel of Record for this Party:

MERLE KRAMER MERMELSTEIN,  
ESQUIRE  
Pa. I.D. #44773

SILBERBLATT MERMELSTEIN, P.C.  
Firm #645  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

(412) 232-0580

**FILED**

NOV 0 8 2002

William A. Shaw  
Prothonotary

**PLAINTIFFS' RESPONSE TO PRELIMINARY OBJECTIONS  
FILED ON BEHALF OF DEFENDANT, ROWENA D. RICH,  
EXECUTRIX OF THE ESTATE OF CLARK E. RICH, DECEASED,  
TO PLAINTIFFS' COMPLAINT**

AND NOW, come the Plaintiffs, Daniel L. Morris and Joyce Morris, by their attorneys, Merle Kramer Mermelstein, Esquire and the law firm of Silberblatt Mermelstein, P.C. and present the within Response to the Preliminary Objections Filed on Behalf of Defendant Rowena D. Rich, Executrix of the Estate of Clark E. Rich, Deceased, to Plaintiffs' Complaint, and, in pursuance thereof, respectfully represent as follows:

1. Denied. Plaintiffs believe that the allegations contained in Paragraphs 16(a) through 16(bb) of Plaintiffs' Complaint are sufficiently specific to permit this Defendant to adequately respond thereto and provide material facts as required by the Pa. Rules of Civil Procedure.

WHEREFORE, Plaintiffs respectfully request this Honorable Court dismiss this Defendant's Preliminary Objections.

2. Denied. Plaintiffs incorporate their response as set forth in Paragraph 1 as though more fully set forth at length herein.

WHEREFORE, Plaintiffs respectfully request this Honorable Court dismiss this Defendant's Preliminary Objections.

3-4. Denied. In response to Paragraphs 3 and 4, Plaintiffs incorporate their response as set forth in Paragraph 1 as though more fully set forth at length herein. In

addition, the decisional case law of Pennsylvania would clearly find that the entire Complaint filed by Plaintiffs is sufficiently specific so that Defendants are well aware of the allegations against them.

WHEREFORE, Plaintiffs respectfully request this Honorable Court dismiss this Defendant's Preliminary Objections.

5. Denied. Plaintiffs believe that the allegations contained in Count II of their Complaint set forth causes of action which are recognized in Pennsylvania. Furthermore, woman Plaintiff does bear the responsibility to pay for expenses incurred by her husband and, thus, such claim is valid.

6. Admitted.

7. Denied. Plaintiffs believe that the allegations contained in Paragraphs 27 and 28 of Plaintiffs' Complaint properly state a claim for reimbursement of monies expended by the Plaintiffs which monies woman Plaintiff may be responsible to pay as a result of man Plaintiff being injured.

8. Admitted.

WHEREFORE, Plaintiffs respectfully request this Honorable Court dismiss this Defendant's Preliminary Objections.

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

By Merle H. Mermelstein

Merle Kramer Mermelstein  
Counsel for Plaintiffs

Dated: 11-04-02

**VERIFICATION**

I, Merle Kramer Mermelstein, Esquire, counsel of record for the Plaintiffs in the within matter, do hereby certify that the statements set forth in the foregoing Plaintiffs' Response to Preliminary Objections Filed on Behalf of Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, Deceased, to Plaintiffs' Complaint are true and correct to the best of my knowledge, information and belief, these being legal matters and more within my knowledge and purview as counsel for the Plaintiffs than the Plaintiffs themselves. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

  
Merle Kramer Mermelstein

Dated: 11-4-02

## **CERTIFICATE OF SERVICE**

I, Merle Kramer Mermelstein, Esquire, do hereby certify that a true and correct copy of **Plaintiffs' Response to Preliminary Objections Filed on Behalf of Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, Deceased, to Plaintiffs' Complaint** was mailed by first class mail, postage prepaid, on the 4 day of November, 2002 to the following person:

**Walter Fredrick Wall, Esquire  
Meyer Darragh Buckler Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Blvd.  
Altoona, PA 16602  
Attorney for Defendants**

SILBERBLATT MERMELSTEIN, P.C.

By Merle H. Mermelstein  
Merle Kramer Mermelstein  
Attorney for Plaintiffs

FILED

NOV 06 2002

NO CC  
20  
421

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
DECEASED

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

CIVIL DIVISION

NO. 02-1419-CD

**PLAINTIFFS' RESPONSE TO  
PRELIMINARY OBJECTIONS FILED ON  
BEHALF OF DEFENDANT RICH  
CHIROPRACTIC CLINIC, P.C., TO  
PLAINTIFFS' COMPLAINT**

Filed on behalf of Plaintiffs, Daniel L.  
Morris and Joyce Morris, his wife

Counsel of Record for these Parties:

MERLE KRAMER MERMELSTEIN,  
ESQUIRE  
Pa. I.D. #44773

SILBERBLATT MERMELSTEIN, P.C.  
Firm #645  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

(412) 232-0580

**FILED**

NOV 06 2002

William A. Shaw  
Prothonotary

**PLAINTIFFS' RESPONSE TO PRELIMINARY OBJECTIONS  
FILED ON BEHALF OF DEFENDANT,  
RICH CHIROPRACTIC CLINIC, P.C.,  
TO PLAINTIFFS' COMPLAINT**

AND NOW, come the Plaintiffs, Daniel L. Morris and Joyce Morris, his wife, by their attorneys, Merle Kramer Mermelstein, Esquire and the law firm of Silberblatt Mermelstein, P.C. and present the within Response to the Preliminary Objections Filed on Behalf of Defendant Rich Chiropractic Clinic, P.C., to Plaintiffs' Complaint, and, in pursuance thereof, respectfully represent as follows:

1. Admitted. Furthermore, Plaintiffs incorporate all of their claims in the Complaint against this Defendant, Rich Chiropractic Clinic, P.C. as though more fully set forth at length herein.

2. Denied. Representatives of the Pennsylvania Department of State confirmed that the Defendant Rich Chiropractic Clinic, P.C. was a corporation in good standing during the time period described in Plaintiffs' Complaint as documented through the Internet Citation (see attached printout) as well as during a telephone conversation on October 25, 2002.

3. Admitted and Denied. While it is admitted that the Defendants filed an Affidavit of Non-Involvement, it is denied that the Defendant Corporation was no longer in existence at the time of the treatment rendered to the man Plaintiff by the Defendants.

WHEREFORE, Plaintiffs respectfully request this Honorable Court dismiss this Defendant's Preliminary Objections.

4. Denied. Plaintiffs believe that the allegations contained in Paragraphs 17(a) through 17(bb) of Plaintiffs' Complaint are sufficiently specific to permit this Defendant to adequately respond thereto and provide material facts as required by the Pa. Rules of Civil Procedure.

WHEREFORE, Plaintiffs respectfully request this Honorable Court dismiss this Defendant's Preliminary Objections.

5. Denied. Plaintiffs incorporate their response as set forth in Paragraph 4 as though more fully set forth at length herein.

WHEREFORE, Plaintiffs respectfully request this Honorable Court dismiss this Defendant's Preliminary Objections.

6-7. Denied. In response to Paragraphs 6 and 7, Plaintiffs incorporate their response as set forth in Paragraph 4 as though more fully set forth at length herein. In addition, the decisional case law of Pennsylvania would clearly find that the entire Complaint filed by Plaintiffs is sufficiently specific so that Defendants are well aware of the allegations against them.

WHEREFORE, Plaintiffs respectfully request this Honorable Court dismiss this Defendant's Preliminary Objections.

8. Denied. Plaintiffs believe that the allegations contained in Count II of their Complaint set forth causes of action which are recognized in Pennsylvania.

Furthermore, woman Plaintiff does bear the responsibility to pay for expenses incurred by her husband and, thus, such claim is valid.

9. Admitted.

10. Denied. Plaintiffs believe that the allegations contained in Paragraphs 27 and 28 of Plaintiffs' Complaint properly state a claim for reimbursement of monies expended by the Plaintiffs which monies woman Plaintiff may be responsible to pay as a result of man Plaintiff being injured.

11. Admitted.

WHEREFORE, Plaintiffs respectfully request this Honorable Court dismiss this Defendant's Preliminary Objections.

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

By Merle H. Mermelstein

Merle Kramer Mermelstein  
Counsel for Plaintiffs

Dated: 11-4-02

Corporations  
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## Corporations Department of State



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(Use Last Name, First Name for business names which consist of a person's first and last name (i.e., Smith, John Inc.))

### Basic Entity Information ? INCORPORATED PROFESSIONAL

|                 |                                       |        |                           |      |       |  |
|-----------------|---------------------------------------|--------|---------------------------|------|-------|--|
| ENTITY NO:      | 761686                                | TYPE:  | INCORPORATED PROFESSIONAL |      |       |  |
| FILED DATE:     | 8-20-1982                             |        |                           |      |       |  |
| CURRENT NAME:   | RICH CHIROPRACTIC CLINIC, P.C.        |        |                           |      |       |  |
| ADDRESS:        | RD#2 ROUTE 322 EAST PO BOX 647        |        |                           |      |       |  |
| CITY:           | CLEARFIELD                            | STATE: | PA                        | ZIP: | 16830 |  |
| COUNTY:         | Clearfield                            |        |                           |      |       |  |
| PURP/DESC/CMNT: | PROVIDE VARIOUS CHIROPRACTIC SERVICES |        |                           |      |       |  |
| LTD/INC TERM    | PERPETUAL                             |        |                           |      |       |  |

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Pennsylvania Department of State  
206 North Office Building, Harrisburg, PA 17120  
Phone - (717) 787-1057

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(Use Last Name, First Name for business names which consist of a person's first and last name (i.e., Smith, John Inc.))

## Instrument History

|  |       |                               |      |          |  |
|--|-------|-------------------------------|------|----------|--|
| ENTITY NO:                             |       | 761686                        |      |          |  |
| CURRENT NAME:                          |       | RICH CHIROPRACTIC CLINIC, P.C |      |          |  |
| TYPE:                                  | ROLL: | START:                        | END: | COMMENTS |  |
| ARTICLES OF INCORPORATION-PROFESSIONAL | 8245  | 16                            |      |          |  |
| CERTIFICATE OF INCORPORATION           | 8245  | 18                            |      |          |  |

[Basic Entity Information](#) | [Corporate Officers](#) |

Pennsylvania Department of State  
206 North Office Building, Harrisburg, PA 17120  
Phone - (717) 787-1057

**VERIFICATION**

I, Merle Kramer Mermelstein, Esquire, counsel of record for the Plaintiffs in the within matter, do hereby certify that the statements set forth in the foregoing Plaintiffs' Response to Preliminary Objections Filed on Behalf of Defendant, Rich Chiropractic Clinic, P.C., to Plaintiffs' Complaint are true and correct to the best of my knowledge, information and belief, these being legal matters and more within my knowledge and purview as counsel for the Plaintiffs than the Plaintiffs themselves. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



---

Merle Kramer Mermelstein

Dated: 11-4-02

## **CERTIFICATE OF SERVICE**

I, Merle Kramer Mermelstein, Esquire, do hereby certify that a true and correct copy of **Plaintiffs' Response to Preliminary Objections Filed on Behalf of Defendant, Rich Chiropractic Clinic, P.C., to Plaintiffs' Complaint** was mailed by first class mail, postage prepaid, on the 4 day of November, 2002 to the following person:


**Walter Fredrick Wall, Esquire  
Meyer Darragh Buckler Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Blvd.  
Altoona, PA 16602  
Attorney for Defendants**

SILBERBLATT MERMELSTEIN, P.C.

By Merle H. Mermelstein  
Merle Kramer Mermelstein  
Attorney for Plaintiffs

FILED

NOV 11:07  
NOV 08 2002

NO  
cc  


William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
DECEASED

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

CIVIL DIVISION

NO. 02-1419-CD

**PLAINTIFFS' RESPONSE TO  
DEFENDANTS' MOTION TO DISMISS  
UPON AFFIDAVIT OF NON-  
INVOLVEMENT AND PLAINTIFFS'  
CROSS-MOTION TO CHALLENGE  
DEFENDANTS' AFFIDAVIT OF  
NONINVOLVEMENT AND PLAINTIFFS'  
AFFIDAVIT OPPOSING THE  
NONINVOLVEMENT AFFIDAVIT FILED  
BY DEFENDANTS**

Filed on behalf of Plaintiffs, Daniel L.  
Morris and Joyce Morris, his wife

Counsel of Record for this Party:

MERLE KRAMER MERMELSTEIN,  
ESQUIRE  
Pa. I.D. #44773

SILBERBLATT MERMELSTEIN, P.C.  
Firm #645  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

(412) 232-0580

**FILED**

NOV 06 2002

William A. Shaw  
Prothonotary

**PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION TO DISMISS  
UPON AFFIDAVIT OF NONINVOLVEMENT AND  
PLAINTIFFS' CROSS-MOTION TO CHALLENGE DEFENDANTS'  
AFFIDAVIT OF NONINVOLVEMENT AND  
PLAINTIFFS' AFFIDAVIT OPPOSING THE  
NONINVOLVEMENT AFFIDAVIT FILED BY DEFENDANTS**

AND NOW, come the Plaintiffs, Daniel L. Morris and Joyce Morris, his wife, by their attorneys, Merle Kramer Mermelstein, Esquire and the law firm of Silberblatt Mermelstein, P.C. and present Plaintiffs' Response to Defendants' Motion to Dismiss Upon Affidavit of NonInvolvement and Plaintiffs' Cross-Motion to Challenge Defendants' Affidavit of NonInvolvement and Plaintiffs' Affidavit Opposing the NonInvolvement Affidavit Filed by Defendants, and, in pursuance thereof, respectfully represent as follows:

1. Admitted.
2. Admitted.
3. Admitted.

4. Denied. Counsel for the Plaintiffs received information from the Pennsylvania Department of State over the Internet and by telephone. Counsel for the Plaintiffs was informed during a telephone conversation on October 25, 2002 with the Pennsylvania Department of State that the Defendant Rich Chiropractic Clinic, P.C. was in good standing during the time period that man Plaintiff was treated by the Defendant. In addition, Plaintiffs attach written documentation provided over the Internet confirming that the Defendant Corporation was in good standing and has not been dissolved. (A copy of the page from the Internet is marked Plaintiffs' Exhibit "1" and attached hereto.) Counsel for the Plaintiffs also wrote to the Pennsylvania Department of State and forwarded a check for \$28.00 to cover the State's expense in securing documentation to

confirm Defendant Corporation's legal status at the time of the man Plaintiff's medical treatment with the Defendant. Counsel for the Plaintiffs received a Certificate of Good Standing from the Department of State confirming Defendant Rich Chiropractic Clinic's legal status (The letter and certificate are marked Plaintiffs' Exhibit "2" and attached hereto). Exhibit "B" attached by the Defendant Rich Chiropractic Clinic, P.C. to their Motion is a letter from the Department of Revenue of the Commonwealth of Pennsylvania providing a Clearance Certificate only. This document is only a prerequisite when dissolving a corporation and is not the required Certificate from the Department of State confirming that the Defendant Corporation has been dissolved.

5. Denied. Plaintiffs incorporate their responses set forth in Paragraph 4 as though more fully set forth at length herein.

WHEREFORE, Plaintiffs respectfully request this Honorable Court enter an Order dismissing Defendant's Motion and requiring the Defendants to file an Answer to Plaintiffs' Complaint.

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

By Merle K. Mermelstein

Merle Kramer Mermelstein  
Counsel for Plaintiffs

Dated: 11-4-02

**PLAINTIFFS' CROSS-MOTION TO CHALLENGE DEFENDANTS'  
AFFIDAVIT OF NONINVOLVEMENT AND PLAINTIFFS' AFFIDAVIT OPPOSING  
THE NONINVOLVEMENT AFFIDAVIT FILED BY DEFENDANTS**

AND NOW, come the Plaintiffs, Daniel L. Morris and Joyce Morris, his wife, by their attorneys, Merle Kramer Mermelstein, Esquire and the law firm of Silberblatt Mermelstein, P. C. and present Plaintiffs' Cross-Motion to Challenge Defendants' Affidavit of NonInvolvement and, in pursuance thereof, respectfully represent as follows:

1. Pursuant to the Medical Care Availability and Reduction of Error Act, 40 P.S. §1303.506(a), Defendant, Rich Chiropractic Clinic, P.C. filed an Affidavit of NonInvolvement with this Court.

2. Pursuant to 40 P.S. §1303.506(c), Plaintiffs have the right to challenge Defendants' Affidavit of NonInvolvement by the filing of a Motion and submitting their own Affidavit which provides information contradicting the health care provider's assertions.

3. Plaintiffs, through their counsel, submit the attached Affidavit Opposing the Affidavit of NonInvolvement Filed by the Defendants which Affidavit provides written documentation that the Defendant Corporation was in good standing at the time of the treatment provided by the Defendants to the man Plaintiff.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter an Order providing that the Defendant Corporation was properly identified by Plaintiffs and was legally in existence at the time that man Plaintiff received treatment.

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

By Merle H. Mermelstein

Merle Kramer Mermelstein

**PLAINTIFFS' AFFIDAVIT OPPOSING  
THE NONINVOLVEMENT AFFIDAVIT BY DEFENDANTS**

BEFORE ME, the undersigned authority, personally appeared Merle Kramer Mermelstein, Esquire, attorney and member of the law firm of Silberblatt Mermelstein, P.C., who deposes and says that according to the investigation conducted by her over the Internet, and by telephone and by letter that the Defendant Rich Chiropractic Clinic, P.C. was in good standing at the time of the incident described in Plaintiffs' Complaint as demonstrated by the following:

1. The Internet search at the Pennsylvania Department of State website confirms that Rich Chiropractic Clinic, P.C. is in good standing at the present time. (See Plaintiffs' Exhibit "1")

2. Counsel for the Plaintiffs sent a letter dated October 25, 2002 enclosing a check in the amount of \$28.00 made payable to the Department of State in order to obtain paperwork confirming that the Defendant Rich Chiropractic Clinic, P.C. was in existence and in good standing and received a Certificate of Good Standing from the Commonwealth of Pennsylvania Department of State (See Plaintiffs' Exhibit "2").

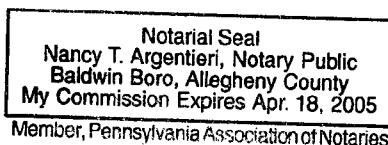
3. A telephone conversation between the Pennsylvania Department of State and a paralegal employed by the law firm of Silberblatt Mermelstein, P.C. took place on October 25, 2002 at which time representatives of the Department of State confirmed that the Defendant Rich Chiropractic Clinic, P.C. is still in existence and in good standing according to their records.

*Merle H. Mermelstein*

Merle Kramer Mermelstein

Sworn to and subscribed  
before me this 4 day  
of November, 2002.

*Nancy T. Argentieri*  
Notary Public



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## Corporations Department of State



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(Use Last Name, First Name for business names which consist of a person's first and last name (i.e., Smith, John Inc.))

### Basic Entity Information INCORPORATED PROFESSIONAL

|                 |                                       |        |    |                           |       |  |
|-----------------|---------------------------------------|--------|----|---------------------------|-------|--|
| ENTITY NO:      | 761686                                | TYPE:  |    | INCORPORATED PROFESSIONAL |       |  |
| FILED DATE:     | 8-20-1982                             |        |    |                           |       |  |
| CURRENT NAME:   | RICH CHIROPRACTIC CLINIC, P.C.        |        |    |                           |       |  |
| ADDRESS:        | RD#2 ROUTE 322 EAST PO BOX 647        |        |    |                           |       |  |
| CITY:           | CLEARFIELD                            | STATE: | PA | ZIP:                      | 16830 |  |
| COUNTY:         | Clearfield                            |        |    |                           |       |  |
| PURP/DESC/CMNT: | PROVIDE VARIOUS CHIROPRACTIC SERVICES |        |    |                           |       |  |
| LTD/INC TERM    | PERPETUAL                             |        |    |                           |       |  |

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Pennsylvania Department of State  
206 North Office Building, Harrisburg, PA 17120  
Phone - (717) 787-1057



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# Corporations Department of State



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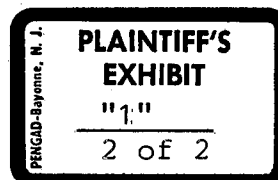
(Use Last Name, First Name for business names which consist of a person's first and last name (i.e., Smith, John Inc.))

Instrument History 

|  |       |                               |      |          |  |
|--|-------|-------------------------------|------|----------|--|
| ENTITY NO:                             |       | 761686                        |      |          |  |
| CURRENT NAME:                          |       | RICH CHIROPRACTIC CLINIC, P.C |      |          |  |
| TYPE:                                  | ROLL: | START:                        | END: | COMMENTS |  |
| ARTICLES OF INCORPORATION-PROFESSIONAL | 8245  | 16                            |      |          |  |
| CERTIFICATE OF INCORPORATION           | 8245  | 18                            |      |          |  |

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Pennsylvania Department of State  
206 North Office Building, Harrisburg, PA 17120  
Phone - (717) 787-1057



# Silberblatt Mermelstein

Attorneys

Professional Corporation

2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219  
412.232.0580  
412.232.0581 Fax  
www.smlawpa.com

Jay N. Silberblatt \*  
Merle Kramer Mermelstein

October 25, 2002

01-591/MKM

Pennsylvania Department of State  
Corporation Bureau  
P.O. Box 8722  
Harrisburg, PA 17105

**RE: Rich Chiropractic Clinic, P.C.  
R.D. #2, Route 322 East PO Box 647  
Clearfield, PA 16830**

Gentlemen:

Please send me a Certificate of Good Standing for the Rich Chiropractic Clinic, P.C. as set forth above. Enclosed is our firm check in the amount of Twenty-eight (\$28.00) Dollars.

If you have any questions, please do not hesitate to call.

Very truly yours,

SILBERBLATT MERMELSTEIN, P.C.

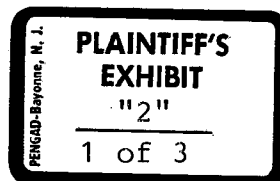
BY \_\_\_\_\_

Merle Kramer Mermelstein

MNT/nt

Enclosure

I:\MKM\General\01591\CorpBureauGoodStandingCert.doc



COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF STATE

OCTOBER 29, 2002

TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

I DO HEREBY CERTIFY THAT,

RICH CHIROPRACTIC CLINIC, P.C.

is duly incorporated under the laws of the Commonwealth of Pennsylvania  
and remains a subsisting corporation so far as the records of this office  
show, as of the date herein.

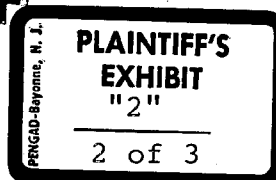


IN TESTIMONY WHEREOF, I have  
hereunto set my hand and caused  
the Seal of the Secretary's  
Office to be affixed, the day  
and year above written.

*Michael J. Sauter*

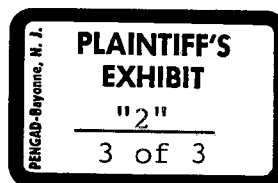
Secretary of the Commonwealth

JSOW



RICH CHIROPRACTIC CLINIC, P.C.

MERLE KRAMER MERMELSTEIN  
SILBERBLATT MERMELSTEIN  
2904 GULF TOWER 707 GRANT ST  
PGH PA 15219-0000



**VERIFICATION**

I, Merle Kramer Mermelstein, Esquire, counsel of record for the Plaintiffs in the within matter, do hereby certify that the statements set forth in the foregoing Plaintiffs' Response to Defendants' Motion to Dismiss Upon Affidavit of Non-Involvement and Plaintiffs' Cross-Motion to Challenge Defendants' Affidavit of NonInvolvement and Plaintiffs' Affidavit Opposing the NonInvolvement Affidavit Filed by Defendants are true and correct to the best of my knowledge, information and belief, these being legal matters and more within my knowledge and purview as counsel for the Plaintiffs than the Plaintiffs themselves. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



---

Merle Kramer Mermelstein


Dated: 11-4-02

## **CERTIFICATE OF SERVICE**

I, Merle Kramer Mermelstein, Esquire, do hereby certify that a true and correct copy of Plaintiffs' Response to Defendants' Motion to Dismiss Upon Affidavit of Non-Involvement and Plaintiffs' Cross-Motion to Challenge Defendants' Affidavit of NonInvolvement and Plaintiffs' Affidavit Opposing the NonInvolvement Affidavit Filed by Defendants was mailed by first class mail, postage prepaid, on the 4<sup>th</sup> day of November, 2002 to the following person:

**Walter Fredrick Wall, Esquire  
Meyer Darragh Buckler Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Blvd.  
Altoona, PA 16602  
Attorney for Defendants**

SILBERBLATT MERMELSTEIN, P.C.

By   
Merle Kramer Mermelstein  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

FILED

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

NOV 08 2002

William A. Shaw  
Prothonotary

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

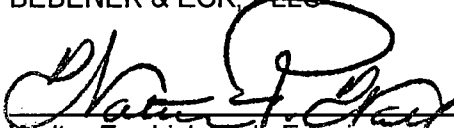
CERTIFICATE OF SERVICE

I, WALTER F. WALL, ESQUIRE, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, hereby certify that on the SEVENTH day of NOVEMBER, 2002, a true and correct copy of the Request for Production of Documents Directed to Plaintiffs on behalf of Defendant was served upon Counsel for Plaintiffs, with a copy to all Counsel of Record by U.S. Mail, postage prepaid, addressed as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219


MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, PLLC

BY:

  
Walter Fredrick Wall, Esquire  
Counsel for Defendant, Rowena D. Rich, Executrix  
of the Estate of Clark E. Rich, deceased  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

William A. Shaw  
Prothonotary

FILED  
NOV 25 2002  
NOV 08 2002

  
I, \_\_\_\_\_  
do hereby certify that \_\_\_\_\_  
is the true and correct owner of \_\_\_\_\_  
and that the same is duly recorded in \_\_\_\_\_  
of the County of \_\_\_\_\_ State of \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_ 2002.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

-vs-

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: CIVIL DIVISION

: No. 02-1419-CD

: JURY TRIAL DEMANDED

FILED

NOV 6 8 2002

William A. Shaw  
Prothonotary

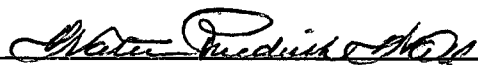
**CERTIFICATE OF SERVICE**

I, WALTER F. WALL, ESQUIRE, of the Law Firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, hereby certify that on the SEVENTH day of NOVEMBER, 2002, a true and correct copy of the Interrogatories Directed to Plaintiffs on behalf of Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, was served upon Counsel for Plaintiffs, with a copy to all Counsel of Record by U.S. Mail, postage prepaid, addressed as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, PLLC

BY:



Walter Fredrick Wall, Esquire  
Counsel for Defendant, Rowena D. Rich, Executrix of  
the Estate of Clark E. Rich, deceased  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

*cc*  
**FILED**

*11:25 AM*  
NOV 08 2002

*cc*

William A. Shaw  
Prothonotary

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

Sheriff Docket # 13046

MORRIS, DANIEL L. & JOYCE

02-1419-CD

VS.

RICH, ROWENA D. Executrix of the Estate of CLARK E. RICH, DECEASED

COMPLAINT

**SHERIFF RETURNS**

NOW SEPTEMBER 27, 2002 AT 10:30 AM DST SERVED THE WITHIN COMPLAINT  
ON ROWENA D. RICH, Executrix of the Estate of Clark E. Rich, deceased  
AT SHERIFF'S OFFICE, MARKET ST., CLEARFIELD, CLEARFIELD COUNTY,  
PENNSYLVANIA BY HANDING TO GREG RICH, SON A TRUE AND ATTESTED COPY  
OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS  
THEREOF.  
SERVED BY: DAVIS/MORGILLO

NOW SEPTEMBER 27, 2002 AT 10:30 AM DST SERVED THE WITHIN COMPLAINT  
ON RICH CHIROPRACTIC CLINIC, DEFENDANT AT SHERIFF'S OFFICE, MARKET ST.  
CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO GREG RICH,  
A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN  
TO HIM THE CONTENTS THEREOF.  
SERVED BY: DAVIS/MORGILLO

**Return Costs**

| Cost  | Description                  |
|-------|------------------------------|
| 30.00 | SHFF. HAWKINS PAID BY: ATTY. |
| 20.00 | SURCHARGE PAID BY: ATTY.     |

**FILED**

NOV 13 2002

William A. Shaw  
Prothonotary

Sworn to Before Me This

13th Day of November 2002  
*William A. Shaw*

So Answers,

*Chester A. Hawkins*  
*by Marilyn Ham*  
Chester A. Hawkins  
Sheriff

WFW/msp/PRINCE-105291

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**PRAECIPE TO WITHDRAW DEFENDANT, RICH CHIROPRACTIC CLINIC, P.C.'s**  
**MOTION TO DISMISS UPON AFFIDAVIT OF NON-INVOLVEMENT**

TO THE PROTHONOTARY:

Please enter upon record the Withdrawal of Defendant, Rich Chiropractic Clinic,  
P.C.'s Motion to Dismiss upon Affidavit of Non-Involvement.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendants

120 Lakemont Park Boulevard

Altoona, PA 16602

Phone No.: (814) 941-4600

ID # 23657

**FILED**

NOV 15 2002

William A. Shaw  
Prothonotary

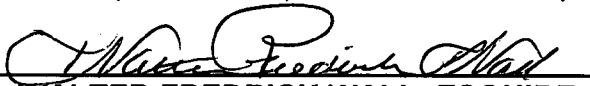
**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of November, 2002, a true and correct copy of the Praecipe to Withdraw the Motion to Dismiss upon Affidavit of Non-Involvement was served upon counsel of record by first class U.S. mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:



**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendants  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
DECEASED

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

CIVIL DIVISION

NO. 02-1419-CD

**VERIFICATION OF SERVICE OF  
PLAINTIFFS' ANSWERS TO  
INTERROGATORIES AND RESPONSE  
TO REQUEST FOR PRODUCTION OF  
DOCUMENTS FILED ON BEHALF OF  
DEFENDANT, ROWENA D. RICH,  
EXECUTRIX OF THE ESTATE OF  
CLARK E. RICH, DECEASED**

Filed on behalf of Plaintiffs, Daniel L.  
Morris and Joyce Morris, his wife

Counsel of Record for these Parties:

MERLE KRAMER MERMELSTEIN,  
ESQUIRE  
Pa. I.D. #44773

SILBERBLATT MERMELSTEIN, P.C.  
Firm #645  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

(412) 232-0580

**FILED**

JAN 13 2003

William A. Shaw  
Prothonetary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

CIVIL DIVISION

NO. 02-1419-CD

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
DECEASED

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

**VERIFICATION OF SERVICE**

I, Merle Kramer Mermelstein, Esquire, do hereby certify that a true and correct copy of **Plaintiffs' Answers to Interrogatories and Response to Defendant's Request for Production of Documents** was mailed by first class mail, postage prepaid, on the 10<sup>th</sup> day of January, 2003 to the following person:

**Walter Fredrick Wall, Esquire  
Meyer Darragh Buckler Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Blvd.  
Altoona, PA 16602  
Attorney for Defendants**

SILBERBLATT MERMELSTEIN, P.C.

By Merle H. Mermelstein  
Merle Kramer Mermelstein  
Attorney for Plaintiffs

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife

-vs-

No. 02 - 1419 - CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
Deceased

and

RICH CHIROPRACTIC CLINIC, P.C.

**ORDER**

NOW, this 7<sup>th</sup> day of March, 2003, following argument and briefs into Preliminary Objections filed on behalf of Defendants above-named, it is the ORDER of this Court that said Objections be and are hereby sustained to the extent that paragraph 16(bb) shall be and is hereby stricken.

It is the further ORDER of this Court that Woman-Plaintiff's claim for loss of consortium which includes allegations of future expenditures of money for medical aid, medicine and the like and household activities previously performed by the Man-Plaintiff which is a duplicate of the Man-Plaintiff's claim shall be submitted to the jury with the instructions that should the jury determine that an award is appropriate for these allegations, only one recovery shall be had.

**FILED**

MAR 07 2003

William A. Shaw  
Prothonotary

It is the further ORDER of this Court that ruling on Defendants' Preliminary Objections with regards to Plaintiffs' allegation of negligence shall be and is hereby continued pending receipt of Plaintiffs' expert reports following which an appropriate Order of Court shall be entered specifying the exact allegation of negligence to be addressed at trial.

By the Court

President Judge

RECEIVED  
JAN 11 2011  
CLERK OF COURT  
JAN 11 2011

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
DECEASED

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

CIVIL DIVISION

NO. 02-1419-CD

**VERIFICATION OF SERVICE OF  
PLAINTIFFS' INTERROGATORIES AND  
REQUESTS FOR PRODUCTION OF  
DOCUMENTS DIRECTED TO  
DEFENDANTS, ROWENA D. RICH,  
EXECUTRIX OF THE ESTATE OF  
CLARK E. RICH, DECEASED AND RICH  
CHIROPRACTIC CLINIC, P.C.**

Filed on behalf of Plaintiffs, Daniel L.  
Morris and Joyce Morris, his wife

Counsel of Record for these Parties:

MERLE KRAMER MERMELSTEIN,  
ESQUIRE  
Pa. I.D. #44773

SILBERBLATT MERMELSTEIN, P.C.  
Firm #645  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

(412) 232-0580

**FILED**

MAR 28 2003

m/10140/a  
William A. Shaw  
Prothonetary

NO CFM

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[Signature]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

CIVIL DIVISION

NO. 02-1419-CD

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
DECEASED

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

**VERIFICATION OF SERVICE**

I, Merle Kramer Mermelstein, Esquire, do hereby certify that a true and correct copy of **Plaintiffs' Interrogatories and Requests for Production of Documents** were mailed by first class mail, postage prepaid, on the 24<sup>th</sup> day of March, 2003 to the following person:

**Walter Fredrick Wall, Esquire  
Meyer Darragh Buckler Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Blvd.  
Altoona, PA 16602  
Attorney for Defendants**

SILBERBLATT MERMELSTEIN, P.C.

By

*Merle H. Mermelstein*

Merle Kramer Mermelstein  
Attorney for Plaintiffs

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**FILED**

MAR 27 2003

William A. Shaw  
Prothonotary

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Defendants, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, deceased and Rich Chiropractic Clinic, P.C., intend to serve a subpoena identical to the one that is attached to this notice upon ESIS, Inc. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

BY:



WALTER FREDRICK WALL, ESQUIRE  
Counsel for Defendant, Rowena D. Rich, Executrix  
of the Estate of Clark E. Rich, deceased and Rich  
Chiropractic Clinic, P.C.

MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

Date: March 24, 2003

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

DANIEL L. MORRIS and JOYCE MORRIS, his wife, \*

Plaintiff(s) \*

Vs. \*

ROWENA D. RICH, Executrix of the ESTATE OF CLARK E. \*  
RICH, deceased and RICH CHIROPRACTIC CLINIC, P.C. \*

Defendant(s) \*

No. 02-1419-CD

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

TO: ESIS, Inc., P.O. Box 15527, One Beaver Valley Road, Wilmington,  
~~Delaware 19850~~ RE: Daniel Morris, R.R. 1, Box 6, Woodland,  
PA 16881 (Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: Full and complete Worker's Compensation Claim File of Daniel Morris (SSN: 159-42-8275, DOB: 03/18/50) including, but not limited to all claim petitions, answers, decisions, appeals, correspondence, medical records and reports, ~~IME's~~, wage loss and payment documentation, medical payments, other benefits payable, correspondence, memos (Address)

Meyer, Darragh, 120 Lakemont Park Boulevard, Altoona, PA 16602

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

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

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

NAME: Walter Fredrick Wall, Esquire  
ADDRESS: 120 Lakemont Park Boulevard  
Altoona, PA 16602  
TELEPHONE: (814) 941-4600  
SUPREME COURT ID # 23657  
ATTORNEY FOR: Defendants

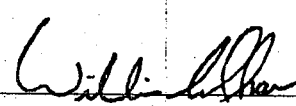
BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: March 24, 2003

Seal of the Court

Deputy

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

FILED

MAR 27 2003

William A. Shaw  
Prothonotary

NO  
CC

2003 MAR 27

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this 28<sup>th</sup> day of March, 2003, I have served the foregoing Objections to Plaintiffs' Request for Production of Documents Directed to Defendant, Rowena D. Rich, Executrix, on behalf of Defendants upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendants  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**FILED**

MAR 31 2003

**William A. Shaw**  
Prothonotary

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this 22<sup>nd</sup> day of March, 2003, I have served the foregoing Objections to Plaintiffs' Request for Production of Documents Directed to Defendant, Rich Chiropractic Clinic, P.C., on behalf of Defendants upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendants  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**FILED**

MAR 31 2003

**William A. Shaw**  
Prothonotary

FILED

MAR 31 2003

William A. Shaw  
Proprietary

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this 28<sup>th</sup> day of March, 2003, I have served the foregoing Objections to Plaintiffs' Interrogatories Directed to the Defendant, Rich Chiropractic Clinic, P.C., on behalf of Defendants upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

Walter Fredrick Wall  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendants  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**FILED**

MAR 31 2003

William A. Shaw  
Prothonotary

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this 28<sup>th</sup> day of March, 2003, I have served the foregoing Objections to Plaintiffs' Interrogatories Directed to Defendant, Rowena D. Rich, Executrix, on behalf of Defendants upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendants  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**FILED**

MAR 31 2003

**William A. Shaw**  
Prothonotary

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**NOTICE TO PLEAD**

In Accordance with Rules 1026 and 1361 of the Pennsylvania Rules of Civil Procedure, you are hereby notified to plead to the within ANSWER and NEW MATTER within twenty (20) days from service hereof or a Default Judgment may be entered against you.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendants  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**FILED**

**APR 03 2003**

m/2:00/wn  
William A. Shaw

Prothonotary/Clerk of Courts

no c/c  
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**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT**

NOW COME Defendants, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, deceased, and Rich Chiropractic Clinic, P.C., and file this Answer and New Matter to Plaintiff's Complaint of which the following is a statement:

1. The identity of the Plaintiffs are admitted, the remaining allegations are denied in that after reasonable investigation, these Defendants lack information sufficient upon which to form an opinion in regard to the truth of same.

2. Admitted.

3. Denied as stated. On the contrary, it is averred that Clark E. Rich, deceased was a chiropractor engaged in the practice of chiropractics. It is denied that the address set forth is in the municipality of Clearfield and, on the contrary, it is located in Lawrence Township, Clearfield County, Commonwealth of Pennsylvania. Furthermore, at the time of the events hereinafter set forth, Defendants decedent, Clark E. Rich, held himself out as one trained in the art and science of chiropractic.

4. Denied. On the contrary, at all times relevant hereto, Rich Chiropractic Clinic, a professional corporation was not a functioning professional corporation all steps having been to conclude the existence of same years prior to the first contact with the patient. By way of further response, there is no basis for Plaintiffs to assume at the time of the treatment that they were dealing with anyone other than a professional practitioner.

5. Denied for reasons set forth above.

6. Denied for reasons set forth above.

7. Admitted to the extent that, that is a partial history Plaintiff-husband provided to Clark E. Rich, deceased at the time of the first appointment. By way of further response, as the records reflect, Plaintiff also complained of left sacroiliac pain and pain in the left upper to mid dorsal area of his back with left hand numbness.

8. Denied for reasons set forth above and hereinafter all of which are incorporated herein by reference thereto as if same were set forth at length.

9. It is denied that on July 18, 2001, Plaintiff entered the Defendant Rich Chiropractic Clinic, P.C. and on the contrary, he entered the offices of Rich Chiropractic Clinic. By way of further response, the allegations set forth above and hereinafter in regard to Rich Chiropractic Clinic, P.C. are incorporated herein by reference thereto as if same were set forth at length. The remaining allegations are denied as stated and, on the contrary, the records reflect that on July 18, 2001, Plaintiff presented with a history that at 12:15 p.m. that day, he was unloading a truck, took off 40 lbs. of cucumbers and a twist to the right, got back catch and pain in left sacro-iliac area and left upper to mid dorsal hurting with left hand numbness.

10. All allegations related to treatment by Chiropractic Clinic, P.C. are denied for reasons set forth above and hereafter all of which are incorporated herein by reference thereto as if same were set forth at length. The remaining allegations are denied as stated. On the contrary, on July 18, 2001, the records reflect that the decedent first took a full history of the Plaintiff, undertook a spinal analysis, undertook x-ray series and then performed manipulation for the complaints noted above.

11. All allegations of husband-Plaintiff receiving chiropractic adjustments from Defendant, P.C., are denied for reasons set forth above and hereinafter all of which are incorporated herein by reference thereto as if same were set forth at length. It is admitted that from July 18, 2001 through October 8, 2001, the decedent provided treatment for Plaintiff's complaints as more fully set forth above.

12. Denied and on the contrary, the records reflect that on October 8, 2001, the husband-Plaintiff complained to the decedent that after the husband-Plaintiff received treatment on the previous Friday, he drove to Pittsburgh and back and developed bad right shoulder blade pain with some numbness in right hand.

13. Denied as stated and, on the contrary, according to the records, on October 8, 2001, Plaintiff husband received chiropractic adjustment to the cervical, thoracic and lumbar sacroiliac region.

14. Denied in that after reasonable investigation, these Defendants lack information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

15. Denied in that after reasonable investigation, these Defendants lack information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial.

16. All allegations in regard to Defendant, Rich Chiropractic Clinic, P.C., are denied for reasons set forth above and hereinafter all of which are incorporated herein by reference thereto as if same were set forth at length. All allegations of negligence upon Defendant decedent, Clark E. Rich, are denied as conclusions of law and for reasons set forth above and hereinafter all of which are incorporated herein by reference thereto as if same were set forth at length. All allegations of injuries, damages and losses are denied in that after reasonable investigation, these Defendants lack information sufficient upon which to form an opinion in regard to the truth of same. Strict proof of same is demanded at the time of trial. By way of further response, pursuant to Order of Court dated the 7<sup>th</sup> day of March, 2003, as consented to by Plaintiffs, these Defendant's Preliminary Objections to the subparagraphs of paragraph 16 remain outstanding pending further Order of Court. By way of further response, subparagraph (bb) has been dismissed.

17. The allegations set forth in paragraph 16 above are incorporated herein by reference thereto as if same were set forth at length.

18-25. All allegations of a "incident" as a vague and non specific term are denied. All allegations of injuries and/or damages are denied in that after reasonable investigation, these Defendants lack information sufficient upon which to form an opinion in regard to truth of same. Strict proof of same is demanded at the time of trial.

WHEREFORE, Defendants pray that Plaintiff's Complaint be dismissed.

**SECOND COUNT**

**Joyce Morris, His Wife vs. Rowena D. Rich,**  
**Executrix of the Estate of Clark E. Rich, Deceased and**  
**Rich Chiropractic Clinic**

26. The allegations set forth above are incorporated herein by reference thereto as if same were set forth at length.

27-29. All allegations of injuries and/or damages are denied in that after reasonable investigation, these Defendants lack information sufficient upon which to form an opinion in regard to truth of same.

WHEREFORE, Defendants, pray that Plaintiff's Complaint be dismissed.

**NEW MATTER**

30. Defendant, Rich Chiropractic Clinic, P.C., is not a proper party to this action.

31. As alleged in Plaintiff's Complaint, Plaintiff, Daniel L. Morris's first contact with Rich Chiropractic Clinic was on July 18, 2001.

32. Rich Chiropractic Clinic, P.C. ceased functioning in any capacity including the use of the designation of P.C. prior to January 11, 1994 and has not performed any functions nor represented itself in existence since that date.

33. At no time during husband-Plaintiff's course of treatment at Rich Chiropractic Clinic was there any reference in writing verbally or in any other manner to husband-Plaintiff of Rich Chiropractic Clinic, P.C.

34. Although through oversight of third parties, Rich Chiropractic Clinic, P.C. as of the time of treatment remained listed by the Department of State it ceased existence prior to January 11, 1994.

WHEREFORE, Defendant, Rich Chiropractic Clinic, P.C., prays that it be dismissed from this suit.

**NEW MATTER**

35. Plaintiff's cause of action is barred in that any injuries and/or damages suffered by the Plaintiff are the direct result of preexisting conditions non related to chiropractic treatment.

36. Plaintiff's cause of action is barred in that any injuries and/or damages suffered by the Plaintiff are the direct result of superceding, intervening factors non related to chiropractic treatment.

37. Plaintiff's claim are or may be barred, in part, by the applicable statute of limitations, 42 Pa.C.S.A. § 5524.

38. In the event that any other action has been or may be filed which arises out of the events that allegedly gave rise to this case and in the event that any such action reaches final determination prior to the final determination of this action and/or if Plaintiffs or anyone acting on their behalf has entered into any release, Plaintiff's claims are barred.

39. A considerable number of respected and recognized chiropractors in Clark Rich, D.C., deceased's field would have proceeded exactly as Clark Rich, D.C., deceased did in this case and therefore, this case is barred by the Two Schools of Thought Doctrine as defined under Pennsylvania law.

40. Clark Rich, D.C., deceased died prior to the commencement of this action and under the allegations in the Complaint, the Defendants are denied the opportunity to fully defend same. All rights, limitations and bars under the Pennsylvania Deadman's Act are hereby affirmatively pled.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendants

120 Lakemont Park Boulevard

Altoona, PA 16602

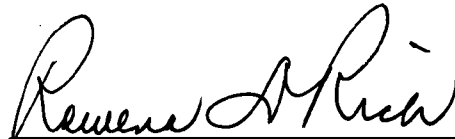
Phone No.: (814) 941-4600

ID # 23657

**VERIFICATION**

I, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, deceased, do hereby verify that I have read the foregoing **ANSWER AND NEW MATTER**. The statements therein are true and correct to the best of my knowledge as to part, and based upon information and belief as to the rest.

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

A handwritten signature in cursive script, appearing to read "Rowena D. Rich", written over a horizontal line.

Rowena D. Rich, Executrix of the Estate  
of Clark E. Rich, deceased

DATE: 3-31-2003

**CERTIFICATE OF SERVICE**

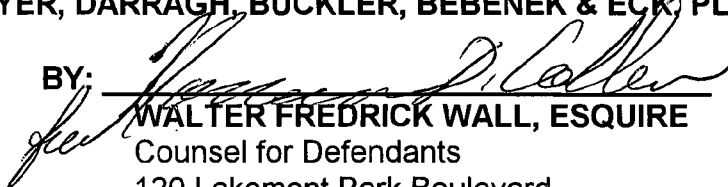
TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this 2<sup>nd</sup> day of April, 2003, I have served the foregoing Answer and New Matter on behalf of Defendants upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

A handwritten signature in cursive script, appearing to read "Walter Fredrick Wall", is written over a horizontal line.

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendants  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
DECEASED

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

CIVIL DIVISION

NO. 02-1419-CD

**PLAINTIFFS' REPLY TO  
NEW MATTER FILED ON  
BEHALF OF THE DEFENDANTS**

Filed on behalf of Plaintiffs, Daniel L.  
Morris and Joyce Morris, his wife

Counsel of Record for these Parties:

MERLE KRAMER MERMELSTEIN,  
ESQUIRE  
Pa. I.D. #44773

SILBERBLATT MERMELSTEIN, P.C.  
Firm #645  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

(412) 232-0580

**FILED**

APR 16 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

CIVIL DIVISION

NO. 02-1419-CD

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
DECEASED

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

**PLAINTIFFS' REPLY TO NEW MATTER  
FILED ON BEHALF OF DEFENDANTS**

AND NOW, come the Plaintiffs, Daniel L. Morris and Joyce Morris, his wife, by their attorneys, Merle Kramer Mermelstein, Esquire and the law firm of Silberblatt Mermelstein, P.C. and in response to the New Matter filed on behalf of the Defendants allege as follows:

1. The allegations of Paragraph 30 of the New Matter filed on behalf of the Defendants state a conclusion of law to which no reply is necessary. To the extent that a reply may be necessary, Plaintiffs deny the allegations of Paragraph 30 of the New Matter filed on behalf of the Defendants. It is denied that Defendant, Rich Chiropractic Clinic, P.C. is not a proper party to this action and strict proof thereof is demanded at the time of trial. Plaintiffs allege, to the contrary, that all of the damages sustained by

the Plaintiffs were the direct and proximate result of the negligence of all of the Defendants. Plaintiffs confirmed with the Pennsylvania Department of State that at the time of the man Plaintiff's medical treatment with the Defendants, the Defendant Rich Chiropractic Clinic, P.C. was in good standing and had not been dissolved.

2. In response to Paragraph 31 of the New Matter filed on behalf of the Defendants, Plaintiffs incorporate their Complaint filed at the above number and term. In addition, Plaintiffs allege that as a result of a work-related injury sustained by man Plaintiff on July 18, 2001, man Plaintiff's first appointment with the Defendant Rich Chiropractic Clinic, P.C. and Clark E. Rich, Deceased was on July 18, 2001.

3. The allegations of Paragraph 32 of the New Matter filed on behalf of the Defendants state a conclusion of law to which no reply is necessary. To the extent that a reply may be necessary, Plaintiffs deny the allegations of Paragraph 32 of the New Matter filed on behalf of the Defendants. It is denied that Rich Chiropractic Clinic, P.C. ceased functioning prior to January 11, 1994 and had not performed any functions since that date and strict proof thereof is demanded at the time of trial. Plaintiffs allege, to the contrary, that at the time that man Plaintiff treated with the Defendants, according to the Pennsylvania Department of State, the Defendant Corporation was in good standing and had not been dissolved.

4. The allegations of Paragraph 33 of the New Matter filed on behalf of the Defendants are denied. It is denied that during the time that man Plaintiff treated with the Defendants that the Defendant Corporation was not referred to in writing or verbally to the Plaintiffs. Plaintiffs allege, to the contrary, that at all times pertinent to the

conduct described in Plaintiffs' Complaint, the defendant Corporation, Rich Chiropractic Clinic, P.C. was in good standing and had not been dissolved.

5. The allegations of Paragraph 34 of the New Matter filed on behalf of the Defendants state a conclusion of law to which no reply is necessary. To the extent that a reply may be necessary, Plaintiffs deny the allegations of Paragraph 34 of the New Matter filed on behalf of the Defendants. It is denied that Rich Chiropractic Clinic, P.C. ceased existence prior to January 11, 1994 and strict proof thereof is demanded at the time of trial. Plaintiffs allege, to the contrary, that according to the Pennsylvania Department of State, the Defendant Corporation was in good standing and had not been dissolved.

6. The allegations of Paragraph 35 of the New Matter filed on behalf of the Defendants state a conclusion of law to which no reply is necessary. To the extent that a reply may be necessary, Plaintiffs deny the allegations of Paragraph 35 of the New Matter filed on behalf of the Defendants. It is denied that Plaintiffs' cause of action is barred in that injuries and/or damages suffered by the Plaintiff resulted from preexisting conditions not related to chiropractic treatment and strict proof thereof is demanded at the time of trial. Plaintiffs allege, to the contrary, that all of the injuries and damages sustained by the Plaintiffs were the direct and proximate result of the negligence of the Defendants as is more fully described in the Plaintiffs' Complaint filed at the above number and term.

7. The allegations of Paragraph 36 of the New Matter filed on behalf of the Defendants state a conclusion of law to which no reply is necessary. To the extent that

a reply may be necessary, Plaintiffs deny the allegations of Paragraph 36 of the New Matter filed on behalf of the Defendants. It is denied that Plaintiffs' cause of action is barred in that any injuries and/or damages suffered by the Plaintiff are the direct result of superceding, intervening factors not related to chiropractic treatment and strict proof thereof is demanded at the time of trial. Plaintiffs allege, to the contrary, that all of the injuries and damages sustained by the Plaintiffs were the direct and proximate result of the negligence of the Defendants as is more fully described in Plaintiffs' Complaint filed at the above number and term.

8. The allegations of Paragraph 37 of the New Matter filed on behalf of the Defendants state a conclusion of law to which no reply is necessary. To the extent that a reply may be necessary, Plaintiffs deny the allegations of Paragraph 37 of the New Matter filed on behalf of the Defendants. It is denied that Plaintiffs' claims are or may be barred by the applicable statute of limitations and strict proof thereof is demanded at the time of trial. Plaintiffs allege, to the contrary, that the Complaint in Civil Action filed by the Plaintiffs at the above number and term was filed within the appropriate time and within the applicable statute of limitations.

9. The allegations of Paragraph 38 of the New Matter filed on behalf of the Defendants state a conclusion of law to which no reply is necessary. To the extent that a reply may be necessary, Plaintiffs deny the allegations of Paragraph 38 of the New Matter filed on behalf of the Defendants. It is denied that there is any other action that has been or may be filed which would reach a final determination prior to the determination in this case and it is denied that Plaintiffs entered into any release and

strict proof thereof is demanded at the time of trial. Plaintiffs allege, to the contrary, that all of the injuries and damages sustained by the Plaintiffs were the direct and proximate result of the negligence of the Defendants as is more fully described in Plaintiffs' Complaint filed at the above number and term.

10. The allegations of Paragraph 39 of the New Matter filed on behalf of the Defendants state a conclusion of law to which no reply is necessary. To the extent that a reply may be necessary, Plaintiffs deny the allegations of Paragraph 39 of the New Matter filed on behalf of the Defendants. It is denied that other chiropractors would have proceeded in the same manner as the Defendant decedent and it is denied that this case is barred by the Two Schools of Thought Doctrine and strict proof thereof is demanded at the time of trial. Plaintiffs allege, to the contrary, that all of the injuries and damages sustained by the Plaintiffs were the direct and proximate result of the negligence of the Defendant Decedent as is more fully described in Plaintiffs' Complaint filed at the above number and term.

11. The allegations of Paragraph 40 of the New Matter filed on behalf of the Defendants state a conclusion of law to which no reply is necessary. To the extent that a reply may be necessary, Plaintiffs deny the allegations of Paragraph 40 of the New Matter filed on behalf of the Defendants. It is denied that the Defendants are unable to fully defend this action and that they are entitled to any rights under the Pennsylvania Deadman's Act and strict proof thereof is demanded at the time of trial. Plaintiffs allege, to the contrary, that all of the injuries and damages sustained by the Plaintiffs were the

direct and proximate result of the negligence of the Defendants as is more fully described in Plaintiffs' Complaint filed at the above number and term.

WHEREFORE, Plaintiffs continue to claim damages in a sum in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS.

JURY TRIAL DEMANDED.

Respectfully submitted,

SILBERBLATT MERMELSTEIN, P.C.

By Merle A. Mermelstein

Merle Kramer Mermelstein  
Counsel for Plaintiffs

Dated: 4-14-03

## **VERIFICATION**

I, Merle Kramer Mermelstein, Esquire, counsel of record for the Plaintiffs, Daniel L. Morris and Joyce Morris, in the within matter, do hereby certify that the statements set forth in the foregoing Plaintiffs' Reply to New Matter Filed on Behalf of Defendants are true and correct to the best of my knowledge, information and belief, these being legal matters and more within my knowledge and purview as counsel for the Plaintiffs than the Plaintiffs themselves. I understand that false statements herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

A handwritten signature in cursive script, reading "Merle H. Mermelstein". The signature is written in dark ink and is positioned above a horizontal line.


Merle Kramer Mermelstein

## **CERTIFICATE OF SERVICE**

I, Merle Kramer Mermelstein, Esquire, do hereby certify that a true and correct copy of **Plaintiffs' Reply to New Matter Filed on Behalf of Defendants** was mailed by first class mail, postage prepaid, on the 14<sup>th</sup> day of April, 2003 to the following person:

**Walter Fredrick Wall, Esquire  
Meyer Darragh Buckler Bebenek & Eck, P.L.L.C.  
120 Lakemont Park Blvd.  
Altoona, PA 16602  
Attorney for Defendants**

SILBERBLATT MERMELSTEIN, P.C.

By 

Merle Kramer Mermelstein  
Attorney for Plaintiffs

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**NOTICE OF DEPOSITION**

TO: Daniel L. Morris and Joyce Morris, his wife, Plaintiffs  
c/o Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

PLEASE TAKE NOTICE that the depositions of Plaintiffs, Daniel L. Morris and Joyce Morris, his wife, will be taken for the purpose of discovery and for use at trial, pursuant to Rule 4007.1 et seq, of the PA Rules of Civil Procedure, as amended, before an Official Court Reporter on **Friday, May 23, 2003, commencing at 9:30 a.m. at the offices of Sargent's Court Reporting Services, 106 North Second Street, 1<sup>st</sup> Floor, Clearfield, Pennsylvania**, at which time and place you are invited to appear and take such part as shall be fitting and proper.

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: 

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendants  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

Dated: May 7, 2003

cc: Sargent's Court Reporting Service

**FILED**

MAY 08 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

-vs-

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: CIVIL DIVISION

: No. 02-1419-CD

: JURY TRIAL DEMANDED

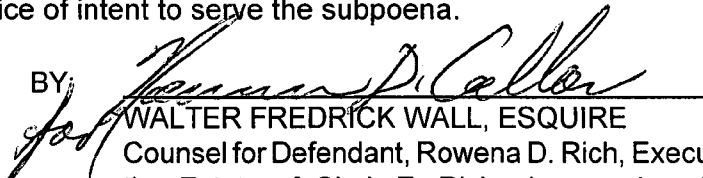
FILED  
MAY 11 50 PM  
MAY 22 2003  
William A. Shaw  
Prothonotary

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

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendants, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, deceased and Rich Chiropractic Clinic, P.C. certify that:

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

BY:

  
WALTER FREDRICK WALL, ESQUIRE  
Counsel for Defendant, Rowena D. Rich, Executrix of  
the Estate of Clark E. Rich, deceased and Rich  
Chiropractic Clinic, P.C.  
MEYER, DARRAGH, BUCKLER, BEBENEK & ECK,  
PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657  
Date: May 16, 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Defendants, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, deceased and Rich Chiropractic Clinic, P.C., intend to serve a subpoena identical to the one that is attached to this notice upon ESIS, Inc. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

BY:



WALTER FREDRICK WALL, ESQUIRE

Counsel for Defendant, Rowena D. Rich, Executrix  
of the Estate of Clark E. Rich, deceased and Rich  
Chiropractic Clinic, P.C.

MEYER, DARRAGH, BUCKLER, BEBENEK &  
ECK, PLLC  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
(814) 941-4600  
Pennsylvania ID #23657

Date: March 24, 2003

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

DANIEL L. MORRIS and JOYCE MORRIS, his wife, \*

Plaintiff(s) \*

Vs. \*

ROWENA D. RICH, Executrix of the ESTATE OF CLARK E. \*  
RICH, deceased and RICH CHIROPRACTIC CLINIC, P.C. \*

Defendant(s) \*

No. 02-1419-CD

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

TO: ESIS, Inc., P.O. Box 15527, One Beaver Valley Road, Wilmington,  
~~Delaware 19850~~ RE: ~~Daniel Morris, R.R. 1, Box 6, Woodland,~~  
PA 16881 (Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: Full and complete Worker's Compensation Claim File of Daniel Morris (SSN: 159-42-8275, DOB: 03/18/50) including, but not limited to all claim petitions, answers, decisions, appeals, correspondence, medical records and reports, ~~IME's~~, wage loss and payment documentation, medical payments, other benefits payable, correspondence, memos (Address)

Meyer, Darragh, 120 Lakemont Park Boulevard, Altoona, PA 16602

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

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

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

NAME: Walter Fredrick Wall, Esquire  
ADDRESS: 120 Lakemont Park Boulevard  
Altoona, PA 16602  
TELEPHONE: (814) 941-4600  
SUPREME COURT ID # 23657  
ATTORNEY FOR: Defendants

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: March 24, 2003

Seal of the Court

  
Deputy

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



**MEYER • DARRAGH**  
**BUCKLER BEBENEK & ECK, P.L.L.C.**

Attorneys-at-Law

120 Lakemont Park Boulevard • Altoona, PA 16602 • (814) 941-4600 • Fax: (814) 941-4605

May 16, 2003

Office of the Prothonotary  
Clearfield County Courthouse  
Clearfield, PA 16823

RE: Morris, et al., vs. Rich, et al.  
No. 02-1419-CD — Clearfield County  
Our file number: PRINCE-105291

To the Prothonotary:

Please file of record the enclosed Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22, on behalf of Defendants, Rowena D. Rich, Executrix of the Estate of the Estate of Clark E. Rich, deceased and Rich Chiropractic Clinic, P.C., respectively, in the above-captioned matter. Please note that by copy of this letter, a true and correct copy of the within has been forwarded to all counsel of record.

Thank you for your time and attention to this matter.

Yours very truly,

  
WALTER FREDRICK WALL

WFW/RW/ten  
Enclosure

cc (w/encl): Merle Kramer Mermelstein, Esquire

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this 17<sup>th</sup> day of June, 2003, I have served the foregoing Responses to Plaintiffs' Request for Production of Documents Directed to Defendant, Rowena D. Rich, Executrix of the Estate of Clark E. Rich, Deceased, on behalf of Defendants upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY:

Walter Fredrick Wall  
**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendants  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**FILED**

ml/1/16/03 no cc  
JUN 18 2003

William A. Shaw  
Prothonotary

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,  
Plaintiffs

: CIVIL DIVISION

-vs-

: No. 02-1419-CD

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
deceased,

-and-

RICH CHIROPRACTIC CLINIC, P.C.,  
Defendants

: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

TO THE PROTHONOTARY:

I, Walter Fredrick Wall, Esquire, of the law firm of MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC, hereby certify that on this 17<sup>th</sup> day of June, 2003, I have served the foregoing Answers to Plaintiffs' Interrogatories Directed to the Defendant, Rowena D. Rich, Executrix, on behalf of Defendants upon all counsel/parties of record, by mailing a true and correct copy of same by United States first class mail, postage prepaid as follows:

Merle Kramer Mermelstein, Esquire  
SILBERBLATT MERMELSTEIN, P.C.  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

**MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC**

BY: Walter F. Wall

**WALTER FREDRICK WALL, ESQUIRE**

Counsel for Defendants  
120 Lakemont Park Boulevard  
Altoona, PA 16602  
Phone No.: (814) 941-4600  
ID # 23657

**FILED**

*m/m/16/01 cc*  
JUN 18 2003

*E. Shaw*  
William A. Shaw  
Prothonotary

**William A. Shaw**  
**Prothonotary**

Dated: 6-19-03

Dated: 6-19-03

**Rich Chiropractic Clinic, P.C.**

FILED

NO  
cc  
M 11-12-03  
JUN 20 2003  
cc

William A. Shaw  
Proprietary

CA

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
Estate of Clark E. Rich, Deceased,

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

NO. 02-1419-CD

JURY TRIAL DEMANDED

**STIPULATION OF COUNSEL TO RICH CHIROPRACTIC CLINIC, P.C.**

AND NOW, the above-captioned parties by and through their counsel of record, hereby agree and stipulate as follows:

1. Pursuant to Pennsylvania Rule of Civil Procedure 229(b) and effective upon approval of this Stipulation by the Court, the Defendant, RICH CHIROPRACTIC CLINIC, P.C., shall be dismissed as a party-Defendant to this case, without prejudice.
2. The Plaintiffs hereby direct the Prothonotary to mark all claims against Defendant, RICH CHIROPRACTIC CLINIC, P.C., voluntarily discontinued and ended, without prejudice.
3. All parties consent to entry of a court order in accordance with this Stipulation
4. All parties agree that the caption in this matter shall be amended by deletion of any reference to the Defendant, RICH CHIROPRACTIC CLINIC, P.C.

SIGNED:

Merle A. Mermelstein

Merle Kramer Mermelstein, Esq.  
Counsel for Plaintiffs

8/22/03

Dated

Allen P. Neely

Allen P. Neely, Esq.  
Counsel for Defendant,  
RICH CHIROPRACTIC CLINIC, P.C.

8/21/03

Dated

Walter F. Wall

Walter F. Wall, Esq.  
Counsel for ROWENA D. RICH,  
Executrix of the Estate of Clark E. Rich, Deceased

8-27-03

Dated

FILED

SEP 04 2003  
11:30 AM  
William A. Shaw  
Prothonotary/Clerk of Courts

1 copy to ATT

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

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
Estate of Clark E. Rich, Deceased,

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

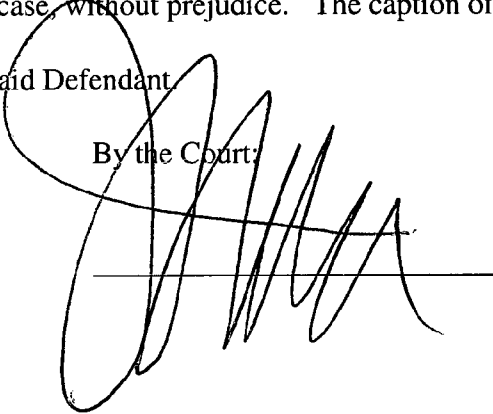
NO. 02-1419-CD

JURY TRIAL DEMANDED

**ORDER**

AND NOW, this 8<sup>th</sup> day of September, 2003, the Stipulation signed by all  
counsel is hereby approved and it is ordered that the Defendant, RICH CHIROPRACTIC  
CLINIC, P.C.. is dismissed as a party to this case, without prejudice. The caption of this case  
shall be amended to reflect the dismissal of said Defendant.

By the Court:



**FILED**

SEP 08 2003

William A. Shaw  
Prothonotary/Clerk of Courts

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

RODNEY JORDAN and JUDITH JORDAN,  
husband and wife,

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

No. 00 - 1148 - CD

**FILED**

SEP 08 2003

William A. Shaw  
Prothonotary/Clerk of Courts

**DEFENDANT'S RESPONSE TO PLAINTIFFS'**  
**PETITION TO EXTEND TIME**

AND NOW comes Defendant, by and through her attorneys, McQuaide, Blasko,  
Schwartz, Fleming & Faulkner, Inc., and files the following response to Plaintiffs' Petition to  
Extend Time:

1. Admitted.
2. Admitted. By way of further response, the Court's May 20, 2003 Order directed that this case be scheduled for trial during the first trial term of 2004.
- 3.-11. After reasonable investigation, Defendant lacks sufficient knowledge or information to form a belief as to the truth of these averments. By way of further response, this case involves an automobile accident that occurred approximately five years ago, and the lawsuit has been pending for almost three years. Over the years, Defendant has repeatedly asked Plaintiffs to provide the identity and reports of any trial experts to be called. Finally, after a status conference requested by Defendant, expert deadlines were set, such that Plaintiffs were to identify any physicians/trial experts by August 18, 2003, and to provide the reports of any such witnesses. Plaintiffs have had more than ample time to obtain medical reports from any

physicians they intend to call in support of their claims, including Dr. Swan and/or Dr.

Valigorsky. Defendant has already been prejudiced by Plaintiffs' delay, and permitting Plaintiffs even further time under the circumstances of this case would only exacerbate that prejudice.

WHEREFORE, Defendant respectfully requests that Plaintiffs' Petition to Extend Time be denied, and that Plaintiffs be precluded from submitting any additional medical reports, and from attempting to introduce medical testimony outside of the fair scope of the records and reports previously exchanged.

Respectfully submitted,

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

By: 

Katherine V. Oliver  
Attorneys for Defendant  
SUSAN TURNER-BETTS  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

Dated: 9-5-03

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

RODNEY JORDAN and JUDITH JORDAN,  
husband and wife,

Plaintiffs,

vs.

SUSAN TURNER-BETTS,

Defendant.

No. 00 - 1148 - CD

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Defendant's Response to Plaintiffs' Petition to Extend Time in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 22 day of September 2003, to the attorney(s) of record:

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

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

By: 

Katherine V. Oliver  
Attorneys for Defendant  
SUSAN TURNER-BETTS  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Fax: (814) 238-9624

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL L. MORRIS and  
JOYCE MORRIS, his wife,

Plaintiffs,

vs.

ROWENA D. RICH, Executrix of the  
ESTATE OF CLARK E. RICH,  
DECEASED

and

RICH CHIROPRACTIC CLINIC, P.C.,

Defendants.

CIVIL DIVISION

NO. 02-1419-CD

**PRAECIPE TO SETTLE  
AND DISCONTINUE**

Filed on behalf of Plaintiffs, Daniel L.  
Morris and Joyce Morris, his wife

Counsel of Record for these Parties:

MERLE KRAMER MERMELSTEIN,  
ESQUIRE  
Pa. I.D. #44773

SILBERBLATT MERMELSTEIN, P.C.  
Firm #645  
2904 Gulf Tower  
707 Grant Street  
Pittsburgh, PA 15219

(412) 232-0580

**FILED**

**OCT 23 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

**PRAECIPE TO SETTLE AND DISCONTINUE**

TO: **WILLIAM A. SHAW, PROTHONOTARY**

SIR:

Please settle and discontinue the within-captioned case and mark it off the docket or satisfy the Verdict, Award or Judgment.

- (XXX) Attorney for Plaintiff;
- (XXX) Prothonotary Settle and Discontinue with Issue Costs; and
- (XXX) Certificate of Discontinuance.

SILBERBLATT MERMELSTEIN, P.C.

By Merle H. Mermelstein  
Merle Kramer Mermelstein  
Attorneys for Plaintiff

DATE: October 23, 2003

PROTHONOTARY COSTS: \$ 80.00

SWORN to and subscribed before me  
this 21 day of October, 2003.

Nancy T. Argentieri  
NOTARY PUBLIC

Notarial Seal  
Nancy T. Argentieri, Notary Public  
Baldwin Boro, Allegheny County  
My Commission Expires Apr. 18, 2005  
Member, Pennsylvania Association of Notaries

FILED No  
cc  
M11:00 AM  
OCT 23 2003  
Cert. of Disc. to Atty  
copy to CIA  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Daniel L. Morris and  
Joyce Morris, his wife

Vs.

No. 2002-01419-CD

Rowena D. Rich, Executrix of the  
Estate of Clark E. Rich, Deceased

and

Rich Chiropractic Clinic, P.C.

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on October 23, 2003, marked:

Settled and Discontinued

Record costs in the sum of \$80.00 have been paid in full by Merle K. Mermelstein.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 23rd day of October A.D. 2003.

---

William A. Shaw, Prothonotary