

03-192-CD
PAMELA M. OWENS -vs- MARY FARRELL

1/2008

Clearfield County Court of Common Pleas

User: LMILLER

3:30 PM

ROA Report

1 of 5

Case: 2003-00192-CD

Current Judge: Paul E. Cherry

Pamela M. Owens vs. Mary Farrell

Civil Other

Date		Judge
2/12/2003	Filing: Civil Complaint Paid by: Hopkins, David J. (attorney for Owens, Pamela M.) Receipt number: 1855517 Dated: 02/12/2003 Amount: \$85.00 (Check) Two CC Sheriff	No Judge
4/10/2003	Sheriff Returns: March 3, 2003 complaint was served upon Mry Farrell at residence at 1426 Treasure Lake, Dubois, PA, by handing to Defendant. Shff. Hawkins \$43.07, Surcharge \$10.00, paid by Atty.	No Judge
4/16/2003	Filing: Praecipe for Appearance filed by Laura Pasquinelli, Esq. 1 CC to Atty.	No Judge
	Filing: Answer to Complaint and New Matter filed on behalf of Defendant by Atty. 1 CC to Atty.	No Judge
4/22/2003	Preliminary Objections to New Matter. filed by s/David J. Hopkins, Esq. Certificate of Service 2 cc Atty Hopkins	No Judge
5/23/2003	Amended New Matter. filed by s/Laura R. Pasquinelli, Esq. Verification Certificate of Service no cc	No Judge
6/18/2003	Answer to Amended New Matter. filed by s/David J. Hopkins, Esquire Certificate of Service Verification s/Pamela M. Owens no cc	No Judge
7/14/2003	Notice of Name Change Of Attorney For Defendant From Laura R. Pasquinelli, Esquire to Laura R. Signorelli, Esquire. filed by s/Laura R. Signorelli, Esquire Certificate of Service no cc	No Judge
9/25/2003	Motion to Compel Discovery, filed by s/Laura R. Signorelli, Esq. Two CC Attorney Signorelli One CC Attorney Hopkins per request of L. Signorelli	No Judge
9/26/2003	ORDER OF COURT, AND NOW, this 26th day of September, 2003, re: Plaintiff will file a Response to Request for Production of Documents within 30 days. by the Court, s/JKR, JR., P.J. 2 cc Atty Signorelli, 1 cc Atty Hopkins	John K. Reilly Jr.
10/28/2003	Certificate of Service of Plaintiff's Answer to Defendant's Request for Production of Documents. No CC.	John K. Reilly Jr.
1/12/2004	Certificate Prerequisite To Service Of A Subpoena Pursuant To Rule 4009.22. filed by, s/Laura Signorelli, Esquire no cc	John K. Reilly Jr.
1/15/2004	Certificate Prerequisite To Service Of A Subpoena Pursuant To Rule 4009.22. filed by, s/Laura Signorelli, Esquire no cc	John K. Reilly Jr.
2/5/2004	Verification of Service of Defendant's request for admissions directed to Plff. filed by Atty. Pasquinelli. No cc.	John K. Reilly Jr.
7/13/2004	Certificate of Readiness, filed by s/David J. Hopkins, esq. No CC	John K. Reilly Jr.
7/19/2004	Objection to Certificate of Readiness Pursuant to Clearfield County Local Rule 212.2 (b), filed by s/Laura R. Signorelli, Esq. One CC Attorney	John K. Reilly Jr.
7/30/2004	ORDER, AND NOW, this 29 day of July, 2004, upon consideration of Defendant's Objections to Certificate of Readiness, it is ORDER of the court that argument on said Objections has been scheduled for the 18 day of August, 2004, at 1:30 p.m., in Courtroom No. 2. By the Court, Judge Paul E. Cherry. 2 cc & Memo Re: service of Rule to Show Cause to Atty L Signorelli.	Paul E. Cherry
8/9/2004	Certificate of Service, Pre-Trial Memorandum, on Laura R. Signorelli, Esq. Filed by s/David J. Hopkins, Esq. No cc.	Paul E. Cherry

Pamela M. Owens vs. Mary Farrell

Civil Other

Date		Judge
8/19/2004	ORDER, AND NOW, this 16th day of August, 2004, following Pre-Trial Conference, it is the ORDER of this Court: 3. Jury Selection, scheduled for August 26, 2004, at 9:00 a.m. 4. Trial scheduled for December 2 and 3, 2004, at 9:00 a.m. (See original for Discovery, Motions, Points of Charge, and Exhibit details) By the Court, Paul E. Cherry, 1 cc Attys Hopkins, Signorelli	Paul E. Cherry
11/2/2004	Motion in Limine filed by Atty. Signorelli. 1 CC to Atty.	Paul E. Cherry
11/4/2004	Order, AND NOW, this 3rd day of Nov. , 2004, upon consideration of Defendant's Motion(s) in Limine filed in the above matter, it is the ORDER of the Court that argument on said Motion has been scheduled for the 24th day of November, 2004, at 11:00 a.m. in Courtroom No. 2, Clfd. Co. Courthouse. BY THE COURT: /s/ Paul E. Cherry, Judge. 3 CC to Atty.	Paul E. Cherry
11/30/2004	Order, Now, this 24th day of Nov., 2004, this being the date set for hearing on the Motion in Limine filed on behalf of the Defendant, it is the ORDER of this Court as follows: 1. David Hopkins, Esquire, is hereby precluded from introducing any testimony concerning his residence at the time of the accident; 2. Upon oral request of counsel for the Defendant to preclude testimony of prior knowledge and observation of Plaintiff concerning the Defendant , it is the ORDER of this Court that said request is hereby denied. BY THE COURT:/s/ Paul E. Cherry, Judge. 1CC Atty Hopkins, 1 CC Atty Signorelli (faxed 11/30/04) Order, NOW, this 29th day of Nov. 2004, upon consideration of the Motion in Limine filed on behalf of the Defendant, it is the ORDER of this Court as follows: (See Original) BY THE COURT, /s/ Paul E. Cherry, Judge. 1 CC & fax to Attys Hopkins, Signorelli	Paul E. Cherry
12/3/2004	Verdict Slip, Was the negligence of the Defendant, Mary Farrell, a substantial factor in causing any injuries to the Plaintiff, Pamela M. Owens? No, s/ Jury Foreperson. no cc	Paul E. Cherry
12/8/2004	Plaintiff's Motion for Post Trial Relief, filed by s/David J. Hopkins, Esq. No CC	Paul E. Cherry
12/10/2004	Scheduling Order: NOW, this 10th day of December, 2004, upon consideration of Plaintiff's Motion for Post Trial Relief; a hearing to consider Plaintiff's request is scheduled on the 4th day of Feb., 2005, at 1:30 p.m. in Courtroom No. 2 of the Clfd. co. Courthouse. BY THE COURT, /s/ Paul E. Cherry, Judge. 1CC Atty Hopkins	Paul E. Cherry
12/23/2004	Praecipe For Entry of Appearance, filed by Atty. Dennison Enter appearance on behalf of Mary Farrell s/ John C. Dennison, Esq.	Paul E. Cherry
1/12/2005	Order, AND NOW, this 11th day of Jan., 2005, Post Trial Conference shall be held on Feb. 4, 2005, at 1:30 P.M. in Judge Cherry's Chambers, Clfd. Co. Courthouse Annex. Said conference shall be held in lieu of the hearing which has been scheduled for same date. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Dennison, and Signorelli	Paul E. Cherry
2/15/2005	Order, AND NOW, this 15th day of February, 2005, Order that counsel for the parties provide the Court with a letter brief on Post-Trial Motions filed by the Plaintiff, by and no later than February 24, 2005. BY THE COURT: /s/Paul E. Cherry, Judge Two CC Attys: Hopkins, Dennison	Paul E. Cherry

Pamela M. Owens vs. Mary Farrell

Civil Other

Date		Judge
3/4/2005	Order, AND NOW, this 2nd day of March, 2005, upon consideration of Plaintiff's Post-Trial Motions, and following conference, it is the ORDER of this Court that said Post-Trial Motion be and is hereby GRANTED. Plaintiff is hereby granted a new trial. BY THE COURT, /s/Paul E. Cherry, Judge. 2CC Attys: Hopkins, Dennison	Paul E. Cherry
3/11/2005	Certificate of Readiness, filed by Atty. Hopkins no cert. copy to C/A	Paul E. Cherry
3/28/2005	Filing: Appeal to High Court Paid by: Dennison, John C. II (attorney for Farrell, Mary) Receipt number: 1898052 Dated: 03/28/2005 Amount: \$45.00 (Check) 1 Cert. to Superior Court w/\$60.00 Check	Paul E. Cherry
3/30/2005	Order, AND NOW, this 28th day of March, 2005, the Court having been notified of Appeal to the Superior Court of Pa. it is the ORDER of this Court that Appellant file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Dennison, Signorelli	Paul E. Cherry
4/4/2005	Statement of Matters Complained of on Appeal, filed by John C. Dennison, II, Esquire. No CC	Paul E. Cherry
	Appeal Docket Sheet filed. No CC	Paul E. Cherry
5/2/2005	Answer to Motion(s) in Limine, filed by s/David J. Hopkins, Esq. No CC (found in file-not submitted previously for filing)	Paul E. Cherry
7/14/2005	Order, Superior Court of Penna. Appellant has not paid for transcripts, appellant shall show cause why this appeal should not be dismissed. Letter shall be filed so as to be actually received by the Prothonotary by July 25, 2005. Failure to timely respond to this court will result in dismissal of this appeal without further notice. No CC	Paul E. Cherry
8/3/2005	Order, Certified From the Record of the Superior Court of Pa., the show cause order dated July 11 is discharged and the appeal shall proceed. Per Curiam	Paul E. Cherry
9/12/2005	Transcript of Proceedings, Jury Trial, held December 2, 2004, I of II, filed.	Paul E. Cherry
	Transcript of Proceedings, Jury Trial, held December 3, 2004, II of II, filed.	Paul E. Cherry
2/10/2006	Opinion, BY THE COURT: /s/Paul E. Cherry, Judge Two CC Atty Hopkins, Signorelli, J. Dennison One CC D. Mikesell One CC Law Library	Paul E. Cherry
2/13/2006	Appeal Mailed to Superior Court February 13, 2006.	Paul E. Cherry
	Certified Mail Receipt, sent Feb. 13, 2006 addressed to Superior Court-Office of the Prothonotary, filed. Original filed to 04-940-CD (2 appeals sent together)	Paul E. Cherry
2/16/2006	Certified Mail Receipt, addressed to Superior Court of PA, Office of Prothonotary, received on Feb. 14, 2006, filed.	Paul E. Cherry
1/12/2007	Certificate of Contents of Remanded Record and Notice of Remand. Record remanded Jan. 11, 2007.	Paul E. Cherry
	Non-Precedential Decision, Superior Court: Appeal from the Order entered March 2, 2005 In the Court of Common Pleas of Clearfield County. Order affirmed. No CC	Paul E. Cherry
2/5/2007	Letter, from Supreme Court of Pennsylvania. Date Petition for Allowance of Appeal Filed: Feb. 1, 2007, filed. No CC	Paul E. Cherry
7/5/2007	Supreme Court Order, AND NOW, this 14th day of June, 2007, Petition for Allowance of Appeal is Denied. No CC	Paul E. Cherry

Pamela M. Owens vs. Mary Farrell

Civil Other

Date		Judge
7/30/2007	Motions In Limine, filed by s/ Laura R. Signorelli, Esquire. 1CC Atty.	Paul E. Cherry
8/24/2007	Order, Jury Selection is scheduled for August 28, 2007, beginning at 9:00 a.m. in Courtroom 2. Trial is scheduled for Nov. 2, 2007, beginning at 9:00 a.m. in Courtroom 2. (see original for deadlines). By The Court, /s/ Paul E. Cherry, Judge. CC to Hopkins & L. Signorelli	Paul E. Cherry
9/24/2007	Notice is given that if no objections are made to the text of the transcript within 5 days after such notice, the transcript will become part of the record upon being filed in the Proth. Office. Filed by s/ Thomas D. Snyder, RPR, Official Court Reporter. No CC	Paul E. Cherry
	Transcript of Proceedings, filed. Opening Statements, held before the Honorable Paul E. Cherry, Judge, on Dec. 2, 2004.	Paul E. Cherry
11/2/2007	Order, this 2nd day of Nov., 2007, the Court believes that the statements made by Plaintiff's counsel during his opening statement may be prejudicial to the Defense and the Court will grant a mistrial at this time. By the Court, /s/Paul E. Cherry, Judge. 1CC Attys: Hopkins, Dennison, Signorelli	Paul E. Cherry
	Members of the Jury/Verdict Slip: Mistrial	Paul E. Cherry
11/9/2007	Order, this 6th day of Nov., 2007, Pre-Trial Conference shall be held on the 18th day of Dec., 2007, in Chambers at 1:30 p.m. Jury Selection will be held on Jan. 3, 2008. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Dennison, Signorelli	Paul E. Cherry
11/19/2007	Petition For Costs, Counsel Fees, filed by s/ Laura R. Signorelli, Esquire. 1CC Atty. Signorelli	Paul E. Cherry
12/19/2007	Order, Jury Selection in this matter is scheduled for Jan. 3, 2008, beginning at 9:00 a.m. in Courtroom 2. Trial is scheduled for Feb. 21, 22, 2008 beginning at 9:00 a.m. at the Multi-Service Center. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys; Hopkins, Signorelli, Dennison	Paul E. Cherry
1/4/2008	Order, this 3rd day of Jan., 2008, it is Ordered that argument with regard to Defendant's Petition for Costs and Counsel Fees is scheduled for the 5th day of Feb., 2008 at 2:30 p.m. in Courtroom 2. Counsel for the parties shall participate via telephone. By the Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Dennison, Signorelli	Paul E. Cherry
1/22/2008	Motion in Limine Prohibiting Defense Attorney from Commenting in Opening or Closing Statements Regarding Comments of Doctors Unless They Testify as a Witness, filed by s/ David J. Hopkins, Esquire. 2CC Atty. Hopkins	Paul E. Cherry
	Motion For Summary Judgment, filed by s/ David J. Hopkins, Esquire. 2CC Atty. Hopkins	Paul E. Cherry
1/23/2008	Order AND NOW, this 23rd day of January 2008, it is the ORDER of the Court that Argument on all Outstanding Motions in the above captioned matter shall be and are hereby scheduled for Friday, January 25, 2008 at 8:45 am in Courtroom No. 1 of the Clearfield County Courthouse, Pennsylvania, via telephone conference, with the Honorable John K. Reilly Jr., Senior Judge, specially presiding. David J. Hopkins Esquire is hereby directed to make the necessary arrangements for a telephone conference call between Laura R. Signorrelli Esquire and the Court for said hearing. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Signorrelli, Dennison. (C/A notified Atty Hopkins via e-mail 1/23/2008)	Paul E. Cherry
1/24/2008	Motion in Limine, filed by Atty. Signorelli 1 Cert. to Atty.	Paul E. Cherry

11/19/2007
not in file

Pamela M. Owens vs. Mary Farrell

Civil Other

Date		Judge
1/25/2008	Order, this 25th day of Jan., 2008, Plaintiff's Motion for summary Judgment is granted and judgment entered in favor of the Plaintiff on the issue of negligence. By The Court, /s/ John K. Reilly, Jr., Pres. Judge. 1CC Attys: Hopkins, Signorelli, Dennison	John K. Reilly Jr.
	Order, this 25th day of Jan. 2008, upon consideration of Pretrial Motion and upon consideration thereof, it is Ordered that: (see original). By The Court, /s/ John K. Reilly, Jr., Senior Judge. 1CC Attys: Hopkins, Signorelli, Dennison	
	Order, this 25th day of January 2008, upon consideration of Pretrial Motions in Limine, it is the ORDER of theis Court that Motion No. 3 shall be denied. See original. BY THE COURT: /S/ John K. Reilly Jr Esq. 1CC Attys: Hopkins, Signorelli and Dennison.	John K. Reilly Jr.

Appeal Docket Sheet

Docket Number: 532 WDA 2005

Superior Court of Pennsylvania

Page 1 of 3

March 31, 2005



Pamela M. Owens,

v.

Mary Farrell, Appellant

03-192-CD

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: March 31, 2005

Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType:

Trespass

Consolidated Docket Nos.:

Related Docket Nos.:

See entries

SCHEDULED EVENT

Next Event Type: Case Initiation

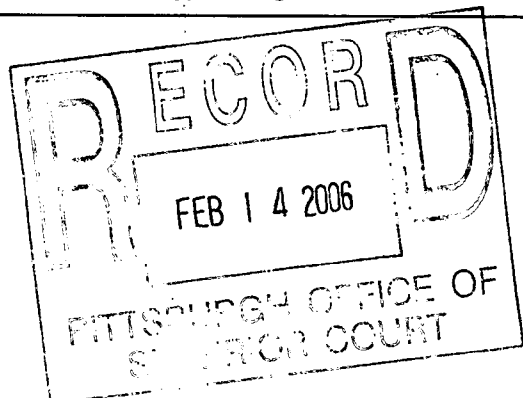
Next Event Due Date: March 31, 2005

Next Event Type: Docketing Statement Received

Next Event Due Date: April 14, 2005

Next Event Type: Original Record Received

Next Event Due Date: May 10, 2005



FILED NO CC
 3/12/4781
 APR 04 2005

William A. Shaw
 Prothonotary/Clerk of Courts

Record-1
 Transmittal-2

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 532 WDA 2005

Page 2 of 3

March 31, 2005



COUNSEL INFORMATION

Appellant Farrell, Mary

Pro Se: Appoint Counsel Status:

IFP Status: No

Appellant Attorney Information:

Attorney: Dennison, John C.

Bar No.: 29408

Law Firm: Dennison, Dennison & Harper

Address: 293 Main Street

Brookville, PA 15825

Phone No.: (814)849-8316

Fax No.: (814)849-4656

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee Owens, Pamela M.

Pro Se: Appoint Counsel Status:

IFP Status: No

Appellee Attorney Information:

Attorney: Hopkins, David J.

Bar No.: 42519

Law Firm: Hopkins Heltzel, LLP

Address: 900 Beaver Drive

Du Bois, PA 15801

Phone No.: (814)375-0300

Fax No.: (814)375-5035

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
3/31/05	Notice of Appeal	60.00	60.00	2005SPRWD000386

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield

Division: Civil

Date of Order Appealed From: March 2, 2005

Judicial District: 46

Date Documents Received: March 31, 2005

Date Notice of Appeal Filed: March 28, 2005

Order Type: Order Entered

OTN:

Judge: Cherry, Paul E.
Judge

Lower Court Docket No.: Number 192 of 2003, C.D.

ORIGINAL RECORD CONTENTS

Appeal Docket Sheet

Docket Number: 532 WDA 2005

Page 3 of 3

March 31, 2005

Superior Court of Pennsylvania



Original Record Item

Filed Date

Content/Description

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date

Docket Entry/Document Name

Party Type

Filed By

March 31, 2005

Notice of Appeal Filed

Appellant

Farrell, Mary

March 31, 2005

Docketing Statement Exited (Civil)

Western District Filing Office



Superior Court of Pennsylvania

Western District

March 31, 2005

David A. Szewczak, Esq.
Prothonotary
Eleanor R. Valecko
Deputy Prothonotary

310 Grant Street, Suite 600
Pittsburgh, PA 15219-2297
412-565-7592
www.superior.court.state.pa.us

Mr. William A. Shaw
Prothonotary
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Re: 532 WDA 2005
Pamela M. Owens,
v.
Mary Farrell, Appellant

Dear Mr. Shaw:

Enclosed please find a copy of the docket for the above appeal that was recently filed in the Superior Court. Kindly review the information on this docket and notify this office in writing if you believe any corrections are required.

Appellant's counsel is also being sent a Docketing Statement, pursuant to Pa.R.A.P. 3517, for completion and filing. Please note that Superior Court Dockets are available on the Internet at the Web site address printed at the top of this page. Thank you.

Very truly yours,

Eleanor R. Valecko
Deputy Prothonotary

GJM

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(C)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

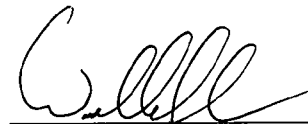
03-192-CD

**Pamela M. Owens
VS.
Mary Farrell**

In compliance with Pa. R.A.P. 1931 (c).

The documents comprising the record have been numbered from **No. 1 to No. 40**, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is
February 13, 2006.



Prothonotary/Clerk of Courts

(seal)

Pamela M. Owens vs. Mary Farrell

Civil Other

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Pamela M. Owens vs. Mary Farrell

Civil Other

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Pamela M. Owens vs. Mary Farrell

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Answer to Motion(s) in Limine, filed by s/David J. Hopkins, Esq. No CC (found in file-not submitted previously for filing)	
07/14/2005	Paul E. Cherry
Order, Superior Court of Penna. Appellant has not paid for transcripts, appellant shall show cause why this appeal should not be dismissed. Letter shall be filed so as to be actually received by the Prothonotary by July 25, 2005. Failure to timely respond to this court will result in dismissal of this appeal without further notice. No CC	
08/03/2005	Paul E. Cherry
Order, Certified From the Record of the Superior Court of Pa., the show cause order dated July 11 is discharged and the appeal shall proceed. Per Curiam	
09/12/2005	Paul E. Cherry
Transcript of Proceedings, Jury Trial, held December 2, 2004, I of II, filed.	
	Paul E. Cherry
Transcript of Proceedings, Jury Trial, held December 3, 2004, II of II, filed.	
02/10/2006	Paul E. Cherry
Opinion, BY THE COURT: /s/Paul E. Cherry, Judge Two CC Atty Hopkins, Signorelli, J. Dennison One CC D. Mikesell One CC Law Library	

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

FEB 13 2006

Attest.

William D. Cherry
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**No. 03-192-CD
Pamela M. Owens
VS.
Mary Farrell**

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	02/12/03	Civil Complaint	07
02	04/10/03	Sheriff Returns	08
03	04/16/03	Praecipe for Appearance	03
04	04/16/03	Answer to Complaint and New Matter	08
05	04/22/03	Preliminary Objections to New Matter	04
06	05/23/03	Amended New Matter	06
07	06/18/03	Answer to Amended New Matter	04
08	07/14/03	Notice of Name Change of Attorney for Defendant	03
09	09/25/03	Motion to Compel Discovery with Order of Court filed 9/26/03 Re: Response to Request for Production of Documents	06
10	10/28/03	Certificate of Service, Re: Plaintiff's Answer to Defendant's Request for Production of Documents	01
11	01/12/04	Certificate Prerequisite to Service of a Subpoena	14
12	01/15/04	Certificate Prerequisite to Service of a Subpoena	06
13	02/05/04	Verification of Service of Defendant's Request for Admissions directed to Plaintiff	02
14	07/13/04	Certificate of Readiness	01
15	07/19/04	Objection to Certificate of Readiness Pursuant to Clearfield County Local Rule 212.2(b)	08
16	07/30/04	Order, Re: argument on objections scheduled	01
17	08/09/04	Certificate of Service, Re: Pre-Trial Memorandum	01
18	08/19/04	Order, Re: following Pre-Trial conference	01
19	11/02/04	Motion in Limine	11
20	11/04/04	Order, Re: Defendant's Motion in Limine	01
21	11/30/04	Order, Re: hearing on Motion in Limine	01
22	11/30/04	Order, Re: Motion in Limine	01
23	12/03/04	Verdict Slip	02
24	12/08/04	Plaintiff's Motion for Post Trial Relief	07
25	12/10/04	Order, Re: Scheduling hearing on Plaintiff's Motion for Post Trial Relief	01
26	12/23/04	Praecipe for Entry of Appearance	02
27	01/12/05	Order, Re: Post Trial Conference scheduled	01
28	02/15/05	Order, Re: letter brief on Post Trial Motions	01
29	03/04/05	Order, Re: Post Trial Motion granted; Plaintiff granted a new trial	01
30	03/11/05	Certificate of Readiness	01
31	03/28/05	Notice of Appeal to High Court	04
32	03/30/05	Order, Re: concise statement to be filed	01
33	04/04/05	Statement of Matters Complained of on Appeal	07
34	04/04/05	Appeal Docket Sheet, Superior Court Number 532 WDA 2005	04
35	05/02/05	Answer to Motion(s) in Limine, filed by D. Hopkins (attorney for Plaintiff)—found in file, not previously submitted for filing	04
36	07/14/05	Order, Re: Appellant has not paid for transcripts (Original unavailable at time of submitting appeal)	01
37	08/03/05	Order, Re: show cause order dated July 11 is discharged and appeal shall proceed	02
38	09/12/05	Transcript of Proceedings, Jury Trial, held December 2, 2004, I of II	Separate Cover
39	09/12/05	Transcript of Proceedings, Jury Trial, held December 3, 2004, II of II	Separate Cover
40	02/10/06	Opinion	06

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

I, **William A. Shaw**, Prothonotary/Clerk of Courts of Common Pleas in and for said County, do hereby certify that the foregoing is a full, true and correct copy of the whole record of the case therein stated, wherein

Pamela M. Owens

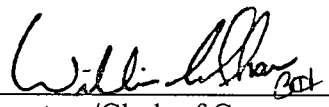
Vs.

Mary Farrell

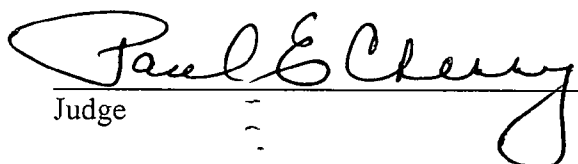
03-192-CD

So full and entire as the same remains of record before the said Court, at **No. 03-192-CD**

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 3rd Day of May, 2005.

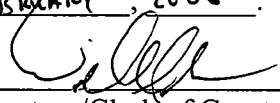

Prothonotary/Clerk of Courts

I, **Paul E. Cherry**, Judge of the Forty-sixth Judicial District, do certify that **William A. Shaw**, by whom the annexed record, certificate and attestation were made and given, and who in his own proper handwriting, thereunto subscribed his name and affixed the seal of the Court of Common Pleas of said county, was at the time of so doing and now is Prothonotary/Clerk of Courts in and for said County of Clearfield, the Commonwealth of Pennsylvania, duly commissioned and qualified; to all of whose acts as such, full faith and credit are and ought to be given, as well in Courts of Judicature, as elsewhere, and that the said record, certificate and attestation are in due form of law and made by proper officer.


Judge

I, **William A. Shaw**, Prothonotary/Clerk of Courts of the Court of Common Pleas in and for said county, do certify that the Honorable **Paul E. Cherry**, Judge, by whom the foregoing attestation was made and who has thereunto subscribed his name was at the time of making thereof and still is Judge, in and for said county, duly commissioned and qualified; to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere.

In Testimony Whereof, I have
hereunto set my hand and affixed
the seal of said Court, this 13th day
of FEBRUARY, 2006.


Prothonotary/Clerk of Courts

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

FILED

07/11/1980
FEB 10 2006

William A. Shaw
Prothonotary/Clerk of Courts

PAMELA M. OWENS

NO. 03-192-CD

V.

MARY FARRELL

OPINION

This matter comes before the Court upon the filing of a Motion for Post-Trial Relief in the Nature of a New Trial filed by Plaintiff, Pamela M. Owens, following trial by jury in which the jury returned a verdict in favor of Defendant, Mary Farrell.

The facts elicited at trial showed that on August 13, 2002, Plaintiff, Pamela Owens, was traveling in her motor vehicle in a southerly direction on Route 255 in Clearfield County. As she approached the Route 255 intersection with the Treasure Lake subdivision entrance and exit, Defendant was traveling in the opposite direction along Route 255. Defendant made a left hand turn into the Treasure Lake subdivision's entrance and directly into the path of Plaintiff. A collision occurred. The collision caused the steering wheel and brake pedal of her vehicle to be bent. The testimony at trial further established that the Plaintiff was involved in an accident many years before this accident and was not treated by any physician and for many years had not suffered any residual effects. These facts were uncontroverted at trial.

As a result of the motor vehicle accident, Plaintiff was taken by ambulance to the DuBois Regional Medical Center on a backboard complaining of back, chest, neck pain and headaches. Plaintiff was released later that same day and immediately saw her physician, Dr. Gerhart. Dr. Gerhart's testimony at trial was that Plaintiff suffered a severe

whiplash injury in the motor vehicle collision. He ordered physical therapy to begin immediately. This Court notes that this testimony at trial was again uncontroverted by the defense. The Defendant testified briefly at trial in which she conceded her negligence in causing the accident. The Court will further note that the defense failed to call any medical experts or any individual to controvert the testimony of either Plaintiff or Dr. Gerhart.

Following argument on the Motion for New Trial, the Court granted the Motion and awarded Plaintiff a new trial. Defendant filed a timely appeal from said Order. Defendant then filed a timely Statement of Matters Complained of on Appeal.

Defendant first alleges that the Court erred in granting a new trial to Plaintiff on the basis that the verdict was against the weight of the evidence and shocked the conscience of this Court despite the fact that there was no objective evidence that the Plaintiff was injured in the accident and the jury was therefore able to believe all or part or none of the testimony of the witnesses as per Jury Instruction (Civil) 1.44. This Court cannot agree. As a result of the Defendant conceding negligence, the Court is satisfied that only two issues went to the jury for consideration. First, was the automobile accident a substantial factor in Plaintiff's injuries and second, what damages did Plaintiff suffer. The jury returned a verdict stating that the automobile collision was not a substantial factor in Plaintiff's injuries. The issue of damages was never considered by the jury. The Court is satisfied that the jury's verdict which indicated the automobile collision was not a substantial factor in causing Plaintiff's injuries is certainly against the weight of the evidence as the only evidence before the jury was that the collision caused Plaintiff's injuries. There can be no dispute that there was an injury caused to Plaintiff as a result of

the accident and that the accident caused some type of injury to Plaintiff.

This Court has reviewed the case law submitted by both counsel and is satisfied that the case of Smith v. Putter, 832 A.2d 1094 (Pa. Super 2003) is controlling in this case. In Smith v. Putter, Defendant was involved in an automobile accident. Defendant conceded negligence. The jury found Defendant's negligence was not a substantial factor in causing Plaintiff's injuries and Plaintiff appealed. The Court believes that the same fact pattern in Smith is present in the instant case. In Smith, Plaintiff was injured when Defendant failed to stop at a stop sign. At trial, Plaintiffs presented evidence of injury to Plaintiff. Defendant's medical expert conceded that the accident caused Smith's asymptomatic arthritis in his left hip to become symptomatic necessitating two hip surgeries. The jury determined that Defendant's negligence was not "a substantial factor in bringing about any harm" to Smith. The jury in Smith never considered the question of damages. Plaintiffs filed Post Trial Motions alleging the verdict was against the weight of the evidence. The Trial Court denied Plaintiffs' Post Trial Motions and Plaintiffs subsequent Motion for Reconsideration. Plaintiffs filed an appeal.

The Superior Court agreed with Plaintiffs' argument that the verdict was against the weight of the evidence and that the jury disregard the uncontradicted expert medical testimony regarding Plaintiff Smith's hip injury. The Superior Court reversed and remanded for a new trial. The Court found that where the Defense's medical expert concedes some injury as a result of the accident, the jury's finding of no causation is against the weight of the evidence. The Court went on the state:

The determination of what is a compensable injury is uniquely within the jury's purview; a jury may choose to find that a Plaintiff's pain or discomfort is the sort of "transient rub of life" for which compensation is not warranted.

See Boggavarapu v. Ponist, 518 Pa. 162, 542 A.2d 516, 518 (1988); see also Majczyk v. Oesch, 789 A.2d 717, 726 (Pa. Super. 2001). (en banc). Nonetheless, a jury cannot determine that a Defendant's negligence is not a substantial factor in causing the injury or the undisputed evidence indicates otherwise. In other words, if a jury finds causation, it may go on to find the injury incidental or non-compensable and award no damages. We would not disturb that verdict. But a jury is not free to find no causation where the Defense expert concedes as much. See Davis v. Mullen, 565 Pa. 386, 773 A.2d 764 (2001). Smith, Id. At 1098.

The Defendant argues that a new trial is warranted only when Plaintiff's expert and Defendant's expert agree that there are injuries. This Court cannot agree. The issue is not did the Defendant produce an expert but rather was the testimony before the jury uncontroverted or was it disputed. If it is uncontroverted, that is, Plaintiff's and Defendant's experts agree, or Plaintiff's expert testifies and that testimony is not refuted by a defense expert, then it is against the weight of the evidence for a jury to determine an injury is not related to an accident. Thus, the Court is satisfied that only if the Defendant produces an expert who disputes the Plaintiff's expert can a jury return with a finding that the injuries were not caused by the accident.

A similar result was reached in Cipolone v. Port Authority Transit System of Allegheny County, 667 A.2d 474 (Comm. Ct 1995). In Cipolone, Plaintiff filed a Complaint against Defendant alleging that she sustained various personal injuries as a result of the negligent operation of Defendant's bus. At trial, both parties presented medical testimony regarding the nature, extent, and degree of Plaintiff's injuries. While the doctors who testified for both Plaintiff and Defendant disagreed as to the nature, extent and degree of Plaintiff's injuries, there was no dispute Plaintiff was, in fact, injured as a result of the bus accident. The Court granted Plaintiff a new trial. The issue is not did Defendant's expert agree but rather was Plaintiff's testimony controverted or disputed. If

the testimony is uncontroverted as is the case before this Court, the jury must return a verdict that the Defendant's negligence was a substantial factor in causing Plaintiff's injuries. The jury would then move to damages and can award any amount it deems appropriate.

This Court is satisfied that the jury's verdict that Defendant Farrell's negligence was not a substantial factor in causing Plaintiff Owens' injuries is against the uncontroverted and undisputed evidence and the Court believes that Plaintiff is entitled to a new trial.

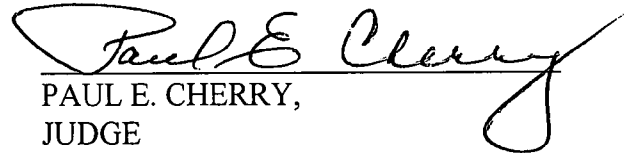
Defendant next argues that Plaintiff waived her right to contend the jury verdict is inconsistent by failing to object to the verdict before the jury was dismissed. Plaintiff's argument is that the jury verdict is against the weight of the evidence and not that it is inconsistent. This issue was dealt with in Cipolone. In Cipolone, the Superior Court ruled that in a personal injury action, the Plaintiff was not required to object to a jury's award of no damages prior to the recording of verdict in order to avoid waiver where the basis for the Plaintiff's motion for new trial was that verdict was against weight of evidence, not that the verdict was ambiguous or inconsistent. The Court is satisfied that the Plaintiff has not waived this issue.

Defendant next alleges that this Court granted a new trial to Plaintiff on the basis that counsel for the Defendant made improper remarks to the jury during her closing argument when she referred to evidence not in trial. This Court granted a new trial to Plaintiff based upon the jury verdict being against the weight of the evidence and not on the basis that counsel for the Defendant made improper remarks to the jury. Therefore, this Court will not address that issue as the same was not considered by the Court when it

rendered its granting of a new trial to Plaintiff.

For all the foregoing reasons, this Court entered the Order granting a new trial to Plaintiff.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

In the Superior Court of Pennsylvania

Sitting at Pittsburgh

No. 532
PAMELA M. OWENS
V.
MARY FARRELL

WESTERN DOCKET APPEAL. 2005

Appeal from the Order's of 3-2-2005- by the
Honorable Paul E. Cherry of Common Pleas
Clearfield County Civil Division.
Docket Number: No. 192 of 2003, C.D.

Certified From the Record

"Order Of Court"

Counsel for the appellant having sent correspondence to this court concerning the transcripts, stating that the trial court reporter did not require a deposit and that the failure of the transcripts to be prepared is not the fault of the appellant, the show cause order dated July 11, is discharged and the appeal shall proceed.

DATE: August 1, 2005

Per Curiam"

FILED
m11:08/24 ©
AUG 03 2005

William A. Shaw
Prothonotary/Clerk of Courts

In Testimony Whereof, I have hereunto set my hand and the seal of said Court at
Pittsburgh, Pa.

this

1st

Day of

August

2005

William A. Shaw
Deputy Prothonotary

37

July 14, 2005

Superior Court Order: Appellant has not paid for transcripts, appellant shall show cause why this appeal should not be dismissed. Letter shall be filed so as to be actually received by the Prothonotary by July 25, 2005. Failure to timely respond to this court will result in dismissal of this appeal without further notice. No CC

(Original unavailable when appeal submitted)

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03-192 CD

Type of Pleading: Answer to Motion(s)
in Limine

Filed on behalf of: Pamela M. Owens,
Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED (found in file -
not submitted
for filing previously)
014:00/01
MAY 02 2005

WAS
William A. Shaw No CC
Prothonotary/Clerk of Courts

#35

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

:
:
:
:
:
:
:

No. 03-192 CD

ANSWER TO MOTION(S) IN LIMINE

AND NOW, comes Plaintiff, Pamela M. Owens, by and through her attorneys,
Hopkins Heltzel LLP, and files the within answer to Motion(s) in Limine as follows:

I.

**MOTION IN LIMINE TO KEEP FROM THE
JURY EVIDENCE OF INSURANCE , REFERENCE TO
INSURANCE AND REFERENCE TO ALLSTATE INSURANCE COMPANY**

1. No objection to Motion in Limine No. I.

II.

**MOTION IN LIMINE TO KEEP FROM THE JURY
EVIDENCE OF BANKRUPTCY FILING BY PLAINTIFF**

1. No objection to Motion in Limine No. II.

III.

**MOTION IN LIMINE TO KEEP FROM THE JURY ALL FACTS
CONCERNING HAPPENING OF THE ACCIDENT**


1. Plaintiff objects to Motion in Limine No. III. The violence of the collision
is important for the jury to understand in assessing Plaintiff's injuries.

IV.
MOTION IN LIMINE TO KEEP FROM THE JURY ALL FACTS CONCERNING
THE DEFENDANT'S PRE-ACCIDENT EYE EXAMINATION
AND DILATION OF DEFENDANT'S EYES

1. Plaintiff objects to Motion in Limine No. IV. The violence of the collision is important for the jury to understand in assessing Plaintiff's injuries.

V.
MOTION IN LIMINE TO KEEP FROM THE JURY ALL FACTS CONCERNING
THE RESIDENCE OF PLAINTIFF'S COUNSEL

1. Plaintiff objects to Motion in Limine No. V. Plaintiff needs to explain the location of the accident and the events surrounding the accident to the jury so that the jury may appreciate the violence of the collision with Defendant's automobile and Plaintiff's impact with the Treasure Lake entry divider when assessing Plaintiff's injuries.



David J. Hopkins, Esquire
Attorney for Plaintiff

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

PAMELA M. OWENS,

Plaintiff

vs.

No. 03-192 CD


MARY FARRELL,

Defendant

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Answer to Motion(s) in Limine, filed on behalf of the Plaintiff, was forwarded on the 24th day of November, 2004, by hand delivering same to all counsel of record, as follows:

Laura R. Signorelli, Esquire
Law Office of Marianne C. Mnich
Two Mellon Bank Center
501 Grant Street, Suite 405
Pittsburgh, PA 15219-4403


David J. Hopkins, Esquire
Attorney for Plaintiff



Appeal Docket Sheet

Docket Number: 532 WDA 2005

Page 1 of 3

March 31, 2005



Pamela M. Owens,
v.
Mary Farrell, Appellant

03-192-CD

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: March 31, 2005

Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType: Trespass

Consolidated Docket Nos.:

Related Docket Nos.:

SCHEDULED EVENT

Next Event Type: Case Initiation

Next Event Due Date: March 31, 2005

Next Event Type: Docketing Statement Received

Next Event Due Date: April 14, 2005

Next Event Type: Original Record Received

Next Event Due Date: May 10, 2005

FILED NO CC
APR 04 2005
William A. Shaw
Prothonotary/Clerk of Courts

Appeal Docket Sheet

Docket Number: 532 WDA 2005

Page 2 of 3

March 31, 2005

Superior Court of Pennsylvania



COUNSEL INFORMATION

Appellant Farrell, Mary

Pro Se: Appoint Counsel Status:

IFP Status: No

Appellant Attorney Information:

Attorney: Dennison, John C.

Bar No.: 29408

Law Firm: Dennison, Dennison & Harper

Address: 293 Main Street
Brookville, PA 15825

Phone No.: (814)849-8316

Fax No.: (814)849-4656

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee Owens, Pamela M.

Pro Se: Appoint Counsel Status:

IFP Status: No

Appellee Attorney Information:

Attorney: Hopkins, David J.

Bar No.: 42519

Law Firm: Hopkins Heltzel, LLP

Address: 900 Beaver Drive
Du Bois, PA 15801

Phone No.: (814)375-0300

Fax No.: (814)375-5035

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
3/31/05	Notice of Appeal	60.00	60.00	2005SPRWD000386

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield

Division: Civil

Date of Order Appealed From: March 2, 2005

Judicial District: 46

Date Documents Received: March 31, 2005

Date Notice of Appeal Filed: March 28, 2005

Order Type: Order Entered

OTN:

Judge: Cherry, Paul E.
Judge

Lower Court Docket No.: Number 192 of 2003, C.D.

ORIGINAL RECORD CONTENTS



Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 532 WDA 2005

Page 3 of 3

March 31, 2005



Original Record Item

Filed Date

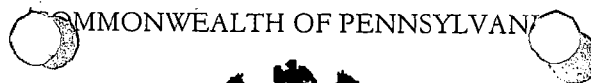
Content/Description

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
March 31, 2005	Notice of Appeal Filed	Appellant	Farrell, Mary
March 31, 2005	Docketing Statement Exited (Civil)		Western District Filing Office



Superior Court of Pennsylvania

Western District

March 31, 2005

David A. Szewczak, Esq.
Prothonotary
Eleanor R. Valecko
Deputy Prothonotary

310 Grant Street, Suite 600
Pittsburgh, PA 15219-2297
412-565-7592
www.superior.court.state.pa.us

Mr. William A. Shaw
Prothonotary
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Re: 532 WDA 2005
Pamela M. Owens,
v.
Mary Farrell, Appellant

Dear Mr. Shaw:

Enclosed please find a copy of the docket for the above appeal that was recently filed in the Superior Court. Kindly review the information on this docket and notify this office in writing if you believe any corrections are required.

Appellant's counsel is also being sent a Docketing Statement, pursuant to Pa.R.A.P. 3517, for completion and filing. Please note that Superior Court Dockets are available on the Internet at the Web site address printed at the top of this page. Thank you.

Very truly yours,

Eleanor R. Valecko
Deputy Prothonotary

GJM

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

PAMELA M. OWENS,
Plaintiff,

vs.

MARY FARRELL,
Defendant.

No. 03-192 C.D.

Type of Case: Civil

Type of Pleading: Statement of Matters
Complained of on Appeal

Filed on Behalf of: Defendant

Counsel of Record for this Party:
John C. Dennison, II, Esquire

Supreme Court No.: 29408

Dennison, Dennison & Harper
293 Main Street
Brookville, PA 15825

Phone: 814-849-8316

FILED ^{NO} CC
m/124861
APR 04 2005

William A. Shaw
Prothonotary/Clerk of Courts

#33

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

PAMELA M. OWENS,
Plaintiff,

vs.

MARY FARRELL,
Defendant.

:
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:
:
: No. 03-192 C.D.
:
:
:

STATEMENT OF MATTERS COMPLAINED OF ON APPEAL

1. Your Honorable Court granted a new trial to Plaintiff on the basis that the verdict was against the weight of the evidence and shocked the conscience of Your Honorable Court despite the fact that there was no objective evidence that the Plaintiff was injured in the accident, and the jury was therefore able to believe "all, or part, or none" of the testimony of the witnesses as per Jury Instruction (Civil) 1.44. It is further submitted that this case should have been decided in accordance with Kirk v. O'Toole, 857 A.2d 183 (Pa. Super 2004). A copy of this case is attached for Your Honorable Court's convenience.

2. To the extent that the verdict was deemed to be inconsistent by Your Honorable Court, the Plaintiff waived this objection by failing to object to the verdict before the jury was dismissed. Cipolone v. Port Authority Transit System of Allegheny County, 667 A.2d 474 (Cmwlth Court 1995).

3. Your Honorable Court granted a new trial to the Plaintiff on the basis that counsel for the Defendant made improper remarks to the jury despite the fact that

Plaintiff's counsel failed to object at the time when these remarks were made, thereby waiving Plaintiff's objection to the same. Rogers v. Johnson & Johnson, Incorporated, 401 Pa. Super. 430, 585 A.2d 1004 (1991).

DENNISON, DENNISON & HARPER

By: 

John C. Dennison, II
Attorneys for Defendant

DAVID VAN KIRK, Appellant v. MICHAEL O'TOOLE, Appellee

No. 1289 WDA 2003

SUPERIOR COURT OF PENNSYLVANIA

2004 PA Super 286; 857 A.2d 183; 2004 Pa. Super. LEXIS 2263

March 18, 2004, Argued

July 20, 2004, Filed

SUBSEQUENT HISTORY: As Amended August 3, 2004. Reargument denied by *Kirk v. O'Toole*, 2004 Pa. Super. LEXIS 3388 (Pa. Super. Ct., Sept. 30, 2004)

PRIOR HISTORY: [***1] Appeal from the Order of the Court of Common Pleas of Allegheny County, Civil Division, No. AR 98-6136. Before COLVILLE, J. *Van Kirk v. O'Toole*, 788 A.2d 1040, 2001 Pa. Super. LEXIS 4009 (Pa. Super. Ct., 2001)

DISPOSITION: Affirmed.

LexisNexis(R) Headnotes

COUNSEL: John P. Goodrich, Pittsburgh, for appellant.

Joseph P. Hudock, Jr., Pittsburgh, for appellee.

JUDGES: BEFORE: KLEIN, BENDER and BOWES, JJ. **OPINION BY** KLEIN, J.

OPINION BY: KLEIN

OPINION:

[**185] **OPINION BY KLEIN, J.**

[*P1] Plaintiff David Van Kirk was a passenger in a van stopped at a red light when hit from the rear by a full-size Chevrolet Cheyenne pick-up (with a snowplow hoist on the front) driven by defendant Michael O'Toole. There was damage to the doors of the van, including broken windows. Both sides agree that O'Toole was at fault and some injury was caused.

[*P2] This is another case where it was conceded that there was some injury for which the defendant was

legally liable, but the jury found that the injury, neck and back strain and sprain, was not severe enough to warrant compensation, and awarded zero damages. n1 Van Kirk now appeals from the order denying his motion for new trial. We affirm.

[*P3] Even though every muscle strain causes pain, it does not follow that all muscle pain is compensable. Common experience tells us that some strains are worse than others and a mild strain may cause less pain than a dog bite. n2 As such, the common experience [***2] referenced by our Supreme Court tells us that not every stretched muscle must result in an award for pain and suffering.

[*P4] Of course, the jury is free to disbelieve the plaintiff's subjective complaints, any diagnoses based on subjective complaints, and the plaintiff's doctor's opinions and conclusions. However, when the defense doctor makes a diagnosis not based on the subjective reports by the plaintiff, they become uncontroverted injuries that must be credited by the jury. The test of whether a zero verdict can be upheld then becomes whether the uncontroverted injuries are such that a conclusion that they are so minor that no compensation is warranted defies common sense and logic.

[*P5] While the trial court seems confused by the recent cases on this point, upon closer reading, there should be no confusion. That does not mean that the task is necessarily any easier, as there are often facts that straddle the line in different cases.

[*P6] It is possible to reconcile the cases that hold that a plaintiff may suffer "injuries to which human experience teaches [**186] that there is accompanying pain," *Boggavarapu v. Ponist*, 518 Pa. 162, 542 A.2d 516 (1988) [***3] *Neison v. Hines*, 539 Pa. 516, 653

A.2d 634 (1995), with the more recent line of cases. In *Majczyk v. Oesch*, 2001 PA Super 378, 789 A.2d 717 (Pa. Super 2001); *Andrews v. Jackson*, 2002 PA Super 173, 800 A.2d 959 (Pa. Super. 2002) and their progeny, this Court held that not every injury was serious enough to warrant compensation, although there may be some pain attached.

[*P7] The extreme cases are easy. If someone trips over a box left negligently in a store aisle and suffers a compound fracture of the arm, that certainly causes enough pain so that a jury verdict of zero damages is unreasonable and should be set aside. If, however, all that happens is that a person stubs a toe, which produces momentary shooting pains, a zero damage verdict makes perfect sense. Obviously, it is the vast area in the middle that causes problems.

[*P8] Generally, the determination of whether the pain is severe enough to be compensable is to be left to the jury. See *Davis v. Mullen*, 565 Pa. 386, 773 A.2d 764 (Pa. 2001); *Majczyk, supra*. P9 There is another reason, in a situation [***4] such as this that might have contributed to the trial judge's confusion. The injuries must be uncontroverted. The injuries could be considered uncontroverted if the defense expert fully accepts the objective findings of the plaintiff's side. However, if the defense expert concurs with the opinion of the plaintiff's expert only because of subjective complaints of the plaintiff, and the defense convinces the jury that the plaintiff was not truthful, the basis of both of these diagnoses might fail and a zero verdict would be appropriate. See *Kennedy v. Sell*, 2003 PA Super 40, 816 A.2d 1153, 1159 (Pa. Super. 2003). Likewise, the defense does not even have to call a defense expert if it can successfully challenge the credibility of the plaintiff and his doctors on cross-examination. *Id.* P10 In this context, we must consider the injuries in this case.

n1 There is some confusion over this admission. This case was before our court once before. In that memo opinion, which is binding as law of the case, our court (although a different panel) determined that the defense medical expert testimony could NOT be interpreted as being an admission of causation because plaintiff had withheld relevant information from the doctor. In spite of this finding, defendant now concedes that the accident did cause some injury, although the nature and extent of the injury remain hotly debated.

[***5]

n2 In *Boggavarapu v. Ponist*, 518 Pa. 162, 542 A.2d 516 (Pa. 1988), a case involving a claim for pain and suffering from a dog bite, only medical bills were awarded and our Supreme Court validated that award. In the opinion, in dicta, the Supreme Court also stated: "We have held and now hold that there are injuries to which human experience teaches there is accompanying pain. Those injuries are obvious in the most ordinary sense: the broken bone, the stretched muscle, twist of the skeletal system, injury to a nerve, organ or their function, and all the consequences of any injury traceable by medical science and common experience as source of pain and suffering." *Id.* at 518 (emphasis added).

1. The following evidence supports the proposition that the injuries caused enough pain that it was unreasonable to award zero damages: a. The defendant testified that he "slammed into the back of the vehicle" in which Van Kirk was a passenger, and it "wasn't a light bump." b. The defense medical expert testified that Van Kirk "sustained a mild, at most, moderate, soft-tissue [***6] or musculoligamentous injury" from the accident.

2. The following evidence suggests that the pain was not severe enough to say that a zero verdict was unreasonable: a. Van Kirk told O'Toole and the police he was okay after the accident. b. Van Kirk declined medical treatment on the scene. c. Although he took the rest of the day off, he returned to work on Monday and never missed another day of work. d. His first visit to Dr. Ortenzio, a chiropractor, whom he had seen with complaints of neck pain, was twelve days after the accident. e. He had prior injuries to the back from a lifting accident and a prior motor vehicle accident, both of which he failed to tell the defense doctor. f. He only visited Dr. Ortenzio twice during the month of the accident and his next visit to any medical provider (Dr. Tsai, also a chiropractor) was six months later. g. On his visit to Dr. Tsai, he said he had had three rear-end accidents in the last 18 months. h. He received his first treatment for back pain from Dr. Tsai, some six months after the accident. i. After treating with Dr. Tsai for a significant period of time, Van Kirk stopped treating for approximately seven months. j. During this seven month [***7] period, Van Kirk worked as a pit crew member for a drag racing team based in Georgia. He received no treatment for his back during this time. k. Upon return from Georgia, Van Kirk began treating for back pain again, once again relating the pain to the accident.

[*P11] [**187] Based on the above evidence, we cannot say it was unreasonable for the jury to find that while Van Kirk suffered some pain, it was not severe

enough to warrant an award of damages. Van Kirk treated only twice for the neck pain. The first treatment was almost two weeks after the accident. He missed no time from work. From the limited treatment, the timing of the treatment and the fact that Van Kirk continued working, the jury was free to conclude that Van Kirk suffered a mild neck strain that produced no more than a minor inconvenience. Given the six month delay between the accident and the treatment for the lower back, it was not unreasonable for the jury to conclude that only the neck pain was related to the accident. In turn, the jury could reasonably conclude that Van Kirk's injury was no more than a transient rub of life for which no compensation for pain and suffering is due.

[*P12] Van Kirk claimed two [***8] other errors, both of which are without merit.

[*P13] He claimed that the jury questionnaire was in error because it contained the words "if any": "What total amount of damages, if any, do you award to the Plaintiff to compensate him for the damages he sustained

in the November 2, 1996 automobile accident." Once it is determined that it would not be unreasonable to award zero damages, this is not only appropriate but almost the only way the jury question could be phrased. Likewise, the interrogatory allowed, but did not require, the jury to find the injuries were so minor as not to be compensable.

[*P14] The second claim, that defense counsel stated opinions to the jury not supported by the evidence, is likewise without merit. Defense counsel merely asked the jury to use its own experience and common sense to recognize that there are certain car accidents where only minor injuries are sustained. This is far different than the standard complaint of this kind where a plaintiff's lawyer says, "Put yourself in the shoes of the plaintiff," or a defense lawyer says, "Imagine that you are a doctor. What would you do in this case?" The statement was not objectionable, and even [***9] if it were, in light of the record presented, it would be harmless error at most.

[*P15] Order affirmed.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Statement of Matters Complained of on Appeal was served on the 1st day of April, 2005, by United States Mail, First Class, postage prepared, addressed to the following:

David J. Hopkins, Esq.
902 Beaver Drive
DuBois, PA 15801

The Honorable Paul E. Cherry
Court House
230 E. Market Street
Clearfield, PA 16830

DENNISON, DENNISON & HARPER

By


John C. Dennison, II

Attorneys for Defendant

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

PAMELA M. OWENS

V.

MARY FARRELL

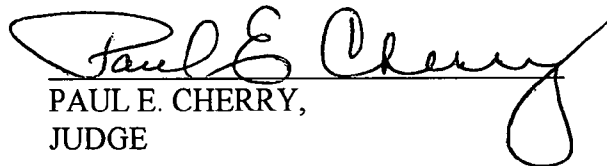
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NO. 03-192-CD

ORDER

AND NOW, this 28th day of March, 2005, the Court having been notified of Appeal to the Superior Court of Pennsylvania in the above captioned matter, it is the ORDER of this Court that Appellant file a concise statement of the matters complained of on said Appeal no later than fourteen (14) days herefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED 1CC App's:
d/11:2781 Hopkins
MAR 30 2005 Dennison
William A. Shaw Signorelli
Prothonotary/Clerk of Courts

#32

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

Plaintiff,

vs.

MARY FARRELL,

Defendant.

CIVIL ACTION - LAW

Number 192 of 2003, C. D.

Type of Case: Civil Division

Type of Pleading: Notice of Appeal

Filed on Behalf of: Defendant

Counsel of Record for this Party:
John C. Dennison, II

Supreme Court Number: 29408

DENNISON, DENNISON & HARPER
293 Main Street
Brookville, Pennsylvania 15825
(814) 849-8316

FILED

MAR 28 2005

m/4:00/—
William A. Shaw

Prothonotary/Clerk of Courts

1 cent to S/C w/60.—
CIC.

#31

PAMELA M. OWENS,

Plaintiff,

vs.

MARY FARRELL,

Defendant.

* In the Court of Common Pleas of
* Clearfield County, Pennsylvania
* Civil Action - Law

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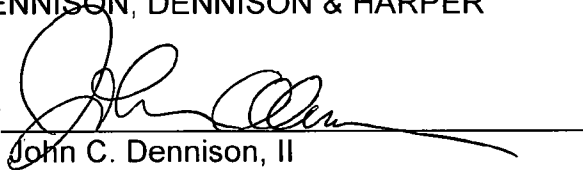
* Number 192 - 2003 C. D.

NOTICE OF APPEAL

NOTICE is hereby given that the Defendant, MARY FARRELL, hereby appeals to the Superior Court of Pennsylvania from the Order entered in this matter on the 2nd day of March, 2005, granting the Plaintiff's Motion for Post Trial Relief. This Order has been entered in the docket as evidenced by the attached copy of the docket entry.

DENNISON, DENNISON & HARPER

By



John C. Dennison, II
Attorneys for Defendant

PAMELA M. OWENS,

Plaintiff,

vs.

MARY FARRELL,

Defendant.

* In the Court of Common Pleas of
* Clearfield County, Pennsylvania
* Civil Action - Law

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* Number 192 - 2003 C. D.

REQUEST FOR TRANSCRIPT

A Notice of Appeal having been filed in this matter, the official court reporter is hereby ordered to produce, certify and file the transcript in this matter in conformity with Rule 1922 of the Pennsylvania Rules of Appellate Procedure.

DENNISON, DENNISON & HARPER

By


John C. Dennison, II

Attorneys for Defendant

PAMELA M. OWENS,

Plaintiff,

VS.

MARY FARRELL,

Defendant.

* In the Court of Common Pleas of
* Clearfield County, Pennsylvania
* Civil Action - Law

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* Number 192 - 2003 C. D.

SERVICE OF NOTICE OF APPEAL

Notice is hereby given that service of the Notice of Appeal, Request for Transcript and Service of Appeal in the above captioned matter to the Superior Court has been served this 24th day of March, 2005, upon the following persons by first class mail, which service satisfies the requirements of Rule 121 of the Pennsylvania Rules of Appellate Procedure:

David J. Hopkins, Esq.
Hopkins Heltzel LLP
900 Beaver Drive
DuBois, PA 15801

The Honorable Paul E. Cherry
Court House
230 E. Market Street
Clearfield, PA 16830

Thomas D. Snyder, Court Reporter
Court House
230 E. Market Street
Clearfield, PA 16830

David S. Meholick, Court Administrator
Court House
230 E. Market Street
Clearfield, PA 16830

DENNISON, DENNISON & HARPER

By 

John C. Dennison, II
Attorneys for Defendant

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL TRIAL LISTING

CERTIFICATE OF READINESS

TO THE PROTHONOTARY

DATE PRESENTED 3-11-05

CASE NUMBER 03-192
TYPE TRIAL REQUESTED (X) Jury () Non-Jury
ESTIMATED TRIAL TIME
Date Complaint Filed: () Arbitration 2 days/hours

PLAINTIFF(S)

Pamela M. Owens

()

Check block if a Minor
is a Party to the Case

DEFENDANT(S)

Mary Farrell

()

ADDITIONAL DEFENDANT(S)

()

FILED
MAR 11 2005
copy to
CIA

William A. Shaw
Prothonotary/Clerk of Courts

JURY DEMAND FILED BY:

DATE JURY DEMAND FILED:

Plaintiff

AMOUNT AT ISSUE CONSOLIDATION DATE CONSOLIDATION ORDERED

More than
& 25,000.00 () yes (X) no N/A

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel:

David J. Hopkins, Esquire

FOR THE PLAINTIFF

TELEPHONE NUMBER

David J. Hopkins, Esquire

(814) 375-0300

FOR THE DEFENDANT

Laura R. Signorelli, Esquire

TELEPHONE NUMBER

(412) 255-4145

John Dennison, Esquire

(814) 849-8316

FOR ADDITIONAL DEFENDANT

TELEPHONE NUMBER

#30

CA

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

PAMELA M. OWENS

NO. 03-192-CD

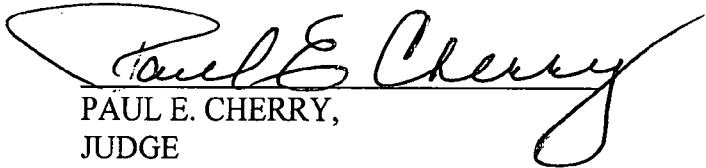
V.

MARY FARRELL

ORDER

AND NOW, this 2nd day of March, 2005, upon consideration of Plaintiff's Post-Trial Motions, and following conference, and in consideration of the timely receipt of Briefs, it is the ORDER of this Court that said Post-Trial Motion be and is hereby GRANTED. Plaintiff is hereby granted a new trial.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED

013:4761
MAR 04 2005

William A. Shaw
Prothonotary/Clerk of Courts

2cc
Atty:
Hopkins
Dennison

#29

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

PAMELA M. OWENS

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NO. 03-192-CD

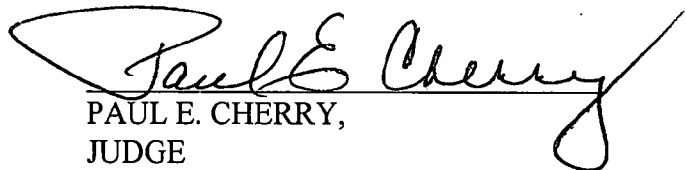
V.

MARY FARRELL

ORDER

AND NOW, this 15th day of February, 2005, it is the ORDER of this Court that counsel for the parties provide the Court with a letter brief on Post-Trial Motions filed by the Plaintiff, by and no later than February 24, 2005.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED

6. 1:36 PM *Clarity Hopkin*
2cc atty Pennington
FEB 15 2005

W William A. Shaw
Prothonotary

#258

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

PAMELA M. OWENS

NO. 03-192-CD

V.

MARY FARRELL

ORDER

AND NOW, this 11th day of January, 2005, Post Trial Conference shall be held on February 4, 2005, at 1:30 o'clock P.M. in Judge Cherry's Chambers, Clearfield County Courthouse Annex, 230 East Market Street, Clearfield, Pennsylvania. Said conference shall be held in lieu of the hearing which has been scheduled for same date.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED

at 01:59 PM
JAN 12 2005

William A. Shaw
Prothonotary/Clerk of Courts

icc
Atty:
Hopkins
Dennison
Signorelli

27

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

Plaintiff,

vs.

MARY FARRELL,

Defendant.

CIVIL ACTION - LAW

Number 03 - 192, C. D.

Type of Case: Civil Division

Type of Pleading: Appearance

Filed on Behalf of: Defendant

Counsel of Record for this Party:
John C. Dennison, II

Supreme Court Number: 29408

DENNISON, DENNISON & HARPER
293 Main Street
Brookville, Pennsylvania 15825
(814) 849-8316

ewj
FILED *NO*
m/10:51/01 *CC*
DEC 23 2004 *copy to CIA*
William A. Shaw
Prothonotary/Clerk of Courts

#26

PAMELA M. OWENS,
Plaintiff,

vs.

MARY FARRELL,
Defendant.

* In the Court of Common Pleas of
* Clearfield County, Pennsylvania
* Civil Action - Law

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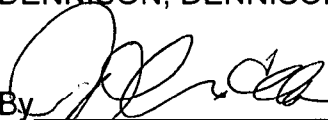
* Number 03 - 192 C. D.

APPEARANCE

TO THE PROTHONOTARY:

Enter our Appearance on behalf of Mary Farrell, the Defendant in the above
captioned matter.

DENNISON, DENNISON & HARPER

By 

John C. Dennison, II
Attorneys for Defendant

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

PAMELA M. OWENS,

Plaintiff

vs.

No. 03-192 CD

MARY FARRELL,

SCHEDULING ORDER

NOW, this 10th day of December, 2004, upon consideration of Plaintiff's Motion for Post Trial Relief; a hearing to consider Plaintiff's request is scheduled on the 4 day of February, 2005, at 1:30 o'clock P.M. in Courtroom No. 2 of the Clearfield County Courthouse, 203 E. Market Street, Clearfield, Pennsylvania.

NOTICE

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

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

COURT ADMINISTRATOR
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
(814) 765-2641 (ext. 5982)

BY THE COURT,

Paul E. Cherry
JUDGE

FILED
DEC 10 2004

William A. Shaw
Prothonotary/Clerk of Courts

#25

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

PAMELA M. OWENS, :
Plaintiff :
vs. : No. 03-192 CD
MARY FARRELL, :
Defendant :

MOTION FOR POST-TRIAL RELIEF

AND NOW, comes the Plaintiff, Pamela Owens, by and through her attorneys, Hopkins
Heltzel LLP, and files for post-trial relief and in support thereof says as follows:

COUNT I

1. On December 2, 2004 and December 3, 2004, a jury trial was held in the above captioned matter. Three (3) witnesses testified, Pamela Owens, Guy H. Gerhart, M.D. and Mary Farrell. The following facts were uncontroverted.
2. On August 13, 2002, Pamela Owens was driving a motor vehicle south on Route 219 in Sandy Township, Clearfield County at its intersection with the entranceway to the Treasure Lake subdivision. She was traveling 45 mph.
3. Defendant Mary Farrell was traveling north on State Route 255 and made a left-hand turn immediately in front of Pamela Owens causing a violent collision between the Farrell vehicle and the Owens vehicle.
4. The collision was so violent that Ms. Owens bent the steering wheel and bent the brake pedal in her motor vehicle even though she was wearing her seat belt.

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

PAMELA M. OWENS, :
Plaintiff :
vs. : No. 03-192 CD
MARY FARRELL, :
Defendant :
Type of Pleading: Plaintiff's Motion
for Post Trial Relief
:
:
:
Filed on behalf of: Pamela Owens,
Plaintiff
:
:
Counsel of Record for this party:
:
DAVID J. HOPKINS, ESQUIRE
:
Attorney at Law
:
Supreme Court No. 42519
:
900 Beaver Drive
:
DuBois, Pennsylvania 15801
:
(814) 375-0300

FILED

DEC 08 2004

William A. Shaw
Prothonotary/Clerk of Courts

5. Ms. Owens did not move from her motor vehicle until she was extracted by ambulance personnel who placed her on a backboard and transported her directly to DuBois Regional Medical Center.

6. At DuBois Regional Medical Center she remained on a backboard for five hours and was thought to have a broken neck. It was later determined that she did not have a broken neck and was discharged from the hospital.

7. Three (3) days later on August 16, 2002 Ms. Owens presented herself to her family physician, Dr. Guy H. Gerhart, M.D. Dr. Gerhart is board certified in internal medicine. Dr. Gerhart diagnosed her injuries as severe whiplash secondary to the August 16, 2004 collision.

8. Dr. Gerhart prescribed physical therapy that commenced on August 20, 2002 and continued for 13 sessions through September 26, 2002.

9. Ms. Owens was not permitted to work by Dr. Gerhart because of her injuries until September 30, 2002 that being six (6) weeks after the collision.

10. Ms. Owens treated with Dr. Gerhart on September 16, 2002, September 30, 2002, September 13, 2002, September 30, 2002, November 5, 2002 and February 8, 2003 all complaining of injuries to her neck and shoulders;

11. On February 18, 2003, Ms. Owens saw Dr. Gerhart who prescribed additional physical therapy that commenced February 24, 2003 and continued for twelve (12) sessions until March 27, 2003.

12. Thereafter, Ms. Owens sought the treatment of Chiropractor Phillip H. Hampton and she saw Phillip Hampton twenty five (25) times between June 16, 2003 and February 11, 2004.

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant


No. 03-192 CD

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Plaintiff's Motions for Post Trial Relief, filed on behalf of Pamela M. Owens, was forwarding by first class mail, postage prepaid, on the 8th day of December, 2004, to all counsel of record, addressed as follows:

Laura R. Signorelli, Esquire
Law Office of Marianne C. Mnich
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Hopkins Heltzel LLP


David J. Hopkins, Esquire
Attorney for Plaintiff

PAMELA M. OWENS,
Plaintiff

v.

MARY FARRELL,
Defendant

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

: NO. 03-192-C.D.

: CIVIL ACTION - LAW

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FILED NO CC

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DEC 03 2004

William A. Shaw
Prothonotary/Clerk of Courts

VERDICT SLIP

1. Was the negligence of the Defendant, Mary Farrell, a substantial factor in causing any injuries to the Plaintiff, Pamela M. Owens?

Yes _____ No X

INSTRUCTIONS:

- (a) If your answer to Question No. 1 is "Yes", go to Question No. 2.
- (b) If your answer to Question No. 1 is "No"
skip the balance of the questions and return to the Courtroom.

2. State the amount of damages, if any, sustained by Plaintiff Pamela M. Owens.

\$ _____

Date: December 3, 2004

Frank Shaw
Jury Foreperson

INSTRUCTIONS:

Return to Courtroom

#23

COURT OF COMMON PLEAS, CLEARFIELD COUNTY
PENNSYLVANIA

CASE NO. 03-192-CD

Date of Jury Selection: August 26, 2004

Presiding Judge: Honorable Paul E. Cherry

PAMELA M. OWENS

Court Reporter: Tom Snyder

VS

Date of Trial: December 2 & 3, 2004

MARY FARRELL

Date Trial Ended: Dec 2 2004
(3)

MEMBERS OF THE JURY

1. TRACEY MATTHEWS

7. FRANK SKUTT

2. SHIRLEY HARDY

8. TRACI GAINES

3. JEFFREY MILLS

9. TERESA MOORE

4. LOWELL WILLIAMS

10. ~~THOMAS JASPER~~

5. PENNY JOSEFIK

11. CAROLYN WAYNE

6. HARRY HILL

12. TAMMY PASSMORE

ALT #1 CLEMENTINE KITKO

ALT #2 ~~BERNARD KNARR~~ appeared

PLAINTIFF'S WITNESSES:

1. Pamela M. Owens
2. Dr. Amy Heubart
3. _____
4. _____
5. _____
6. _____

DEFENDANT'S WITNESSES:

1. Mary Farrell
2. _____
3. _____
4. _____
5. _____
6. _____

PLAINTIFF'S ATTY: David J. Hopkins, Esquire

DEFENDANT'S ATTY: Laura R. Signorelli,
Esquire

ADDRESS TO JURY: 3:12 PM

ADDRESS TO JURY: 3:48

JUDGE'S ADDRESS TO JURY: 9:00 am

JURY OUT: 9:50 JURY IN: 10:25

VERDICT: Defense

FOREPERSON: Frank Skutt

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

PAMELA M. OWENS

: NO. 03-192-CD
:
:
:
:

V.

MARY FARRELL

ORDER

NOW, this 29th day of November, 2004, upon consideration of the Motion in

Limine filed on behalf of the Defendant, it is the ORDER of this Court as follows:

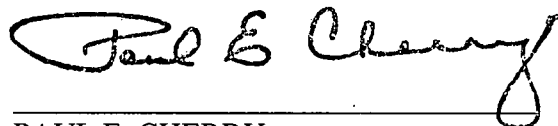
1. Motion in Limine to Keep From the Jury Evidence of Insurance, Reference to Insurance and Reference to Allstate Insurance Company be and is hereby GRANTED.
2. Motion in Limine to Keep From the Jury Evidence of Bankruptcy filing by Plaintiff be and is hereby GRANTED.
3. Motion in Limine to Keep From the Jury All Facts Concerning the Happening of the Accident be and is hereby DENIED.
4. Motion in Limine to Keep From the Jury All Facts Concerning the Defendant's Pre-Accident Eye Examination and Dilation of Defendant's Eyes be and is hereby DENIED.

Motion in Limine to Keep From the Jury all Facts Concerning the

Residence of Plaintiff's Counsel has been previously ruled upon by Order of this Court

dated November 24, 2004.

BY THE COURT,



PAUL E. CHERRY,
JUDGE

FILED
03:40 PM
NOV 30 2004
William A. Shaw
Prothonotary/Clerk of Courts
Hopkins, Signorelli

#22

CA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

PAMELA M. OWENS

:

-VS-

: No. 03-192-CD

MARY FARRELL

:

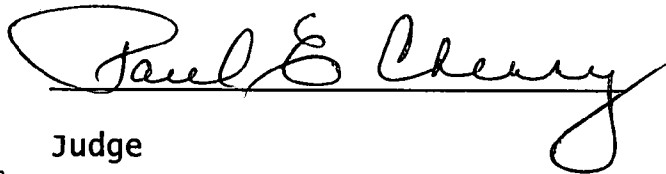
O R D E R

NOW, this 24th day of November, 2004, this being the date set for hearing on the Motion in Limine filed on behalf of the Defendant, it is the ORDER of this Court as follows:

1. David Hopkins, Esquire, is hereby precluded from introducing any testimony concerning his residence at the time of the accident;

2. Upon oral request of counsel for the Defendant to preclude testimony of prior knowledge and observation of Plaintiff concerning the Defendant, it is the ORDER of this Court that said request be and is hereby denied.

BY THE COURT,


Judge

FILED

o 11:52 AM 100 atty Hopkins
100 atty DiGiovanni

NOV 30 2004

William A. Shaw
Prothonotary

#21.

CA

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

PAMELA M. OWENS

vs.

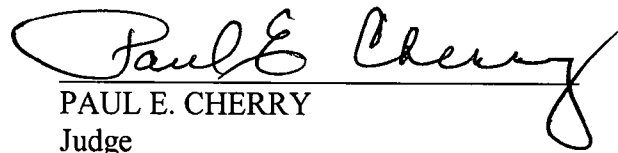
MARY FARRELL

:
:
: No. 03-192-CD
:
:

ORDER

AND NOW, this 3rd day of November, 2004, upon consideration of Defendant's Motion(s) in Limine filed in the above matter, it is the ORDER of the Court that argument on said Motion has been scheduled for the 24 day of November, 2004, at 11:00 A.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


PAUL E. CHERRY
Judge

EGK
FILED
O 8:56 on 306 to ally
NOV 04 2004

William A. Shaw
Prothonotary

#26
2

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

MOTION(S) IN LIMINE

FILED ON BEHALF OF DEFENDANT:

Defendant.

Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. SIGNORELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF STEPHEN P. AHERN
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

FILED

M. 12:30 PM 10/20/04

NOV 02 2004

William A. Shaw
Prothonotary

#19

PAMELA M. OWENS,
Plaintiff,

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

vs.

CASE NO.: 03-192

MARY FARRELL,

MOTIONS IN LIMINE

Defendant.

I.

**MOTION IN LIMINE TO KEEP FROM THE
JURY EVIDENCE OF INSURANCE, REFERENCE TO
INSURANCE AND REFERENCE TO ALLSTATE INSURANCE COMPANY**

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of insurance, reference to insurance and reference to Allstate Insurance Company during trial of this case and in support of this Motion states:

1. Defendant, Mary Farrell through counsel, stipulates to the existence of a binding insurance contract between Defendant and Allstate Insurance Company.

2. There is no contested insurance issue concerning a binding insurance contract, coverage, applicable limits or Allstate Insurance Company in this case.

3. Absent any contested insurance issue, evidence of insurance, reference to insurance and/or reference to Allstate Insurance Company are not relevant.

Wherefore, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction at trial of any evidence of insurance, reference to Allstate Insurance Company and/or the existence of insurance.

II.

**MOTION IN LIMINE TO KEEP FROM THE
JURY EVIDENCE OF BANKRUPTCY FILING BY PLAINTIFF**

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of insurance, reference to any facts concerning a bankruptcy filing by Plaintiff following the motor vehicle accident and states:

1. Defendant believes, based upon review of the records that Plaintiff filed for bankruptcy sometime in November, 2002.

2. It is presumed that the bankruptcy has been discharged and that the matter is no longer pending.

3. Defendant asserts that the issue of the Plaintiff's claim of bankruptcy is not relevant to the instant matter, which involves allegations of wage loss for approximately 1 month after the accident with Plaintiff's subsequent return to work at her position at Murray Honda.

4. It is believed and therefore averred that the fact that the Plaintiff claimed bankruptcy sometime after the motor vehicle accident, which said matter is totally irrelevant to the subject matter of the pending lawsuit, may create unfair bias, sympathy and prejudice in favor of the Plaintiff and against Defendant.

5. It is necessary to exclude from the jury's consideration the fact that the Plaintiff may have claimed bankruptcy post-accident, in order to avoid unfair prejudice against Defendant.

Wherefore, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction at trial of any evidence of Plaintiff's alleged bankruptcy post-accident.

III.

**MOTION IN LIMINE TO KEEP FROM THE
JURY ALL FACTS CONCERNING THE HAPPENING OF THE ACCIDENT**

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury

evidence of facts concerning the happening of the accident and respectfully states:

1. Defendant, Mary Farrell through counsel, stipulates to the issue of negligence and therefore factual causation of her negligent conduct to the happening of the accident is not at issue.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce evidence that while traveling on State Route 255 near the Treasure Lake Complex, Defendant cut across Plaintiff's lane, making a left-hand turn across Plaintiff's lane of travel.

3. Defendant further believes and therefore avers that the Plaintiff intends to introduce evidence concerning the Plaintiff's impressions of manner of operation of Defendant's vehicle in an attempt to stir the emotions of the jury and create unfair prejudice in favor of the Plaintiff.

4. Wherefore in light of the stipulated issue of negligence, any and all facts concerning the happening of the accident are irrelevant to the disposition of the pending lawsuit and could, in fact, be severely prejudicial to Defendant.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the facts preceding the accident as well as the happening of the accident.

IV.

MOTION IN LIMINE TO KEEP FROM THE JURY ALL FACTS CONCERNING
THE DEFENDANT'S PRE-ACCIDENT EYE EXAMINATION
AND DILATION OF DEFENDANT'S EYES

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the pre-accident activities of Defendant, including the dilation of her eyes during the course of a normal eye examination and states respectfully:

1. Defendant, Mary Farrell through ccounsel, stipulates to the issue of negligence and therefore factual causation of her negligent conduct to the happening of the accident is not at issue.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce evidence that prior to the accident, Defendant's eyes were dilated during a normal eye examination, and that the Defendant's eyes remained dilated while she was driving at or near the time of the accident.

3. Throughout the course of discovery, no evidence has been established that Defendant was operating a vehicle at the time of the accident against order from her eye doctor.

4. Defendant has already testified in this case that her eye doctor did not advise her not to drive at the time of the accident, due to the recent treatment of her eyes.

5. Due to the fact that the negligence of Defendant is not at issue, the facts concerning the pre-accident eye examination and treatment is not relevant to the jury's disposition of the pending lawsuit.

6. Defendant believes that the facts concerning the Defendant's eye examination, while not relevant, would severely prejudice the Defendant, as the jury may incorrectly assume that the Defendant was acting outside of her doctor's instructions.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the Defendant's pre-accident eye examination and dilation of the eyes and the condition of Defendant's eyes at the time of the accident.

V.
MOTION IN LIMINE TO KEEP FROM THE
JURY ALL FACTS CONCERNING
THE RESIDENCE OF PLAINTIFF'S COUNSEL

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the residence of Plaintiff's counsel near the location of the subject accident.

1. Defendant believes that the Plaintiff's counsel may reside near the location of the accident that is the subject matter of the lawsuit.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce personal statements concerning the layout of the roadways near the location of the accident, in the event that the Honorable Court denies Defendant's Motion in Limine to exclude evidence concerning the happening of the accident.


3. Defendant further believes and therefore avers that any statements by the Plaintiff's counsel concerning his possible familiarity with the location of the accident may be prejudicial to the Defendant and is highly irrelevant to the case.

the accident, in the event that the Honorable Court denies Defendant's Motion in Limine to exclude evidence concerning the happening of the accident.

3. Defendant further believes and therefore avers that any statements by the Plaintiff's counsel concerning his possible familiarity with the location of the accident may be prejudicial to the Defendant and is highly irrelevant to the case.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the residence of Plaintiff's counsel at the time of the accident.

Respectfully submitted,




LAURA R. SIGNORELLI, ESQUIRE
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219
Telephone: 412-255-4145
Attorney for Defendant
Mary Farrell

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of
DEFENDANT'S MOTION(S) IN LIMINE upon all other parties or
their attorney of record by **Overnight Mail** on this 1st day
of November, 2004 to the following:

DAVID J. HOPKINS, ESQUIRE
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, Pennsylvania 15801



LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

PAMELA M. OWENS,
Plaintiff,

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

vs.

CASE NO.: 03-192

MARY FARRELL,

Defendant.

ORDER

AND NOW, to-wit, this _____ day of _____, 2004, in consideration of the Defendant's Motion(s) In Limine it is hereby **ORDERED ADJUDGED AND DECREED** as follows:

(1) The Motion in limine concerning evidence of insurance, references to insurance is GRANTED. Evidence of insurance, reference to insurance and reference to Allstate Insurance Company are to be kept from the jury and that the Defendant shall be referred to as "Defendant" and that counsel for Allstate Insurance Company be referred to as counsel for the defense.

(2) The Motion in limine concerning evidence of Plaintiff's bankruptcy is GRANTED. Evidence of Plaintiff's filing for bankruptcy following the motor vehicle accident and any other information pertaining to this subject matter are to be kept from the jury.

(3) The Motion in limine concerning all facts surrounding the happening of the accident is GRANTED. Evidence of pre-accident events, events leading up to the collision and the actual happening of the collision itself shall not be introduced at trial.

(4) The Motion in limine concerning Defendant's eye treatment on the date of the accident or eye treatment in general is GRANTED. Plaintiff is precluded from introducing evidence pertaining to this subject matter.

(5) The Motion in limine concerning the residence of Plaintiff's counsel is GRANTED.

J.

CA

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

PAMELA M. OWENS,

: NO. 03-192-CD

V.

:
:
:
:
:

MARY FARRELL

FILED

AUG 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

ORDER

AND NOW, this 16TH day of August, 2004, following Pre-Trial Conference, it is
the ORDER of this Court:

1. The Discovery deadline for providing any and all reports to the opposing party shall be by and no later than thirty (30) days prior to the commencement of trial.
2. The deadline for filing all Motions shall be by and no later than thirty (30) days prior to the commencement of trial.
3. Jury Selection in this matter is scheduled for August 26, 2004, at 9:00 A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
4. Trial in this matter is scheduled for December 2 and 3, 2004 at 9:00 A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
5. The deadline for providing Points for Charge shall be by and no later than (15) days prior to the commencement of trial.
6. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

#18

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2/9:25/04
AUG 19 2004
4/05
Attys Hopkins, Signorelli.
William A. Shaw
Prothonotary/Clerk of Courts

GA

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

PAMELA M. OWENS,

Plaintiff

vs.

No. 03-192 CD

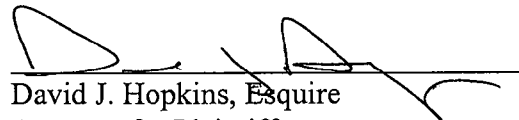
MARY FARRELL,

Defendant

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Pre-trial Memorandum filed on behalf of the Plaintiff, was forwarded on the 5th day of August, 2004, by U.S. Mail to all counsel of record, addressed as follows:

Laura R. Signorelli, Esquire
Law Office of Marianne C. Mnich
Two Mellon Bank Center
501 Grant Street, Suite 405
Pittsburgh, PA 15219-4403


David J. Hopkins, Esquire
Attorney for Plaintiff

FILED ^{NO}
012:5361 CC
AUG 09 2004
E/AS
William A. Shaw
Prothonotary/Clerk of Courts

#17

CA

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

PAMELA M. OWENS

vs.

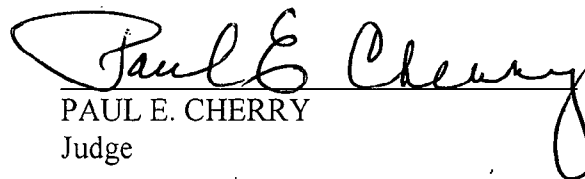
MARY FARRELL

:
:
: No. 03-192-CD
:
:

ORDER

AND NOW, this 29 day of July, 2004, upon consideration of Defendant's Objections to Certificate of Readiness filed in the above matter, it is the ORDER of the Court that argument on said Objections has been scheduled for the 18 day of August, 2004, at 1:30 P.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


PAUL E. CHERRY
Judge

FILED

JUL 30 2004

William A. Shaw
Prothonotary/Clerk of Courts

16

FILED

2004 memo re:

9/10/41/1681
JUL 30 2004

service of Rule to show Cause
to Atty & Signorelli

William A. Shaw

Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

Plaintiff,

vs.

MARY FARRELL,

Defendant.

CIVIL DIVISION

CASE NO. 03-192

**OBJECTION TO CERTIFICATE OF
READINESS PURSUANT TO
CLEARFIELD COUNTY LOCAL RULE
212.2(b), RULE TO SHOW CAUSE,
and ORDER OF COURT**

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. SIGNORELLI, ESQUIRE
PA No. 69694

LAW OFFICES OF STEPHEN P. AHERN
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

JURY TRIAL DEMANDED

FILED *ice*

m/11/31/04
JUL 19 2004 *Atty*

WAS
William A. Shaw
Prothonotary/Clerk of Courts

#15

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

Plaintiff,

CIVIL DIVISION

CASE NO. 03-192

vs.

MARY FARRELL,

Defendant.

**OBJECTION TO CERTIFICATE OF
READINESS PURSUANT TO
CLEARFIELD COUNTY LOCAL RULE
212.2(b), RULE TO SHOW CAUSE,
and ORDER OF COURT**

RULE TO SHOW CAUSE

Now this _____ day of _____, 2004, upon consideration of the attached Defendant's Objection to Certificate of Readiness pursuant to Local Rule 212.2, a RULE is hereby issued upon Plaintiff to SHOW CAUSE why the OBJECTION should not be granted and the case stricken from the next trial list. RULE RETURNABLE, for filing written response is set for the _____ day of _____, 2004, and argument on the OBJECTIONS is set for the _____ day of _____, 2004 at _____, in Courtroom No. _____, Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

Judge

PAMELA M. OWENS, CIVIL DIVISION
Plaintiff, CASE NO. 03-192

vs.

MARY FARRELL,

Defendant.

**OBJECTION TO CERTIFICATE OF READINESS PURSUANT TO
CLEARFIELD COUNTY LOCAL RULE 212.2(b), RULE TO SHOW CAUSE,
and ORDER OF COURT
JURY TRIAL DEMANDED**

AND NOW, comes the Defendant, Mary Farrell, by and through the undersigned counsel, Laura R. Signorelli, Esquire, hereby files the following Objection to Certificate of Readiness pursuant to Clearfield County Local Rule 212.2(b) and states:

1. On July 12, 2004, Plaintiff's counsel filed a Certificate of Readiness regarding the above-referenced case. (A true and correct copy of the Certificate of Readiness and enclosure is attached hereto and marked as Exhibit A.)
2. That certificate by Plaintiff stated that discovery is completed, pursuant to Clearfield Local Rule 212.2(a)(2).
3. This matter has not previously been listed for trial by this Honorable Court.
4. Discovery is not completed in this case, as Defendant, through her counsel is in the process of retrieving records and films necessary for expert review and/or possibly scheduling an IME.


5. By letter dated July 13, 2004, Plaintiff's counsel forwarded to Defense counsel, for the first time, medical records including but not limited to records from the following:

(1) Philip H. Hampton, D.C.; (2) DuBois Regional Medical Center; and (3) Guy H. Gerhart, M.D. as well as narrative reports of Dr. Gerhart, dated July 6, 2004.

6. To date, Defendant has experienced difficulty with retrieving said records/films to prepare a complete file for expert review. This difficulty is in no way due to lack of cooperation from Plaintiff's counsel; rather, the records and films requested for retrieval are somewhat voluminous and, in some instances, require special authorization.

7. Defendant would be severely prejudiced by the listing of this case for trial prior to the completion of discovery as well as possible negotiations on this matter.

WHEREFORE, this/these Defendant respectfully requests the Court to enter an Order pursuant to Local Rule 212.2[®] striking this case from the next available trial list.



LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

694- 18-25140.1

HOPKINS HELTZEL LLP

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

- Voice: (814) 375 - 0300
- Fax: (814) 375 - 5035
- Email: hopkinslaw@adelphia.net

Lea Ann Heltzel
Licensed in PA

July 12, 2004

William A. Shaw, Prothonotary
Clearfield County Courthouse
One North Second Street
Clearfield, PA 16830

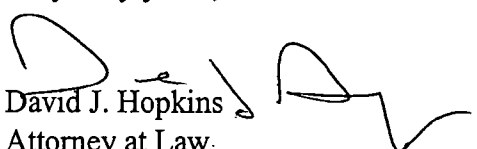
Re: Pamela M. Owens vs. Mary Farrell

Dear Mr. Shaw:

Enclosed herewith please find Certificate of Readiness for the above captioned matter. Would you be so kind as to file this document of record and forward to the Court Administrator so this matter can be placed on the trial list.

Thank you for your assistance in this matter.

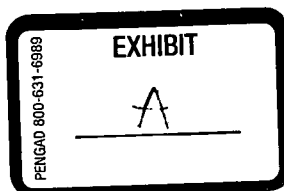
Very truly yours,


David J. Hopkins
Attorney at Law

DJH/bjt

Enclosure

cc: Laura R. Signorelli, Esquire



COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL TRIAL LISTING

CERTIFICATE OF READINESS

TO THE PROTHONOTARY

DATE PRESENTED

CASE NUMBER TYPE TRIAL REQUESTED ESTIMATED TRIAL TIME
03-192 C.D.
Date Complaint (x) Jury () Non-Jury
Filed: () Arbitration 2 days/hours

February 12, 2003

PLAINTIFF(S)

PAMELA M. OWENS () Check block if a Minor
DEFENDANT(S) is a Party to the Case

MARY FARRELL ()
ADDITIONAL DEFENDANT(S)

()

JURY DEMAND FILED BY:

DATE JURY DEMAND FILED:

Plaintiff

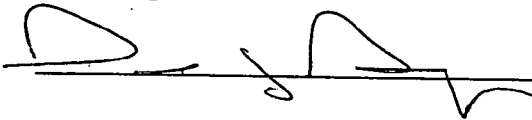
February 12, 2003

AMOUNT AT ISSUE CONSOLIDATION DATE CONSOLIDATION ORDERED

More than
& 20,000.00 () yes (x) no N/A

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel:



FOR THE PLAINTIFF

TELEPHONE NUMBER

David J. Hopkins, Esquire

(814) 375-0300

FOR THE DEFENDANT

TELEPHONE NUMBER

Laura R. Signorelli, Esquire

(412) 255-4110

FOR ADDITIONAL DEFENDANT

TELEPHONE NUMBER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

VS.

MARY FARRELL,

Defendant.

CERTIFICATE OF SERVICE

I, Laura R. Signorelli, Esquire, hereby certify that a true and correct copy of the **OBJECTION TO CERTIFICATE OF READINESS PURSUANT TO CLEARFIELD COUNTY LOCAL RULE 212.2(b), RULE TO SHOW CAUSE, and ORDER OF COURT** within was served upon all other parties or their attorney of record by First Class Mail on this 16th day of July 2004 to the following:

David J. Hopkins, Esquire
HOPKINS HELTZEL LLP
900 Beaver Drive
DuBois, PA 15801

Laura R. Signorelli
LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

Defendant.

ORDER OF COURT

AND NOW, this _____ day of _____, 2004, upon
consideration of the foregoing Defendant's Objection to
Certificate of Readiness pursuant to Pa.R.C.P. 212(b) it is
hereby Ordered, Adjudged and Decreed that said Objection is
GRANTED. The case, docketed at 03-192, is hereby stricken from
the next available trial list.

BY THE COURT:

_____ J.

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL TRIAL LISTING

CERTIFICATE OF READINESS

TO THE PROTHONOTARY

COPY

DATE PRESENTED

CASE NUMBER TYPE TRIAL REQUESTED ESTIMATED TRIAL TIME
03-192 C.D.
Date Complaint (x) Jury () Non-Jury
Filed: () Arbitration 2 days/hours

February 12, 2003

PLAINTIFF(S)

PAMELA M. OWENS () Check block if a Minor
DEFENDANT(S) is a Party to the Case

MARY FARRELL ()
ADDITIONAL DEFENDANT(S)

____ ()

JURY DEMAND FILED BY:

DATE JURY DEMAND FILED:

Plaintiff

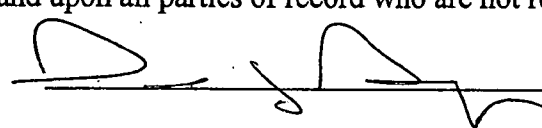
February 12, 2003

AMOUNT AT ISSUE CONSOLIDATION DATE CONSOLIDATION ORDERED

More than
& 20,000.00 () yes (x) no N/A

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel:



FOR THE PLAINTIFF

TELEPHONE NUMBER

David J. Hopkins, Esquire

(814) 375-0300

FOR THE DEFENDANT

TELEPHONE NUMBER

Laura R. Signorelli, Esquire

(412) 255-4110

FOR ADDITIONAL DEFENDANT

TELEPHONE NUMBER

14

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

Defendant.

**VERIFICATION OF SERVICE OF
DEFENDANT'S REQUEST FOR
ADMISSIONS DIRECTED TO
PLAINTIFF**

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. PASQUINELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

JURY TRIAL DEMANDED

FILED

FEB 05 2004

William A. Shaw
Prothonotary/Clerk of Courts

#13

PAMELA M. OWENS, CIVIL DIVISION
Plaintiff, CASE NO. 03-192

Defendant .

Dated: February 3, 2004

CERTIFICATE
PREREQUISITE TO SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22

IN THE MATTER OF:

OWENS

COURT OF COMMON PLEAS

TERM,

-VS-

CASE NO: 03-192

FARRELL

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22

MCS on behalf of LAURA SIGNORELLI, ESQ.
certifies that

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

Laura Signorelli
MCS on behalf of

LAURA SIGNORELLI, ESQ.
Attorney for DEFENDANT

DATE: 12/22/2003

FILED

m 11:22 AM
JAN 15 2004

William A. Shaw
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Pamela M. Owens
Plaintiff(s)

Vs.

Mary Farrell
Defendant(s)

*

*

*

No. 2003-00192-CD

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

TO: Custodian of Records: Philip Hampton, D.C.
(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:

**** SEE ATTACHED RIDER****

428 Forbes Avenue, 300. Lawyers Building, Pittsburgh, PA 15219
(Address)

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

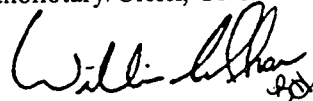
If you fail to produce the documents or things required by this subpoena within twenty
(20) days after its service, the party serving this subpoena may seek a court order compelling you
to comply with it.

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

NAME: Laura Signorelli, Esq.
ADDRESS: 501 Grant St., Suite 405
Pittsburgh, PA 15219
TELEPHONE: (412) 642-4420
SUPREME COURT ID #
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division



Deputy

DATE: Thursday, November 20, 2003
Seal of the Court

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

PHILIP H. HAMPTON, D.C.
101 W. UNION STREET

PUNXSUTAWNEY, PA 15767

RE: 92152
PAMELA OWENS

Any and all records, correspondence, files and memorandums, handwritten notes, relating to any examination, consultation, care or treatment.

TO INCLUDE PATIENT ID SHEET* CERTIFICATION OF RECORDS MUST BE SIGNED & RETURNED

Dates Requested: up to and including the present.

Subject : PAMELA OWENS

RD #1 BOX 206, DUBOIS, PA 15801

Date of Birth: 02-12-1973

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Pamela M. Owens
Plaintiff(s)

*

Vs.

*

No. 2003-00192-CD

Mary Farrell
Defendant(s)

*

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

TO: Custodian of Records: Summit Rehabilitation Assoc.
(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:

****SEE ATTACHED RIDER****

428 Forbes Avenue, 300 Lawyers Building, Pittsburgh, PA 15219
(Address)

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

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

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

NAME: Laura Signorelli, Esq.
ADDRESS: 501 Grant St., Suite 405
Pittsburgh, PA 15219
TELEPHONE: (412) 642-4420
SUPREME COURT ID #
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

William A. Shaw
Deputy

DATE: Thursday, November 20, 2003
Seal of the Court

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

SUMMIT REHABILITATION ASSOC.
145 HOSPITAL DRIVE
SUITE 300

DUBOIS, PA 15801

RE: 92152
PAMELA OWENS

Any and all records, correspondence, files and memorandums, handwritten notes, relating to any examination, consultation, care or treatment.

TO INCLUDE PATIENT ID SHEET* CERTIFICATION OF RECORDS MUST BE SIGNED & RETURNED

Dates Requested: up to and including the present.

Subject : PAMELA OWENS

RD #1 BOX 206, DUBOIS, PA 15801

Date of Birth: 02-12-1973

CERTIFICATE
PREREQUISITE TO SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22

FILED *no*
m/ll. corral *cc*
JAN 12 2004 *E*
William A. Shaw
Prothonotary/Clerk of Courts

IN THE MATTER OF:

COURT OF COMMON PLEAS

OWENS

TERM,

-VS-

CASE NO: 03-192

FARRELL

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22.

MCS on behalf of LAURA SIGNORELLI, ESQ.
certifies that

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

Laura Signorelli

MCS on behalf of

DATE: 08/20/2003

LAURA SIGNORELLI, ESQ.
Attorney for DEFENDANT

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

IN THE MATTER OF:

COURT OF COMMON PLEAS

OWENS

TERM,

-VS-

CASE NO: 03-192

FARRELL

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

DUBOIS HOSPITAL

MEDICAL

DR. GEARHART

MEDICAL

ERIE INSURANCE COMPANY

INSURANCE

TO: DAVID J. HOPKINS, ESQUIRE

MCS on behalf of LAURA SIGNORELLI, ESQ. intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If the twenty day notice period is waived or if no objection is made, then the subpoena may be served. Complete copies of any reproduced records may be ordered at your expense by completing the attached counsel card and returning same to MCS or by contacting our local MCS office.

DATE: 07/31/2003

MCS on behalf of

LAURA SIGNORELLI, ESQ.

Attorney for DEFENDANT

CC: LAURA SIGNORELLI, ESQ.

Any questions regarding this matter, contact

THE MCS GROUP, INC.
300 LAWYERS BUILDING

PITTSBURGH, PA 15219
(412) 642-4420

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Pamela M. Owens
Plaintiff(s)

Vs.

Mary Farrell
Defendant(s)

No. 2003-00192-CD

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

TO: Custodian of Records: Dubois Hospital
(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:

****SEE ATTACHED RIDER****

428 Forbes Avenue, 300 Lawyers Building, Pittsburgh, PA 15219
(Address)

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

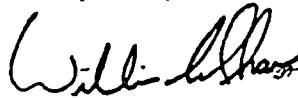
If you fail to produce the documents or things required by this subpoena within twenty
(20) days after its service, the party serving this subpoena may seek a court order compelling you
to comply with it.

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

NAME: Laura Signorelli, Esq.
ADDRESS: 501 Grant St., Suite 405
Pittsburgh, PA 15219
TELEPHONE: (412) 642-4420
SUPREME COURT ID # _____
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division



Deputy

DATE: Monday, July 28, 2003
Seal of the Court

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

**DUBOIS HOSPITAL
100 HOSPITAL AVENUE**

DUBOIS, PA 15801

**RE: 92152
PAMELA OWENS**

Any and all records, correspondence, files and memorandums, handwritten notes, relating to any examination, consultation care or treatment.

CERTIFICATION OF RECORDS MUST BE SIGNED AND RETURNED

Dates Requested: up to and including the present.

Subject : PAMELA OWENS

RD #1 BOX 206, DUBOIS, PA 15801

Date of Birth: 02-12-1973

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Pamela M. Owens
Plaintiff(s)

*

Vs.

*

No. 2003-00192-CD

Mary Farrell
Defendant(s)

*

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

TO: Custodian of Records: Dr. Gearhart

(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:

****SEE ATTACHED RIDER****

428 Forbes Avenue, 300 Lawyers Building, Pittsburgh, PA 15219
(Address)

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to comply with it.

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

NAME: Laura Signorelli, Esq.

ADDRESS: 501 Grant St., Suite 405
Pittsburgh, PA 15219

TELEPHONE: (412) 642-4420

SUPREME COURT ID # _____

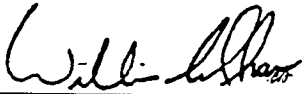
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division

DATE: Monday, July 28, 2003
Seal of the Court


Deputy

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

**DR. GEARHART
MAPLE AVENUE
P.O. BOX 447**

DUBOIS, PA 15801

**RE: 92152
PAMELA OWENS**

Any and all records, correspondence, files and memorandums, handwritten notes, relating to any examination, consultation, care or treatment.

TO INCLUDE PATIENT ID SHEET* CERTIFICATION OF RECORDS MUST BE SIGNED & RETURNED

Dates Requested: up to and including the present.

Subject : PAMELA OWENS

RD #1 BOX 206, DUBOIS, PA 15801

Date of Birth: 02-12-1973

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Pamela M. Owens
Plaintiff(s)

Vs.

Mary Farrell
Defendant(s)

*

*

*

No. 2003-00192-CD

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

TO: Custodian of Records: Erie Insurance Company
(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:

****SEE ATTACHED RIDER****

428 Forbes Avenue, 300 Lawyers Building, Pittsburgh, PA 15219
(Address)

You may deliver or mail legible copies of the documents or produce things requested by
this subpoena, together with the certificate of compliance, to the party making this request at the
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(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: Laura Signorelli, Esq.
ADDRESS: 501 Grant St., Suite 405
Pittsburgh, PA 15219
TELEPHONE: (412) 642-4420
SUPREME COURT ID #
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Monday, July 28, 2003
Seal of the Court


Deputy

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

**ERIE INSURANCE COMPANY
1000 MURRY RIDGE DRIVE
P.O. BOX 605**

MURRYSVILLE, PA 15668

**RE: 92152
PAMELA OWENS**

POLICY # Q080116102N; CLAIM # 01017055176400; CLAIM # 010110445149001

Any and all insurance records.

CERTIFICATION MUST BE SIGNED AND RETURNED WITH RECORDS

Dates Requested: up to and including the present.

Subject : PAMELA OWENS

RD #1 BOX 206, DUBOIS, PA 15801

Date of Birth: 02-12-1973

Date of Loss: 08/13/2002

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Pamela M. Owens
Plaintiff(s)

Vs.

Mary Farrell
Defendant(s)

No. 2003-00192-CD

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

TO: Custodian of Records: Dubois Hospital
(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:

****SEE ATTACHED RIDER****

428 Forbes Avenue, 300 Lawyers Building, Pittsburgh, PA 15219
(Address)

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

NAME: Laura Signorelli, Esq.
ADDRESS: 501 Grant St., Suite 405
Pittsburgh, PA 15219
TELEPHONE: (412) 642-4420
SUPREME COURT ID # _____
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division



~~Deputy~~

DATE: Monday, July 28, 2003
Seal of the Court

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

**DUBOIS HOSPITAL
100 HOSPITAL AVENUE**

DUBOIS, PA 15801

**RE: 92152
PAMELA OWENS**

Any and all records, correspondence, files and memorandums, handwritten notes, relating to any examination, consultation care or treatment.

CERTIFICATION OF RECORDS MUST BE SIGNED AND RETURNED

Dates Requested: up to and including the present.

Subject : PAMELA OWENS

RD #1 BOX 206, DUBOIS, PA 15801

Date of Birth: 02-12-1973

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Pamela M. Owens
Plaintiff(s)

*

Vs.

*

No. 2003-00192-CD

Mary Farrell
Defendant(s)

*

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

TO: Custodian of Records: Dr. Gearhart

(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:

*****SEE ATTACHED RIDER*****

428 Forbes Avenue, 300 Lawyers Building, Pittsburgh, PA 15219
(Address)

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

NAME: Laura Signorelli, Esq.

ADDRESS: 501 Grant St., Suite 405

Pittsburgh, PA 15219

TELEPHONE: (412) 642-4420

SUPREME COURT ID #

ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division

DATE: Monday, July 28, 2003

Seal of the Court



Deputy

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

**DR. GEARHART
MAPLE AVENUE
P.O. BOX 447**

DUBOIS, PA 15801

**RE: 92152
PAMELA OWENS**

Any and all records, correspondence, files and memorandums, handwritten notes, relating to any examination, consultation, care or treatment.

TO INCLUDE PATIENT ID SHEET* CERTIFICATION OF RECORDS MUST BE SIGNED & RETURNED

Dates Requested: up to and including the present.

Subject : PAMELA OWENS

RD #1 BOX 206, DUBOIS, PA 15801

Date of Birth: 02-12-1973

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Pamela M. Owens
Plaintiff(s)

Vs.

Mary Farrell
Defendant(s)

*

*

*

No. 2003-00192-CD

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

TO: Custodian of Records: Erie Insurance Company
(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:
****SEE ATTACHED RIDER****

428 Forbes Avenue, 300 Lawyers Building, Pittsburgh, PA 15219
(Address)

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

NAME: Laura Signorelli, Esq.
ADDRESS: 501 Grant St., Suite 405
Pittsburgh, PA 15219
TELEPHONE: (412) 642-4420
SUPREME COURT ID = _____
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division



Deputy

DATE: Monday, July 28, 2003
Seal of the Court

EXPLANATION OF REQUIRED RECORDS

TO: CUSTODIAN OF RECORDS FOR:

ERIE INSURANCE COMPANY
1000 MURRY RIDGE DRIVE
P.O. BOX 605

MURRYSVILLE, PA 15668

RE: 92152
PAMELA OWENS

POLICY # Q080116102N; CLAIM # 01017055176400; CLAIM # 010110445149001

Any and all insurance records.

CERTIFICATION MUST BE SIGNED AND RETURNED WITH RECORDS

Dates Requested: up to and including the present.

Subject : PAMELA OWENS

RD #1 BOX 206, DUBOIS, PA 15801

Date of Birth: 02-12-1973

Date of Loss: 08/13/2002

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03-192 CD

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Plaintiff's Answer to Defendant's Request for Production of Documents, filed on behalf of Pamela M. Owens, was forwarding by first class mail, postage prepaid, on the 24th day of October, 2003, to all counsel of record, addressed as follows:

Laura R. Signorelli, Esquire
Law Office of Marianne C. Mnich
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA. 15219


David J. Hopkins, Esquire
Attorney for Plaintiff

FILED

OCT 28 2003

William A. Shaw
Prothonotary/Clerk of Courts

#10

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

Plaintiff,

vs.

MARY FARRELL,

Defendant.

CIVIL DIVISION

CASE NO. 03-192

**MOTION TO COMPEL DISCOVERY
and ORDER OF COURT**

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. SIGNORELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

FILED

SEP 25 2003

William A. Shay
Prothonotary/Clerk of Courts

#9

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

Defendant.

MOTION TO COMPEL DISCOVERY

AND NOW, comes the Defendant, Mary Farrell, by and through the undersigned Counsel, Laura R. Signorelli, Esquire, hereby moves the Court to enter an Order Pursuant to Pennsylvania Rule of Civil Procedure 4019 compelling Plaintiff to answer certain discovery propounded to Plaintiff by this Defendant in this matter:


In support of this Motion, Defendant avers as follows:

1. The instant Civil Action was commenced by the filing of a Complaint on February 12, 2003.
2. On April 14, 2003, counsel for Defendant sent to counsel for the Plaintiff a Notice of Production. (A copy of said letter of transmission is attached hereto as Exhibit "A").
3. Pursuant to Pennsylvania Rule of Civil Procedure 4006(a)(2), Plaintiff's responses and objections, if any, to said Response to Production were due on or before May 14, 2003.
4. On May 21, 2003; June 21, 2003 and August 4, 2003 counsel for Plaintiff was notified by counsel for this Defendant that Plaintiff's responses to written discovery were due and had not yet been received. Counsel for Plaintiff did not respond to said written requests.

5. Although a period in excess of five (5) months has now elapsed since said Interrogatories were served upon counsel for Plaintiff, no response of any kind thereto has been received to date.

6. Defendant requires an Order of this Court Pursuant to Pennsylvania Rule of Civil Procedure 4019(a)(1)(i) compelling Plaintiff to answer said Response to Notice of Production.

WHEREFORE, Defendant respectfully requests the Court to enter an Order compelling Plaintiff to file full and complete answers to these Defendant's First Set of Interrogatories to Plaintiff and Respond to Notice of Production or suffer appropriate sanctions to be imposed upon application to the Court.


LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

LAW OFFICE
OF
MARIANNE C. MNICH
TWO MELLON BANK CENTER
501 GRANT STREET, SUITE 405
PITTSBURGH, PENNSYLVANIA 15219-4403

MARIANNE C. MNICH
SUSAN D. O'CONNELL
LAURA R. PASQUINELLI
MICHAEL C. MASELLI
DONNA MARIE FLAHERTY
MICHELLE G. MOSCHELLA

STAFF COUNSEL
ALLSTATE INSURANCE COMPANY
ENCOMPASS INSURANCE

(NOT A PARTNERSHIP)

ALL ATTORNEYS ARE EMPLOYEES
OF ALLSTATE INSURANCE COMPANY

TELEPHONE: (412) 255-4110
FACSIMILE: (412) 471-6708

April 14, 2003

David J. Hopkins, Esquire
900 Beaver Drive
Dubois, PA 15801

RE: OWENS vs. FARRELL
Court Case No: 03-192
Our File No: 6941825140.1

Dear Mr. Hopkins:

Enclosed please find the Praecipe for Appearance & Answer and New Matter filed on behalf of the Defendant regarding the above captioned case. The originals have been filed with the Court.

Also, please find a Request for Production of Documents. Please provide answers to these items within the applicable time period.

Thank you for your time and attention to this matter.

Sincerely,

Laura R. Pasquelli
Laura R. Pasquelli, Esquire

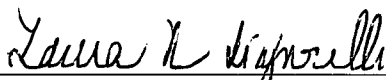
dac
Enclosures
cc: Daryl Stutes, Allstate Insurance Company



CERTIFICATE OF SERVICE

I, Laura R. Signorelli, Esquire, hereby certify that a true and correct copy of the within MOTION TO COMPEL was served upon all other parties or their attorney of record by First Class Mail on this 23rd day of September, 2003.

David J. Hopkins, Esquire
900 Beaver Drive
Dukois, PA 15801



LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant

FILED

2cc Atty Signorelli

SEP 25 2003

1cc Atty Hopkins per Atty's request

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

Plaintiff,

CIVIL DIVISION

CASE NO. 03-192

vs.

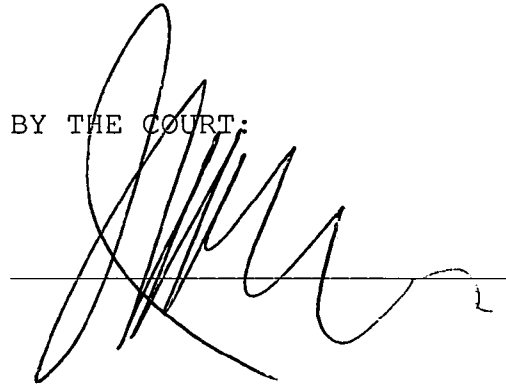
MARY FARRELL,

Defendant.

ORDER OF COURT

AND NOW, this 26th day of September, 2003,
upon consideration of the foregoing Motion, it is hereby
Ordered, Adjudged and Decreed that the Plaintiff will file
a Response to Request for Production of Documents within 30
days.

BY THE COURT:

 J.

FILED

SEP 26 2003

William A. Shaw
Prothonotary

#9

FILED
O 3:52 PM 2003
SEP 26 2003
SEP 26 2003
SEP 26 2003

~~13~~

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

Plaintiff,

vs.

MARY FARRELL,

Defendant.

CIVIL DIVISION

CASE NO. 03-192

NOTICE OF NAME CHANGE

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. SIGNORELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219
Telephone: 412-255-4110

FILED

JUL 14 2003

William A. Shaw
Prothonotary

#8

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS, CIVIL DIVISION
Plaintiff, CASE NO. 03-192

VS.

MARY FARRELL,
Defendant.

NOTICE OF NAME CHANGE

TO THE PROTHONOTARY:

Please notice the name change of the Attorney for Defendant from Laura R. Pasquinelli, Esquire to Laura R. Signorelli, Esquire, effective June 7, 2003, in reference to the above captioned case.

Laura R. Signorelli
LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the **NOTICE OF
NAME CHANGE** upon all other parties or their attorney of record by regular First Class Mail on this 10th day of July, 2003.

DAVID J. HOPKINS, ESQUIRE
900 Beaver Drive
DuBois, Pennsylvania 15801

Laura R. Signorelli
Laura R. Signorelli, Esquire
Attorney for Defendant
Mary Farrell

FILED

7/2/05
JUL 14 2003

William A. Shaw
Prothonotary

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03-192 CD

Type of Pleading: Answer to
Amended New Matter

Filed on behalf of: Pamela Owens,
Plaintiff

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED

JUN 18 2003

William A. Shaw
Prothonotary

#7

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


PAMELA M. OWENS,	:	
Plaintiff	:	
	:	
vs.	:	No. 03-192 CD
	:	
MARY FARRELL,	:	
Defendant	:	

ANSWER TO AMENDED NEW MATTER

AND NOW, comes Plaintiff, Pamela M. Owens, by and through her attorneys, The Hopkins Law Firm, and answers Defendant's Amended New Matter as follows:

1. Denied. Plaintiff's operation of a motor vehicle does not constitute assumption of the risk.
2. Admitted in part and denied in part. Plaintiff admits the Pennsylvania Motor Vehicle Financial Responsibility Law of 1984 is applicable. However, Plaintiff denies said law limits Plaintiff's recovery.
3. Admitted in part and denied in part. Plaintiff admits the Pennsylvania Motor Vehicle Financial Responsibility Law of 1984 is applicable. Plaintiff denies same limits or bars any of Plaintiff's claims. Plaintiff denies limited tort is relevant inasmuch as Plaintiff obtained full tort.

Respectfully submitted,


David J. Hopkins, Esquire
Attorney for Plaintiff

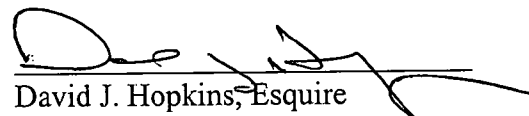
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PAMELA M. OWENS,	:	
	:	
Plaintiff	:	
	:	
vs.	:	No. 03-192 CD
	:	
MARY FARRELL,	:	
	:	
Defendant	:	

CERTIFICATE OF SERVICE

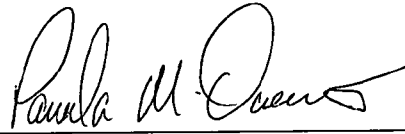
I, the undersigned, hereby certify that a true and correct copy of Plaintiff's Answer to Defendant's Amended New Matter, filed on behalf of Pamela M. Owens, was forwarding by first class mail, postage prepaid, on the 17th day of June, 2003, to all counsel of record, addressed as follows:

Laura R. Pasquinelli, Esquire
Law Office of Marianne C. Mnich
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219


David J. Hopkins, Esquire
Attorney for Plaintiff

VERIFICATION

With full understanding that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities, I verify that the statements made in this pleading are true and correct.

A handwritten signature in cursive script, appearing to read "Pamela M. Owens", written over a horizontal line.

Pamela M. Owens

Dated: 6-17-03

FILED

NO
M 11:15 AM
JUN 18 2003
CC

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

AMENDED NEW MATTER

Defendant.

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. PASQUINELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

JURY TRIAL DEMANDED

FILED

MAY 23 2003

William A. Shaw
Prothonotary

#6

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

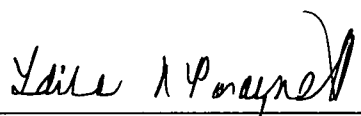
MARY FARRELL,

Defendant.

NOTICE TO PLEAD

TO: David J. Hopkins, Esquire

You are notified to Plead to the enclosed Amended New Matter within 20 days from the date of service or a judgment may be entered against you.



LAURA R. PASQUINELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

Defendant.

DEFENDANT' S AMENDED NEW MATTER

AND NOW, comes the Defendant, Mary Farrell, by and through the undersigned counsel, Laura R. Pasquinelli, Esquire and files the following Amended New Matter upon a cause of action whereof the following is a statement:

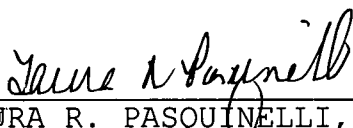
DEFENDANT' S AMENDED NEW MATTER

1. All causes of action and/or claims asserted against answering Defendant are barred by the Doctrine of Assumption of the Risk, as the direct and proximate cause of any injuries/damages allegedly suffered by Plaintiff was the assumption of the risk of the Plaintiff, in knowingly subjecting himself to risk of injury/damage incurred.

2. All causes of action and/or claims as set forth in all Civil Action/Complaints are limited, governed, barred, and/or restricted by the terms of the Pennsylvania Motor Vehicle Financial Responsibility Law of 1984, 75 Pa. C.S.A. 1701, et seq., as amended by Act 6 of 1990, the relevant provisions of which are incorporated by reference herein as though the same were fully set forth at length.

3. All causes of action and/or claims as set forth in all Civil Actions/Complaints are limited, governed, barred, and/or restricted by the terms of the Pennsylvania Motor Vehicle Financial Responsibility Law of 1984, 75 Pa. C.S.A. 1701, et seq., as amended by Act 6 of 1990, the relevant provisions of which are incorporated by reference herein as though the same were fully set forth at length, including but not limited to the "limited tort" provisions of Section 1705, and in accordance with the "tort option" chosen and/or elected in the policy of insurance purportedly providing coverage for the accident in question.

WHEREFORE, Defendant demands of this Honorable Court Judgment in her favor and against Plaintiff.



LAURA R. PASQUINELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

VERIFICATION

LAURA R. PASQUINELLI, ESQUIRE, states that she is the attorney for the within named Defendant, Mary Farrell, and the facts set forth in the foregoing pleading are true and correct to the best of her knowledge, information, and belief; and this statement is made subject to the penalties of 18 Pa. C. §4904, relating to unsworn falsification to authorities.

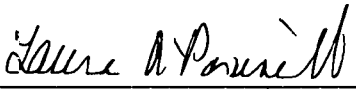


LAURA R. PASQUINELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of DEFENDANT'S AMENDED NEW MATTER upon all other parties or their attorney of record by First Class Mail on this 21st day of May, 2003.

DAVID J. HOPKINS, ESQUIRE
900 Beaver Drive
DuBois, Pennsylvania 15801



LAURA R. PASQUINELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

CA

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03-192 CD

Type of Pleading: Preliminary Objections
to New Matter

Filed on behalf of: Pamela Owens,
Plaintiff

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED

APR 22 2003

William A. Shaw
Prothonotary

#3

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

PAMELA M. OWENS,	:	
Plaintiff	:	
	:	
vs.	:	No. 03-192 CD
	:	
MARY FARRELL,	:	
Defendant	:	

PRELIMINARY OBJECTIONS TO NEW MATTER

AND NOW, comes Plaintiff, Pamela M. Owens, by and through her attorneys, The Hopkins Law Firm, and files Preliminary Objections to the New Matter of Defendant Mary Farrell and in support thereof says as follows:

PRELIMINARY OBJECTION I
Insufficient Specificity in a Pleading

1. Plaintiff commenced the above captioned matter by filing a Complaint as a result of bodily injuries received in a motor vehicle collision in which Plaintiff was driving along a highway when Defendant, after recently having her eyes dilated, made a left hand turn immediately in front of Plaintiff.

2. Defendant has filed an Answer denying the allegations of liability pursuant to Pennsylvania Rule of Civil Procedure 1029(e) – that being a general denial.

3. Defendant raised three (3) valid areas of New Matter:

- a. Assumption of risk;
- b. Pennsylvania Motor Vehicle Financial Responsibility Law;
- c. Limited Tort defense.

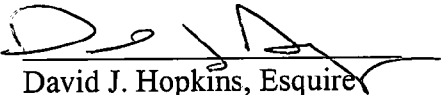
4. Paragraph 4 of Defendant's New Matter states:

Answering Defendant, reserves the right to assert at the time of trial any and all affirmative defenses revealed through discover.

Paragraph 4 of Defendant's New Matter is improper inasmuch as New Matter number 4 lacks sufficient specificity.

WHEREFORE, Plaintiff respectfully requests this Court strike Defendants New Matter Number 4.

Respectfully submitted,


David J. Hopkins, Esquire
Attorney for Plaintiff

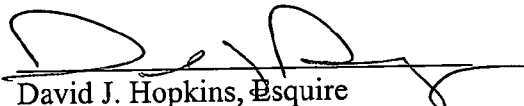
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PAMELA M. OWENS,	:	
Plaintiff	:	
	:	
vs.	:	No. 03-192 CD
	:	
MARY FARRELL,	:	
Defendant	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Plaintiff's Preliminary Objections to Defendant's New Matter, filed on behalf of Pamela M. Owens, was forwarding by first class mail, postage prepaid, on the 22nd day of April, 2003, to all counsel of record, addressed as follows:

Laura R. Pasquinelli, Esquire
Law Office of Marianne C. Mnich
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219


David J. Hopkins, Esquire
Attorney for Plaintiff

FILED

REC

APR 22 2003

01/11/10 ~~10~~ Atty Hopkins

William A. Shaw
Prothonotary

(KCB)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

**ANSWER TO COMPLAINT
AND NEW MATTER**

Defendant.

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. PASQUINELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

JURY TRIAL DEMANDED

FILED

APR 16 2003
m/12:25/a
William A. Shaw
Prothonotary
1 CENT TO APT

#4

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

Plaintiff,

CIVIL DIVISION

CASE NO. 03-192

vs.

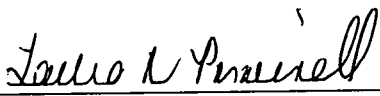
MARY FARRELL,

Defendant.

NOTICE TO PLEAD

TO: David J. Hopkins, Esquire

You are notified to Plead to the enclosed Answer and New Matter within 20 days from the date of service or a judgment may be entered against you.



LAURA R. PASQUINELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

Plaintiff,

CIVIL DIVISION

CASE NO. 03-192

vs.

MARY FARRELL,

Defendant.

DEFENDANT'S ANSWER TO COMPLAINT

AND NOW, comes the Defendant, Mary Farrell, by and through the undersigned counsel, Laura R. Pasquinelli, Esquire and files the following Answer and New Matter upon a cause of action whereof the following is a statement:

1. DENIED. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph.

2. ADMITTED.

3. ADMITTED.

4. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

5. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

6. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

7. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

8. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

9. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

10. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

11. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

12. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

13. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

WHEREFORE, Defendant demands of this Honorable Court Judgment in her favor and against Plaintiff.

DEFENDANT'S NEW MATTER

1. All causes of action and/or claims asserted against answering Defendant are barred by the Doctrine of Assumption of

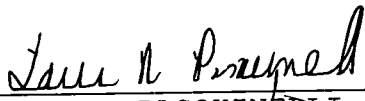
the Risk, as the direct and proximate cause of any injuries/damages allegedly suffered by Plaintiff was the assumption of the risk of the Plaintiff, in knowingly subjecting himself to risk of injury/damage incurred.

2. All causes of action and/or claims as set forth in all Civil Action/Complaints are limited, governed, barred, and/or restricted by the terms of the Pennsylvania Motor Vehicle Financial Responsibility Law of 1984, 75 Pa. C.S.A. 1701, et seq., as amended by Act 6 of 1990, the relevant provisions of which are incorporated by reference herein as though the same were fully set forth at length.

3. All causes of action and/or claims as set forth in all Civil Actions/Complaints are limited, governed, barred, and/or restricted by the terms of the Pennsylvania Motor Vehicle Financial Responsibility Law of 1984, 75 Pa. C.S.A. 1701, et seq., as amended by Act 6 of 1990, the relevant provisions of which are incorporated by reference herein as though the same were fully set forth at length, including but not limited to the "limited tort" provisions of Section 1705, and in accordance with the "tort option" chosen and/or elected in the policy of insurance purportedly providing coverage for the accident in question.

4. Answering Defendant, reserves the right to assert at the time of trial any and all affirmative defenses revealed through discovery.

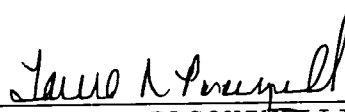
WHEREFORE, Defendant demands of this Honorable Court
Judgment in her favor and against Plaintiff.



LAURA R. PASQUINELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

VERIFICATION

LAURA R. PASQUINELLI, ESQUIRE, states that she is the attorney for the within named Defendant, Mary Farrell, and the facts set forth in the foregoing pleading are true and correct to the best of her knowledge, information, and belief; and this statement is made subject to the penalties of 18 Pa. C. §4904, relating to unsworn falsification to authorities.

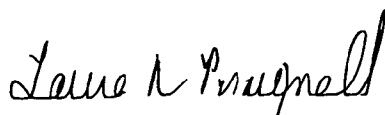


LAURA R. PASQUINELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of DEFENDANT'S ANSWER AND NEW MATTER upon all other parties or their attorney of record by First Class Mail on this 14th day of April, 2003.

DAVID J. HOPKINS, ESQUIRE
900 Beaver Drive
DuBois, Pennsylvania 15801



LAURA R. PASQUINELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

PRAECIPE FOR APPEARANCE

Defendant.

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. PASQUINELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

JURY TRIAL DEMANDED

FILED

APR 16 2003

m/12:25/waf

William A. Shaw
Prothonotary

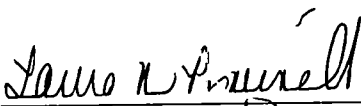
1 CENT COPY
TO ATT

112

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of the Praecipe for Appearance upon all other parties or their attorney of record by First Class Mail on this 14th day of April, 2003.

DAVID J. HOPKINS, ESQUIRE
900 Beaver Drive
DuBois, Pennsylvania 15801



LAURA R. PASQUINELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 13656

OWENS, PAMELA M.

03-192-CD

VS.

FARRELL, MARY

COMPLAINT

SHERIFF RETURNS

NOW MARCH 3, 2003 AT 12:30 PM EST SERVED THE WITHIN COMPLAINT ON
MARY FARRELL, DEFENDANT AT RESIDENCE, 1426 TREASURE LAKE, DUBOIS,
CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO MARY FARRELL A TRUE AND
ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER
THE CONTENTS THEREOF.
SERVED BY: COUDRIET/RYEN

Return Costs

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

Sworn to Before Me This

10 Day Of April 2003
William A. Shaw

So Answers,

Chester A. Hawkins
by Mary Hamer
Chester A. Hawkins
Sheriff

FILED

APR 10 2003

William A. Shaw
Prothonotary

COPY

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03- 192 CD

Type of Pleading: Complaint

Filed on behalf of: Pamela Owens,
Plaintiff

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

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

FEB 12 2003

Attest.

William D. Shaw
Prothonotary/
Clerk of Courts

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03-

CD

NOTICE

TO DEFENDANT:

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

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

Office of the Court Administrator
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
(814) 765-2641 ext. 5982

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03-

CD

COMPLAINT

NOW, COMES the Plaintiff, Pamela M. Owens, by and through her attorneys, The Hopkins Law Firm, and says as follows:

COUNT I

1. Plaintiff, Pamela M. Owens, is an adult individual maintaining a principal residence at R.D. #1, Box 206, DuBois, Clearfield County, Pennsylvania 15801.

2. Defendant, Mary Farrell, is an adult individual maintaining a principal residence at 1426 Treasure Lake, DuBois, Clearfield County, Pennsylvania 15801.

3. On August 13, 2002, within the County of Clearfield, Plaintiff was driving her motor vehicle south on Route 255 in the Township of Sandy. At about the same time Defendant was driving north on State Route 255.

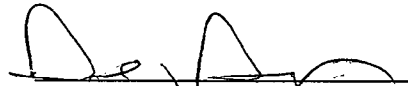
4. Defendant was returning from the eye doctor having recently had her eyes dilated. Defendant attempted to turn left into the entranceway of the Treasure Lake Subdivision, wherein she struck the front end of Plaintiff's motor vehicle.

5. A violent collision occurred.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by twelve jurors on all issues presented herein.


Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David J. Hopkins', is written over a horizontal line.

David J. Hopkins, Esquire
Attorney for Plaintiff

VERIFICATION

With full understanding that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities, I verify that the statements made in this pleading are true and correct.



Pamela M. Owens

Dated: 1-30-03

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03- 192 CD

Type of Pleading: Complaint

Filed on behalf of: Pamela Owens,
Plaintiff

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED

FEB 12 2003

William A. Shaw
Prothonotary

#1

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

:
:
:
:
:
:
:

No. 03-

CD

NOTICE

TO DEFENDANT:

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

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

Office of the Court Administrator
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
(814) 765-2641 ext. 5982

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

PAMELA M. OWENS,	:		
	:		
Plaintiff	:		
	:		
vs.	:	No. 03-	CD
	:		
MARY FARRELL,	:		
	:		
Defendant	:		

COMPLAINT

NOW, COMES the Plaintiff, Pamela M. Owens, by and through her attorneys, The Hopkins Law Firm, and says as follows:

COUNT I

1. Plaintiff, Pamela M. Owens, is an adult individual maintaining a principal residence at R.D. #1, Box 206, DuBois, Clearfield County, Pennsylvania 15801.
2. Defendant, Mary Farrell, is an adult individual maintaining a principal residence at 1426 Treasure Lake, DuBois, Clearfield County, Pennsylvania 15801.
3. On August 13, 2002, within the County of Clearfield, Plaintiff was driving her motor vehicle south on Route 255 in the Township of Sandy. At about the same time Defendant was driving north on State Route 255.
4. Defendant was returning from the eye doctor having recently had her eyes dilated. Defendant attempted to turn left into the entranceway of the Treasure Lake Subdivision, wherein she struck the front end of Plaintiff's motor vehicle.
5. A violent collision occurred.

6. At all material times, Plaintiff was operating her motor vehicle in a safe and careful manner according to the laws of the Commonwealth of Pennsylvania.

7. The aforesaid accident resulted in personal injuries to Plaintiff.

8. The Defendant was operating her motor vehicle in a negligent, careless and reckless manner so as to cause her motor vehicle to strike Plaintiff's automobile.

9. The negligence, carelessness and recklessness of Defendant consisted of the following:

a. Operating her motor vehicle without due regard to the rights, safety and well being and position of Plaintiff's motor vehicle under the current circumstances;

b. Failing to yield the right of way to Plaintiff.

c. Turning into the path of Plaintiff's motor vehicle.

d. Operating a motor vehicle knowing her eyes had been dilated and her vision impaired.

e. Failing to take evasive action in order to avoid impacting the Plaintiff's vehicle.

f. Failing to apply her brakes in sufficient time to avoid striking Plaintiff's vehicle.

g. Operating her motor vehicle in disregard of the rules of the road and the laws of the Commonwealth of Pennsylvania.

h. Driving her motor vehicle into Plaintiff's motor vehicle.

8. As a direct, proximate, natural, foreseeable and probable consequence of Defendant's negligence, carelessness and reckless conduct, Plaintiff was placed in immediate peril and suffered severe injuries consisting of cervical strain and sprain and other injuries which may yet develop.

9. As a direct result of the Defendant's negligence, carelessness and reckless conduct, Plaintiff has suffered, and will suffer in the future, great pain agony and inconvenience.

10. As a direct and proximate result of the Defendant's negligence, carelessness and reckless conduct, Plaintiff has incurred, and will in the future incur expenses for medical treatment in an amount not yet ascertained.

11. As a direct and proximate result of the Defendant's negligence and reckless conduct, Plaintiff was prevented from attending to her usual duties of employment, causing loss of income and in the future incurred earning losses by not being able to achieve her full employment potential.

12. As a direct and proximate result of Defendant's negligence, careless and reckless conduct, Plaintiff has suffered and will continue to suffer loss in the quality of her life.

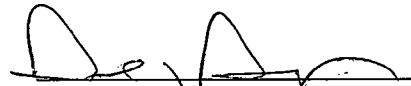
13. Defendant is liable for Plaintiff, Pamela M. Owen's, injuries described herein, inasmuch as Plaintiff injuries are the direct, proximate, natural, foreseeable and probable consequences of Defendant's negligence, carelessness and recklessness as set forth herein.

WHEREFORE, Plaintiff, Pamela M. Owen's, demands judgment be entered in her favor against Defendant, Mary Farrell, in an amount in excess of \$25,000.00, together with interest, cost of suit damages for delay and such other relief as the Court deems just and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by twelve jurors on all issues presented herein.

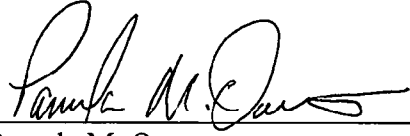
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David J. Hopkins', written over a horizontal line.

David J. Hopkins, Esquire
Attorney for Plaintiff

VERIFICATION

With full understanding that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities, I verify that the statements made in this pleading are true and correct.



Pamela M. Owens

Dated: 1-30-03

FILED

2005.58.55

019140284

~~019140284~~

FEB 12 2003

Atty pd. 85.00

~~William A. Shaw~~
Prothonotary

03-192-CD

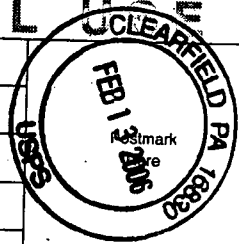
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04-940-CD
03-192-CD

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014100BA
FEB 13 2006

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04-940-CD
12 appeals
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William A. Shaw
Prothonotary/Clerk of Courts

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WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
~~Clearfield, PA~~

William A. Shaw
Prothonotary/Clerk of Courts
P.O. Box 549
Clearfield, PA 16830

03-192-CD

04-940-CD

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03-92-CD 04-940-CD

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53-192-CD

04-940-CD

FILED

3/11/06
FEB 16 2006

William A. Shaw
Prothonotary, Clerk of Courts

**The Superior Court of Pennsylvania
Sitting at Pittsburgh**

600 Grant Building
Pittsburgh, Pennsylvania
15219

**CERTIFICATE OF CONTENTS OF REMANDED RECORD
AND NOTICE OF REMAND
under**

PENNSYLVANIA RULES OF APPELLATE PROCEDURE 2571 AND 2572

THE UNDERSIGNED, Prothonotary (or Deputy Prothonotary) of the Superior Court of Pennsylvania, the said court of record, does hereby certify that annexed to the original hereof, is a true and correct copy of the entire record:

ORIGINAL RECORD 1 PART, 2 TRANSCRIPTS, 1 SUPERIOR COURT OPINION.

As remanded from said court in the following matter:

IN RE: PAMELA OWENS V. MARY FARRELL

No(s). 532 WDA 2006

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

CIVIL DIVISION NO. 192 OF 2003, CD

In compliance with Pennsylvania Rules of Appellate Procedure 2571.

The date of which the record is remanded is JANUARY 11, 2007

An additional copy of this certificate is enclosed with the original hereof and the clerk or prothonotary of the lower court or the head, chairman, deputy, or the secretary of the other government unit is hereby directed to acknowledge receipt of the remanded record by executing such copy at the place indicated by forthwith returning the same to this court.

Eleanor R. Valecko

DEPUTY PROTHONOTARY

RECORD, ETC. RECEIVED:

DATE: January 12, 2007

William A. Shaw
(Signature & Title)

FILED

m 11:32 AM
JAN 12 2007

William A. Shaw
Prothonotary/Clerk of Courts

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

FILED

JAN 12 2007

William A. Shaw
Prothonotary/Clerk of Courts

Charles E. Shaw

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
County of Chester, PA

: No. 532 WDA 2005

FILED
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JAN 12 2007
No CC
(C-10)

William A. Shaw
Prothonotary/Clerk of Courts

FILED: October 20, 2006

At trial, Dr. Gerhart testified that he examined Plaintiff on her first visit, where she complained of neck back, shoulder and elbow pain, as well as chest pain. After the examination, Dr. Gerhart noted that Plaintiff had a contusion on her chest from the seat belt, and that her neck muscles and the muscles between her shoulder blades were in spasm. (N.T. Jury Trial, 12/2/04, p.

*Retired Senior Judge Assigned to the Superior Court.

115). Dr. Gerhart diagnosed Plaintiff with severe cervical and thoracic pain, secondary to the motor vehicle accident. He prescribed pain medication and physical therapy. **Id.** Plaintiff underwent 13 sessions of physical therapy, and she treated with Dr. Gerhart in September, 2002, November, 2002, and February, 2003. In February, 2003, Dr. Gerhart prescribed additional physical therapy, which continued through February and March, 2003. **Id.** at 116-120. Due to persistence of her symptoms Dr. Gerhart ordered an MRI, which revealed "fractures of the lower and cervical spine and the spinal elements, which are in the upper back." **Id.** at 120. Dr. Gerhart explained that a compression fracture is "the column is compressed to a smaller degree than the normal height of the vertebra." **Id.** at 120-121. He further explained that the initial CT scan performed at the hospital after the accident was not dispositive because a compression may not show initially, but shows later as scarring of that vertebra, and that MRI's show more tissue than CT scans. **Id.** at 121, 144. Plaintiff also sought treatment with a chiropractor, Phillip H. Hampton. She had 25 chiropractic sessions between June, 2003 and February 2004. Plaintiff returned to her job in automobile detailing after six weeks. **Id.** at 144.

Defendant conceded negligence. Defendant offered no expert testimony. Defendant did not dispute either Plaintiff's testimony or Plaintiff's doctor's testimony.

The jury entered a verdict for Defendant, concluding that the accident was not a substantial factor in causing Plaintiff's alleged injuries. The issue of

damages, therefore, was not reached. Plaintiff filed a motion seeking a new trial. Judge Paul E. Cherry concluded that the jury's verdict that the accident was not a substantial factor in causing Plaintiff's injuries was "certainly against the weight of the evidence as the only evidence before the jury was that the collision caused Plaintiff's injuries." (Trial Court Opinion, 2/10/06, at 17). The trial court granted a new trial, relying on **Smith v. Putter**, 832 A.2d 1094 (Pa. Super. 2003).

In **Smith**, this Court held that where a defendant concedes negligence and expert medical evidence is uncontroverted, the jury cannot find the accident was not a substantial factor in causing plaintiff's injury. Whether the jury then chooses to compensate plaintiff is another issue.

On appeal, Defendant raises two issues:

(1) Did the trial court abuse its discretion in awarding a new trial to the plaintiff on the basis that the verdict was against the weight of the evidence in a case involving minor "soft tissue" injuries where Plaintiff was limited to proving her case by her subjective complaints and the jury simply chose not to believe her and, therefore, to believe the accident did not cause any of her alleged injuries or that her injuries were so minor as not to cause compensable pain?

(2) Is a party required to make a timely objection to an allegedly improper remark made during the opponent's closing argument to the jury to preserve that issue for appeal?

1. Weight of the Evidence

Defendant relies on **Van Kirk v. O'Toole**, 857 A.2d 183 (Pa. Super. 2004). In that case, however, although defendant conceded causation, the parties disputed the nature and extent of the plaintiff's injuries. The issue in

Van Kirk was one of compensable damages. Here, the jury did not reach the issue of damages because it concluded, contrary to the weight of the evidence, that the accident did not cause the injuries. Although Defendant states her issue in the conjunctive, that the accident did not cause her injuries "or that her injuries were so minor as not to cause compensable pain," these are two discrete questions, the latter of which could not have been reached in this case since the jury determined the accident was not a substantial factor in causing Plaintiff's injuries. **See Smith, supra; see also Andrews v. Jackson**, 800 A.2d 959 (Pa.Super.2002) (where there is no dispute that defendant is negligent and both parties' medical experts agree accident caused some injury to plaintiff, jury may not find defendant's negligence was not substantial factor in bringing about at least some of plaintiff's injuries). **Accord: Pentarek v. Christy**, 854 A.2d 970 (Pa. Super. 2004); **Campagna v. Rogan**, 829 A.2d 322 (Pa. Super. 2003); **Lemmon v. Ernst**, 822 A.2d 768 (Pa. Super. 2003); **Hyang v. Lynde**, 820 A.2d 753 (Pa. Super. 2003).

Further, Defendant argues that in **Smith** the defense doctor conceded aggravation of a prior injury. That is true; however, the defense in this case did not offer medical expert testimony to refute the Plaintiff's doctor. Therefore, the only evidence before the jury was that the injuries were caused by the motor vehicle accident. As the trial court stated: "The issue is not did the Defendant produce an expert but rather was the testimony before the jury uncontroverted or was it disputed." (Trial Court Opinion, 2/10/06, p. 19). The court also noted that "the defense failed to call any medical experts or any

individual to controvert the testimony of either Plaintiff or Dr. Gerhart." *Id.* at 17. Further, neither Plaintiff's nor Dr. Gerhart's testimony was discredited on cross-examination with respect to the issue of whether the 2002 motor vehicle accident was a substantial factor in bringing about Plaintiff's injuries; cross-examination was limited to the nature and extent of the injuries and to the issue of aggravation of a prior injury or injuries. (N.T. Jury Trial, 12/2/04, pp. 45-90, 126-169).

Defendant also argues that granting a new trial was error here because Dr. Gerhart's diagnosis was based on Plaintiff's subjective complaints, and the jury could properly find Plaintiff not credible and was free to disregard that evidence. This misrepresents the facts. Dr. Gerhart's diagnosis and opinion was based *in part* on Plaintiff's subjective complaints, *and in part* on various diagnostic examinations and tests.

We find no abuse of discretion in the trial court's grant of a new trial.

2. Improper remarks during closing argument

Plaintiff also claimed in her motion for new trial that Defendant's counsel made improper remarks during closing argument. The trial court did not address this issue, noting in its Pa.R.A.P. 1925(a) opinion that it granted a new trial based on the weight of the evidence issue, and not on the alleged improper remarks. Since we affirm the trial court's grant of a new trial on grounds of weight of the evidence, we need not address this claim.

Order affirmed.

Judgment Entered:

Eleanor K. Valecko

Deputy Prothonotary

DATE: October 20, 2006

FILED

JAN 12 2007

William A. Shaw
Prothonotary/Clerk of Courts



Supreme Court of Pennsylvania

Western District

February 1, 2007

John A. Vaskov, Esq.
Deputy Prothonotary
Patricia A. Nicola
Chief Clerk

801 City-County Building
Pittsburgh, PA 15219
412-565-2816
www.aopc.org

Mr. William A. Shaw
Prothonotary
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

RE: Pamela M. Owens, Respondent
v.
Mary Farrell, Petitioner
Superior Docket Number - 532 WDA 2005

Trial Court/Agency Dkt. Number: No. 03-192-CD
No. 63 WAL 2007

Appeal Docket No.:

Date Petition for Allowance of Appeal Filed: February 1, 2007

Disposition:
Date:

Reargument/Reconsideration Disposition:
Reargument/Reconsideration
Disposition Date:

/kao

FILED ^{NO CC}
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FEB 05 2007 @

William A. Shaw
Prothonotary/Clerk of Courts

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

03-192-CD

PAMELA M. OWENS,

: No. 63 WAL 2007

Respondent

: Petition for Allowance of Appeal from the
: Order of the Superior Court

v.

MARY FARRELL,

Petitioner

ORDER

PER CURIAM

AND NOW, this 14th day of June 2007, the Petition for Allowance of Appeal is
DENIED.

A True Copy. Patricia Nicola

As of: June 14, 2007

Attest: *Patricia Nicola*
Chief Clerk

Supreme Court of Pennsylvania

FILED *na cc*

m h: 06/01
JUL 05 2007

WAS
William A. Shaw
Prothonotary/Clerk of Courts

03-192

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

MOTIONS IN LIMINE

FILED ON BEHALF OF DEFENDANT:

Mary Farrell

Defendant.

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. SIGNORELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF STEPHEN P. AHERN
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

FILED
JUL 30 2007
10:49 AM
ice
Amy

William A. Shaw
Prothonotary/Clerk of Courts

PAMELA M. OWENS,
Plaintiff,

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

vs.

CASE NO.: 03-192

MARY FARRELL,

MOTIONS IN LIMINE

Defendant.

I.

**MOTION IN LIMINE TO KEEP FROM THE
JURY EVIDENCE OF INSURANCE, REFERENCE TO
INSURANCE AND REFERENCE TO ALLSTATE INSURANCE COMPANY**

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of insurance, reference to insurance and reference to Allstate Insurance Company during trial of this case and in support of this Motion states:

1. Defendant, Mary Farrell through counsel, stipulates to the existence of a binding insurance contract between Defendant and Allstate Insurance Company.

2. There is no contested insurance issue concerning a binding insurance contract, coverage, applicable limits or Allstate Insurance Company in this case.

3. Absent any contested insurance issue, evidence of insurance, reference to insurance and/or reference to Allstate Insurance Company are not relevant.

Wherefore, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction at trial of any evidence of insurance, reference to Allstate Insurance Company and/or the existence of insurance.

II.

MOTION IN LIMINE TO KEEP FROM THE JURY EVIDENCE OF BANKRUPTCY FILING BY PLAINTIFF

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of insurance, reference to any facts concerning a bankruptcy filing by Plaintiff following the motor vehicle accident and states:

1. Defendant believes, based upon review of the records that Plaintiff filed for bankruptcy sometime in November, 2002.

2. It is presumed that the bankruptcy has been discharged and that the matter is no longer pending.

3. Defendant asserts that the issue of the Plaintiff's claim of bankruptcy is not relevant to the

instant matter, which involves allegations of wage loss for approximately 1 month after the accident with Plaintiff's subsequent return to work at her position at Murray Honda.

4. It is believed and therefore averred that the fact that the Plaintiff claimed bankruptcy sometime after the motor vehicle accident, which said matter is totally irrelevant to the subject matter of the pending lawsuit, may create unfair bias, sympathy and prejudice in favor of the Plaintiff and against Defendant.

5. It is necessary to exclude from the jury's consideration the fact that the Plaintiff may have claimed bankruptcy post-accident, in order to avoid unfair prejudice against Defendant.

Wherefore, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction at trial of any evidence of Plaintiff's alleged bankruptcy post-accident.

III.

MOTION IN LIMINE TO KEEP FROM THE
JURY ALL FACTS CONCERNING THE HAPPENING OF THE ACCIDENT

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the happening of the accident and respectfully states:

1. Defendant, Mary Farrell through counsel, stipulates to the issue of negligence and therefore factual causation of her negligent conduct to the happening of the accident is not at issue.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce evidence that while traveling on State Route 255 near the Treasure Lake Complex, Defendant cut across Plaintiff's lane, making a left-hand turn across Plaintiff's lane of travel.

3. Defendant further believes and therefore avers that the Plaintiff intends to introduce evidence concerning the Plaintiff's impressions of manner of operation of Defendant's vehicle in an attempt to stir the emotions of the jury and create unfair prejudice in favor of the Plaintiff.

4. Wherefore in light of the stipulated issue of negligence, any and all facts concerning the happening of the accident are irrelevant to the disposition of the pending lawsuit and could, in fact, be severely prejudicial to Defendant.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the facts preceding the accident as well as the happening of the accident.

IV.

MOTION IN LIMINE TO KEEP FROM THE JURY ALL FACTS CONCERNING
THE DEFENDANT'S PRE-ACCIDENT EYE EXAMINATION
AND DILATION OF DEFENDANT'S EYES

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the pre-accident activities of Defendant, including the dilation of her eyes during the course of a normal eye examination and states respectfully:

1. Defendant, Mary Farrell through counsel, stipulates to the issue of negligence and therefore factual causation of her negligent conduct to the happening of the accident is not at issue.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce evidence that prior to the accident, Defendant's eyes were dilated during a normal eye examination, and that the Defendant's eyes remained dilated while she was driving at or near the time of the accident.

3. Throughout the course of discovery, no evidence has been established that Defendant was operating a vehicle at the time of the accident against order from her eye doctor.

4. Defendant has already testified in this case that her eye doctor did not advise her not to drive at the time of the accident, due to the recent treatment of her eyes.

5. Due to the fact that the negligence of Defendant is not at issue, the facts concerning the pre-accident eye examination and treatment is not relevant to the jury's disposition of the pending lawsuit.

6. Defendant believes that the facts concerning the Defendant's eye examination, while not relevant, would severely prejudice the Defendant, as the jury may

incorrectly assume that the Defendant was acting outside of her doctor's instructions.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the Defendant's pre-accident eye examination and dilation of the eyes and the condition of Defendant's eyes at the time of the accident.

V.

MOTION IN LIMINE TO KEEP FROM THE
JURY ALL FACTS CONCERNING
THE RESIDENCE OF PLAINTIFF'S COUNSEL

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the residence of Plaintiff's counsel near the location of the subject accident.

1. Defendant believes that the Plaintiff's counsel may reside near the location of the accident that is the subject matter of the lawsuit.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce personal statements concerning the layout of the roadways near the location of

the accident, in the event that the Honorable Court denies Defendant's Motion in Limine to exclude evidence concerning the happening of the accident.

3. Defendant further believes and therefore avers that any statements by the Plaintiff's counsel concerning his possible familiarity with the location of the accident may be prejudicial to the Defendant and is highly irrelevant to the case.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the residence of Plaintiff's counsel at the time of the accident.

Respectfully submitted,

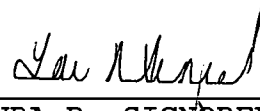


LAURA R. SIGNORELLI, ESQUIRE
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219
Telephone: 412-255-4145
Attorney for Defendant
Mary Farrell

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendants Motions in Limine was mailed first class, postage prepaid, this 27th day of July, 2007:

DAVID J. HOPKINS, ESQUIRE
900 Beaver Drive
DuBois, Pennsylvania 15801



LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant

PAMELA M. OWENS,

Plaintiff,

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

vs.

CASE NO.: 03-192

MARY FARRELL,

Defendant.

ORDER

AND NOW, to-wit, this _____ day of _____, 2004, in consideration of the Defendant's Motion(s) In Limine it is hereby **ORDERED ADJUDGED AND DECREED** as follows:

(1) The Motion in limine concerning evidence of insurance, references to insurance is GRANTED. Evidence of insurance, reference to insurance and reference to Allstate Insurance Company are to be kept from the jury and that the Defendant shall be referred to as "Defendant" and that counsel for Allstate Insurance Company be referred to as counsel for the defense.

(2) The Motion in limine concerning evidence of Plaintiff's bankruptcy is GRANTED. Evidence of Plaintiff's filing for bankruptcy following the motor vehicle accident and any other information pertaining to this subject matter are to be kept from the jury.

(3) The Motion in limine concerning all facts surrounding the happening of the accident is GRANTED. Evidence of pre-accident events, events leading up to the collision and the actual happening of the collision itself shall not be introduced at trial.

(4) The Motion in limine concerning Defendant's eye treatment on the date of the accident or eye treatment in general is GRANTED. Plaintiff is precluded from introducing evidence pertaining to this subject matter.

(5) The Motion in limine concerning the residence of Plaintiff's counsel is GRANTED.

J.

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

PAMELA M. OWENS,
Plaintiff

vs.

MARY FARRELL,
Defendant

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*

NO. 03-192-CD

ORDER

NOW, this ____ day of August, 2007, the Court being in receipt of and having reviewed the Defendant's Motion in Limine to Keep from the Jury Evidence of Insurance, Reference to Insurance and Reference to Allstate Insurance Company, it is the ORDER of this Court that argument on said Motion will be held on the ____ day of _____, 2007, at _____ .m. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

Hold - Pending Pre-Trial

BY THE COURT,

PAUL E. CHERRY
Judge

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

PAMELA M. OWENS,
Plaintiff

vs.

MARY FARRELL,
Defendant

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NO. 03-192-CD

ORDER

NOW, this _____ day of August, 2007, the Court being in receipt of and having reviewed the Defendant's Motion in Limine to Keep from the Jury Evidence of Insurance, Reference to Insurance and Reference to Allstate Insurance Company, it is the ORDER of this Court that argument on said Motion will be held on the _____ day of _____, 2007, at _____ .m. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

PAUL E. CHERRY
Judge

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

PAMELA M. OWENS,
Plaintiff

vs.

MARY FARRELL,
Defendant

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NO. 03-192-CD

ORDER

NOW, this _____ day of August, 2007, the Court being in receipt of and having reviewed the Defendant's Motion in Limine to Keep from the Jury Evidence of Insurance, Reference to Insurance and Reference to Allstate Insurance Company, it is the ORDER of this Court that argument on said Motion will be held on the _____ day of _____, 2007, at _____ .m. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

PAUL E. CHERRY
Judge

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

PAMELA M. OWENS,
Plaintiff

vs.

MARY FARRELL,
Defendant

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NO. 03-192-CD

ORDER

NOW, this _____ day of August, 2007, the Court being in receipt of and having reviewed the Defendant's Motion in Limine to Keep from the Jury Evidence of Insurance, Reference to Insurance and Reference to Allstate Insurance Company, it is the ORDER of this Court that argument on said Motion will be held on the _____ day of _____, 2007, at _____ .m. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

PAUL E. CHERRY
Judge

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

PAMELA M. OWENS

NO. 03-192-CD

V.

MARY FARRELL

FILED

AUG 24 2007

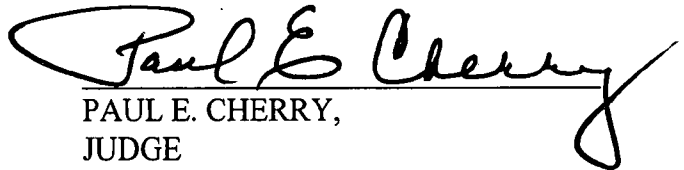
012315 (6K)
William A. Shaw
Prothonotary/Clerk of Courts

Case to HOPKINS
+
L. SIGNORILE

ORDER

1. Jury Selection in this matter is scheduled for August 28, 2007, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Trial in this matter is scheduled for November 2, 2007, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. The deadline for providing any and all outstanding discovery shall be by and no later than thirty (30) days prior to the commencement of trial.
4. The deadline for submitting any and all Motions shall be by and no later than fifteen (15) days prior to the commencement of trial.
5. Points for Charge shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
6. Proposed Verdict Slip shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
7. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

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

PAMELA M. OWENS :
-VS- : No. 03-192-CD
MARY FARRELL :

N O T I C E

In accordance with the Rules of Appellate Procedure, Rule 1922, Notice is hereby given that if no objections are made to the text of the transcript within five (5) days after such notice, the transcript in the above-captioned matter will become part of the record upon being filed in the Prothonotary's office.

September 10, 2007

Date

Thomas D. Snyder

Thomas D. Snyder, RPR
Official Court Reporter

FILED ^{NO CC}
013:20/91
SEP 24 2007 (EP)

William A. Shaw
Prothonotary/Clerk of Courts

Ⓚ

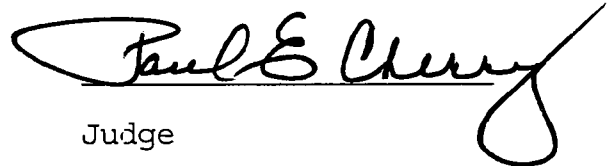
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAMELA M. OWENS :
VS. : NO. 03-192-CD
MARY FARRELL :

O R D E R

AND NOW, this 2nd day of November, 2007, the Court believes that the statements made by Plaintiff's counsel during his opening statement may be prejudicial to the Defense and the Court will grant a mistrial at this time.

BY THE COURT,


Judge

FILED 1CC Atty's
014:00CN Hopkins
NOV 02 2007 Dennison
William A. Shaw Signorelli
Prothonotary/Clerk of Courts Ⓚ

FILED

NOV 02 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/21/07

____ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ☒ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ☒ Defendant(s) Attorney

____ Special Instructions:

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

CASE NO. 03-192-CD

Date of Jury Selection: August 28, 2007

Presiding Judge: Paul E. Cherry, Judge

Pamela M. Owens

Court Reporter: Cathy Provost

VS

Date of Trial: November 2, 2007

Mary Farrell

Date Trial Ended: _____

MEMBERS OF THE JURY

**1. Rosalita Kling
2. Stephen Pastir
3. Sharon Beveridge
4. William Shugarts
5. Lisa Snyder
6. Brian David
ALT #1 Linda Bloom**

**7. Bob Evans
8. Samuel Yarger
9. Girard Kasubick
10. Phyllis Luzier
11. Thomas Butler
12. Elva Fleisher
ALT #2 Tracey Heichel**

FILED
03:15/6H
NOV 02 2007
(GK)
William A. Shaw
Prothonotary/Clerk of Courts

PLAINTIFF'S WITNESSES:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

DEFENDANT'S WITNESSES:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

PLAINTIFF'S ATTY: David J. Hopkins Esq.

DEFENDANT'S ATTY: Laura R. Signorelli Esq.

ADDRESS TO JURY: _____

ADDRESS TO JURY: _____

JUDGE'S ADDRESS TO JURY: _____

JURY OUT: _____ JURY IN: _____

VERDICT: _____

FOREPERSON: _____

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

PAMELA M. OWENS

VS.

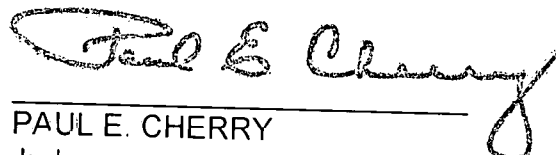
MARY FARRELL

*
*
*
*
*
NO. 03-192-CD

ORDER

AND NOW, this 6th day of November, 2007, it is the ORDER of the Court that a Pre-Trial Conference in the above matter shall be held on the 18th day of December, 2007, in Chambers at 1:30 o'clock p.m. Additionally, Jury Selection in this matter will be held on January 3, 2008.

BY THE COURT,



PAUL E. CHERRY
Judge

FILED
01/10/2008
NOV 09 2007

ICC Attys: Hopkins
Dennison
Signorelli

William A. Shaw
Prothonotary/Clerk of Courts

(60)

FILED

NOV 09 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/9/07

☐ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

U3

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

PAMELA M. OWENS

NO. 03-192-CD

V.

MARY FARRELL

ORDER

1. Jury Selection in this matter is scheduled for January 3, 2008, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Trial in this matter is scheduled for February 21, 22, 2008, beginning at 9:00 o'clock A.M., before Honorable John K. Reilly, Jr., Senior Judge, specially presiding, at the Multi-Service Center, 650 Leonard Street, Clearfield, Pennsylvania.
3. The deadline for submitting any and all Motions shall be by and no later than thirty (30) days prior to the commencement of trial.
5. Points for Charge shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
6. Proposed Verdict Slip shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
7. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED ^{ICC}
DEC 19 2007

William A. Shaw
Prothonotary/Clerk of Courts

Attys. Hopkins
Signorelli
Dennison

(GK)

FILED

DEC 19 2007

William A. Shaw
Prothonotary/Clerk of Courts

Special Instructions: _____

Defendant(s) _____

Plaintiff(s) _____

Other _____

You are responsible for serving all appropriate parties.

DATE: 12/19/07

CA

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

PAMELA M. OWENS

: NO. 03-192-CD

V.

MARY FARRELL

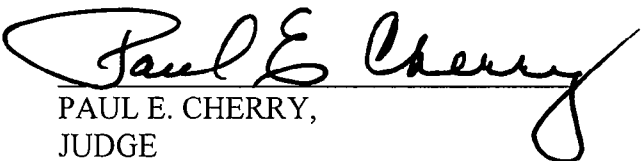
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ORDER

AND NOW, this ~~13~~³rd day of January, 2008, it is the ORDER of this Court that argument with regard to Defendant's Petition for Costs and Counsel Fees shall be and is hereby scheduled for the 5th day of February, 2008, at 2:30 P.M., in Courtroom No. 2 at the Clearfield County Courthouse, Clearfield, Pennsylvania.

It is the further ORDER of this Court that counsel for the parties shall participate via telephone and it shall be the responsibility of counsel for Defendant, Laura Signorelli, Esquire, to initiate contact with counsel for Plaintiff and the Court.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED 1CC Atty: Hopkins
01/25/08
JAN 04 2008
William A. Shaw
Prothonotary/Clerk of Courts
Dennison
Signorelli
GX

FILED

JAN 04 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/4/08

☐ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

Defendant(s) ☒ Defendant(s) Attorney

Special Instructions:

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03-192 CD

Type of Pleading: Motion in Limine
Prohibiting Defense Attorney from
Commenting in Opening or Closing
Statements Regarding Comments of
Doctors Unless They Testify as a
Witness

Filed on behalf of: Pamela M. Owens
Kerr, Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

100 Meadow Lane, Suite 5
DuBois, Pennsylvania 15801

(814) 375-0300

FILED 2 CC
019:53611 Atty Hopkins
JAN 22 2008
William A. Shaw
Prothonotary/Clerk of Courts
(62)

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

PAMELA M. OWENS,	:	
Plaintiff	:	
	:	
vs.	:	No. 03-192 CD
	:	
MARY FARRELL,	:	
Defendant	:	

**MOTION IN LIMINE PROHIBITING DEFENSE ATTORNEY FROM
COMMENTING IN OPENING OR CLOSING STATEMENTS REGARDING
COMMENTS OF DOCTORS UNLESS THEY TESTIFY AS A WITNESS**

AND NOW, comes Plaintiff, Pamela M. Owens Kerr, by and through her attorneys, Hopkins Heltzel LLP, and files the within Motion in Limine Prohibiting Defense Attorney from Commenting in Opening or Closing Statements Regarding Comments of Doctors Unless They Testify as a Witness and says:

1. This action arises from an August 13, 2002 motor vehicle collision at the intersection of Route 255 and Treasure Lake subdivision access road.
2. Plaintiff was traveling south in a 1993 Ford Escort on Route 255 in Clearfield County.
3. As the Plaintiff approached Route 255's intersection with the Treasure Lake subdivision entrance/exit road, she was traveling the posted speed limit of 45 miles per hour.

4. Defendant was traveling in the opposite direction along Route 255. Defendant, driving a Volvo, made a left hand turn into the Treasure Lake subdivision entrance and directly into the path of Plaintiff.

5. A violent collision occurred. The collision was so violent, Ms. Owens, notwithstanding being restrained by a seatbelt, bent the steering wheel and brake pedal of her motor vehicle.

6. Plaintiff was taken from her motor vehicle by ambulance to DuBois Regional Medical Center.

7. Plaintiff treated with her family physician, Dr. Guy Gerhart. Plaintiff also was seen by Dr. Alexander Krot.

8. In neither opening nor closing arguments, defense counsel should not be permitted to testify as to the records of physicians who have not been called to testify during the trial.

WHEREFORE, Plaintiff respectfully requests this Honorable Court grant Plaintiff's Motion in Limine on the issue of


David J. Hopkins
Attorney for Plaintiff

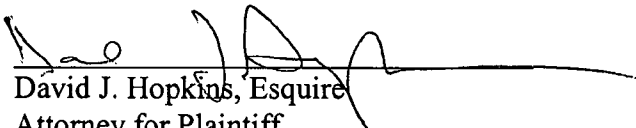
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PAMELA M. OWENS,	:	
Plaintiff	:	
	:	
vs.	:	No. 03-192 CD
	:	
MARY FARRELL,	:	
Defendant	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Motion in Limine Prohibiting Defense Attorney from Commenting in Opening or Closing Statements Regarding Comments of Doctors Unless They Testify as a Witness, filed on behalf of the Plaintiff, was forwarded on the 22nd day of January, 2007, by U.S. Mail and by facsimile to all counsel of record, addressed as follows:

Laura R. Signorelli, Esquire
Two Mellon Bank Center
501 Grant Street, Suite 405
Pittsburgh, PA 15219-4403


David J. Hopkins, Esquire
Attorney for Plaintiff

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03-192 CD

Type of Pleading: Motion for Summary
Judgment

Filed on behalf of: Pamela M. Owens,
Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL LLP

D'AVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

100 Meadow Lane, Suite 5
DuBois, Pennsylvania 15801

(814) 375-0300

FILED ^{2cc}
019:53/81
JAN 22 2008
Amy Hopkins
(6K)

William A. Shaw
Prothonotary/Clerk of Courts

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

PAMELA M. OWENS,	:	
Plaintiff	:	
	:	
vs.	:	No. 03-192 CD
	:	
MARY FARRELL,	:	
Defendant	:	

MOTION FOR SUMMARY JUDGMENT

AND NOW, comes Plaintiff, Pamela M. Owens Kerr, by and through her attorneys, Hopkins Heltzel LLP, and files the within Motion for Summary Judgment as follows:

1. This action arises from an August 13, 2002 motor vehicle collision at the intersection of Route 255 and Treasure Lake subdivision access road.
2. Plaintiff was traveling south in a 1993 Ford Escort on Route 255 in Clearfield County.
3. As the Plaintiff approached Route 255's intersection with the Treasure Lake subdivision entrance/exit road, she was traveling the posted speed limit of 45 miles per hour.
4. Defendant was traveling in the opposite direction along Route 255. Defendant, driving a Volvo, made a left hand turn into the Treasure Lake subdivision entrance and directly into the path of Plaintiff.

5. A violent collision occurred. The collision was so violent, Ms. Owens, notwithstanding being restrained by a seatbelt, bent the steering wheel and brake pedal of her motor vehicle.

6. Plaintiff was taken from her motor vehicle by ambulance to DuBois Regional Medical Center.

7. Attached hereto as Exhibit "1" is the Police Report prepared by Sandy Township Police Officer Fred Volosky. The Police Report states:

[Defendant] traveling north on PA 0255 attempted to turn left into the entranceway of Treasure Lake. [Defendant] failed to yield right of way when crossing southbound lane of travel and she struck the front end of [Plaintiff] which was traveling south on PA 255. . . . [Defendant] stated she was returning from eye doctor. She had her eyes dilated and she did not see southbound vehicle when she attempted to turn left.

8. This matter was previously tried before a jury. The Defendant testified as follows:

Question: Mary, do you acknowledge that you are responsible for this motor vehicle accident?

Answer: Yes, I do. And I feel terrible about it.


Question: Mary, there was real brief testimony previously about whether or not you had stopped prior to starting that turn. Do you, in fact, come to a stop before you started your left hand turn that day?

Answer: Yes, I did. But I already admitted that I was at fault in the accident. (See page 172, 173 attached hereto as Exhibit "2" and Exhibit "3").

9. Summary judgment is appropriate when the material facts are not in dispute.

10. In this case, the material facts are not in dispute and Plaintiff has admitted liability.

WHEREFORE, Plaintiff respectfully requests this Honorable Court grant summary judgment on the issue of liability finding Defendant was liable for the automobile collision that forms the basis of this lawsuit.



David J. Hopkins
Attorney for Plaintiff

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

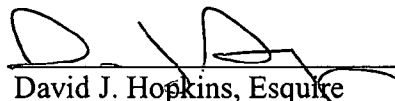
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No. 03-192 CD

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Motion for Summary Judgment, filed on behalf of the Plaintiff, was forwarded on the 22nd day of January, 2007, by U.S. Mail and by facsimile to all counsel of record, addressed as follows:

Laura R. Signorelli, Esquire
Two Mellon Bank Center
501 Grant Street, Suite 405
Pittsburgh, PA 15219-4403



David J. Hopkins, Esquire
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
POLICE CRASH REPORTING FORM

DEWS

Crash Number

P0391771

01011044514

AA 45 1 1

Case Closed

☒ Yes ☐ No

Page:

001

☒ New

☐ Change/
Continuation

Police Agency Data

Incident Number

STP02082637

Police Agency

17228

Patrol Zone

004

Agency Name

SANDY TOWNSHIP POLICE DEPT

Precinct

Investigation Date (MM-DD-YYYY)

08-13-2002

Dispatch Time (mi)

1110

Arrival Time (mi)

1113

Investigator

FRED VELOSKY

Badge Number

803

Reviewer

Badge Number

Approval Date (MM-DD-YYYY)

Crash Data

County

17

County Name

Clearfield

Municipality

228

Municipality Name

SANDY TOWNSHIP

Crash Date (MM-DD-YYYY)

08-13-2002

Crash Time (Military)

1110

No of Units

02

No of People

04

No Injured

02

No Killed

00

(If > 00, Complete Form: AA 45 F 1)

Day of Week

☐ Sun ☐ Thu

☐ Mon ☐ Fri

☒ Tue ☐ Sat

☐ Wed ☐ Unk

Reportable Crash

☒ Yes ☐ No

Notify Highway Maintenance

☐ Yes ☒ No

School Bus Related

☐ Yes ☒ No

School Zone Related

☐ Yes ☒ No

PennDOT Property

☐ Yes ☒ No

Unit Information

Unit Number

01

Delete?

☐

Type

Unit

☒ Motor Vehicle In Transport

☐ Pedestrian

☐ Hit & Run Vehicle

☐ Pedestrian on Skates, in Wheelchair, etc

☐ Illegally Parked

☐ Disabled From Previous Crash

☐ Legally Parked

☐ Train

☐ Non - Motorized

☐ Phantom Vehicle

Owner Last Name (If Pedestrian, skip to Form AA 45 3 1)

FARRELL

FI

M

MI

B

Telephone Number

Address

1426 TREASURE LAKE

City

DuBois

State

PA

Zip

15801

VIN

YV1KS9505R0044065

Model Year

1994

Vehicle Make*

51

License Plate

ETB7204

Reg. State

PA

Travel Speed

999

*Refer to List on Back of Overlay

Insurance

☒ Yes ☐ No ☐ Un-known

Insurance Company

ALLSTATE INCO

Policy No

098 958 076

Insurance Company Phone

Vehicle Towed

☒ Yes ☐ No

Towed To

ZIMMERMAN TOWING

Towed By

WRECKER OF SAME

Tow Agency Phone

Commercial Vehicle

☐ Yes ☒ No

(If Yes, Complete Form: AA 45 C 1)

Unit Information

Unit Number

02

Delete?

☐

Type

Unit

☒ Motor Vehicle In Transport

☐ Pedestrian

☐ Hit & Run Vehicle

☐ Pedestrian on Skates, in Wheelchair, etc

☐ Illegally Parked

☐ Disabled From Previous Crash

☐ Legally Parked

☐ Train

☐ Non - Motorized

☐ Phantom Vehicle

Owner Last Name (If Pedestrian, skip to Form AA 45 3 1)

OWEN

FI

P

MI

M

Telephone Number

Address

RR#1 Box 206

City

DuBois

State

PA

Zip

15901

VIN

3FA1P135000078

Model Year

1993

Vehicle Make*

12

License Plate

EC29860

Reg. State

PA

Travel Speed

999

*Refer to List on Back of Overlay

Insurance

☒ Yes ☐ No ☐ Un-known

Insurance Company

ERIE INS CO

Policy No

Q08 0116102N

Insurance Company Phone

Vehicle Towed

☒ Yes ☐ No

Towed To

ZIMMERMAN TOWING

Towed By

WRECKER OF SAME

Tow Agency Phone

Commercial Vehicle

☐ Yes ☒ No

(If Yes, Complete Form: AA 45 C 1)

PLAINTIFF'S
EXHIBIT

1

COMMONWEALTH OF PENNSYLVANIA
POLICE CRASH REPORTING FORM

Crash Number

P0391771

AA 45 2 1

Page: 002

New

Change/
Continuation

Vehicle Information	Unit Number 01	Trailing Units Number of Trailing Units: 0	Type of Unit 1=Towing Passenger Veh 2=Towing Truck 3=Towing Utility Trailer 4=Mobile or Modular Home 5=Camper 6=Trailer 7=Semi-Trailer 8=Other 9=Unknown	Tag No. 0 Tag Year 0 Tag State 0	Tag No. 0 Tag Year 0 Tag State 0
	Vehicle Color 03	Vehicle Type 01	Special Usage 00	12=Commercial Passenger Carrier 13=Taxi 21=Tractor Trailer 22=Twin Trailer 23=Triple Trailer 31=Modified Veh 99=Unknown	
	Initial Impact Point 12	Damage Indicator 3	Vehicle Role 1	Vehicle Position 03	
	Direction of Travel N	Movement 12	07=Entering a Parked Position 08=Trying to Avoid Animal, Ped, Object, Veh, etc 09=Turning Right on Red 10=Turning Right 11=Turning Left on Red 12=Turning Left 13=Making a U-Turn	14=Backing Up 15=Changing Lanes or Merging 16=Negotiating Curve - Right 17=Negotiating Curve - Left 98=Other 99=Unknown	Gradient 1 1=Level Roadway 2=Uphill 3=Downhill 4=Sag/Bottom of Hill 5=Crest/Top of Hill 9=Unknown
Vehicle Information	Unit Number 02	Trailing Units Number of Trailing Units: 0	Type of Unit 1=Towing Passenger Veh 2=Towing Truck 3=Towing Utility Trailer 4=Mobile or Modular Home 5=Camper 6=Trailer 7=Semi-Trailer 8=Other 9=Unknown	Tag No. 0 Tag Year 0 Tag State 0	Tag No. 0 Tag Year 0 Tag State 0
	Vehicle Color 01	Vehicle Type 01	Special Usage 00	12=Commercial Passenger Carrier 13=Taxi 21=Tractor Trailer 22=Twin Trailer 23=Triple Trailer 31=Modified Veh 99=Unknown	
	Initial Impact Point 12	Damage Indicator 3	Vehicle Role 2	Vehicle Position 01	
	Direction of Travel S	Movement 01	07=Entering a Parked Position 08=Trying to Avoid Animal, Ped, Object, Veh, etc 09=Turning Right on Red 10=Turning Right 11=Turning Left on Red 12=Turning Left 13=Making a U-Turn	14=Backing Up 15=Changing Lanes or Merging 16=Negotiating Curve - Right 17=Negotiating Curve - Left 98=Other 99=Unknown	Gradient 1 1=Level Roadway 2=Uphill 3=Downhill 4=Sag/Bottom of Hill 5=Crest/Top of Hill 9=Unknown

Crash Number

 New

P0391771

Page: 903

☐ Change/
ContinuationFORM # AA-35 (8/1/81)

COMMONWEALTH OF PENNSYLVANIA
POLICE CRASH REPORTING FORM

Crash Number

P0391771

AA 45 4 1

Page: 004

New

Change/
Continuation

A Person Type: 1=Driver 2=Passenger 7=Pedestrian 8=Other 9=Unknown		D Seat Position: 00=Not A Passenger/Occupant 01=Driver - All Vehicles 02=Front Seat Middle Position 03=Front Seat Right Side 04=Second Row - Left Side Or Motorcycle Passenger 05=Second Row - Middle Position 06=Second Row - Right Side 07=Third Row Or Greater - Left Side 08=Third Row Or Greater - Middle Position 09=Third Row Or Greater - Right Side 10=Sleeping Section Of Truckcab 11=In Other Enclosed Passenger Or Cargo Area 12=In Open Area (Back Of Pickup, Etc.) 13=Trailing Unit 14=Riding On Vehicle Exterior 15=Bus Passenger 98=Other 99=Unknown		E Safety Equipment One: 00=None Used / Not Applicable 01=Shoulder Belt Used 02=Lap Belt Used 03=Lap And Shoulder Belt Used 04=Child Safety Seat Used 05=Motorcycle Helmet Used 06=Bicycle Helmet Used 10=Safety Belt Used Improperly 11=Child Safety Seat Used Improperly 12=Helmet Used Improperly 90=Restraint Used, Type Unknown 99=Unknown		G Ejection: 0=Not Applicable 1=Not Ejected 2=Totally Ejected 3=Partially Ejected 9=Unknown	
B Sex: F=Female M=Male U=Unknown		F Safety Equipment Two: 00=None Used / Not Applicable 01=Front Air Bag Deployed (For This Seat) 02=Side Air Bag Deployed (For This Seat) 03=Other Type Air Bag Deployed 04=Multiple Air Bags Deployed 05=Motorcycle Eye Protection 06=Bicyclist Wearing Elbow/Knee/Other Pads 10=Air Bag Not Deployed, Switch On 11=Air Bag Not Deployed, Switch Off 12=Air Bag Not Deployed, Unk Switch Setting 13=Air Bag Removed (Prior To Crash) 19=Unknown If Air Bag Deployed 99=Unknown		H Ejection Path: 0=Not Ejected / Not Applicable 1=Through Side Door Opening 2=Through Side Window 3=Through Windshield 4=Through Back Door 5=Through Back Door Tailgate Opening 6=Through Roof Opening (Sunroof/Convertible Top Down) 7=Through Roof Opening (Convertible Top Up) 9=Unknown			
C Injury Severity: 0=Not Injured 1=Killed 2=Major Injury 3=Moderate Injury 4=Minor Injury 9=Unknown				I Extrication: 0=Not Applicable 1=Not Extricated 2=Extricated By Mechanical Means 3=Freed By Non-Mechanical Means 8=Other 9=Unknown			

Unit No	Person No	Delete?	Date of Birth (MM-DD-YYYY)	A	B	C	D	E	F	G	H	I
01	01		10-20-1958	1	F	3	0	1	0	3	9	0
Name / Address / Phone												
MARY B FARRELL 1426 TREASURE LAKE DUBOIS PA 15801												
												EMS Transport
												<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Unit No	Person No	Delete?	Date of Birth (MM-DD-YYYY)	A	B	C	D	E	F	G	H	I
01	02		10-09-1986	2	M	0	0	3	0	3	9	0
Name / Address / Phone												
NICHOLAS FARRELL 1426 TREASURE LAKE DUBOIS PA 15801												
												EMS Transport
												<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Unit No	Person No	Delete?	Date of Birth (MM-DD-YYYY)	A	B	C	D	E	F	G	H	I
01	03		09-15-1988	2	M	0	0	8	0	3	9	0
Name / Address / Phone												
RYAN FARRELL 1426 TREASURE LAKE DUBOIS PA 15801												
												EMS Transport
												<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Unit No	Person No	Delete?	Date of Birth (MM-DD-YYYY)	A	B	C	D	E	F	G	H	I
02	04		02-12-1973	1	F	2	0	1	0	3	4	9
Name / Address / Phone												
PAMELA MARIE RD#1 BOX 206 DUBOIS PA 15801												
												EMS Transport
												<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Unit No	Person No	Delete?	Date of Birth (MM-DD-YYYY)	A	B	C	D	E	F	G	H	I
Name / Address / Phone												
												EMS Transport
												<input type="checkbox"/> Yes <input type="checkbox"/> No

Unit No	Person No	Delete?	Date of Birth (MM-DD-YYYY)	A	B	C	D	E	F	G	H	I
Name / Address / Phone												
												EMS Transport
												<input type="checkbox"/> Yes <input type="checkbox"/> No

COMMONWEALTH OF PENNSYLVANIA
POLICE CRASH REPORTING FORM

Crash Number

New

P0391771

AA 45 5 1

Page:

005

Change

Type Location	Intersection Type <input type="checkbox"/> Midblock <input type="checkbox"/> 4 Way Intersection <input checked="" type="checkbox"/> T Intersection <input type="checkbox"/> Y Intersection <input type="checkbox"/> Traffic Circle/Round About <input type="checkbox"/> Multi-Leg Intersection <input type="checkbox"/> On Ramp <input type="checkbox"/> Off Ramp <input type="checkbox"/> Crossover <input type="checkbox"/> Railroad Crossing <input type="checkbox"/> Other			Special Location <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Underpass <input type="checkbox"/> Ramp <input type="checkbox"/> Bridge <input type="checkbox"/> Tunnel <input type="checkbox"/> Toll Booth <input type="checkbox"/> Cross Over Related <input type="checkbox"/> Driveway/Parking Lot <input type="checkbox"/> Ramp & Bridge <input type="checkbox"/> Unknown <i>(If "Ramp" is Indicated, please see manual)</i>		
	Complete the Principal Road Section for all type of crashes. For crashes at intersections, enter information in the Intersecting Road Section or the GPS Section. If you have a midblock crash, you should enter information in the "Distance from Landmark" Section, the GPS Section, or the House Number Section in the Principal Road area.					
Principal Road	County	Route Number	Segment (Optional)	Travel Lanes	Speed Limit	House Number (if applicable)
	17	0255		03	45	
Intersecting Road	Route Signing <input type="checkbox"/> Interstate (Not Turnpike) <input type="checkbox"/> Turnpike (East/West) <input type="checkbox"/> Turnpike Spur <input checked="" type="checkbox"/> State Highway <input type="checkbox"/> County Road <input type="checkbox"/> Local Road or Street <input type="checkbox"/> Private Road <input type="checkbox"/> Other/Unknown			Orientation <input checked="" type="checkbox"/> North <input type="checkbox"/> South <input type="checkbox"/> East <input type="checkbox"/> West <input type="checkbox"/> Unknown		
	County Route Number Segment (Optional) Travel Lanes Speed Limit Street Name Street Ending			House Number (if applicable)		
Distance From Landmark	Use For Mid-Block Crashes Please Enter Information for BOTH Landmarks if Using This Option			Landmark 1 Intersecting Rt Num Or Mile Post Or Segment Marker Or Intersecting Street Name St Ending		
	Landmark 2 Intersecting Rt Num Or Mile Post Or Segment Marker Or Intersecting Street Name St Ending			Feet Or Miles Distance From Crash Scene to Landmark 1 (For Crash between Landmark 1 and Landmark 2)		
GPS	Latitude: Degrees Minutes Seconds 41 08 17.0			Longitude: Degrees Minutes Seconds 078 41 84.5		
TCD	Traffic Control Device <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Flashing Traffic Signal <input type="checkbox"/> Traffic Signal <input type="checkbox"/> Stop Sign <input type="checkbox"/> Yield Sign <input type="checkbox"/> Active RR Crossing Controls <input type="checkbox"/> Passive RR Crossing Controls <input type="checkbox"/> Police Officer or Flagman <input type="checkbox"/> Other Type TCD <input type="checkbox"/> Unknown			TCD Functioning <input checked="" type="checkbox"/> No Controls <input type="checkbox"/> Device Not Functioning <input type="checkbox"/> Device Functioning Improperly <input type="checkbox"/> Device Functioning Properly <input type="checkbox"/> Emergency Preemptive Signal <input type="checkbox"/> Unknown		
Work Zone	Type of Work Zone (If "Not a Work Zone", skip rest of Work Zone section) <input checked="" type="checkbox"/> Not a Work Zone <input type="checkbox"/> Construction <input type="checkbox"/> Maintenance <input type="checkbox"/> Utility/Company <input type="checkbox"/> Other			Work Zone Location <input type="checkbox"/> Before 1st Work Zone Warning Sign <input type="checkbox"/> Advance Warning Area <input type="checkbox"/> Transition Area <input type="checkbox"/> Activity Area <input type="checkbox"/> Termination Area <input type="checkbox"/> Other		
	Work Zone (Mark all that apply) <input type="checkbox"/> Lane Closure <input type="checkbox"/> Road Closed with Detour <input type="checkbox"/> Work on Shoulder or Median <input type="checkbox"/> Intermittent or Moving Work <input type="checkbox"/> Flagger Control <input type="checkbox"/> Other			Work Zone Speed Limit Workers Present <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		
Lane Closure	Lane Closed (If "Not Applicable", skip rest of the Lane Closure section) <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Partially <input type="checkbox"/> Fully <input type="checkbox"/> Unknown			Traffic Detoured <input type="checkbox"/> Yes <input type="checkbox"/> No		
	Lane Closure Direction <input type="checkbox"/> North <input type="checkbox"/> South <input type="checkbox"/> East <input type="checkbox"/> West <input type="checkbox"/> North and South <input type="checkbox"/> East and West			Estimated Time Closed <input type="checkbox"/> < 30 Minutes <input type="checkbox"/> 30-60 Minutes <input type="checkbox"/> 1-3 hours <input type="checkbox"/> 3-6 hours <input type="checkbox"/> 6-9 hours <input type="checkbox"/> 9-12 hours <input type="checkbox"/> > 12 hours <input type="checkbox"/> Unknown		

COMMONWEALTH OF PENNSYLVANIA
POLICE CRASH REPORTING FORM

Crash Number

New

P0391771

AA 45 6 1

Page: 006

Change/
Continuation

General Crash Information (If more than 1 Unit only complete one)	Crash Description	2	0=Non-Collision 1=Rear End	2=Head On 3=Rear to Rear (Backing)	4=Angle 5=Slenderwise (Same Direction)	6=Slenderwise (Opposite Direction)	7=Hit Fixed Object	8=Hit Pedestrian	9=Other/Unknown
	Relation to Roadway	1	1=On Travel Lanes 2=Shoulder	3=Median 4=Roadside	5=Outside Trafficway 6=to Parking Lane	7=Gore (Ramp Intersection)	9=Unknown		
	Illumination	1	1=Daylight 2=Dark - No Street Lights	3=Dark - Street Lights 4=Dusk	5=Dawn 6=Dark - Unknown Roadway Lighting	8=Other			
	Weather Conditions	1	1=No Adverse Conditions 2=Rain	3=Sleet (Hail) 4=Snow	5=Fog 6=Rain & Fog	7=Sleet & Fog 8=Other	9=Unknown		
	Road Surface Conditions	0	0=Dry 1=Wet	2=Sand, Mud, Dirt, Oil 3=Snow Covered	4=Slush 5=Ice	6=Ice Patches 7=Water - Standing or Moving	8=Other		

Unit(s) Event Information	Harm Event	L/R	Most?	Utility Pole Number	Harmful Events (Harm Event)	
	Unit No	1	02	L		
	01	2				
	01	3				
Please Put Events in Sequential Order	Harm Event	L/R	Most?	Utility Pole Number	Harmful Events (Harm Event)	
	Unit No	1	11	R		
	02	2				
	02	3				
Please Put Events in Sequential Order	Harm Event	L/R	Most?	Utility Pole Number	Harmful Events (Harm Event)	
	Unit No	1	11	R		
	02	2				
	02	3				
Please Put Events in Sequential Order	Harm Event	L/R	Most?	Utility Pole Number	Harmful Events (Harm Event)	
	Unit No	1	11	R		
	02	2				
	02	3				

First Harmful Event in the Crash	Unit No	Harm Event	Most Harmful Event in the Crash	Unit No	Harm Event
01	02	01	02	01	02

Do not repeat this information on multiple pages

Contributing Information	Environmental / Roadway Potential Factors (E/R)	1	00	2		3	
	00=None	01=Windy Conditions	11=Slippery Road Conditions (Ice/Snow)				
	02=Sudden Weather Conditions	12=Substance On Roadway					
	03=Other Weather Conditions	13=Potholes					
Possible Vehicle Failures (V)	04=Deer In Roadway	14=Broken Or Cracked Pavement					
	05=Obstacle On Roadway	15=ICD Obstructed					
	06=Other Animal In Roadway	16=Soft Shoulder Or Shoulder Drop Off					
	07=Glare	17=Other Roadway Factor					
Possible Vehicle Failures (V)	08=Work Zone Related	99=Unknown					
	00=None	06=Exhaust	12=Wipers				
	01=Tires	07=Headlights	13=Driver Seating/Control				
	02=Brake System	08=Signal Lights	14=Body, Doors, Hood, Etc				
Unit No	01	00	2				
	01	00	2				
	02	00	2				
	02	00	2				

Indicated Prime Factor	Unit No	Factor Code
01	05	

Do not repeat this information on multiple pages

ER V D F
☐ ☐ ☒ ☐

If ER is the Prime Factor Type, leave Unit No blank

Driver Action (D)	16=Driving The Wrong Way On 1-Way Street
00=No Contributing Action	17=Careless Or Illegal Backing On Roadway
01=Driver Was Distracted	18=Driving On The Wrong Side of Road
02=Driving Using Hand Held Phone	19=Making Improper Entrance to Highway
03=Driving Using Hands Free Phone	20=Making Improper Exit From Highway
04=Making Illegal U-Turn	21=Careless Parking/Unparking
05=Improper/Careless Turning	22=Over/Under Compensation At Curve
06=Turning From Wrong Lane	23=Speeding
07=Proceeding W/O Clearance After Stop	24=Driving Too Fast For Conditions
08=Running Stop Sign	25=Failure To Maintain Proper Speed
09=Running Red Light	26=Driver Fleeing Police (Police Chase)
10=Failure To Respond To Other Traffic Control Device	27=Driver Inexperienced
11=Tailgating	28=Failure To Use Specialized Equip
12=Sudden Slowing/Stopping	99=Other Improper Driving Actions
13=Illegally Stopped On Road	
14=Careless Passing Or Lane Change	
15=Passing In No Passing Zone	

Unit No	01	1	05	2		3		4	
Unit No	02	1	00	2		3		4	

Pedestrian Action (P)	03=Working
00=None	04=Pushing Vehicle
01=Entering Or Crossing At Specified Location	05=Approaching Or Leaving Vehicle
02=Walking, Running, Jogging, Playing, Or Cycling	06=Playing Or Working On Vehicle
	07=Standing
	98=Other

Unit No	00						
Unit No							

COMMONWEALTH OF PENNSYLVANIA
POLICE CRASH REPORTING FORM

Crash Number

P0391771

AA 45 7 1

Page:

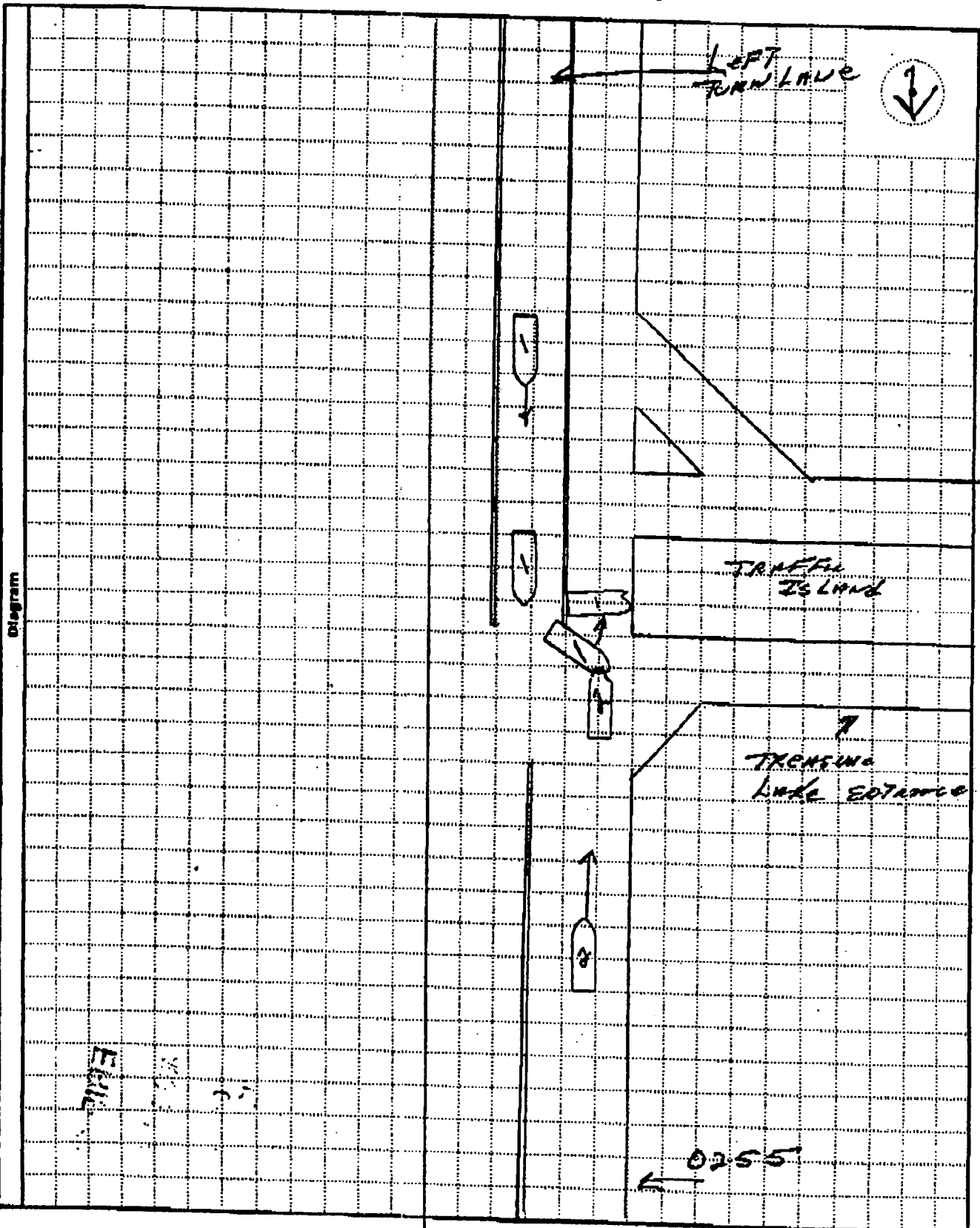
007

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Continuation

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COMMONWEALTH OF PENNSYLVANIA
POLICE CRASH REPORTING FORM

Crash Number

P0391771

AA 45 8 1

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Place emergency transport, witness, and other information here. It is not required to restate information from the form.

Responding EMS Agency: ~~DUBOIS~~ EMS Ambulance Medical Facility: DUBOIS REGIONAL MEDICAL

Witness 1: MARK SCHUFFERT 894 TREASURE LAKE DUBOIS PA 16801 375-7446

Witness 2: Address: Phone:

Narrative: OPERATOR UNIT#1 TRAVELING NORTH ON PA 0255 ATTEMPTED TO TURN LEFT INTO THE ENTRANCE WAY OF TREASURE LAKE. UNIT#1 FAILED TO YIELD RIGHT OF WAY WHEN CROSSING SOUTH BOUND LANE OF TRAVEL AND SHE STRUCK THE FRONT END OF UNIT#2 WHICH WAS TRAVELING SOUTH ON PA 255. UNIT#2'S SKID MARKS WERE 6 FT FROM CENTERLINE TO SKID MARKS (CLOSEST)

Witness Information and Narrative

OPERATOR UNIT#1 STATED SHE WAS RETURNING FROM EYE DOCTOR. SHE HAD HER EYES DILATED AND SHE DID NOT SEE SOUTH BOUND VEHICLE WHEN SHE ATTEMPTED TO TURN LEFT.

1 first witness, please.

2 ATTORNEY SIGNORELLI: Yes, Your Honor. We'll call
3 our first and only witness, Mary Farrell.

4 THE COURT: And, counsel, based upon our
5 discussion in chambers prior to beginning this afternoon, the
6 objection is overruled.

7 ATTORNEY SIGNORELLI: Thank you, Your Honor.
8 Thereupon,

9 MARY FARRELL,
10 the witness herein, having first been duly sworn, was
11 examined and testified as follows:

12 DIRECT EXAMINATION

13 BY ATTORNEY SIGNORELLI:

14 Q Mary, please introduce yourself to the jury.

15 A Hi. I'm Mary Farrell.

16 Q And where do you live?

17 A I live in DuBois.

18 Q What do you do, Mary?

19 A I'm a stay-at-home mom, and in my spare time, I do
20 volunteer work in the community.

21 Q Mary, do you acknowledge that you were responsible
22 for this motor vehicle accident?

23 A Yes, I do. And I felt terrible about it.

24 Q Mary, there was real brief testimony previously
25 about whether or not you had stopped prior to starting that

EXHIBIT

tabbies
2

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1 turn. Did you, in fact, come to a stop before you started
2 your left-hand turn that day?

3 A Yes, I did. But I've already admitted that I was
4 at fault in the accident.

5 ATTORNEY SIGNORELLI: Thank you. I have nothing
6 further, Your Honor.

7 ATTORNEY HOPKINS: No questions, Judge.

8 THE COURT: You may step down.

9 ATTORNEY SIGNORELLI: At this time, the Defense
10 rests, Your Honor.

11 THE COURT: Let me see counsel.

12 (A discussion was held off the record at sidebar.)

13 THE COURT: Ms. Signorelli, you may close to the
14 jury.

15 ATTORNEY SIGNORELLI: Thank you. May it please
16 the Court, counsel, ladies and gentlemen of the jury. If I
17 may just grab my notes. Please excuse my back.

18 First of all, again, on behalf of Mary Farrell and
19 myself, I'd like to thank you very much for being here, for
20 your time. And it was certainly clear that you were paying
21 full attention during the entire time. We know it's a long
22 time to sit, and we really appreciate it.

23 I know, at times, my questions are long,
24 especially involving experts. It's sometimes difficult for
25 me to ask the question in a way that the expert understands

EXHIBIT

3

tabbies

169a

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

PAMELA M. OWENS,

vs.

MARY FARRELL

:
:
: No. 03-192-CD
:
:

ORDER

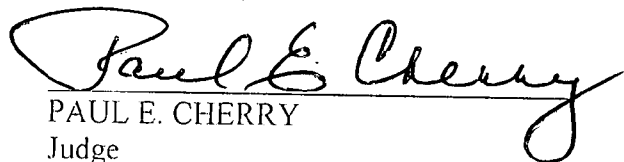
AND NOW, this 23rd day of January, 2008, it is the ORDER of the Court that Argument on all Outstanding Motions in the above captioned matter shall be and are hereby scheduled for Friday, January 25, 2008 at 8:45 A.M. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania., via telephone conference, with the Honorable John K. Reilly, Jr., Senior Judge, specially presiding.

David J. Hopkins, Esquire is hereby directed to make the necessary arrangements for a telephone conference call between Laura R. Signorrelli, Esquire and the Court for said hearing.

BY THE COURT:

FILED
012:24/00
JAN 23 2008

100 Atty's: Hopkins
Signorrelli
Dennison
William A. Shaw
Prothonotary/Clerk of Courts
CIA notified Atty Hopkins
via e-mail 1/23/08


PAUL E. CHERRY
Judge

03-192

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

FILED

Plaintiff,

CASE NO. 03-192

JAN 24 2008

vs.

en 1/130/w
William A. Shaw

MARY FARRELL,

MOTIONS IN LIMINE

Prothonotary/Clerk of Courts

FILED ON BEHALF OF DEFENDANT: 1 cent to

Defendant.

Mary Farrell

NOTE

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. SIGNORELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF STEPHEN P. AHERN
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

PAMELA M. OWENS,
Plaintiff,

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

vs.

CASE NO.: 03-192

MARY FARRELL,

MOTIONS IN LIMINE

Defendant.

I.

**MOTION IN LIMINE TO KEEP FROM THE
JURY EVIDENCE OF INSURANCE, REFERENCE TO
INSURANCE AND REFERENCE TO ALLSTATE INSURANCE COMPANY**

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of insurance, reference to insurance and reference to Allstate Insurance Company during trial of this case and in support of this Motion states:

1. Defendant, Mary Farrell through counsel, stipulates to the existence of a binding insurance contract between Defendant and Allstate Insurance Company.

2. There is no contested insurance issue concerning a binding insurance contract, coverage, applicable limits or Allstate Insurance Company in this case.

3. Absent any contested insurance issue, evidence of insurance, reference to insurance and/or reference to Allstate Insurance Company are not relevant.

Wherefore, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction at trial of any evidence of insurance, reference to Allstate Insurance Company and/or the existence of insurance.

II.

**MOTION IN LIMINE TO KEEP FROM THE
JURY EVIDENCE OF BANKRUPTCY FILING BY PLAINTIFF**

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of insurance, reference to any facts concerning a bankruptcy filing by Plaintiff following the motor vehicle accident and states:

1. Defendant believes, based upon review of the records that Plaintiff filed for bankruptcy sometime in November, 2002.

2. It is presumed that the bankruptcy has been discharged and that the matter is no longer pending.

3. Defendant asserts that the issue of the Plaintiff's claim of bankruptcy is not relevant to the instant matter, which involves allegations of wage loss for approximately 1 month after the accident with Plaintiff's subsequent return to work at her position at Murray Honda.

4. It is believed and therefore averred that the fact that the Plaintiff claimed bankruptcy sometime after the motor vehicle accident, which said matter is totally irrelevant to the subject matter of the pending lawsuit, may create unfair bias, sympathy and prejudice in favor of the Plaintiff and against Defendant.

5. It is necessary to exclude from the jury's consideration the fact that the Plaintiff may have claimed bankruptcy post-accident, in order to avoid unfair prejudice against Defendant.

Wherefore, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction at trial of any evidence of Plaintiff's alleged bankruptcy post-accident.

III.

MOTION IN LIMINE TO KEEP FROM THE JURY ALL FACTS CONCERNING THE HAPPENING OF THE ACCIDENT

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury

evidence of facts concerning the happening of the accident and respectfully states:

1. Defendant, Mary Farrell through counsel, stipulates to the issue of negligence and therefore factual causation of her negligent conduct to the happening of the accident is not at issue.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce evidence that while traveling on State Route 255 near the Treasure Lake Complex, Defendant cut across Plaintiff's lane, making a left-hand turn across Plaintiff's lane of travel.

3. Defendant further believes and therefore avers that the Plaintiff intends to introduce evidence concerning the Plaintiff's impressions of manner of operation of Defendant's vehicle in an attempt to stir the emotions of the jury and create unfair prejudice in favor of the Plaintiff.

4. Wherefore in light of the stipulated issue of negligence, any and all facts concerning the happening of the accident are irrelevant to the disposition of the pending lawsuit and could, in fact, be severely prejudicial to Defendant.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the facts preceding the accident as well as the happening of the accident.

IV.

**MOTION IN LIMINE TO KEEP FROM THE JURY ALL FACTS CONCERNING
THE DEFENDANT'S PRE-ACCIDENT EYE EXAMINATION
AND DILATION OF DEFENDANT'S EYES**

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the pre-accident activities of Defendant, including the dilation of her eyes during the course of a normal eye examination and states respectfully:

1. Defendant, Mary Farrell through counsel, stipulates to the issue of negligence and therefore factual causation of her negligent conduct to the happening of the accident is not at issue.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce evidence that prior to the accident, Defendant's eyes were dilated during a normal eye examination, and that the Defendant's eyes remained dilated while she was driving at or near the time of the accident.

3. Throughout the course of discovery, no evidence has been established that Defendant was operating a vehicle at the time of the accident against order from her eye doctor.

4. Defendant has already testified in this case that her eye doctor did not advise her not to drive at the time of the accident, due to the recent treatment of her eyes.

5. Due to the fact that the negligence of Defendant is not at issue, the facts concerning the pre-accident eye examination and treatment is not relevant to the jury's disposition of the pending lawsuit.

6. Defendant believes that the facts concerning the Defendant's eye examination, while not relevant, would severely prejudice the Defendant, as the jury may incorrectly assume that the Defendant was acting outside of her doctor's instructions.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the Defendant's pre-accident eye examination and dilation of the eyes and the condition of Defendant's eyes at the time of the accident.

V.
MOTION IN LIMINE TO KEEP FROM THE
JURY ALL FACTS CONCERNING
THE RESIDENCE OF PLAINTIFF'S COUNSEL

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the residence of Plaintiff's counsel near the location of the subject accident.

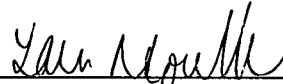
1. Defendant believes that the Plaintiff's counsel may reside near the location of the accident that is the subject matter of the lawsuit.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce personal statements concerning the layout of the roadways near the location of the accident, in the event that the Honorable Court denies Defendant's Motion in Limine to exclude evidence concerning the happening of the accident.

3. Defendant further believes and therefore avers that any statements by the Plaintiff's counsel concerning his possible familiarity with the location of the accident may be prejudicial to the Defendant and is highly irrelevant to the case.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the residence of Plaintiff's counsel at the time of the accident.

Respectfully submitted,




LAURA R. SIGNORELLI, ESQUIRE
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219
Telephone: 412-255-4145
Attorney for Defendant
Mary Farrell

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendants Motions in Limine was sent **via facsimile and overnight mail**, this 23rd day of January, 2008:

DAVID J. HOPKINS, ESQUIRE
Via facsimile and overnight mail
900 Beaver Drive
DuBois, Pennsylvania 15801



LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant

PAMELA M. OWENS,

Plaintiff,

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

vs.

CASE NO.: 03-192

MARY FARRELL,

Defendant.

ORDER

AND NOW, to-wit, this _____ day of _____, 2004, in consideration of the Defendant's Motion(s) In Limine it is hereby **ORDERED ADJUDGED AND DECREED** as follows:

(1) The Motion in limine concerning evidence of insurance, references to insurance is GRANTED. Evidence of insurance, reference to insurance and reference to Allstate Insurance Company are to be kept from the jury and that the Defendant shall be referred to as "Defendant" and that counsel for Allstate Insurance Company be referred to as counsel for the defense.

(2) The Motion in limine concerning evidence of Plaintiff's bankruptcy is GRANTED. Evidence of Plaintiff's filing for bankruptcy following the motor vehicle accident and any other information pertaining to this subject matter are to be kept from the jury.

(3) The Motion in limine concerning all facts surrounding the happening of the accident is GRANTED. Evidence of pre-accident events, events leading up to the collision and the actual happening of the collision itself shall not be introduced at trial.

(4) The Motion in limine concerning Defendant's eye treatment on the date of the accident or eye treatment in general is GRANTED. Plaintiff is precluded from introducing evidence pertaining to this subject matter.

(5) The Motion in limine concerning the residence of Plaintiff's counsel is GRANTED.

J.

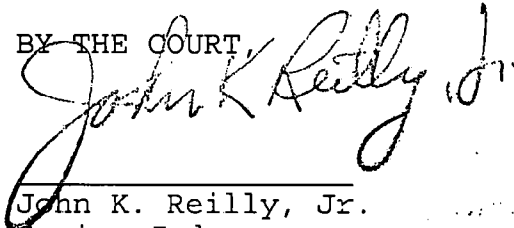
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAMELA M. OWENS :
VS. : NO. 03-192-CD
MARY FARRELL :

O R D E R

AND NOW, this 25th day of January, 2008, upon consideration of Plaintiff's Motion for Summary Judgment with regard to the issue of negligence; there being no opposition thereto, it is the ORDER of this Court that said Motion be and is hereby granted and judgment entered in favor of the Plaintiff on the issue of negligence.

BY THE COURT,



John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED 1cc. Mys.
01/24/08/STL Hopkins
JAN 25 2008 Signorelli
William A. Shaw
Prothonotary/Clerk of Courts
Dennison
@

FILED

JAN 25 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/25/08

 You are responsible for serving all appropriate parties.

 X The Prothonotary's office has provided service to the following parties:

 Plaintiff(s) X Plaintiff(s) Attorney Other

 Defendant(s) X Defendant(s) Attorney Special Instructions:

UP

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

PAMELA M. OWENS

:

VS.

: NO. 03-192-CD

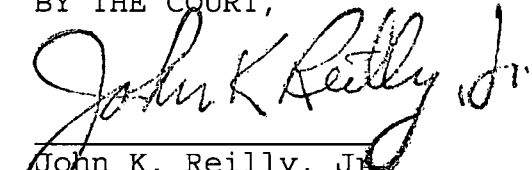
MARY FARRELL

:

O R D E R

AND NOW, this 25th day of January, 2008, upon consideration of Pretrial Motion and upon consideration thereof, it is the ORDER of this Court that, in the event that Plaintiff calls a medical expert who relies on the report of a medical doctor who does not testify, in person or by deposition, Defense may cross-examine with regards to that report on any portions thereof on which Plaintiff's expert relied and on any portions thereof which conflicts with Plaintiff's medical expert.

BY THE COURT,


John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED

10/4/08
JAN 25 2008

William A. Shaw
Prothonotary/Clerk of Courts

1CC Atty's:
Hopkins
Signorelli
Dennison

OK

FILED

JAN 25 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/25/08

X You are responsible for serving all appropriate parties.

 The Prothonotary's office has provided service to the following parties:

 Plaintiff(s) X Plaintiff(s) Attorney Other

 Defendant(s) Y Defendant(s) Attorney

 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

PAMELA M. OWENS

:

VS.

: NO. 03-192-CD

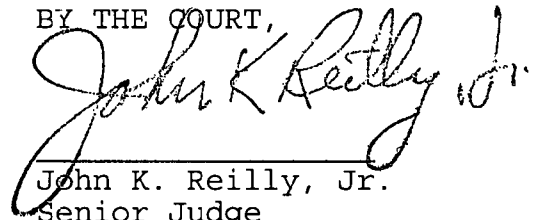
MARY FARRELL

:

O R D E R

AND NOW, this 25th day of January, 2008, upon consideration of Pretrial Motions in Limine filed on behalf of Defendant above-named, it is the ORDER of this Court that Motion No. 3 shall be and is hereby denied in that Plaintiff shall be permitted to present all facts concerning the happening of the accident as they pertain to causation and damages. In all other respects, Defendant's Motions in Limine are granted.

BY THE COURT,



John K. Reilly, Jr.
Senior Judge
Specially Presiding

FILED
01/24/08
JAN 25 2008

William A. Shaw
Prothonotary/Clerk of Courts

1 CC Attys:
Hopkins
Signorelli
Dennison

(6K)

FILED

JAN 25 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/25/08

☐ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

1

COURT OF COMMON PLEAS, CLEARFIELD COUNTY
PENNSYLVANIA

CASE NO. 03-192-CD

Date of Jury Selection: January 3, 2008

Presiding Judge: John K. Reilly Jr. SJSP

Pamela M. Owens

Court Reporter: Thomas SNYDER

VS

Date of Trial: February 21-22, 2008

Mary Farrell

Date Trial Ended: 2-21-08

MEMBERS OF THE JURY

1. Judy Struble
2. Howard Osewalt
3. Barbara Peterson
4. Rosalie Vallella
5. Karl Seitz
6. Thomas Lidgett
ALT #1 Marianne Fyda

7. Martha Clark
8. Tanya Kunsman
9. Francis Adams
10. Brandy Crain
11. Roy Flood
12. John Hoover
ALT #2 Lawrence Alexander

PLAINTIFF'S WITNESSES:

1. Pamela M. Owens
2. _____
3. _____
4. _____
5. _____
6. _____

DEFENDANT'S WITNESSES:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

PLAINTIFF'S ATTY: David J. Hopkins Esq

DEFENDANT'S ATTY: John C. Dennison II Esq

ADDRESS TO JURY: _____

ADDRESS TO JURY: _____

JUDGE'S ADDRESS TO JURY: _____

JURY OUT: _____ JURY IN: _____

VERDICT: Att'y's Settled prior Jury Verdict.

FOREPERSON: _____

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03-192 CD

Type of Pleading: Praecipe to
Discontinue

Filed on behalf of: Pamela Owens,
Plaintiff

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

100 Meadow Lane, Suite 5
DuBois, Pennsylvania 15801

(814) 375-0300

FILED

MAR 17 2009

William A. Shaw
Prothonotary/Clerk of Courts

2 Certificates
to Atty
Hopkins

No cc

GW

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

PAMELA M. OWENS,	:	
	:	
Plaintiff	:	
	:	
vs.	:	No. 03-192 CD
	:	
MARY FARRELL,	:	
	:	
Defendant	:	


PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY:

Kindly mark the above captioned civil action settled and discontinued.

Respectfully submitted,

Hopkins Heltzel LLP


David J. Hopkins, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

CIVIL DIVISION

Pamela M. Owens

Vs.

No. 2003-00192-CD

Mary Farrell

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on March 17, 2009, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by David J. Hopkins, Esq.
Record costs in the sum of \$45.00 have been paid in full by John C. Dennison, II, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 17th day of March A.D. 2009.



William A. Shaw, Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

PROPOSED POINTS FOR CHARGE

Defendant.

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

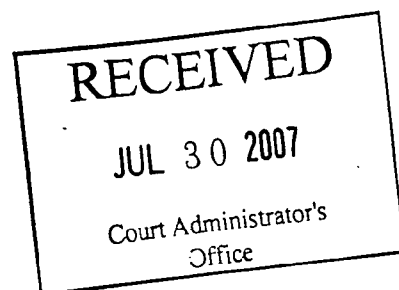
COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. PASQUINELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

JURY TRIAL DEMANDED



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

Defendant.

DEFENDANT(S) POINTS FOR CHARGE

And now, the Defendant, Mary Farrell, by and through her counsel, Laura R. Signorelli,
Esquire, respectfully request the Court to charge the jury as follows:

3.00 (Civ) ISSUES IN THE CASE

Personal Injury Claim(Contributory Negligence)

The Plaintiffs claim that he(she) was injured and sustained damage as a result of the negligent conduct of the Defendant. The Plaintiff has the burden of proving his(her)-claim.

The Defendant denies the Plaintiff's claims ~~(and asserts as an affirmative defense that the Plaintiff himself was negligent and that such negligence was a substantial factor in bringing about Plaintiff's injuries. The Defendant has the burden of proving this affirmative defense.)~~

Based upon the evidence presented at this trial, the only issue(s) for you to decide in accordance with the law as I shall give it to you, is (are):

~~First: Was the Defendant negligent?~~

Second: Was the Defendant's conduct a ~~substantial factor~~ [factual cause] in bringing about harm to the Plaintiff(s)?

~~(Third: Was the Plaintiff himself negligent and was such negligence a substantial factor in bringing about Plaintiff's injury?)~~

Accept _____ Reject _____ Modify _____

(1)

3.25 FACTUAL CAUSE

The plaintiff must prove to you that the defendant's conduct caused the plaintiff's damages. This is referred to as "factual cause." The question is: "Was the defendant's negligent conduct a factual cause in bringing about the plaintiff's damages?"

Conduct is a factual cause of harm when the harm would not have occurred absent the conduct. An act is a factual cause of an outcome if, in the absence of the act, the outcome would not have occurred.

~~(Use the following where the action is against more than one defendant) (A defendant's negligent conduct need only be a factual cause of the plaintiff's harm. It does not need to be the only cause. The existence of other causes of the harm does not relieve the defendant from liability as long as the defendant's negligent conduct was a factual cause of the injury. If you find that one of the alleged acts of a defendant was negligent and a factual cause of the harm, this is sufficient to subject that defendant to liability.)~~

~~(Use the following if you have not already used Instruction 3.00 (Issues in the Case and Factual Cause) or if you wish to reiterate the definition of "factual Cause" to the jurors.)~~ (In order for conduct of the party to be a factual cause, the conduct must not be fanciful or imaginary, but must have played a real role in causing the injury. Therefore, in determining factual cause, you must decide whether the negligent conduct of the defendant was more than an insignificant factor in bringing about any harm to the plaintiff. Under Pennsylvania law, conduct can be found to be a contributing factor if the action or omissions alleged to have caused the harm was an actual, real factor, not a negligible, imaginary, or fanciful factor, or a factor having no connection or only an insignificant connection with the injury. However, factual cause does not mean it is the only, primary, or even the most important factor in causing the injury. A cause may be found to be a factual cause as long as it contributes to the injury in a way that is not minimal or insignificant.

To be a contributing factor, the defendant's conduct need not be the only factor. The fact that some other cause concurs with the negligence of the defendant in producing an injury does not relieve the defendant from liability as long as his/her own negligence is a factual cause of the injury.

The negligence of a defendant may be found to be a factual cause of a plaintiff's harm even though it was relatively minor as compared to the negligence of (the other defendant or) the plaintiff. In effect, the test for factual causation has been met when the conduct in question has such an effect in producing the harm as to lead reasonable persons to regard it as one of the inconsequential considering all the circumstances.)

~~(Use the following summary definition of "Factual cause" if you have used Instruction 3.00 and do not want to reiterate the entire definition again.)~~ (Remember, a factual cause is an actual, real factor, although the result may be unusual or unexpected. A factual cause cannot be an imaginary or fanciful factor having no connection or only a significant connection with the injury. Although a factual cause can not be minimal or insignificant with regard to the injury, it can be relatively minor in relation to other factors and need not be quantified as being either considerable or large.)

Accept _____ Reject _____ Modify _____

(2)

5.50 (Civ) PLAINTIFF(S) BURDEN TO PROVE BY A PREPONDERANCE OF THE EVIDENCE

In civil cases such as this one, the Plaintiff(s) have/has the burden of proving those contentions which entitle them to relief.

When a party has the burden of proof on a particular issue, his/her contention on that issue must be established by a fair preponderance of the evidence. The evidence establishes a contention by a fair preponderance of the evidence if you are persuaded that it is more probably accurate or true than not.

To put it another way, think if you will, of an ordinary balance scale with a pan on each side. Onto one side of the scale, place all of the evidence favorable to the Plaintiff(s). On the other pan, place all of the evidence favorable to the Defendant(s). If, after considering the comparable weight of the evidence, you feel that the scales tip, ever so slightly or to the slightest degree in favor of the Plaintiff(s), your verdict must be for the Plaintiff(s). If, however, the scales tip in favor of the Defendant(s), or are equally balanced, your verdict must be for the Defendant(s).

Accept_____ Reject_____ Modify_____

(3)

OK

JUDGE'S CHARGE ON DAMAGES IS NOT AN INDICATION THAT DAMAGES SHOULD BE AWARDED

The fact that I charge you on the measure of damages does not indicate nor should it be considered by you as an indication that I think damages should be awarded. I am giving you these instructions on damages because I am required to charge you on all phases of the case which you might have to consider.

Accept _____ Reject _____ Modify _____

(4)

PLAINTIFF('S') DAMAGES MUST BE PROVEN

The law is clear that no damages will be presumed but rather, they must be proved by legally sufficient evidence and must be shown to have arisen out of the alleged negligence. Mackwell v. Schaeffer, 381 Pa. 113, 112 A.2d 69 (1975).

The burden is on the Plaintiff(s) to prove by legally sufficient evidence that all injuries for which he/she/they claims damages are properly attributable in the medical sense to the Defendant(s') negligence and not due to some independent cause. Mundano v. P.T.C., 289 Pa. 451, 137 A. 104 (1927); Pavorsky v. Engenls, 410 Pa. 100, 188 A.2d 731 (1963); Boyd v. Hertz Corporation, 219 Pa. Super. 488, 281 A.2d 679 (1971); McHugh v. Audet, 72 F. Supp. 384 (M.D. Pa. 1947).

Accept_____ Reject_____ Modify_____

(5)

LIABILITY FOR PRIOR INJURIES

If you find that any of the injuries or conditions which Plaintiff(s) are/is claiming in this case were already present in a previous condition, then Plaintiff(s) may not recover from the Defendant(s) for injuries or conditions caused by the previous condition. The Defendant(s) may only be held responsible for the damage any negligence by him/her/them has actually caused.

Accept_____ Reject_____ Modify_____

(6)

EVIDENCE

The number of witnesses offered by one side or the other does not, in itself, determine the weight of the evidence. It is a factor, but only one of many factors which you should consider. Whether the witnesses appear to be biased or unbiased and whether they are interested or disinterested persons, are among the important factors which go to the reliability of their testimony. The important thing is the quality of the testimony of each witness. In short, the test is not which side brings the greater number of witnesses or presents the greater quantity of evidence but which witness or witnesses, and which evidence, you consider most worthy of belief. Even the testimony of one witness might outweigh that of many, if you have reasons to believe his testimony in preference to theirs. Pressler v. Pittsburgh, 419 Pa. 440, 214 A.2d 616 (1965).

Accept_____ Reject_____ Modify_____

(7)

JURY NOT REQUIRED TO BELIEVE PLAINTIFF

A jury is not required to believe the Plaintiff(s) and his/her/their witnesses even when their testimony is uncontradicted. Bronchak v. Redman, 263 Pa. Super. 136, 397 A.2d 438 (1979).

Accept_____ Reject_____ Modify_____

(8)

JURY'S FUNCTION IN CONSIDERING WITNESSES' INTEREST IN THE CASE

It is the jury's function to pass on the credibility of witnesses and in that regard, you can take into account any interest in the outcome of the case which any witness has. In that connection, you may consider that the Plaintiff(s) has/have a monetary interest in the outcome of this case and you should take that into account when judging on the credibility of his/her/their testimony. A jury may reject in total, the opinion of any witness that it disbelieves whether such opinion is contradicted or not. Rey v. City of Philadelphia, 344 Pa. 439, 25 A.2d 145 (1942).

Accept_____ Reject_____ Modify_____

(9)

JURY'S RIGHT TO DISREGARD TESTIMONY

If you find that any witness, including the Plaintiff('s') willfully gave false testimony in a material part of his or her testimony, then you may disregard the rest of that testimony. Western Show Company v. Mix, 315 Pa. 139, 173 A. 183 (1934).

Accept_____ Reject_____ Modify_____

(10)

EXPERT WITNESSES

You have heard the testimony of the doctor who testified as an expert witness for the Plaintiff(s). In determining the weight given to this doctor's opinion, you should consider his/her/their qualifications and reliability, as well as the reasons given for his/her opinions. You are not bound by Plaintiff expert's opinions merely because (s)he is an expert; you may accept or reject it, as in the case of all other witnesses. Karcesky v. Laria, 382 Pa. 227, 114 A.2d 150 (1955).

Accept_____ Reject_____ Modify_____

(11)

JURY'S RIGHT TO REJECT EXPERT TESTIMONY

Furthermore, you are free to reject the medical opinion of the Plaintiff('s') medical expert, just as you are free to reject any other part of the testimony of Plaintiff('s') witnesses. Calabria v. Brentwood Motor Coach Company, 412 Pa. 46, 194 A.2d 918 (1963).

Accept_____ Reject_____ Modify_____

(12)

JURY'S RIGHT TO REJECT PAIN & SUFFERING CLAIM

A jury does not have to believe that every injury causes pain or the pain alleged. A jury does not have to award damages for pain and suffering if it reasonably believes that (1) the plaintiff did not suffer any pain and suffering, or (2) that a preexisting condition or injury was the sole cause of the alleged pain and suffering. Davis v. Mullen, 565 Pa. 386, 773 A.2d 764

Whether the plaintiff suffered from compensable pain is an essential determination within a jury's purview. The existence of compensable pain is an issue of credibility and a jury must believe that the plaintiff suffered pain before it can compensate for that pain. Just as a jury does not have to believe that the defendant caused the plaintiff's injuries, a jury does not have to believe that the plaintiff's injuries caused pain or the pain alleged. A jury does not have to award damages if it reasonably believes that (1) the plaintiff did not suffer any pain and suffering; or (2) that a pre-existing condition or injury was the sole cause of the alleged pain and suffering. Davis v. Mullen, 565 Pa. 386, 773 A.2d 764

Accept_____ Reject_____ Modify_____

2

(13)

MEDICAL EXPENSES NOT AN ELEMENT OF DAMAGES

Medical expenses incurred by the Plaintiff(s) as a result of this accident are not to be considered by you as an element of damages. Medical expenses are not recoverable in this action, nor are they to be considered as a measure of Plaintiff('s') pain and suffering. Martin v. Soblotney, ___ Pa. ___, 466 A.2d 1022 (1983).

Accept_____ Reject_____ Modify_____

(14)

PLAINTIFF'S BURDEN OF PROVING LOSS OF EARNINGS

A jury may not speculate as to loss of earnings, earning power, wages or medical expenses when the evidence does not disclose the value of services. Zimmerman v. Weinroth, 272 Pa. 537, 116 A. 510 (1922).

Accept_____ Reject_____ Modify_____

(15)

TESTIMONY OF WITNESSES AS EVIDENCE

In your deliberations, you should take into consideration, as evidence, only the testimony of the witnesses who have appeared in this courtroom and the exhibits which have been admitted into evidence. You should not take into consideration anything which you have heard or seen outside the courtroom. You should not be influenced in any manner by anything you have heard or seen about the injured persons or other cases involving motor vehicle accidents. Such matters have nothing to do with this case and should have no part in your deliberations.

Accept_____ Reject_____ Modify_____

(16)

2.10 (Civ) ADMISSIONS OF FACT

(Pleadings, Answers to Interrogatories or Requests for Admissions, Depositions, Statements)

The admission(s) of fact(s) made by the agent of the Defendant(s)/Plaintiff(s) in the answer to the Complaint (or other pleading(s), document(s), statement(s), testimony(ies) has/have been offered by the Plaintiff(s)/Defendant(s) and received in evidence. The Defendant(s)/Plaintiff(s) are/is bound by this/these admission(s).

Accept____ Reject____ Modify____

(17)

**2.20 (Civ) IMPEACHMENT (CORROBORATION) OF WITNESS BY PRIOR
INCONSISTENT (CONSISTENT) STATEMENT**

The evidence which you have heard that the witness(es) made an earlier statement inconsistent(consistent) with his/her/their testimony at this trial has been admitted solely to aid you in evaluating the credibility of that/those witness(es). Such evidence may be considered by you only to assist you in deciding the believability of that witness(es) and the weight, if any, that his/her/their testimony(ies) is fairly entitled to receive. It cannot be considered as evidence of the truth of the contents of the statement bearing upon the facts in issue.

Accept_____ Reject_____ Modify_____

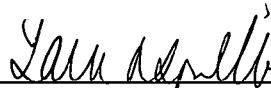
(18)

**2.21 (Civ) IMPEACHMENT (CORROBORATION) OF PARTY BY PRIOR
INCONSISTENT (CONSISTENT) STATEMENT**

The evidence that the Plaintiff(s)/Defendant(s) made an earlier statement inconsistent(consistent) with his/her testimony at this trial may be considered by you not only in your evaluation of that party's credibility but also as evidence of the truth of the contents of the statement bearing upon the facts in issue.

Accept_____ Reject_____ Modify_____

Respectfully submitted,



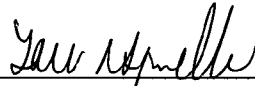
Laura R. Signorelli, Esquire
Attorney for Defendant
Mary Farrell

CERTIFICATE OF SERVICE

I hereby certify that on this 27TH day of July, 2007 I mailed a copy of Defendant's Proposed points for Charge to the following individual via First class Mail to the following:

David J. Hopkins
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, Pennsylvania 15801

BY:



Laura R. Signorelli, Esquire
Attorney for Defendant
Mary Farrell

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03-192 CD

Type of Pleading: Plaintiff's Proposed
Points for Charge

Filed on behalf of: Pamela M. Owens,
Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

100 Meadow Lane, Suite 5
DuBois, Pennsylvania 15801

(814) 375-0300

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

PAMELA M. OWENS,	:	
Plaintiff	:	
	:	
vs.	:	No. 03-192 CD
	:	
MARY FARRELL,	:	
Defendant	:	

PLAINTIFF'S PROPOSED POINTS FOR CHARGE

AND NOW, comes the Plaintiff, Pamela M. Owens, now known as Pamela M. Kerr, by and through her attorney, David J. Hopkins, Esquire, and respectfully files the following Plaintiff's Proposed Points for Charge:

I. NEGLIGENCE

As a matter of law, I have determined the Defendant Mary Farrell was solely responsible and was negligent in causing the collision between the Defendant and Plaintiff Pamela Kerr. You must accept my decision as the law of the case.

II. LEGAL CAUSE

In order for Pamela Kerr to recover in this case, the Defendant, Mary Farrell's, negligent must have been a substantial factor in bringing about the injuries to Pamela Kerr. This is what the law recognizes as legal cause. A substantial factor is an actual, real factor, although the result may be unusual or unexpected, but it is not an imaginary or fanciful factor or a factor having no connection or only an insignificant connection with the accident.

Pa. Suggested Civil Jury Instructions, Section 3.25

III. CONCURRING CAUSES

The Plaintiff is entitled to recover damages for all injuries that the Defendant's negligence was a factual cause in producing. The Defendant's negligence need not be the sole cause of the injuries; other causes may have contributed to producing the final result. The fact that some other factor may have been a contributing cause of the injury does not relieve a Defendant of liability, unless you find that such other cause would have produced the injury complained of independently of her negligence. Even though prior conditions or concurrent causes may have contributed to an injury, if the Defendant's negligence was a factual cause in producing the injury, the Defendant is liable for the full amount of the damages sustained, without any apportionment or diminution for the other conditions or causes.

Pa. Suggested Civil Jury Instruction, Section 6.30

IV. PRE-EXISTING CONDITION

The Plaintiff is entitled to recover damages for all injuries which the Defendant's negligence was a substantial factor in producing. The Defendant's negligence need not be the sole cause of the injuries; other causes may have contributed to producing the final result. The fact that some other factor may have been a contributing cause of an injury does not relieve a Defendant of liability, unless you find that such other cause would have produced the injury complained of independently of her negligence. Even though prior conditions or concurrent causes may have contributed to an injury, if Defendant's negligence was a substantial factor in producing the injury, Defendant is liable for the full amount of damages sustained, without any apportionment or diminution for the other conditions or causes.

Pa. SSJI (Civ) 6.30.

GUSTISON v. TED SMITH FLOOR PRODUCTS, INC., 451 Pa.Super. 442, 679 A.2d 1304 (1996)

V. DAMAGES

If you find that the Defendant's negligent was a substantial factor in bringing about the injuries to Pamela Kerr, you must then find an amount of money damages you believe will fairly and adequately compensate Pamela Kerr for all the physical and financial injury she has sustained as a result of the accident. The amount you award today must compensate Pamela Kerr completely for damage sustained in the past, as well as damage Pamela Kerr will sustain in the future.

Pa. Suggested Civil Jury Instructions, Section 6.00

VI. INJURIES TO ADULT NOT RESULTING IN DEATH

The damages recoverable by Pamela Kerr in this case and the items that go to make them up, each of which I will discuss separately, are as follows:

- (a) Past pain and suffering;
- (b) Future pain and suffering;
- (c) Loss of enjoyment of life;

In the event that you find in favor of Pamela Kerr, you will add these sums of damage together and return your verdict in a single, lump sum.

Pa. Suggested Civil Jury Instructions, Section 6.01

VII. INCIDENTAL COSTS 2

The Plaintiff is entitled to be compensated for all other incidental costs she has incurred as a result of the accident, or that you find will be incurred in the future. These expenses may include:

(a)	Lost wages	\$571.00
(b)	Mileage to doctors and physical therapy	\$370.08
(c)	One pair of Levi jeans	<u>\$ 29.99</u>
	Total	<u>\$971.07</u>

Pa. Suggested Civil Jury Instruction, Section §6.01

VIII. PAST PAIN AND SUFFERING

Pamela Kerr is entitled to be fairly and adequately compensated for such physical pain, mental anguish, discomfort, inconvenience and distress as you find she has endured, from the time of the accident until today.

Pa. Suggested Civil Jury Instructions, Section 6.01E

IX. FUTURE PAIN AND SUFFERING

Pamela Kerr is entitled to be fairly and adequately compensated for such physical pain, mental anguish, discomfort, inconvenience and distress as you believe she will endure in the future as a result of her injuries.

Pa. Suggested Civil Jury Instructions, Section 6.01F

X. ENJOYMENT OF LIFE

Pamela Kerr is entitled to be fairly and adequately compensated for past, present and future loss of her ability to enjoy any of the pleasures of life as a result of her injuries.

Pa. Suggested Civil Jury Instructions, Section 6.01I

2

XI. DAMAGES – LIFE EXPECTANCY

If you find that Pamela Kerr's injuries will continue beyond today, you must determine the life expectancy of her. According to statistics compiled by the United States Department of Health, Education and Welfare, the average life expectancy of all persons of Pamela Kerr's age at the time of the accident, sex and race was 47.7 years. This figure is offered to you only as a guide, and you are not bound to accept it if you believe that Pamela Kerr would have lived longer or less than the average individual in her category. In reaching this decision, you are to consider Pamela Kerr's health prior to the accident, her manner of living, her personal habits and other factors that may have affected the duration of her life.

Pa. Suggested Civil Jury Instruction, Section 6.21

XII. EXPERT TESTIMONY – CREDIBILITY GENERALLY

A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation may give his opinion as an expert as to any matter in which he is skilled. In determining the weight to be given to his opinion, you should consider the qualifications and reliability of the expert and the reasons given for his opinion. You are not bound by an expert's opinion merely because he is an expert; you may accept or reject it, as in the case of other witnesses. Give it the weight, if any, to which you deem it entitled.

Pa. Suggested Civil Jury Instruction, Section 5.30

XIII. BURDEN OF PROOF

In civil cases such as this one, the Plaintiff has the burden of proving those contentions which entitle her to relief.

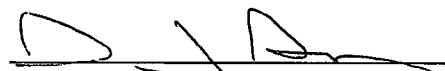
When a party has the burden of proof on a particular issue, his contention on that issue must be established by a fair preponderance of the evidence. The evidence establishes a contention by a fair preponderance of the evidence if you are persuaded that it is more probably accurate and true than not.

To put it another way, think, if you will, of an ordinary balance scale, with a pan on each side. Onto one side of the scale, place all of the evidence favorable to the Plaintiff; onto the other, place all of the evidence favorable to the Defendant. If, after considering the comparable weight of the evidence, you feel that the scales tip, ever so slightly or to the slightest degree, in favor of the Plaintiff, your verdict must be for the Plaintiff. If the scales tip in favor of the Defendant, or are equally balanced, your verdict must be for the Defendant.

In this case, the Plaintiff has the burden of proving the following propositions: that the Defendant was negligent, and that that negligence was a substantial factor in bringing about the accident. If, after considering all of the evidence, you feel persuaded that these propositions are more probably true than not true, your verdict must be for the Plaintiff. Otherwise, your verdict should be for the Defendant.

Pa. Suggested Civil Jury Instruction, Section 5.50

Respectfully submitted,



David J. Hopkins, Esquire
Attorney for Plaintiff
Supreme Court No. 42519

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

PROPOSED VERDICT SHEET

Defendant.

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. PASQUINELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

JURY TRIAL DEMANDED

RECEIVED

JUL 30 2007

Court Administrator's
Office

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

**DEFENDANT'S PROPOSED VERDICT
SHEET**

MARY FARRELL,

Defendant.

To further clarify these instructions, the Court will now distribute to each of you a verdict form containing specific questions. At the conclusion of your deliberations, one copy of this form should be signed by your foreman and handed to the court clerk; this will constitute your verdict. The verdict form reads as follows:

Question 1:

Was the Defendant's negligence a factual cause in bringing about the Plaintiff's harm?

Yes _____ No _____

If you answer Question 1 "No" the Plaintiff cannot recover and you should not answer any further questions and should return to the courtroom.

Question 2:

State the amount of damages, if any sustained by the Plaintiff as a result of the accident.

\$ _____

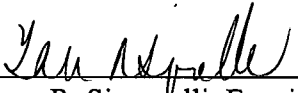
Foreperson

CERTIFICATE OF SERVICE

I hereby certify that on this 27TH day of July, 2007 I mailed a copy of Defendant's Proposed points for Charge to the following individual via First class Mail to the following:

David J. Hopkins
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, Pennsylvania 15801

BY:



Laura R. Signorelli, Esquire
Attorney for Defendant
Mary Farrell

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

VS.

DEFENDANT'S PROPOSED VERDICT
SHEET

MARY FARRELL,

Defendant.

To further clarify these instructions, the Court will now distribute to each of you a verdict form containing specific questions. At the conclusion of your deliberations, one copy of this form should be signed by your foreman and handed to the court clerk; this will constitute your verdict. The verdict form reads as follows:

Question 1:

Was the Defendant's negligence ~~(the negligence of these Defendants you have found to be negligent)~~, a substantial factor [factual cause] in bringing about the Plaintiff's harm?

Yes No

If you answer Question 1 "No" ~~("No" as to all Defendants you have found to be negligent)~~, the Plaintiff cannot recover and you should not answer any further questions and should return to the courtroom.

Question 2:

State the amount of damages, if any sustained by the Plaintiff as a result of the accident.

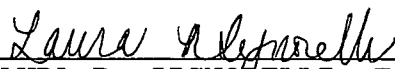
\$

Foreperson

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of
DEFENDANT'S PROPOSED VERDICT SHEET upon all other parties or
their attorney of record by **Overnight Mail** on this 1st day
of November, 2004 to the following:

DAVID J. HOPKINS, ESQUIRE
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, Pennsylvania 15801



LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

Law Offices

of

Twanda Turner-hawkins

1180 U.S. STEEL BUILDING
600 GRANT STREET
PITTSBURGH, PENNSYLVANIA 15219

STAFF COUNSEL
ALLSTATE INSURANCE COMPANY
ENCOMPASS INSURANCE

(NOT A PARTNERSHIP)

ALL ATTORNEYS ARE EMPLOYEES
OF ALLSTATE INSURANCE COMPANY

TELEPHONE: (412) 642-2960
FACSIMILE: (412) 471-6708

SUSAN D. O'CONNELL
412-255-4140
MARIANNE C. MNICH
412-255-4141
LAURA R. SIGNORELLI
412-255-4145
MICHAEL C. MASELLI
412-255-4136
DONNA MARIE FLAHERTY
412-255-4142

July 27, 2007

Clearfield County Prothonotary
Clearfield County Courthouse
One North Second Street
Clearfield, PA 16830

Re: OWENS vs. FARRELL
Court Case No.: 03-192
Our File No.: 6941825140.1

To the Prothonotary:

Enclosed please find the following: (1) proposed points for charge; (2) proposed voir dire; (3) proposed verdict sheet; and (4) motions in limine filed on behalf of the defendant regarding the above captioned case.

Please file the original and return the time stamped copy to me. I have enclosed a self-addressed, stamped envelope for your convenience.

Thank you for your time and attention to this matter.

Sincerely,



Laura R. Signorelli, Esquire

Enclosures

ct:

(w/encl)

Hon. Paul E. Cherry
David J. Hopkins, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

MOTIONS IN LIMINE

FILED ON BEHALF OF DEFENDANT:

Mary Farrell

Defendant.

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. SIGNORELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF STEPHEN P. AHERN
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

PAMELA M. OWENS,
Plaintiff,

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

vs.

CASE NO.: 03-192

MARY FARRELL,
Defendant.

MOTIONS IN LIMINE

I.

**MOTION IN LIMINE TO KEEP FROM THE
JURY EVIDENCE OF INSURANCE, REFERENCE TO
INSURANCE AND REFERENCE TO ALLSTATE INSURANCE COMPANY**

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of insurance, reference to insurance and reference to Allstate Insurance Company during trial of this case and in support of this Motion states:

1. Defendant, Mary Farrell through counsel, stipulates to the existence of a binding insurance contract between Defendant and Allstate Insurance Company.

2. There is no contested insurance issue concerning a binding insurance contract, coverage, applicable limits or Allstate Insurance Company in this case.

3. Absent any contested insurance issue, evidence of insurance, reference to insurance and/or reference to Allstate Insurance Company are not relevant.

Wherefore, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction at trial of any evidence of insurance, reference to Allstate Insurance Company and/or the existence of insurance.

II.

MOTION IN LIMINE TO KEEP FROM THE JURY EVIDENCE OF BANKRUPTCY FILING BY PLAINTIFF

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of insurance, reference to any facts concerning a bankruptcy filing by Plaintiff following the motor vehicle accident and states:

1. Defendant believes, based upon review of the records that Plaintiff filed for bankruptcy sometime in November, 2002.

2. It is presumed that the bankruptcy has been discharged and that the matter is no longer pending.

3. Defendant asserts that the issue of the Plaintiff's claim of bankruptcy is not relevant to the

instant matter, which involves allegations of wage loss for approximately 1 month after the accident with Plaintiff's subsequent return to work at her position at Murray Honda.

4. It is believed and therefore averred that the fact that the Plaintiff claimed bankruptcy sometime after the motor vehicle accident, which said matter is totally irrelevant to the subject matter of the pending lawsuit, may create unfair bias, sympathy and prejudice in favor of the Plaintiff and against Defendant.

5. It is necessary to exclude from the jury's consideration the fact that the Plaintiff may have claimed bankruptcy post-accident, in order to avoid unfair prejudice against Defendant.

Wherefore, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction at trial of any evidence of Plaintiff's alleged bankruptcy post-accident.

III.
MOTION IN LIMINE TO KEEP FROM THE
JURY ALL FACTS CONCERNING THE HAPPENING OF THE ACCIDENT

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the happening of the accident and respectfully states:

1. Defendant, Mary Farrell through counsel, stipulates to the issue of negligence and therefore factual causation of her negligent conduct to the happening of the accident is not at issue.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce evidence that while traveling on State Route 255 near the Treasure Lake Complex, Defendant cut across Plaintiff's lane, making a left-hand turn across Plaintiff's lane of travel.

3. Defendant further believes and therefore avers that the Plaintiff intends to introduce evidence concerning the Plaintiff's impressions of manner of operation of Defendant's vehicle in an attempt to stir the emotions of the jury and create unfair prejudice in favor of the Plaintiff.

4. Wherefore in light of the stipulated issue of negligence, any and all facts concerning the happening of the accident are irrelevant to the disposition of the pending lawsuit and could, in fact, be severely prejudicial to Defendant.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the facts preceding the accident as well as the happening of the accident.

IV.

**MOTION IN LIMINE TO KEEP FROM THE JURY ALL FACTS CONCERNING
THE DEFENDANT'S PRE-ACCIDENT EYE EXAMINATION
AND DILATION OF DEFENDANT'S EYES**

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the pre-accident activities of Defendant, including the dilation of her eyes during the course of a normal eye examination and states respectfully:

1. Defendant, Mary Farrell through counsel, stipulates to the issue of negligence and therefore factual causation of her negligent conduct to the happening of the accident is not at issue.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce evidence that prior to the accident, Defendant's eyes were dilated during a normal eye examination, and that the Defendant's eyes remained dilated while she was driving at or near the time of the accident.

3. Throughout the course of discovery, no evidence has been established that Defendant was operating a vehicle at the time of the accident against order from her eye doctor.

4. Defendant has already testified in this case that her eye doctor did not advise her not to drive at the time of the accident, due to the recent treatment of her eyes.

5. Due to the fact that the negligence of Defendant is not at issue, the facts concerning the pre-accident eye examination and treatment is not relevant to the jury's disposition of the pending lawsuit.

6. Defendant believes that the facts concerning the Defendant's eye examination, while not relevant, would severely prejudice the Defendant, as the jury may

incorrectly assume that the Defendant was acting outside of her doctor's instructions.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the Defendant's pre-accident eye examination and dilation of the eyes and the condition of Defendant's eyes at the time of the accident.

V.

MOTION IN LIMINE TO KEEP FROM THE
JURY ALL FACTS CONCERNING
THE RESIDENCE OF PLAINTIFF'S COUNSEL

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the residence of Plaintiff's counsel near the location of the subject accident.

1. Defendant believes that the Plaintiff's counsel may reside near the location of the accident that is the subject matter of the lawsuit.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce personal statements concerning the layout of the roadways near the location of

the accident, in the event that the Honorable Court denies Defendant's Motion in Limine to exclude evidence concerning the happening of the accident.

3. Defendant further believes and therefore avers that any statements by the Plaintiff's counsel concerning his possible familiarity with the location of the accident may be prejudicial to the Defendant and is highly irrelevant to the case.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the residence of Plaintiff's counsel at the time of the accident.

Respectfully submitted,




LAURA R. SIGNORELLI, ESQUIRE
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219
Telephone: 412-255-4145
Attorney for Defendant
Mary Farrell..

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendants Motions in Limine was mailed first class, postage prepaid, this 27th day of July, 2007:

DAVID J. HOPKINS, ESQUIRE
900 Beaver Drive
DuBois, Pennsylvania 15801



LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant

PAMELA M. OWENS,

Plaintiff,

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

vs.

CASE NO.: 03-192

MARY FARRELL,

Defendant.

ORDER

AND NOW, to-wit, this _____ day of _____, 2004, in consideration of the Defendant's Motion(s) In Limine it is hereby **ORDERED ADJUDGED AND DECREED** as follows:

(1) The Motion in limine concerning evidence of insurance, references to insurance is GRANTED. Evidence of insurance, reference to insurance and reference to Allstate Insurance Company are to be kept from the jury and that the Defendant shall be referred to as "Defendant" and that counsel for Allstate Insurance Company be referred to as counsel for the defense.

(2) The Motion in limine concerning evidence of Plaintiff's bankruptcy is GRANTED. Evidence of Plaintiff's filing for bankruptcy following the motor vehicle accident and any other information pertaining to this subject matter are to be kept from the jury.

(3) The Motion in limine concerning all facts surrounding the happening of the accident is GRANTED. Evidence of pre-accident events, events leading up to the collision and the actual happening of the collision itself shall not be introduced at trial.

(4) The Motion in limine concerning Defendant's eye treatment on the date of the accident or eye treatment in general is GRANTED. Plaintiff is precluded from introducing evidence pertaining to this subject matter.

(5) The Motion in limine concerning the residence of Plaintiff's counsel is GRANTED.

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

PROPOSED VERDICT SHEET

MARY FARRELL,

FILED ON BEHALF OF DEFENDANT:

Defendant.

Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. PASQUINELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

**DEFENDANT'S PROPOSED VERDICT
SHEET**

MARY FARRELL,

Defendant.

To further clarify these instructions, the Court will now distribute to each of you a verdict form containing specific questions. At the conclusion of your deliberations, one copy of this form should be signed by your foreman and handed to the court clerk; this will constitute your verdict. The verdict form reads as follows:

Question 1:

Was the Defendant's negligence a factual cause in bringing about the Plaintiff's harm?

Yes _____ No _____

If you answer Question 1 "No" the Plaintiff cannot recover and you should not answer any further questions and should return to the courtroom.

Question 2:

State the amount of damages, if any sustained by the Plaintiff as a result of the accident.
\$ _____

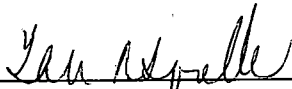
Foreperson

CERTIFICATE OF SERVICE

I hereby certify that on this 27TH day of July, 2007 I mailed a copy of Defendant's Proposed points for Charge to the following individual via First class Mail to the following:

David J. Hopkins
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, Pennsylvania 15801

BY:



Laura R. Signorelli, Esquire
Attorney for Defendant
Mary Farrell

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

PROPOSED VOIR DIRE

MARY FARRELL,

FILED ON BEHALF OF DEFENDANT:

Mary Farrell

Defendant..

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. Signorelli, Esquire
PA No. 69694

LAW OFFICE OF STEPHEN P. AHERN
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

PAMELA M. OWENS,
Plaintiff,

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

vs.

CASE NO.: 03-192

MARY FARRELL,
Defendant.

PROPOSED VOIR DIRE

And Now comes the Defendant, Mary Farrell, by and through her counsel, Laura R. Signorelli, Esquire and hereby respectfully submits the following Proposed voir dire and respectfully states:

1. Pa. Rule of Civil Procedure standard voir dire questions.
2. Do you have any case of your own, or in which you are an interested party, pending during this time?
 - a. If so, please describe the case.

3. Have you or a close family member ever suffered from an injury to your neck or back or has anyone in your family suffered neck or back injuries? If so, who and what type of problem?

a. Are you still treating for these problems?

4 Have you or a family member or close personal friend been involved in motor vehicle accident? If so, were there any injuries?

Respectfully submitted,

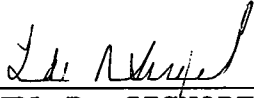


LAURA R. SIGNORELLI, ESQUIRE
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219
Telephone: 412-255-4145
Attorney for Defendant
Mary Farrell

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendant's Proposed Voir Dire was mailed first class, postage prepaid, this 27th day of July, 2007:

DAVID J. HOPKINS, ESQUIRE
900 Beaver Drive
DuBois, Pennsylvania 15801



LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

PROPOSED POINTS FOR CHARGE

MARY FARRELL,

FILED ON BEHALF OF DEFENDANT:

Defendant.

Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. PASQUINELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

Defendant.

DEFENDANT(S) POINTS FOR CHARGE

And now, the Defendant, Mary Farrell, by and through her counsel, Laura R. Signorelli, Esquire, respectfully request the Court to charge the jury as follows:

3.00 (Civ) ISSUES IN THE CASE

Personal Injury Claim(Contributory Negligence)

The Plaintiffs claim that he(she) was injured and sustained damage as a result of the negligent conduct of the Defendant. The Plaintiff has the burden of proving his(her) claim.

The Defendant denies the Plaintiff's claims ~~(and asserts as an affirmative defense that the Plaintiff himself was negligent and that such negligence was a substantial factor in bringing about Plaintiff's injuries. The Defendant has the burden of proving this affirmative defense.)~~

Based upon the evidence presented at this trial, the only issue(s) for you to decide in accordance with the law as I shall give it to you, is (are):

First: ~~Was the Defendant negligent?~~

Second: Was the Defendant's conduct a ~~substantial factor~~ [factual cause] in bringing about harm to the Plaintiff(s)?

~~(Third: Was the Plaintiff himself negligent and was such negligence a substantial factor in bringing about Plaintiff's injury?)~~

Accept_____ Reject_____ Modify_____

(1)

3.25 FACTUAL CAUSE

The plaintiff must prove to you that the defendant's conduct caused the plaintiff's damages. This is referred to as "factual cause." The question is: "Was the defendant's negligent conduct a factual cause in bringing about the plaintiff's damages?"

Conduct is a factual cause of harm when the harm would not have occurred absent the conduct. An act is a factual cause of an outcome if, in the absence of the act, the outcome would not have occurred.

~~(Use the following where the action is against more than one defendant) (A defendant's negligent conduct need only be a factual cause of the plaintiff's harm. It does not need to be the only cause. The existence of other causes of the harm does not relieve the defendant from liability as long as the defendant's negligent conduct was a factual cause of the injury. If you find that one of the alleged acts of a defendant was negligent and a factual cause of the harm, this is sufficient to subject that defendant to liability.)~~

~~(Use the following if you have not already used Instruction 3.00 (Issues in the Case and Factual Cause) or if you wish to reiterate the definition of "factual Cause" to the jurors.)~~ (In order for conduct of the party to be a factual cause, the conduct must not be fanciful or imaginary, but must have played a real role in causing the injury. Therefore, in determining factual cause, you must decide whether the negligent conduct of the defendant was more than an insignificant factor in bringing about any harm to the plaintiff. Under Pennsylvania law, conduct can be found to be a contributing factor if the action or omissions alleged to have caused the harm was an actual, real factor, not a negligible, imaginary, or fanciful factor, or a factor having no connection or only an insignificant connection with the injury. However, factual cause does not mean it is the only, primary, or even the most important factor in causing the injury. A cause may be found to be a factual cause as long as it contributes to the injury in a way that is not minimal or insignificant.

To be a contributing factor, the defendant's conduct need not be the only factor. The fact that some other cause concurs with the negligence of the defendant in producing an injury does not relieve the defendant from liability as long as his/her own negligence is a factual cause of the injury.

The negligence of a defendant may be found to be a factual cause of a plaintiff's harm even though it was relatively minor as compared to the negligence of (the other defendant or) the plaintiff. In effect, the test for factual causation has been met when the conduct in question has such an effect in producing the harm as to lead reasonable persons to regard it as one of the inconsequential considering all the circumstances.)

~~(Use the following summary definition of "Factual cause" if you have used Instruction 3.00 and do not want to reiterate the entire definition again.)~~ (Remember, a factual cause is an actual, real factor, although the result may be unusual or unexpected. A factual cause cannot be an imaginary or fanciful factor having no connection or only a significant connection with the injury. Although a factual cause can not be minimal or insignificant with regard to the injury, it can be relatively minor in relation to other factors and need not be quantified as being either considerable or large.)

Accept _____ Reject _____ Modify _____

(2)

5.50 (Civ) PLAINTIFF(S) BURDEN TO PROVE BY A PREPONDERANCE OF THE EVIDENCE

In civil cases such as this one, the Plaintiff(s) have/has the burden of proving those contentions which entitle them to relief.

When a party has the burden of proof on a particular issue, his/her contention on that issue must be established by a fair preponderance of the evidence. The evidence establishes a contention by a fair preponderance of the evidence if you are persuaded that it is more probably accurate or true than not.

To put it another way, think if you will, of an ordinary balance scale with a pan on each side. Onto one side of the scale, place all of the evidence favorable to the Plaintiff(s). On the other pan, place all of the evidence favorable to the Defendant(s). If, after considering the comparable weight of the evidence, you feel that the scales tip, ever so slightly or to the slightest degree in favor of the Plaintiff(s), your verdict must be for the Plaintiff(s). If, however, the scales tip in favor of the Defendant(s), or are equally balanced, your verdict must be for the Defendant(s).

Accept_____ Reject_____ Modify_____

(3)

JUDGE'S CHARGE ON DAMAGES IS NOT AN INDICATION THAT DAMAGES SHOULD BE AWARDED

The fact that I charge you on the measure of damages does not indicate nor should it be considered by you as an indication that I think damages should be awarded. I am giving you these instructions on damages because I am required to charge you on all phases of the case which you might have to consider.

Accept_____ Reject_____ Modify_____

(4)

PLAINTIFF('S') DAMAGES MUST BE PROVEN

The law is clear that no damages will be presumed but rather, they must be proved by legally sufficient evidence and must be shown to have arisen out of the alleged negligence. Mackwell v. Schaeffer, 381 Pa. 113, 112 A.2d 69 (1975).

The burden is on the Plaintiff(s) to prove by legally sufficient evidence that all injuries for which he/she/they claims damages are properly attributable in the medical sense to the Defendant('s') negligence and not due to some independent cause. Mundano v. P.T.C., 289 Pa. 451, 137 A. 104 (1927); Pavorsky v. Engenls, 410 Pa. 100, 188 A.2d 731 (1963); Bcvd v. Hertz Corporation, 219 Pa. Super. 488, 281 A.2d 679 (1971); McHugh v. Audet, 72 F. Supp. 384 (M.D. Pa. 1947).

Accept_____ Reject_____ Modify_____

(5)

LIABILITY FOR PRIOR INJURIES

If you find that any of the injuries or conditions which Plaintiff(s) are/is claiming in this case were already present in a previous condition, then Plaintiff(s) may not recover from the Defendant(s) for injuries or conditions caused by the previous condition. The Defendant(s) may only be held responsible for the damage any negligence by him/her/they has actually caused.

Accept _____ Reject _____ Modify _____

(6)

EVIDENCE

The number of witnesses offered by one side or the other does not, in itself, determine the weight of the evidence. It is a factor, but only one of many factors which you should consider. Whether the witnesses appear to be biased or unbiased and whether they are interested or disinterested persons, are among the important factors which go to the reliability of their testimony. The important thing is the quality of the testimony of each witness. In short, the test is not which side brings the greater number of witnesses or presents the greater quantity of evidence but which witness or witnesses, and which evidence, you consider most worthy of belief. Even the testimony of one witness might outweigh that of many, if you have reasons to believe his testimony in preference to theirs. Pressler v. Pittsburgh, 419 Pa. 440, 214 A.2d 616 (1965).

Accept _____ Reject _____ Modify _____

(7)

JURY NOT REQUIRED TO BELIEVE PLAINTIFF

A jury is not required to believe the Plaintiff(s) and his/her/their witnesses even when their testimony is uncontradicted. Bronchak v. Redman, 263 Pa. Super. 136, 397 A.2d 438 (1979).

Accept_____ Reject_____ Modify_____

(8)

JURY'S FUNCTION IN CONSIDERING WITNESSES' INTEREST IN THE CASE

It is the jury's function to pass on the credibility of witnesses and in that regard, you can take into account any interest in the outcome of the case which any witness has. In that connection, you may consider that the Plaintiff(s) has/have a monetary interest in the outcome of this case and you should take that into account when judging on the credibility of his/her/their testimony. A jury may reject in total, the opinion of any witness that it disbelieves whether such opinion is contradicted or not. Rey v. City of Philadelphia, 344 Pa. 439, 25 A.2d 145 (1942).

Accept _____ Reject _____ Modify _____

(9)

JURY'S RIGHT TO DISREGARD TESTIMONY

If you find that any witness, including the Plaintiff('s') willfully gave false testimony in a material part of his or her testimony, then you may disregard the rest of that testimony. Western Show Company v. Mix, 315 Pa. 139, 173 A. 183 (1934).

Accept _____ Reject _____ Modify _____

(10)

EXPERT WITNESSES

You have heard the testimony of the doctor who testified as an expert witness for the Plaintiff(s). In determining the weight given to this doctor's opinion, you should consider his/her/their qualifications and reliability, as well as the reasons given for his/her opinions. You are not bound by Plaintiff expert's opinions merely because (s)he is an expert; you may accept or reject it, as in the case of all other witnesses. Karcesky v. Laria, 382 Pa. 227, 114 A.2d 150 (1955).

Accept_____ Reject_____ Modify_____

(11)

JURY'S RIGHT TO REJECT EXPERT TESTIMONY

Furthermore, you are free to reject the medical opinion of the Plaintiff('s') medical expert, just as you are free to reject any other part of the testimony of Plaintiff('s') witnesses. Calabria v. Brentwood Motor Coach Company, 412 Pa. 46, 194 A.2d 918 (1963).

Accept _____ Reject _____ Modify _____

(12)

JURY'S RIGHT TO REJECT PAIN & SUFFERING CLAIM

A jury does not have to believe that every injury causes pain or the pain alleged. A jury does not have to award damages for pain and suffering if it reasonably believes that (1) the plaintiff did not suffer any pain and suffering, or (2) that a preexisting condition or injury was the sole cause of the alleged pain and suffering. Davis v. Muller, 565 Pa. 386, 773 A.2d 764

Whether the plaintiff suffered from compensable pain is an essential determination within a jury's purview. The existence of compensable pain is an issue of credibility and a jury must believe that the plaintiff suffered pain before it can compensate for that pain. Just as a jury does not have to believe that the defendant caused the plaintiff's injuries, a jury does not have to believe that the plaintiff's injuries caused pain or the pain alleged. A jury does not have to award damages if it reasonably believes that (1) the plaintiff did not suffer any pain and suffering; or (2) that a pre-existing condition or injury was the sole cause of the alleged pain and suffering. Davis v. Mullen, 565 Pa. 386, 773 A.2d 764

Accept_____ Reject_____ Modify_____

(13)

MEDICAL EXPENSES NOT AN ELEMENT OF DAMAGES

Medical expenses incurred by the Plaintiff(s) as a result of this accident are not to be considered by you as an element of damages. Medical expenses are not recoverable in this action, nor are they to be considered as a measure of Plaintiff(s') pain and suffering. Martin v. Soblotney, ___ Pa. ___, 466 A.2d 1022 (1983).

Accept_____ Reject_____ Modify_____

(14)

PLAINTIFF'S BURDEN OF PROVING LOSS OF EARNINGS

A jury may not speculate as to loss of earnings, earning power, wages or medical expenses when the evidence does not disclose the value of services. Zimmerman v. Weinroth, 272 Pa. 537, 116 A. 510 (1922).

Accept_____ Reject_____ Modify_____

(15)

TESTIMONY OF WITNESSES AS EVIDENCE

In your deliberations, you should take into consideration, as evidence, only the testimony of the witnesses who have appeared in this courtroom and the exhibits which have been admitted into evidence. You should not take into consideration anything which you have heard or seen outside the courtroom. You should not be influenced in any manner by anything you have heard or seen about the injured persons or other cases involving motor vehicle accidents. Such matters have nothing to do with this case and should have no part in your deliberations.

Accept _____ Reject _____ Modify _____

(16)

2.10 (Civ) ADMISSIONS OF FACT

(Pleadings, Answers to Interrogatories or Requests for Admissions, Depositions, Statements)

The admission(s) of fact(s) made by the agent of the Defendant(s)/Plaintiff(s) in the answer to the Complaint (or other pleading(s), document(s), statement(s), testimony(ies)) has/have been offered by the Plaintiff(s)/Defendant(s) and received in evidence. The Defendant(s)/Plaintiff(s) are/is bound by this/these admission(s).

Accept _____ Reject _____ Modify _____

(17)

**2.20 (Civ) IMPEACHMENT (CORROBORATION) OF WITNESS BY PRIOR
INCONSISTENT (CONSISTENT) STATEMENT**

The evidence which you have heard that the witness(es) made an earlier statement inconsistent(consistent) with his/her/their testimony at this trial has been admitted solely to aid you in evaluating the credibility of that/those witness(es). Such evidence may be considered by you only to assist you in deciding the believability of that witness(es) and the weight, if any, that his/her/their testimony(ies) is fairly entitled to receive. It cannot be considered as evidence of the truth of the contents of the statement bearing upon the facts in issue.

Accept_____ Reject_____ Modify_____

(18)

**2.21 (Civ) IMPEACHMENT (CORROBORATION) OF PARTY BY PRIOR
INCONSISTENT (CONSISTENT) STATEMENT**

The evidence that the Plaintiff(s)/Defendant(s) made an earlier statement inconsistent(consistent) with his/her testimony at this trial may be considered by you not only in your evaluation of that party's credibility but also as evidence of the truth of the contents of the statement bearing upon the facts in issue.

Accept _____ Reject _____ Modify _____

Respectfully submitted,



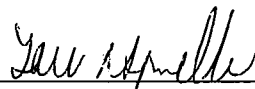
Laura R. Signorelli, Esquire
Attorney for Defendant
Mary Farrell

CERTIFICATE OF SERVICE

I hereby certify that on this 27TH day of July, 2007 I mailed a copy of Defendant's Proposed points for Charge to the following individual via First class Mail to the following:

David J. Hopkins
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, Pennsylvania 15801

BY:

A handwritten signature in cursive script, appearing to read "Laura R. Signorelli", is written over a horizontal line.

Laura R. Signorelli, Esquire
Attorney for Defendant
Mary Farrell

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

No. 03-192 CD

Type of Pleading: Pre-Trial Memorandum

Filed on behalf of: Pamela M. Owens,
Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

100 Meadow Lane, Suite 5
DuBois, Pennsylvania 15801

(814) 375-0300

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

PAMELA M. OWENS,	:	
Plaintiff	:	
	:	
vs.	:	No. 03-192 CD
	:	
MARY FARRELL,	:	
Defendant	:	

PRE-TRIAL MEMORANDUM

AND NOW, comes Plaintiff, Pamela M. Owens, by and through her attorneys,
Hopkins Heltzel LLP, and files the within Pre-Trial Memorandum as follows:

I. STATEMENT OF THE FACTS

This is a motor vehicle collision case. On August 13, 2002, Plaintiff was traveling south on Route 255 at 11:00 a.m. As she approached Route 255 intersection with the Treasure Lake Subdivision entrance/exit, she was traveling the posted speed of 45 mph. Defendant was traveling in the opposite direction along Route 255. She failed to yield and made a left hand turn into the Treasure Lake Subdivision entrance and directly into the path of Ms. Owens. A violent collision occurred. Defendant reported to the police that she was returning from her eye doctor who had just dilated her eyes and she did not see the Owens vehicle.

Ms. Owens was taken by ambulance to the DuBois Regional Medical Center complaining of back, chest, neck pain and headaches. She was unable to take deep breaths. Ms. Owens also suffered right and left knee pain. Ms. Owens bent the brake pedal and steering wheel in the motor vehicle collision.

The emergency room x-rayed Ms. Owens' chest and performed a CAT scan of her spine completed. Both appeared to be negative. However, a subsequent MRI showed compression fractures at C-7 through T-4.

Ms. Owens was discharged from the emergency room on August 13, 2002 to the care of Dr. Gerhart who she saw on August 16, 2002. She complained of significant pain. Dr. Gerhart changed her hard collar to a soft collar, ordered a right elbow x-ray and physical therapy.

Ms. Owens attended physical therapy at DuBois Regional Medical Center three (3) times per week and saw Dr. Gerhart every two (2) weeks thereafter. Ms. Owens continued to complaint of significant pain and the inability to sleep. Dr. Gerhart ordered an MRI that was performed on August 8, 2003. The MRI showed compression fractures of C-7 through T-4 related to traumatic changes.

Ms. Owens saw Dr. Gerhart on the following dates: August 16, 2002, August 30, 2002, September 13, 2002, September 30, 2002, November 5, 2002, February 18, 2003, April 2, 2003, May 2, 2003, May 5, 2003, July 9, 2003, August 1, 2003, October 8, 2003 and January 7, 2004.

Ms. Owens attended physical therapy on the following dates:

Aug. 20, 2002	Aug. 22, 2002	Aug. 27, 2002	Aug. 30, 2002	Sept. 4, 2002
Sept. 6, 2002	Sept. 10, 2002	Sept. 11, 2002	Sept. 13, 2002	Sept. 17, 2002
Sept. 18, 2002	Sept. 20, 2002	Sept. 24, 2002	Sept. 26, 2002	

She appeared to be recovering after her extensive physical therapy. She was discharged to return to work by Dr. Gerhart. However, when she returned to work as an auto detailer, the physical activity of her job caused her pain to return. She again saw Dr.

Gerhart who prescribed additional physical therapy. Ms. Owens reported to physical therapy on:

Feb. 24, 2003	March 3, 2003	March 5, 2003	March 6, 2003	March 13, 2003
March 16, 2003	March 17, 2003	March 19, 2003	March 20, 2003	March 24, 2003
March 26, 2003	March 27, 2003			

At the end of her second session of physical therapy, Ms. Owens continued to report her pain as a five (5) on the scale of ten (10). The physical therapy discharge summary states:

On June 16, 2003, Ms. Owens began to treat with Chiropractor, Philip Hampton. She saw Dr. Hampton twenty five (25) times on the following dates:

June 16, 2003	June 18, 2003	June 23, 2003	June 27, 2003	June 30, 2003
July 2, 2003	July 7, 2003	July 14, 2003	July 18, 2003	July 23, 2003
Aug. 4, 2003	Aug. 11, 2003	Aug. 18, 2003	Aug. 29, 2003	Sept. 5, 2003
Sept. 8, 2003	Sept. 17, 2003	Sept. 24, 2003	Oct. 8, 2003	Oct. 15, 2003
Oct. 22, 2003	Oct. 29, 2003	Nov. 12, 2003	Dec. 24, 2004	Feb. 11, 2004

At this time, Ms. Owens has been told by both Dr. Hampton and Dr. Gerhart that her recovery has ended and her physical condition is as good as it is going to get. This is distressing inasmuch as Ms. Owens continues to suffer pain daily from her injuries. Ms. Owens works a physically demanding job as an automobile detailer that exacerbates her injuries.

II. LIST OF WITNESSES

Mary B. Farrell – Liability and Damages
1426 Treasure Lake
DuBois, PA 15801

Pamela M. Owens – Liability and Damages
145 Cleveland Street
Sykesville, PA 15865

Fred Volosky – Liability and Damages
Sandy Township Police Department
DuBois, PA 15801

Nicholas Farrell – Liability and Damages
1426 Treasure Lake
DuBois, PA 15801

Ryan Farrell – Liability and Damages
1426 Treasure Lake
DuBois, PA 15801

Beth Exler - Liability
Pittsburgh, Pennsylvania

Philip H. Hampton D.C. - Damages
101 Union Street
Punxsutawney, PA 15767

Guy H. Gerhart, M.D. - Damages
635A Maple Avenue
DuBois, PA 15801

Alexander A. Krot, D.O. - Damages
145 Hospital Avenue
DuBois, PA 15801

Clark Hustead – Damages
DuBois Regional Medical Center Physical Therapy
145 Hospital Avenue
DuBois, PA 15801

Julie Miller - Damages
Physical Therapist
DuBois Regional Medical Center
145 Hospital Avenue
DuBois, PA 15801

Mark Schuffert - Liability
894 Treasure Lake
DuBois, PA 15801

Medical Records Custodian - Damages
DuBois Regional Medical Center
P.O. Box 447
145 Hospital Avenue
DuBois, PA 15801

Medical Records Custodian - Damages
Guy H. Gerhart, M.D.
635A Maple Avenue
DuBois, PA 15801

Medical Records Custodian - Damages
Philip H. Hampton, D.C.
101 Union Street
Punxsutawney, PA 15767

Payroll Clerk – Damages
Murray Honda, Inc.
Route 119
DuBois, PA 15801

John Stine – Damages
Route 219 & Route 119
DuBois, PA 15801

Stephen Greaca, M.D. – Damages
145 Hospital Avenue
DuBois, PA 15801

Donald Armolovich – Damages
Route 219 & Route 119
DuBois, PA 15801

Patricia Christian – Damages
P.O. Box 382
Ridgway, PA 15853

Plaintiff reserves the right to amend this list of witnesses at any time prior to trial upon notice to Defendant. Further, Plaintiff reserves the right to call any witnesses identified in Defendant's Pre-Trial Memorandum.

III. LIST OF EXHIBITS

- a. Photographs of motor vehicles;
- b. Statement of Mary Farrell;
- c. Statement of Pamela M. Owens;
- d. Police Report;
- e. Photographs;
- f. Office notes of Philip H. Hampton, D.C.;
- g. Medical Records of DuBois Regional Medical Center;
- h. Physical Therapy Records of DuBois Regional Medical Center;
- i. Report of Guy H. Gerhart, M.D.; (See attached) and
- j. Medical Records of Alexander Krot;

Plaintiff reserves the right to amend this list of exhibits at any time prior to trial upon notice to Defendant. Further, Plaintiff reserves the right to utilize any exhibit identified in Defendant's Pre-Trial Statement.

V. LEGAL QUESTIONS

None

VI. DEMANDS AND SETTLEMENT OFFERS

Plaintiff has offered to settle case for \$100,000.00. Defendant has made no settlement offers.

VII. DAMAGES

See Statement of Facts.

VIII. OUT OF POCKET EXPENSES

Lost wages	\$ 571.00
1 pair Levi jeans	29.99
Mileage 1026 @ .36	<u>370.08</u>
	\$ 971.07

IX. EXTRAORDINARY EVIDENTIARY PROBLEMS

None

X. STIPULATIONS

Plaintiff requests Stipulation admitting medical, chiropractic and physical therapy records of Plaintiff.

XI. EXPERT TESTIMONY

Guy H. Gerhart, M.D. – See attached report.

XII. POINTS OF CHARGE

Standard negligence and damage.

XIII. ESTIMATED TIME OF TRIAL

Two (2) days


David J. Hopkins
Attorney for Plaintiff

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

PAMELA M. OWENS,

Plaintiff

vs.

MARY FARRELL,

Defendant

:
:
:
:
:
:
:

No. 03-192 CD

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Pre-trial Memorandum filed on behalf of the Plaintiff, was forwarded on the 20th day of August, 2007, by U.S. Mail and by facsimile to all counsel of record, addressed as follows:

Laura R. Signorelli, Esquire
Law Office of Marianne C. Mnich
Two Mellon Bank Center
501 Grant Street, Suite 405
Pittsburgh, PA 15219-4403


David J. Hopkins, Esquire
Attorney for Plaintiff

Guy H. Gerhart, M.D.

DUBOIS REGIONAL MEDICAL CENTER

EAST DIVISION

DUBOIS, PA 15801

814-371-1480

July 6, 2004

Hopkins Heltzel LLp
900 Beaver Drive
Du Bois, PA 15801

RE: Pamela Owens

Dear Attorney Hopkins:

Pamela Owens was involved in a auto collision on 8-13-02. She was wearing her seatbelt. She was working at Murray Ford Garage in her job detailing cars. She was discharged from the Emergency room the same day and given Tylenol with codeine #3, one or two tablets every 4-6 hours for pain written by the emergency room physician, Dr. McKinley. The initial sheet on the emergency room stated she was in a motor vehicle accident. She was the driver and complained of chest, back, upper and mid-lower pain and she also had some contusions of these areas. She stated her severity of pain was mild. Review of systems revealed chest pain, nausea. Her neurologic exam was normal and she had no loss of consciousness. Tests performed at that time were chest x-ray, which was normal, a cervical spine x-ray which was normal, thoracic spine x-ray, also normal. CT scan of the cervical and thoracic spine was obtained, C1-T10 and that showed a normal study. And EKG was also done and was normal. No evidence of myocardial contusion. Right elbow films were done with complaint of right elbow pain on 8-16-02 being seen in my office and was normal.

First office visit by myself was on 8-16-02 where she complained of neck pain and the elbow pain. Her whiplash injury of the neck was sever and I suggested a Duragesic patch which she did not take. I suggested that she be off work for two weeks and begin physical therapy for neck spasm three times weekly. I also ordered an x-ray of the right elbow and a soft cervical collar.

She began physical therapy on 8-20-02 reporting that she continued to have headaches and difficulty moving her neck. She also complains of intermittent numbness and tingling in the last two fingers of both hands. She gets shooting pains thru her arms and her chest gives her alot of discomfort as well as between her shoulder blades. She has some bruising from the seatbelt. Hot showers at home help that. Patient is still on Tylenol with codeine. She had some decreased range of motion of the cervical spine. Cervical compression symptoms produced pain. Distraction negative. Sensor modalities were intact. The patient had muscle spasms thruout the right upper

PLAINTIFFS
EXHIBIT

trapezius, increased tone thruout the cervical spine musculature. Ultrasound was performed followed by stretching and home exercise program. The patient was seen 2-3 times a week up to 4 weeks.

On 8-30-02 the physical therapy report shows range of motion and strength improved. She still had tightness of the upper trapezius muscle, trigger points, left and interscapular region. However, decrease in spasm was found. The patient continued off work for another two weeks with physical therapy.

The patient was discharged on 9-26-02 from physical therapy with a home exercise program and they stated that she was ready to return to work.

The next visit to my office was 8-30-02 in which her shoulder and chest muscles still hurt. She had pain in her trapezius muscle, mainly on the right. She also stated that she had nausea. She reported that range of motion was better and she had decreased spasm. She still complained of some soreness in the muscles, especially in the trapezius, rhomboid and neck. The chest contusion was still a problem. She was not allowed to work, so we had her off two more weeks.

Patient was seen again on 9-13-02. CT of the cervical and thoracic spine were normal. She still had the musculoskeletal tenderness and decreased range of motion of the neck.

She was then seen on 9-30-02, still having post-whiplash injury. Her neck was better with residual soreness. Home exercise for PT. She was returned to work at this time due to improvement in her condition.

Her next visit, 11-15-02, her insurance company required a written document of her injuries. The neck, trapezius and interscapular muscles were better. She successfully quit smoking with the help of Zyban. She was using moist heat and home exercise program. She was using Tylenol for pain at present.

She then returned on 2-18-03, using Tylenol with codeine at the present time and moist heat, status-post motor vehicle accident. physical therapy was ordered again for the trapezius area with tenderness.

On 2-24-03 she was evaluated again by physical therapy. Modalities of cervical and thoracic spine and traction which she tolerated well. The patient was exhibiting more myofascial restriction of the cervical spine and the idea was to improve cervical strength. Modalities were myofascial relief, therapeutic exercise, home exercise program, mechanical traction, range of motion. The patient reports that the myofascial release has helped. She would benefit from further strengthening scapular. PT was to be continued for another 2 weeks.

The patient, while continuing physical therapy, returned to my office with complaint of persistent pain in the neck and interscapular region with left arm pains and ulnar nerve tingling in her fingers, considering neuropathy. MRI of the cervical, thoracic spine was ordered on 4-17-03 and we also ordered EMG with nerve conduction studies of the upper extremities. She stated at that point that physical therapy was of no help. She still had tender cervical and thoracic spine. She was asked to return to the office in 6 weeks. Discharge date from physical therapy was 4-14-03.

The MRI was performed on 4-8-03 demonstrated minimal old compression fractures of C7, T1, T2, T3 and T4. No evidence of spinal stenosis or disc herniation. The patient requested a copy of the MRI.

The patient was seen on 11-8-03 with cervical pain. She was on Flexeril 10mg qid, Aleve bid. She complained of some tenderness of the left rib region. She still had neck stiffness and trapezius symptoms. Musculoskeletal neck, rib and trapezius tenderness remained post auto accident. She was asked to return in 3 months.

11-12-03, she saw Dr. Alexander Krot for complaints of pain in the cervical and thoracic region. The pain is midline, radiating around the area of C5, C7 and T1 T2 areas. Upper extremities, there is some pain with use and range of motion. CT Scan showed no obvious fracture. Recent MRI was also performed and showed what's called end plate degenerative changes of the upper thoracic, and some questionable interpretation of a possible compression fracture. Upper extremity strength appeared adequate. Range of motion of the shoulders appeared to be satisfactory. Reflexes were intact. Muscle strength testing and sensation intact. There was pain from about C7-T2, not spreading to any other areas. Grip strength appeared to be good. He felt the patient was currently employable as a car detailer. He did recommend that she continue work and suggested a trial of Lidocaine 400mg bid and was given some mild stretching exercises.

EMG and nerve conduction was obtained from Dr. Meyers at Summit Rehab. with her complaint of tingling and numbness of the digits of her hands. His study is reported as normal. No evidence of radiculopathy, flexopathy, neuropathy or myopathy of either upper extremity.

On 2-16-04 the patient stated that the Flexeril caused drowsiness and was substituted Skelaxin 800mg tid.

On 7-19-03, she complained of neck and back being painful. Neck and shoulder pain. She stated that the chiropractor helped her. Musculoskeletal spasm of the right trapezius, cervical tenderness with compression fracture most likely secondary to automobile accident, not showing on the original CT scan. She still complains of neck pain.

On 3-9-04 she still complained of pain to mid-upper back and arms. Thoracic spine tenderness was noted. A trial of Ultram was given

at 1-2 qid which is a muscle relaxant/pain reliever. We asked for a repeat MRI of the cervical and thoracic spine.

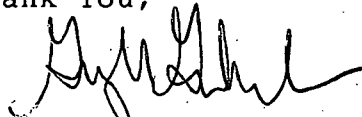
MRI was performed and showed the previous compression changes of the cervical C7-T4 as well as minimal disc disease at the T3 level. The patient then just wanted an appointment to talk on 6-22-04 for changes and addendum to a previously dictated letter.

With a good degree of medical certainty, this patient has a whiplash injury from an auto accident. Previous films are not showing any changes, subsequently some end-plate disease, minimal compressions from C7-T4. She continues to complain of some pain and discomfort in these areas. Her most recent medication was Soma 350mg tid prn.

The patient will continue to experience myofascial tenderness with the muscles attached to the cervical and thoracic spine and also the trapezius muscle to some degree. Although her prognosis is somewhat guarded, it's felt that with a whiplash injury of this type, she certainly most likely will develop cervical arthritis which will continue to give her some discomfort and require some form of treatment, including muscle relaxants, pain meds and therapy.

If you have any further questions, please advise.

Thank You,



Guy H. Gerhart, M.D.
GHG/dms

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

Plaintiff,

vs.

MARY FARRELL,

Defendant.

CIVIL DIVISION

CASE NO. 03-192

PRE-TRIAL STATEMENT

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. SIGNORELLI, ESQUIRE
PA No. 69694

LAW OFFICES OF STEPHEN P. AHERN
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4145

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JUL 30 2007

Court Administrator's
Office

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

Defendant.

PRE-TRIAL STATEMENT

AND NOW, comes the Defendant, Mary Farrell, by and through the undersigned counsel, Laura R. Signorelli, Esquire, and Pursuant to Clearfield County Rule 212 states as follows:

I. NARRATIVE STATEMENT OF CASE

The case pertains to a motor vehicle accident which occurred on August 13, 2002 at Route 255 in Dubois PA near the entranceway to the Treasure Lake Subdivision. Defendant, Mary Farrell, who was traveling northbound on 255, slowly pulled her vehicle into the left-turning lane to make a left-hand turn into the plan. As Defendant proceeded to make the left-hand turn, she was impacted by the oncoming vehicle operated by Plaintiff Pamela Owens.

Plaintiff is claiming damages in the nature of personal injuries and past and future loss of earnings.

II. WITNESSES

Defendant, Mary Farrell, may call any or all of the following individuals as a witness at the time of trial:

A. Liability

1. All parties.
2. Investigating Officer Fred Volosky
Sandy Township Police Department

This Defendant reserves the right to call as liability witnesses any individual identified in the Pre-Trial Statement of other parties.

B. Damages

1. John F. Perry, M.D.
25 South Pine Street
Elverson, PA 19520

True and correct copies of any reports by Dr. Perry will be provided if available.

3. Patrolman Joel Ristvey (Badge 109)
Hermitage Police Department
4. Business records custodians, medical Providers and/or other providers necessary For the introduction of rebuttal and/or Impeachment evidence.
5. Business records custodians, employment Representatives necessary for the Introduction of impeachment and/or rebuttal Testimony.
6. Beth Exler, Brian Kuttesch, Ken Barry, and/or representative, Allstate Insurance Company, necessary for the introduction of estimates,

necessary for the introduction of estimates, photographs and/or scene photographs.

7. Business records custodians, Murrays Honda
Necessary for the introduction of employment
Records and/or other records.
8. Jan Roberts Group
600 North Bell Avenue, Building 1
Suite 115
Carnegie, PA 15106
9. Records custodian(s) necessary for the
introduction of employment records and/or
other documentation pertinent to claims of
wage loss including but not limited to
tax documentation.
10. Records custodian, State Farm insurance,
necessary for the introduction of documents
supporting plaintiff's claim of damages,
including but not limited to first party
benefits, and/or impeachment or rebuttal
evidence.

This Defendant reserves the right to call as damage witnesses any individual identified in the Pre-Trial Statement of other parties.

III. EXHIBITS

Defendant, Jennifer L. Rakoci, may offer any or all of the following Exhibits at the time of trial:

All pleadings and discovery documents for case number 2000-2291;

Property damage repair estimate and/or bills;

Photographs of vehicular damage;

Photographs of the scene of the occurrence;

Medical records and reports of all individuals listed as Damage Witnesses;

Any exhibits listed in the Pre-Trial Statements of all other parties.

IV. LEGAL QUESTIONS

There appear to be no unusual issues of law that would at this time require special argument or briefing by the parties.

V. SETTLEMENT STATUS

Not applicable. This is a new trial ordered following appeal by Plaintiff's counsel.

VI. DAMAGES

See statement of facts.

VII.**OUT-OF-POCKET EXPENSE**

Reference claim of out-of-pockets contained within Plaintiff's pretrial statement.

VIII. EXTRAORDINARY EVIDENTIARY ISSUES

None.

IX. STIPULATIONS

Negligence

Regarding Plaintiff's request for stipulations, Defendant responds accordingly:

Concerning the medical bills, Defendant will not stipulate to the reasonableness, necessity and/or causal relationship of the medical and other bills. However, should the Plaintiff provide the Defendant with an itemization of medical bills prior to trial, Defendant will be willing to communicate w/Plaintiff's counsel and reach a stipulation concerning the amount of the bills.

Further, Defendant stipulates to the authenticity of the records without the need for testimony by a business records custodian; however, by this

stipulation, Defendant does not waive her right to call business records custodians for any and all providers listed in any pretrial statement of any of the parties for purposes of introducing rebuttal and/or impeachment evidence.

X. EXPERT TESTIMONY

(possible) -Dr. Perry, stated above

XI. POINTS FOR CHARGE


Defendant submits points for charge under separate filing to the Prothonotary's office.

XII. ESTIMATED TIME FOR TRIAL

Two and one-half days.

XIII. RESERVATIONS

This Defendant reserves the right to modify or amend this Pre-Trial Statement at any time to and including the time of trial.

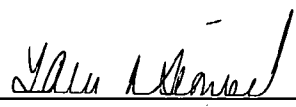


LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of
Defendant's Pretrial Statement upon all other parties or
their attorney of record by Regular U.S. Mail on this 27th
day of July, 2007:

DAVID J. HOPKINS, ESQUIRE
900 Beaver Drive
DuBois, Pennsylvania 15801



LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant
Mary Farrell

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

PAMELA M. OWENS

NO. 03-192-CD

V.

MARY FARRELL

ORDER

1. Jury Selection in this matter is scheduled for January 3, 2008, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Trial in this matter is scheduled for February 21, 22, 2008, beginning at 9:00 o'clock A.M., before Honorable John K. Reilly, Jr., Senior Judge, specially presiding, at the Multi-Service Center, 650 Leonard Street, Clearfield, Pennsylvania.
3. The deadline for submitting any and all Motions shall be by and no later than thirty (30) days prior to the commencement of trial.
5. Points for Charge shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
6. Proposed Verdict Slip shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
7. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,

PAUL E. CHERRY,
JUDGE

*Copy to Ronald
12-19-07*

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

PAMELA M. OWENS

: NO. 03-192-CD

V.

:
:
:
:
:

MARY FARRELL

ORDER

NOW, this 29th day of November, 2004, upon consideration of the Motion in

Limine filed on behalf of the Defendant, it is the ORDER of this Court as follows:

1. Motion in Limine to Keep From the Jury Evidence of Insurance, Reference to Insurance and Reference to Allstate Insurance Company be and is hereby GRANTED.
2. Motion in Limine to Keep From the Jury Evidence of Bankruptcy filing by Plaintiff be and is hereby GRANTED.
3. Motion in Limine to Keep From the Jury All Facts Concerning the Happening of the Accident be and is hereby DENIED.
4. Motion in Limine to Keep From the Jury All Facts Concerning the Defendant's Pre-Accident Eye Examination and Dilation of Defendant's Eyes be and is hereby DENIED.

Motion in Limine to Keep From the Jury all Facts Concerning the Residence of Plaintiff's Counsel has been previously ruled upon by Order of this Court dated November 24, 2004.

BY THE COURT,

PAUL E. CHERRY,
JUDGE

COPY

Transmission Report

Date/Time
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Local ID 2

11-30-2004
8147657649

04:22:02 p.m.

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JUDGE'S CHAMBERS
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA
CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

FREDRIC J. AMMERMAN
PRESIDENT JUDGE

PAUL E. CHERRY
JUDGE

JOHN K. REILLY, JR.
SENIOR JUDGE

TO: Paula Supirelli, Esq. FAX: 412-471-6708
FROM: Judge Cherry DATE: 11-30-04
RE: Quens v. Turrell PAGES: 2 (Including cover)
CC: _____

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

Comments: _____

Total Pages Scanned : 2

Total Pages Confirmed : 2

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	734	412 471 6708	04:20:53 p.m. 11-30-2004	00:00:37	2/2	1	EC	HS	CP14400

Abbreviations:

HS: Host send
HR: Host receive
WS: Waiting send

PL: Polled local
PR: Polled remote
MS: Mailbox save

MP: Mailbox print
CP: Completed
FA: Fail

TU: Terminated by user
TS: Terminated by system
RP: Report
G3: Group 3
EC: Error Correct

Transmission Report

Date/Time
Local ID 1
Local ID 2

11-30-2004
8147657649

04:26:13 p.m.

Transmit Header Text COURT ADMINISTRATOR
Local Name 1 fax
Local Name 2

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"



JUDGE'S CHAMBERS
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA
CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

FREDRIC J. AMMERMAN
PRESIDENT JUDGE

PAUL E. CHERRY
JUDGE

JOHN K. REILLY, JR.
SENIOR JUDGE

TO: David Hopkins FAX: 375-5035
FROM: Judge Cherry DATE: 11-30-04
RE: Quinn v. Farrell PAGES: 2 (Including cover)
CC: _____

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

Comments: _____

Total Pages Scanned : 2

Total Pages Confirmed : 2

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	732	(814)375-5035	04:19:42 p.m. 11-30-2004	00:00:50	2/2	1	G3	HS	CP14400

Abbreviations:

HS: Host send
HR: Host receive
WS: Waiting send

PL: Polled local
PR: Polled remote
MS: Mailbox save

MP: Mailbox print
CP: Completed
FA: Fail

TU: Terminated by user
TS: Terminated by system
RP: Report
G3: Group 3
EC: Error Correct

Transmission Report

Date/Time
Local ID 1
Local ID 2

11-30-2004
8147657649

04:27:03 p.m.

Transmit Header Text COURT ADMINISTRATOR
Local Name 1 fax
Local Name 2

This document : Confirmed
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Document size : 8.5"x11"



JUDGE'S CHAMBERS
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA
CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

FREDRIC J. AMMERMAN
PRESIDENT JUDGE

PAUL E. CHERRY
JUDGE

JOHN K. REILLY, JR.
SENIOR JUDGE

TO: David Hupkins FAX: 375-5025
FROM: Judge Cherry DATE: 11-30-04
RE: Quena v. Furrell PAGES: 2 (Including cover)
CC: _____

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

Comments: _____

Total Pages Scanned : 2

Total Pages Confirmed : 2

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	733	(814)375-5035	04:20:18 p.m. 11-30-2004	00:00:51	2/2	1	G3	HS	CP14400

Abbreviations:

HS: Host send
HR: Host receive
WS: Waiting send

PL: Polled local
PR: Polled remote
MS: Mailbox save

MP: Mailbox print
CP: Completed
FA: Fail

TU: Terminated by user
TS: Terminated by system
RP: Report
G3: Group 3
EC: Error Correct

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

PAMELA M. OWENS : NO. 03-192-CD
:
V. :
:
MARY FARRELL :

ORDER

1. Jury Selection in this matter is scheduled for August 28, 2007, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Trial in this matter is scheduled for November 2, 2007, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. The deadline for providing any and all outstanding discovery shall be by and no later than thirty (30) days prior to the commencement of trial.
4. The deadline for submitting any and all Motions shall be by and no later than fifteen (15) days prior to the commencement of trial.
5. Points for Charge shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
6. Proposed Verdict Slip shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
7. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,

PAUL E. CHERRY,
JUDGE

PRE-TRIAL DATE 8/24 10:00 DOCKET NO. 03-192-CD

CASE CAPTION

Pamela M. Owens

v.

Mary Farrell

ATTORNEY FOR PLAINTIFF

Dave Happen's

ATTORNEY FOR DEFENDANT

Laura Signorelli (Rcd.)

☒ Jury Selection in this matter is scheduled for Aug 28, beginning at 9:00 o'clock M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

☒ Trial in this matter is scheduled for Nov 2 FRI, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

☒ The deadline for providing any and all outstanding discovery shall be by and no later than 30 days prior to the commencement of trial.

 Counsel for the parties, if they so desire, may submit a Trial Brief to the Court no more than days prior to the commencement of trial.

☒ The deadline for submitting any and all Motions shall be by and no later than 15 days prior to the commencement of trial.

☒ Points for Charge shall be submitted to the Court by and no later than 15 days prior to the commencement of trial.

☒ Proposed Verdict Slip shall be submitted to the Court by and no later than 15 days prior to the commencement of trial.

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

 Additional notes on reverse.

PRE-TRIAL DATE 12-18-07 DOCKET NO. 03-192-CD

CASE CAPTION

Pamela Owers

v.

Mary Farrell

ATTORNEY FOR PLAINTIFF

Deave Happers

ATTORNEY FOR DEFENDANT

Laura Signarelli

☒ Jury Selection in this matter is scheduled for Jan 3, beginning at
9 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse,
Clearfield, Pennsylvania.

☒ Trial in this matter is scheduled for 2/21 + 22, beginning at 9:00
o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield,
Pennsylvania. JK Beilly

☐ The deadline for providing any and all outstanding discovery shall be by and no later than
____ days prior to the commencement of trial.

☐ Counsel for the parties, if they so desire, may submit a Trial Brief to the Court no more
than ____ days prior to the commencement of trial.

☒ The deadline for submitting any and all Motions shall be by and no later than 30 days
prior to the commencement of trial.

☒ Points for Charge shall be submitted to the Court by and no later than 15 days prior to
the commencement of trial.

☒ Proposed Verdict Slip shall be submitted to the Court by and no later than 15 days
prior to the commencement of trial.

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

____ Additional notes on reverse.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

PROPOSED POINTS FOR CHARGE

Defendant.

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. PASQUINELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

Defendant.

DEFENDANT(S) POINTS FOR CHARGE

And now, the Defendant, Mary Farrell, by and through her counsel, Laura R. Signorelli, Esquire, respectfully request the Court to charge the jury as follows:

3.00 (Civ) ISSUES IN THE CASE

Personal Injury Claim(Contributory Negligence)

The Plaintiffs claim that he(she) was injured and sustained damage as a result of the negligent conduct of the Defendant. The Plaintiff has the burden of proving his(he-)claim.

The Defendant denies the Plaintiff's claims ~~(and asserts as an affirmative defense that the Plaintiff himself was negligent and that such negligence was a substantial factor in bringing about Plaintiff's injuries. The Defendant has the burden of proving this affirmative defense.)~~

Based upon the evidence presented at this trial, the only issue(s) for you to decide in accordance with the law as I shall give it to you, is (are):

~~First: Was the Defendant negligent?~~

Second: Was the Defendant's conduct a ~~substantial factor~~ [factual cause] in bringing about harm to the Plaintiff(s)?

~~(Third: Was the Plaintiff himself negligent and was such negligence a substantial factor in bringing about Plaintiff's injury?)~~

Accept_____ Reject_____ Modify_____

(1)

3.25 FACTUAL CAUSE

The plaintiff must prove to you that the defendant's conduct caused the plaintiff's damages. This is referred to as "factual cause." The question is: "Was the defendant's negligent conduct a factual cause in bringing about the plaintiff's damages?"

Conduct is a factual cause of harm when the harm would not have occurred absent the conduct. An act is a factual cause of an outcome if, in the absence of the act, the outcome would not have occurred.

~~(Use the following where the action is against more than one defendant) (A defendant's negligent conduct need only be a factual cause of the plaintiff's harm. It does not need to be the only cause. The existence of other causes of the harm does not relieve the defendant from liability as long as the defendant's negligent conduct was a factual cause of the injury. If you find that one of the alleged acts of a defendant was negligent and a factual cause of the harm, this is sufficient to subject that defendant to liability.)~~

~~(Use the following if you have not already used Instruction 3.00 (Issues in the Case and Factual Cause) or if you wish to reiterate the definition of "factual Cause" to the jurors.)~~ (In order for conduct of the party to be a factual cause, the conduct must not be fanciful or imaginary, but must have played a real role in causing the injury. Therefore, in determining factual cause, you must decide whether the negligent conduct of the defendant was more than an insignificant factor in bringing about any harm to the plaintiff. Under Pennsylvania law, conduct can be found to be a contributing factor if the action or omissions alleged to have caused the harm was an actual, real factor, not a negligible, imaginary, or fanciful factor, or a factor having no connection or only an insignificant connection with the injury. However, factual cause does not mean it is the only, primary, or even the most important factor in causing the injury. A cause may be found to be a factual cause as long as it contributes to the injury in a way that is not minimal or insignificant.

To be a contributing factor, the defendant's conduct need not be the only factor. The fact that some other cause concurs with the negligence of the defendant in producing an injury does not relieve the defendant from liability as long as his/her own negligence is a factual cause of the injury.

The negligence of a defendant may be found to be a factual cause of a plaintiff's harm even though it was relatively minor as compared to the negligence of (the other defendant or) the plaintiff. In effect, the test for factual causation has been met when the conduct in question has such an effect in producing the harm as to lead reasonable persons to regard it as one of the inconsequential considering all the circumstances.)

~~(Use the following summary definition of "Factual cause" if you have used Instruction 3.00 and do not want to reiterate the entire definition again.) (Remember, a factual cause is an actual, real factor, although the result may be unusual or unexpected. A factual cause cannot be an imaginary or fanciful factor having no connection or only a significant connection with the injury. Although a factual cause can not be minimal or insignificant with regard to the injury, it can be relatively minor in relation to other factors and need not be quantified as being either considerable or large.)~~

Accept _____ Reject _____ Modify _____

(2)

5.50 (Civ) PLAINTIFF(S) BURDEN TO PROVE BY A PREPONDERANCE OF THE EVIDENCE

In civil cases such as this one, the Plaintiff(s) have/has the burden of proving those contentions which entitle them to relief.

When a party has the burden of proof on a particular issue, his/her contention on that issue must be established by a fair preponderance of the evidence. The evidence establishes a contention by a fair preponderance of the evidence if you are persuaded that it is more probably accurate or true than not.

To put it another way, think if you will, of an ordinary balance scale with a pan on each side. Onto one side of the scale, place all of the evidence favorable to the Plaintiff(s). On the other pan, place all of the evidence favorable to the Defendant(s). If, after considering the comparable weight of the evidence, you feel that the scales tip, ever so slightly or to the slightest degree in favor of the Plaintiff(s), your verdict must be for the Plaintiff(s). If, however, the scales tip in favor of the Defendant(s), or are equally balanced, your verdict must be for the Defendant(s).

Accept_____ Reject_____ Modify_____

(3)

JUDGE'S CHARGE ON DAMAGES IS NOT AN INDICATION THAT DAMAGES SHOULD BE AWARDED

The fact that I charge you on the measure of damages does not indicate nor should it be considered by you as an indication that I think damages should be awarded. I am giving you these instructions on damages because I am required to charge you on all phases of the case which you might have to consider.

Accept_____ Reject_____ Modify_____

(4)

PLAINTIFF('S') DAMAGES MUST BE PROVEN

The law is clear that no damages will be presumed but rather, they must be proved by legally sufficient evidence and must be shown to have arisen out of the alleged negligence. Mackwell v. Schaeffer, 381 Pa. 113, 112 A.2d 69 (1975).

The burden is on the Plaintiff(s) to prove by legally sufficient evidence that all injuries for which he/she/they claims damages are properly attributable in the medical sense to the Defendant('s') negligence and not due to some independent cause. Mundano v. P.T.C., 289 Pa. 451, 137 A. 104 (1927); Pavorsky v. Engenls, 410 Pa. 100, 188 A.2d 731 (1963); Ecvd v. Hertz Corporation, 219 Pa. Super. 488, 281 A.2d 679 (1971); McHugh v. Audet, 72 F. Supp. 384 (M.D. Pa. 1947).

Accept_____ Reject_____ Modify_____

(5)

LIABILITY FOR PRIOR INJURIES

If you find that any of the injuries or conditions which Plaintiff(s) are/is claiming in this case were already present in a previous condition, then Plaintiff(s) may not recover from the Defendant(s) for injuries or conditions caused by the previous condition. The Defendant(s) may only be held responsible for the damage any negligence by him/her/them has actually caused.

Accept_____ Reject_____ Modify_____

(6)

EVIDENCE

The number of witnesses offered by one side or the other does not, in itself, determine the weight of the evidence. It is a factor, but only one of many factors which you should consider. Whether the witnesses appear to be biased or unbiased and whether they are interested or disinterested persons, are among the important factors which go to the reliability of their testimony. The important thing is the quality of the testimony of each witness. In short, the test is not which side brings the greater number of witnesses or presents the greater quantity of evidence but which witness or witnesses, and which evidence, you consider most worthy of belief. Even the testimony of one witness might outweigh that of many, if you have reasons to believe his testimony in preference to theirs. Pressler v. Pittsburgh, 419 Pa. 440, 214 A.2d 616 (1965).

Accept_____ Reject_____ Modify_____

(7)

JURY NOT REQUIRED TO BELIEVE PLAINTIFF

A jury is not required to believe the Plaintiff(s) and his/her/their witnesses even when their testimony is uncontradicted. Bronchak v. Redman, 263 Pa. Super. 136, 397 A.2d 438 (1979).

Accept_____ Reject_____ Modify_____

(8)

JURY'S FUNCTION IN CONSIDERING WITNESSES' INTEREST IN THE CASE

It is the jury's function to pass on the credibility of witnesses and in that regard, you can take into account any interest in the outcome of the case which any witness has. In that connection, you may consider that the Plaintiff(s) has/have a monetary interest in the outcome of this case and you should take that into account when judging on the credibility of his/her/their testimony. A jury may reject in total, the opinion of any witness that it disbelieves whether such opinion is contradicted or not. Rey v. City of Philadelphia, 344 Pa. 439, 25 A.2d 145 (1942).

Accept_____ Reject_____ Modify_____

(9)

JURY'S RIGHT TO DISREGARD TESTIMONY

If you find that any witness, including the Plaintiff('s') willfully gave false testimony in a material part of his or her testimony, then you may disregard the rest of that testimony. Western Show Company v. Mix, 315 Pa. 139, 173 A. 183 (1934).

Accept_____ Reject_____ Medify_____

(10)

EXPERT WITNESSES

You have heard the testimony of the doctor who testified as an expert witness for the Plaintiff(s). In determining the weight given to this doctor's opinion, you should consider his/her/their qualifications and reliability, as well as the reasons given for his/her opinions. You are not bound by Plaintiff expert's opinions merely because (s)he is an expert; you may accept or reject it, as in the case of all other witnesses. Karcesky v. Laria, 382 Pa. 227, 114 A.2d 150 (1955).

Accept_____ Reject_____ Modify_____

(11)

JURY'S RIGHT TO REJECT EXPERT TESTIMONY

Furthermore, you are free to reject the medical opinion of the Plaintiff(s') medical expert, just as you are free to reject any other part of the testimony of Plaintiff(s') witnesses. Calabria v. Brentwood Motor Coach Company, 412 Pa. 46, 194 A.2d 918 (1963).

Accept_____ Reject_____ Modify_____

(12)

JURY'S RIGHT TO REJECT PAIN & SUFFERING CLAIM

A jury does not have to believe that every injury causes pain or the pain alleged. A jury does not have to award damages for pain and suffering if it reasonably believes that (1) the plaintiff did not suffer any pain and suffering, or (2) that a preexisting condition or injury was the sole cause of the alleged pain and suffering. *Davis v. Mullen*, 565 Pa. 386, 773 A.2d 764

Whether the plaintiff suffered from compensable pain is an essential determination within a jury's purview. The existence of compensable pain is an issue of credibility and a jury must believe that the plaintiff suffered pain before it can compensate for that pain. Just as a jury does not have to believe that the defendant caused the plaintiff's injuries, a jury does not have to believe that the plaintiff's injuries caused pain or the pain alleged. A jury does not have to award damages if it reasonably believes that (1) the plaintiff did not suffer any pain and suffering; or (2) that a pre-existing condition or injury was the sole cause of the alleged pain and suffering. *Davis v. Mullen*, 565 Pa. 386, 773 A.2d 764.

Accept_____ Reject_____ Modify_____

(13)

MEDICAL EXPENSES NOT AN ELEMENT OF DAMAGES

Medical expenses incurred by the Plaintiff(s) as a result of this accident are not to be considered by you as an element of damages. Medical expenses are not recoverable in this action, nor are they to be considered as a measure of Plaintiff('s') pain and suffering. Martin v. Soblotney, ___ Pa. ___, 466 A 2d 1022 (1983).

Accept_____ Reject_____ Modify_____

(14)

PLAINTIFF'S BURDEN OF PROVING LOSS OF EARNINGS

A jury may not speculate as to loss of earnings, earning power, wages or medical expenses when the evidence does not disclose the value of services. Zimmerman v. Weinroth, 272 Pa. 537, 116 A. 510 (1922).

Accept_____ Reject_____ Modify_____

(15)

TESTIMONY OF WITNESSES AS EVIDENCE

In your deliberations, you should take into consideration, as evidence, only the testimony of the witnesses who have appeared in this courtroom and the exhibits which have been admitted into evidence. You should not take into consideration anything which you have heard or seen outside the courtroom. You should not be influenced in any manner by anything you have heard or seen about the injured persons or other cases involving motor vehicle accidents. Such matters have nothing to do with this case and should have no part in your deliberations.

Accept_____ Reject_____ Modify_____

(16)

2.10 (Civ) ADMISSIONS OF FACT

(Pleadings, Answers to Interrogatories or Requests for Admissions, Depositions, Statements)

The admission(s) of fact(s) made by the agent of the Defendant(s)/Plaintiff(s) in the answer to the Complaint (or other pleading(s), document(s), statement(s), testimony(ies)) has/have been offered by the Plaintiff(s)/Defendant(s) and received in evidence. The Defendant(s)/Plaintiff(s) are/is bound by this/these admission(s).

Accept _____ Reject _____ Modify _____

(17)

**2.20 (Civ) IMPEACHMENT (CORROBORATION) OF WITNESS BY PRIOR
INCONSISTENT (CONSISTENT) STATEMENT**

The evidence which you have heard that the witness(es) made an earlier statement inconsistent(consistent) with his/her/their testimony at this trial has been admitted solely to aid you in evaluating the credibility of that/those witness(es). Such evidence may be considered by you only to assist you in deciding the believability of that witness(es) and the weight, if any, that his/her/their testimony(ies) is fairly entitled to receive. It cannot be considered as evidence of the truth of the contents of the statement bearing upon the facts in issue.

Accept_____ Reject_____ Modify_____

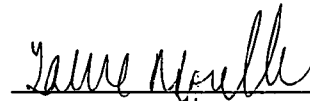
(18)

**2.21 (Civ) IMPEACHMENT (CORROBORATION) OF PARTY BY PRIOR
INCONSISTENT (CONSISTENT) STATEMENT**

The evidence that the Plaintiff(s)/Defendant(s) made an earlier statement inconsistent(consistent) with his/her testimony at this trial may be considered by you not only in your evaluation of that party's credibility but also as evidence of the truth of the contents of the statement bearing upon the facts in issue.

Accept_____ Reject_____ Modify_____

Respectfully submitted,



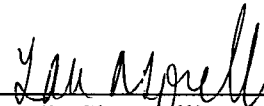
Laura R. Signorelli, Esquire
Attorney for Defendant
Mary Farrell

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of January, 2008, I mailed a copy of Defendant's Proposed points for Charge to the following individual via **Facsimile and Overnight Mail** to the following:

David J. Hopkins, Esquire
Via facsimile to 814-375-5035 and Overnight Mail
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, Pennsylvania 15801

BY:



Laura R. Signorelli, Esquire
Attorney for Defendant
Mary Farrell

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

PROPOSED VERDICT SHEET

Defendant.

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. PASQUINELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

**DEFENDANT'S PROPOSED VERDICT
SHEET**

MARY FARRELL,

Defendant.

To further clarify these instructions, the Court will now distribute to each of you a verdict form containing specific questions. At the conclusion of your deliberations, one copy of this form should be signed by your foreman and handed to the court clerk; this will constitute your verdict. The verdict form reads as follows:

Question 1:

Was the Defendant's negligence a factual cause in bringing about the Plaintiff's harm?

Yes _____ No _____

If you answer Question 1 "No" the Plaintiff cannot recover and you should not answer any further questions and should return to the courtroom.

Question 2:

State the amount of damages, if any sustained by the Plaintiff as a result of the accident.
\$ _____

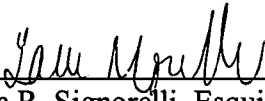
Foreperson

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of January, 2008, I mailed a copy of Defendant's Proposed Verdict Sheet to the following individual via **Facsimile and Overnight Mail** to the following:

David J. Hopkins, Esquire
Via facsimile to 814-375-5035 and Overnight Mail
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, Pennsylvania 15801

BY:



Laura R. Signorelli, Esquire
Attorney for Defendant
Mary Farrell

COPY
03-192

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

MOTIONS IN LIMINE
FILED ON BEHALF OF DEFENDANT:
Mary Farrell

Defendant.

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. SIGNORELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF STEPHEN P. AHERN
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

03-192

PAMELA M. OWENS,

Plaintiff,

vs.

MARY FARRELL,

Defendant.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

CASE NO.: 03-192

MOTIONS IN LIMINE

I.

MOTION IN LIMINE TO KEEP FROM THE
JURY EVIDENCE OF INSURANCE, REFERENCE TO
INSURANCE AND REFERENCE TO ALLSTATE INSURANCE COMPANY

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of insurance, reference to insurance and reference to Allstate Insurance Company during trial of this case and in support of this Motion states:

1. Defendant, Mary Farrell through counsel, stipulates to the existence of a binding insurance contract between Defendant and Allstate Insurance Company.

2. There is no contested insurance issue concerning a binding insurance contract, coverage, applicable limits or Allstate Insurance Company in this case.

3. Absent any contested insurance issue, evidence of insurance, reference to insurance and/or reference to Allstate Insurance Company are not relevant.

03-192

Wherefore, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction at trial of any evidence of insurance, reference to Allstate Insurance Company and/or the existence of insurance.

II.

MOTION IN LIMINE TO KEEP FROM THE
JURY EVIDENCE OF BANKRUPTCY FILING BY PLAINTIFF

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of insurance, reference to any facts concerning a bankruptcy filing by Plaintiff following the motor vehicle accident and states:

1. Defendant believes, based upon review of the records that Plaintiff filed for bankruptcy sometime in November, 2002.

2. It is presumed that the bankruptcy has been discharged and that the matter is no longer pending.

3. Defendant asserts that the issue of the Plaintiff's claim of bankruptcy is not relevant to the instant matter, which involves allegations of wage loss for approximately 1 month after the accident with Plaintiff's subsequent return to work at her position at Murray Honda.

03-192

4. It is believed and therefore averred that the fact that the Plaintiff claimed bankruptcy sometime after the motor vehicle accident, which said matter is totally irrelevant to the subject matter of the pending lawsuit, may create unfair bias, sympathy and prejudice in favor of the Plaintiff and against Defendant.

5. It is necessary to exclude from the jury's consideration the fact that the Plaintiff may have claimed bankruptcy post-accident, in order to avoid unfair prejudice against Defendant.

Wherefore, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction at trial of any evidence of Plaintiff's alleged bankruptcy post-accident.

III.

MOTION IN LIMINE TO KEEP FROM THE JURY ALL FACTS CONCERNING THE HAPPENING OF THE ACCIDENT

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury

03-192

evidence of facts concerning the happening of the accident and respectfully states:

1. Defendant, Mary Farrell through counsel, stipulates to the issue of negligence and therefore factual causation of her negligent conduct to the happening of the accident is not at issue.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce evidence that while traveling on State Route 255 near the Treasure Lake Complex, Defendant cut across Plaintiff's lane, making a left-hand turn across Plaintiff's lane of travel.

3. Defendant further believes and therefore avers that the Plaintiff intends to introduce evidence concerning the Plaintiff's impressions of manner of operation of Defendant's vehicle in an attempt to stir the emotions of the jury and create unfair prejudice in favor of the Plaintiff.

4. Wherefore in light of the stipulated issue of negligence, any and all facts concerning the happening of the accident are irrelevant to the disposition of the pending lawsuit and could, in fact, be severely prejudicial to Defendant.

03-192

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the facts preceding the accident as well as the happening of the accident.

IV.

MOTION IN LIMINE TO KEEP FROM THE JURY ALL FACTS CONCERNING
THE DEFENDANT'S PRE-ACCIDENT EYE EXAMINATION
AND DILATION OF DEFENDANT'S EYES

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the pre-accident activities of Defendant, including the dilation of her eyes during the course of a normal eye examination and states respectfully:

1. Defendant, Mary Farrell through counsel, stipulates to the issue of negligence and therefore factual causation of her negligent conduct to the happening of the accident is not at issue.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce evidence that prior to the accident, Defendant's eyes were dilated during a normal eye examination, and that the Defendant's eyes remained dilated while she was driving at or near the time of the accident.

03-192

3. Throughout the course of discovery, no evidence has been established that Defendant was operating a vehicle at the time of the accident against order from her eye doctor.

4. Defendant has already testified in this case that her eye doctor did not advise her not to drive at the time of the accident, due to the recent treatment of her eyes.

5. Due to the fact that the negligence of Defendant is not at issue, the facts concerning the pre-accident eye examination and treatment is not relevant to the jury's disposition of the pending lawsuit.

6. Defendant believes that the facts concerning the Defendant's eye examination, while not relevant, would severely prejudice the Defendant, as the jury may incorrectly assume that the Defendant was acting outside of her doctor's instructions.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the Defendant's pre-accident eye examination and dilation of the eyes and the condition of Defendant's eyes at the time of the accident.

03-192

V.
MOTION IN LIMINE TO KEEP FROM THE
JURY ALL FACTS CONCERNING
THE RESIDENCE OF PLAINTIFF'S COUNSEL

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the residence of Plaintiff's counsel near the location of the subject accident.

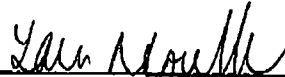
1. Defendant believes that the Plaintiff's counsel may reside near the location of the accident that is the subject matter of the lawsuit.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce personal statements concerning the layout of the roadways near the location of the accident, in the event that the Honorable Court denies Defendant's Motion in Limine to exclude evidence concerning the happening of the accident.

3. Defendant further believes and therefore avers that any statements by the Plaintiff's counsel concerning his possible familiarity with the location of the accident may be prejudicial to the Defendant and is highly irrelevant to the case.

03-192
WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the residence of Plaintiff's counsel at the time of the accident.

Respectfully submitted,




LAURA R. SIGNORELLI, ESQUIRE
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219
Telephone: 412-255-4145
Attorney for Defendant
Mary Farrell

03-192

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendants Motions in Limine was sent via facsimile and overnight mail, this 23rd day of January, 2008:

DAVID J. HOPKINS, ESQUIRE
Via facsimile and overnight mail
900 Beaver Drive
DuBois, Pennsylvania 15801



LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant

03-192

PAMELA M. OWENS,

Plaintiff,

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

vs.

CASE NO.: 03-192

MARY FARRELL,

Defendant.

ORDER

AND NOW, to-wit, this _____ day of _____, 2004, in consideration of the Defendant's Motion(s) In Limine it is hereby ORDERED ADJUDGED AND DECREED as follows:

(1) The Motion in limine concerning evidence of insurance, references to insurance is GRANTED. Evidence of insurance, reference to insurance and reference to Allstate Insurance Company are to be kept from the jury and that the Defendant shall be referred to as "Defendant" and that counsel for Allstate Insurance Company be referred to as counsel for the defense.

(2) The Motion in limine concerning evidence of Plaintiff's bankruptcy is GRANTED. Evidence of Plaintiff's filing for bankruptcy following the motor vehicle accident and any other information pertaining to this subject matter are to be kept from the jury.

(3) The Motion in limine concerning all facts surrounding the happening of the accident is GRANTED. Evidence of pre-accident events, events leading up to the collision and the actual happening of the collision itself shall not be introduced at trial.

(4) The Motion in limine concerning Defendant's eye treatment on the date of the accident or eye treatment in general is GRANTED. Plaintiff is precluded from introducing evidence pertaining to this subject matter.

(5) The Motion in limine concerning the residence of Plaintiff's counsel is GRANTED.

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

PROPOSED POINTS FOR CHARGE

Defendant.

FILED ON BEHALF OF DEFENDANT:
Mary Farrell

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. PASQUINELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF MARIANNE C. MNICH
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

Defendant.

DEFENDANT(S) POINTS FOR CHARGE

And now, the Defendant, Mary Farrell, by and through her counsel, Laura R. Signorelli, Esquire, respectfully request the Court to charge the jury as follows:

3.00 (Civ) ISSUES IN THE CASE

Personal Injury Claim(Contributory Negligence)

The Plaintiffs claim that he(she) was injured and sustained damage as a result of the negligent conduct of the Defendant. The Plaintiff has the burden of proving his(her) claim.

The Defendant denies the Plaintiff's claims ~~(and asserts as an affirmative defense that the Plaintiff himself was negligent and that such negligence was a substantial factor in bringing about Plaintiff's injuries. The Defendant has the burden of proving this affirmative defense.)~~

Based upon the evidence presented at this trial, the only issue(s) for you to decide in accordance with the law as I shall give it to you, is (are):

~~First: Was the Defendant negligent?~~

Second: Was the Defendant's conduct a ~~substantial factor~~ [factual cause] in bringing about harm to the Plaintiff(s)?

~~(Third: Was the Plaintiff himself negligent and was such negligence a substantial factor in bringing about Plaintiff's injury?)~~

Accept_____ Reject_____ Modify_____

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

COPY

PAMELA M. OWENS,

CIVIL DIVISION

Plaintiff,

CASE NO. 03-192

vs.

MARY FARRELL,

MOTIONS IN LIMINE

FILED ON BEHALF OF DEFENDANT:

Mary Farrell

Defendant.

COUNSEL OF RECORD FOR THIS
PARTY:

LAURA R. SIGNORELLI, ESQUIRE
PA No. 69694

LAW OFFICE OF STEPHEN P. AHERN
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Telephone: 412-255-4110.

PAMELA M. OWENS,

Plaintiff,

vs.

MARY FARRELL,

Defendant.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

CASE NO.: 03-192

MOTIONS IN LIMINE

I.

**MOTION IN LIMINE TO KEEP FROM THE
JURY EVIDENCE OF INSURANCE, REFERENCE TO
INSURANCE AND REFERENCE TO ALLSTATE INSURANCE COMPANY**

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of insurance, reference to insurance and reference to Allstate Insurance Company during trial of this case and in support of this Motion states:

1. Defendant, Mary Farrell through counsel, stipulates to the existence of a binding insurance contract between Defendant and Allstate Insurance Company.

2. There is no contested insurance issue concerning a binding insurance contract, coverage, applicable limits or Allstate Insurance Company in this case.

3. Absent any contested insurance issue, evidence of insurance, reference to insurance and/or reference to Allstate Insurance Company are not relevant.

Wherefore, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction at trial of any evidence of insurance, reference to Allstate Insurance Company and/or the existence of insurance.

II.

MOTION IN LIMINE TO KEEP FROM THE
JURY EVIDENCE OF BANKRUPTCY FILING BY PLAINTIFF

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of insurance, reference to any facts concerning a bankruptcy filing by Plaintiff following the motor vehicle accident and states:

1. Defendant believes, based upon review of the records that Plaintiff filed for bankruptcy sometime in November, 2002.

2. It is presumed that the bankruptcy has been discharged and that the matter is no longer pending.

3. Defendant asserts that the issue of the Plaintiff's claim of bankruptcy is not relevant to the instant matter, which involves allegations of wage loss for approximately 1 month after the accident with Plaintiff's subsequent return to work at her position at Murray Honda.

4. It is believed and therefore averred that the fact that the Plaintiff claimed bankruptcy sometime after the motor vehicle accident, which said matter is totally irrelevant to the subject matter of the pending lawsuit, may create unfair bias, sympathy and prejudice in favor of the Plaintiff and against Defendant.

5. It is necessary to exclude from the jury's consideration the fact that the Plaintiff may have claimed bankruptcy post-accident, in order to avoid unfair prejudice against Defendant.

Wherefore, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction at trial of any evidence of Plaintiff's alleged bankruptcy post-accident.

III.

MOTION IN LIMINE TO KEEP FROM THE JURY ALL FACTS CONCERNING THE HAPPENING OF THE ACCIDENT

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury

evidence of facts concerning the happening of the accident and respectfully states:

1. Defendant, Mary Farrell through counsel, stipulates to the issue of negligence and therefore factual causation of her negligent conduct to the happening of the accident is not at issue.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce evidence that while traveling on State Route 255 near the Treasure Lake Complex, Defendant cut across Plaintiff's lane, making a left-hand turn across Plaintiff's lane of travel.

3. Defendant further believes and therefore avers that the Plaintiff intends to introduce evidence concerning the Plaintiff's impressions of manner of operation of Defendant's vehicle in an attempt to stir the emotions of the jury and create unfair prejudice in favor of the Plaintiff.

4. Wherefore in light of the stipulated issue of negligence, any and all facts concerning the happening of the accident are irrelevant to the disposition of the pending lawsuit and could, in fact, be severely prejudicial to Defendant.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the facts preceding the accident as well as the happening of the accident.

IV.

MOTION IN LIMINE TO KEEP FROM THE JURY ALL FACTS CONCERNING
THE DEFENDANT'S PRE-ACCIDENT EYE EXAMINATION
AND DILATION OF DEFENDANT'S EYES

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the pre-accident activities of Defendant, including the dilation of her eyes during the course of a normal eye examination and states respectfully:

1. Defendant, Mary Farrell through counsel, stipulates to the issue of negligence and therefore factual causation of her negligent conduct to the happening of the accident is not at issue.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce evidence that prior to the accident, Defendant's eyes were dilated during a normal eye examination, and that the Defendant's eyes remained dilated while she was driving at or near the time of the accident.

3. Throughout the course of discovery, no evidence has been established that Defendant was operating a vehicle at the time of the accident against order from her eye doctor.

4. Defendant has already testified in this case that her eye doctor did not advise her not to drive at the time of the accident, due to the recent treatment of her eyes.

5. Due to the fact that the negligence of Defendant is not at issue, the facts concerning the pre-accident eye examination and treatment is not relevant to the jury's disposition of the pending lawsuit.

6. Defendant believes that the facts concerning the Defendant's eye examination, while not relevant, would severely prejudice the Defendant, as the jury may incorrectly assume that the Defendant was acting outside of her doctor's instructions.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the Defendant's pre-accident eye examination and dilation of the eyes and the condition of Defendant's eyes at the time of the accident.

V.
MOTION IN LIMINE TO KEEP FROM THE
JURY ALL FACTS CONCERNING
THE RESIDENCE OF PLAINTIFF'S COUNSEL

AND NOW COMES Defendant, Mary Farrell, through counsel, Laura R. Signorelli, and moves to keep from the jury evidence of facts concerning the residence of Plaintiff's counsel near the location of the subject accident.

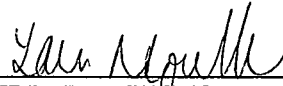
1. Defendant believes that the Plaintiff's counsel may reside near the location of the accident that is the subject matter of the lawsuit.

2. Defendant believes and therefore avers that the Plaintiff intends to introduce personal statements concerning the layout of the roadways near the location of the accident, in the event that the Honorable Court denies Defendant's Motion in Limine to exclude evidence concerning the happening of the accident.

3. Defendant further believes and therefore avers that any statements by the Plaintiff's counsel concerning his possible familiarity with the location of the accident may be prejudicial to the Defendant and is highly irrelevant to the case.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order precluding the introduction of any testimony concerning the residence of Plaintiff's counsel at the time of the accident.

Respectfully submitted,

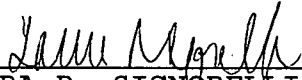


LAURA R. SIGNORELLI, ESQUIRE
Two Mellon Bank Center
Suite 405, 501 Grant Street
Pittsburgh, PA 15219
Telephone: 412-255-4145
Attorney for Defendant
Mary Farrell

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendants Motions in Limine was sent **via facsimile and overnight mail**, this 23rd day of January, 2008:

DAVID J. HOPKINS, ESQUIRE
Via facsimile and overnight mail
900 Beaver Drive
DuBois, Pennsylvania 15801



LAURA R. SIGNORELLI, ESQUIRE
Attorney for Defendant

PAMELA M. OWENS,

Plaintiff,

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

vs.

CASE NO.: 03-192

MARY FARRELL,

Defendant.

ORDER

AND NOW, to-wit, this _____ day of _____, 2004, in consideration of the Defendant's Motion(s) In Limine it is hereby **ORDERED ADJUDGED AND DECREED** as follows:

(1) The Motion in limine concerning evidence of insurance, references to insurance is GRANTED. Evidence of insurance, reference to insurance and reference to Allstate Insurance Company are to be kept from the jury and that the Defendant shall be referred to as "Defendant" and that counsel for Allstate Insurance Company be referred to as counsel for the defense.

(2) The Motion in limine concerning evidence of Plaintiff's bankruptcy is GRANTED. Evidence of Plaintiff's filing for bankruptcy following the motor vehicle accident and any other information pertaining to this subject matter are to be kept from the jury.

(3) The Motion in limine concerning all facts surrounding the happening of the accident is GRANTED. Evidence of pre-accident events, events leading up to the collision and the actual happening of the collision itself shall not be introduced at trial.

(4) The Motion in limine concerning Defendant's eye treatment on the date of the accident or eye treatment in general is GRANTED. Plaintiff is precluded from introducing evidence pertaining to this subject matter.

(5) The Motion in limine concerning the residence of Plaintiff's counsel is GRANTED.

J.

 COPY

February 13, 2006

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

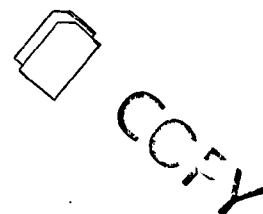
Re: Pamela M. Owens
Vs.
Mary Farrell
No. 03-192-CD
Superior Court No. 532 WDA 2005

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office. Also, please find enclosed two transcripts.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

CCNY

Paul E. Cherry, Judge
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

David J. Hopkins
Hopkins Heltzel LLP
900 Beaver Drive
DuBois, PA 15801

John C. Dennison II
293 Main Street
Brookville, PA 15825

Laura R. Signorelli
Suite 405, 501 Grant Street
Pittsburgh, PA 15219

Pamela M. Owens
Vs.
Mary Farrell

Court No. 03-192-CD; Superior Court No. 532 WDA 2005

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on February 13, 2006.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

Pamela M. Owens vs. Mary Farrell

Civil Other

Date		Judge
02/12/2003	Filing: Civil Complaint Paid by: Hopkins, David J. (attorney for Owens, Pamela M.) Receipt number: 1855517 Dated: 02/12/2003 Amount: \$85.00 (Check) Two CC Sheriff	No Judge
04/10/2003	Sheriff Returns: March 3, 2003 complaint was served upon Mry Farrell at residence at 1426 Treasure Lake, Dubois, PA, by handing to Defendant. Shff. Hawkins \$43.07, Surcharge \$10.00, paid by Atty.	No Judge
04/16/2003	Filing: Praecipe for Appearance filed by Laura Pasquinelli, Esq. 1 CC to Atty.	No Judge
	Filing: Answer to Complaint and New Matter filed on behalf of Defendant by Atty. 1 CC to Atty.	No Judge
04/22/2003	Preliminary Objections to New Matter. filed by s/David J. Hopkins, Esq. Certificate of Service 2 cc Atty Hopkins	No Judge
05/23/2003	Amended New Matter. filed by s/Laura R. Pasquinelli, Esq. Verification Certificate of Service no cc	No Judge
06/18/2003	Answer to Amended New Matter. filed by s/David J. Hopkins, Esquire Certificate of Service Verification s/Pamela M. Owens no cc	No Judge
07/14/2003	Notice of Name Change Of Attorney For Defendant From Laura R. Pasquinelli, Esquire to Laura R. Signorelli, Esquire. filed by s/Laura R. Signorelli, Esquire Certificate of Service no cc	No Judge
09/25/2003	Motion to Compel Discovery, filed by s/Laura R. Signorelli, Esq. Two CC Attorney Signorelli One CC Attorney Hopkins per request of L. Signorelli	No Judge
09/26/2003	ORDER OF COURT, AND NOW, this 26th day of September, 2003, re: Plaintiff will file a Response to Request for Production of Documents within 30 days. by the Court, s/JKR, JR., P.J. 2 cc Atty Signorelli, 1 cc Atty Hopkins	John K. Reilly Jr.
10/28/2003	Certificate of Service of Plaintiff's Answer to Defendant's Request for Production of Documents. No CC.	John K. Reilly Jr.
01/12/2004	Certificate Prerequisite To Service Of A Subpoena Pursuant To Rule 4009.22. filed by, s/Laura Signorelli, Esquire no cc	John K. Reilly Jr.
01/15/2004	Certificate Prerequisite To Service Of A Subpoena Pursuant To Rule 4009.22. filed by, s/Laura Signorelli, Esquire no cc	John K. Reilly Jr.
02/05/2004	Verification of Service of Defendant's request for admissions directed to Plff. filed by Atty. Pasquinelli. No cc.	John K. Reilly Jr.
07/13/2004	Certificate of Readiness, filed by s/David J. Hopkins, esq. No CC	John K. Reilly Jr.
07/19/2004	Objection to Certificate of Readiness Pursuant to Clearfield County Local Rule 212.2 (b), filed by s/Laura R. Signorelli, Esq. One CC Attorney	John K. Reilly Jr.
07/30/2004	ORDER, AND NOW, this 29 day of July, 2004, upon consideration of Defendant's Objections to Certificate of Readiness, it is ORDER of the court that argument on said Objections has been scheduled for the 18 day of August, 2004, at 1:30 p.m., in Courtroom No. 2. By the Court, Judge Paul E. Cherry. 2 cc & Memo Re: service of Rule to Show Cause to Atty L. Signorelli.	Paul E. Cherry
08/09/2004	Certificate of Service, Pre-Trial Memorandum, on Laura R. Signorelli, Esq. Filed by s/David J. Hopkins, Esq. No cc.	Paul E. Cherry
08/19/2004	ORDER, AND NOW, this 16th day of August, 2004, following Pre-Trial Conference, it is the ORDER of this Court: 3. Jury Selection, scheduled for August 26, 2004, at 9:00 a.m. 4. Trial scheduled for December 2 and 3, 2004, at 9:00 a.m. (See original for Discovery, Motions, Points of Charge, and Exhibit details) By the Court, Paul E. Cherry, 1 cc Attys Hopkins, Signorelli	Paul E. Cherry
11/02/2004	Motion in Limine filed by Atty. Signorelli. 1 CC to Atty.	Paul E. Cherry

Pamela M. Owens vs. Mary Farrell

Civil Other

Date		Judge
11/04/2004	Order, AND NOW, this 3rd day of Nov. , 2004, upon consideration of Defendant's Motion(s) in Limine filed in the above matter, it is the ORDER of the Court that argument on said Motion has been scheduled for the 24th day of November, 2004, at 11:00 a.m. in Courtroom No. 2, Clfd. Co. Courthouse. BY THE COURT: /s/ Paul E. Cherry, Judge. 3 CC to Atty.	Paul E. Cherry
11/30/2004	Order, Now, this 24th day of Nov., 2004, this being the date set for hearing on the Motion in Limine filed on behalf of the Defendant, it is the ORDER of this Court as follows: 1. David Hopkins, Esquire, is hereby precluded from introducing any testimony concerning his residence at the time of the accident; 2. Upon oral request of counsel for the Defendant to preclude testimony of prior knowledge and observation of Plaintiff concerning the Defendant , it is the ORDER of this Court that said request is hereby denied. BY THE COURT:/s/ Paul E. Cherry, Judge. 1CC Atty Hopkins, 1 CC Atty Signorelli (faxed 11/30/04)	Paul E. Cherry
	Order, NOW, this 29th day of Nov. 2004, upon consideration of the Motion in Limine filed on behalf of the Defendant, it is the ORDER of this Court as follows: (See Original) BY THE COURT, /s/ Paul E. Cherry, Judge. 1 CC & fax to Attys Hopkins, Signorelli	Paul E. Cherry
12/03/2004	Verdict Slip, Was the negligence of the Defendant, Mary Farrell, a substantial factor in causing any injuries to the Plaintiff, Pamela M. Owens? No, s/ Jury Foreperson. no cc	Paul E. Cherry
12/08/2004	Plaintiff's Motion for Post Trial Relief, filed by s/David J. Hopkins, Esq. No CC	Paul E. Cherry
12/10/2004	Scheduling Order: NOW, this 10th day of December, 2004, upon consideration of Plaintiff's Motion for Post Trial Relief; a hearing to consider Plaintiff's request is scheduled on the 4th day of Feb., 2005, at 1:30 p.m. in Courtroom No. 2 of the Clfd. co. Courthouse. BY THE COURT, /s/ Paul E. Cherry, Judge. 1CC Atty Hopkins	Paul E. Cherry
12/23/2004	Praeipie For Entry of Appearance, filed by Atty. Dennison Enter appearance on behalf of Mary Farrell s/ John C. Dennison, Esq.	Paul E. Cherry
01/12/2005	Order, AND NOW, this 11th day of Jan., 2005, Post Trial Conference shall be held on Feb. 4, 2005, at 1:30 P.M. in Judge Cherry's Chambers, Clfd. Co. Courthouse Annex. Said conference shall be held in lieu of the hearing which has been scheduled for same date. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Dennison, and Signorelli	Paul E. Cherry
02/15/2005	Order, AND NOW, this 15th day of February, 2005, Order that counsel for the parties provide the Court with a letter brief on Post-Trial Motions filed by the Plaintiff, by and no later than February 24, 2005. BY THE COURT: /s/Paul E. Cherry, Judge Two CC Attys: Hopkins, Dennison	Paul E. Cherry
03/04/2005	Order, AND NOW, this 2nd day of March, 2005, upon consideration of Plaintiff's Post-Trial Motions, and following conference, it is the ORDER of this Court that said Post-Trial Motion be and is hereby GRANTED. Plaintiff is hereby granted a new trial. BY THE COURT, /s/Paul E. Cherry, Judge. 2CC Attys: Hopkins, Dennison	Paul E. Cherry
03/11/2005	Certificate of Readines, filed by Atty. Hopkins no cert. copy to C/A	Paul E. Cherry
03/28/2005	Filing: Appeal to High Court Paid by: Dennison, John C. II (attorney for Farrell, Mary) Receipt number: 1898052 Dated: 03/28/2005 Amount: \$45.00 (Check) 1 Cert. to Superior Court w/\$60.00 Check	Paul E. Cherry
03/30/2005	Order, AND NOW, this 28th day of march, 2005, the Court having been notified of Appeal to the Superior Court of Pa. it is the ORDER of this Court that Appellant file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Dennison, Signorelli	Paul E. Cherry

Date: 02/13/2006

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:01 AM

ROA Report

Page 3 of 3

Case: 2003-00192-CD

Current Judge: Paul E. Cherry

Pamela M. Owens vs. Mary Farrell

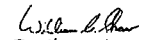
Civil Other

Date		Judge
04/04/2005	Statement of Matters Complained of on Appeal, filed by John C. Dennison, II, Esquire. No CC	Paul E. Cherry
	Appeal Docket Sheet filed. No CC	Paul E. Cherry
05/02/2005	Answer to Motion(s) in Limine, filed by s/David J. Hopkins, Esq. No CC (found in file-not submitted previously for filing)	Paul E. Cherry
07/14/2005	Order, Superior Court of Penna. Appellant has not paid for transcripts, appellant shall show cause why this appeal should not be dismissed. Letter shall be filed so as to be actually received by the Prothonotary by July 25, 2005. Failure to timely respond to this court will result in dismissal of this appeal without further notice. No CC	Paul E. Cherry
08/03/2005	Order, Certified From the Record of the Superior Court of Pa., the show cause order dated July 11 is discharged and the appeal shall proceed. Per Curiam	Paul E. Cherry
09/12/2005	Transcript of Proceedings, Jury Trial, held December 2, 2004, I of II, filed.	Paul E. Cherry
	Transcript of Proceedings, Jury Trial, held December 3, 2004, II of II, filed.	Paul E. Cherry
02/10/2006	Opinion, BY THE COURT: /s/Paul E. Cherry, Judge Two CC Atty Hopkins, Signorelli, J. Dennison One CC D. Mikesell One CC Law Library	Paul E. Cherry
02/13/2006	Appeal Mailed to Superior Court February 13, 2006.	Paul E. Cherry

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

FEB 13 2006

Attest.


Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 03-192-CD

Pamela M. Owens

VS.

Mary Farrell

<i>ITEM NO.</i>	<i>DATE OF FILING</i>	<i>NAME OF DOCUMENT</i>	<i>NO. OF PAGES</i>
01	02/12/03	Civil Complaint	07
02	04/10/03	Sheriff Returns	08
03	04/16/03	Praecept for Appearance	03
04	04/16/03	Answer to Complaint and New Matter	08
05	04/22/03	Preliminary Objections to New Matter	04
06	05/23/03	Amended New Matter	06
07	06/18/03	Answer to Amended New Matter	04
08	07/14/03	Notice of Name Change of Attorney for Defendant	03
09	09/25/03	Motion to Compel Discovery with Order of Court filed 9/26/03 Re: Response to Request for Production of Documents	06
10	10/28/03	Certificate of Service, Re: Plaintiff's Answer to Defendant's Request for Production of Documents	01
11	01/12/04	Certificate Prerequisite to Service of a Subpoena	14
12	01/15/04	Certificate Prerequisite to Service of a Subpoena	06
13	02/05/04	Verification of Service of Defendant's Request for Admissions directed to Plaintiff	02
14	07/13/04	Certificate of Readiness	01
15	07/19/04	Objection to Certificate of Readiness Pursuant to Clearfield County Local Rule 212.2(b)	08
16	07/30/04	Order, Re: argument on objections scheduled	01
17	08/09/04	Certificate of Service, Re: Pre-Trial Memorandum	01
18	08/19/04	Order, Re: following Pre-Trial conference	01
19	11/02/04	Motion in Limine	11
20	11/04/04	Order, Re: Defendant's Motion in Limine	01
21	11/30/04	Order, Re: hearing on Motion in Limine	01
22	11/30/04	Order, Re: Motion in Limine	01
23	12/03/04	Verdict Slip	02
24	12/08/04	Plaintiff's Motion for Post Trial Relief	07
25	12/10/04	Order, Re: Scheduling hearing on Plaintiff's Motion for Post Trial Relief	01
26	12/23/04	Praecept for Entry of Appearance	02
27	01/12/05	Order, Re: Post Trial Conference scheduled	01
28	02/15/05	Order, Re: letter brief on Post Trial Motions	01
29	03/04/05	Order, Re: Post Trial Motion granted; Plaintiff granted a new trial	01
30	03/11/05	Certificate of Readiness	01
31	03/28/05	Notice of Appeal to High Court	04
32	03/30/05	Order, Re: concise statement to be filed	01
33	04/04/05	Statement of Matters Complained of on Appeal	07
34	04/04/05	Appeal Docket Sheet, Superior Court Number 532 WDA 2005	04
35	05/02/05	Answer to Motion(s) in Limine, filed by D. Hopkins (attorney for Plaintiff)—found in file, not previously submitted for filing	04
36	07/14/05	Order, Re: Appellant has not paid for transcripts (Original unavailable at time of submitting appeal)	01
37	08/03/05	Order, Re: show cause order dated July 11 is discharged and appeal shall proceed	02
38	09/12/05	Transcript of Proceedings, Jury Trial, held December 2, 2004, I of II	Separate Cover
39	09/12/05	Transcript of Proceedings, Jury Trial, held December 3, 2004, II of II	Separate Cover
40	02/10/06	Opinion	06

CA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

PAMELA M. OWENS

:

-VS-

:

No. 03-192-CD

MARY FARRELL

:

O R D E R

NOW, this 24th day of November, 2004, this being the date set for hearing on the Motion in Limine filed on behalf of the Defendant, it is the ORDER of this Court as follows:

1. David Hopkins, Esquire, is hereby precluded from introducing any testimony concerning his residence at the time of the accident;

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*Note original -
1 faxed to
Hopkins &
Signorelli
11/30/04*

FILED
O 11 52 PM 2004
Vcc atty Hopkins
cc atty Signorelli
NOV 30 2004

Judge

[Signature]

William A. Shaw
Prothonotary

Date: 02/13/2006

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 08:58 AM

ROA Report

Page 1 of 1

Case: 2003-00192-CD

Current Judge: Paul E. Cherry

Pamela M. Owens vs. Mary Farrell

Civil Other

Date	Selected Items	Judge
03/30/2005	Order, AND NOW, this 28th day of march, 2005, the Court having been notified of Appeal to the Superior Court of Pa. it is the ORDER of this Court that Appellant file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Dennison, Signorelli	Paul E. Cherry
35 05/02/2005	Answer to Motion(s) in Limine, filed by s/David J. Hopkins, Esq. No CC (found in file-not submitted previously for filing)	Paul E. Cherry
07/14/2005	Order, Superior Court of Penna. Appellant has not paid for transcripts, appellant shall show cause why this appeal should not be dismissed. Letter shall be filed so as to be actually received by the Prothonotary by July 25, 2005. Failure to timely respond to this court will result in dismissal of this appeal without further notice. No CC	Paul E. Cherry
30 08/03/2005	Order, Certified From the Record of the Superior Court of Pa., the show cause order dated July 11 is discharged and the appeal shall proceed. Per Curiam	2 Paul E. Cherry
09/12/2005	38 Transcript of Proceedings, Jury Trial, held December 2, 2004, I of II, filed.	Paul E. Cherry
39	Transcript of Proceedings, Jury Trial, held December 3, 2004, II of II, filed.	Paul E. Cherry

21.01.06

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Opinion

6

Pamela M. Owens vs. Mary Farrell

Civil Other

Date		Judge
02/12/2003	1 Filing: Civil Complaint Paid by: Hopkins, David J. (attorney for Owens, Pamela M.) Receipt number: 1855517 Dated: 02/12/2003 Amount: \$85.00 (Check) Two CC Sheriff	7 No Judge
04/10/2003	2 Sheriff Returns: March 3, 2003 complaint was served upon Mry Farrell at residence at 1426 Treasure Lake, Dubois, PA, by handing to Defendant. Shff. Hawkins \$43.07, Surcharge \$10.00, paid by Atty.	8 No Judge
04/16/2003	3 Filing: Praecipe for Appearance filed by Laura Pasquinelli, Esq. 1 CC to Atty.	3 No Judge
	4 Filing: Answer to Complaint and New Matter filed on behalf of Defendant by Atty. 1 CC to Atty.	8 No Judge
04/22/2003	5 Preliminary Objections to New Matter. filed by s/David J. Hopkins, Esq. Certificate of Service 2 cc Atty Hopkins	4 No Judge
05/23/2003	6 Amended New Matter. filed by s/Laura R. Pasquinelli, Esq. Verification Certificate of Service no cc	6 No Judge
06/18/2003	7 Answer to Amended New Matter. filed by s/David J. Hopkins, Esquire Certificate of Service Verification s/Pamela M. Owens no cc	4 No Judge
07/14/2003	8 Notice of Name Change Of Attorney For Defendant From Laura R. Pasquinelli, Esquire to Laura R. Signorelli, Esquire. filed by s/Laura R. Signorelli, Esquire Certificate of Service no cc	3 No Judge
09/25/2003	9 Motion to Compel Discovery, filed by s/Laura R. Signorelli, Esq. Two CC Attorney Signorelli One CC Attorney Hopkins per request of L. Signorelli	6 No Judge
09/26/2003	L ORDER OF COURT, AND NOW, this 26th day of September, 2003, re: Plaintiff will file a Response to Request for Production of Documents within 30 days. by the Court, s/JKR, JR., P.J. 2 cc Atty Signorelli, 1 cc Atty Hopkins	John K. Reilly Jr.
10/28/2003	10 Certificate of Service of Plaintiff's Answer to Defendant's Request for Production of Documents. No CC.	1 John K. Reilly Jr.
01/12/2004	11 Certificate Prerequisite To Service Of A Subpoena Pursuant To Rule 4009.22. filed by, s/Laura Signorelli, Esquire no cc	14 John K. Reilly Jr.
01/15/2004	12 Certificate Prerequisite To Service Of A Subpoena Pursuant To Rule 4009.22. filed by, s/Laura Signorelli, Esquire no cc	6 John K. Reilly Jr.
02/05/2004	13 Verification of Service of Defendant's request for admissions directed to Piff. filed by Atty. Pasquinelli. No cc.	2 John K. Reilly Jr.
07/13/2004	14 Certificate of Readiness, filed by s/David J. Hopkins, esq. No CC	1 John K. Reilly Jr.
07/19/2004	15 Objection to Certificate of Readiness Pursuant to Clearfield County Local Rule 212.2 (b), filed by s/Laura R. Signorelli, Esq. One CC Attorney	8 John K. Reilly Jr.
07/30/2004	16 ORDER, AND NOW, this 29 day of July, 2004, upon consideration of Defendant's Objections to Certificate of Readiness, it is ORDER of the court that argument on said Objections has been scheduled for the 18 day of August, 2004, at 1:30 p.m., in Courtroom No. 2. By the Court, Judge Paul E. Cherry. 2 cc & Memo Re: service of Rule to Show Cause to Atty L Signorelli.	1 Paul E. Cherry
08/09/2004	17 Certificate of Service, Pre-Trial Memorandum, on Laura R. Signorelli, Esq. Filed by s/David J. Hopkins, Esq. No cc.	1 Paul E. Cherry
08/19/2004	18 ORDER, AND NOW, this 16th day of August, 2004, following Pre-Trial Conference, it is the ORDER of this Court: 3. Jury Selection, scheduled for August 26, 2004, at 9:00 a.m. 4. Trial scheduled for December 2 and 3, 2004, at 9:00 a.m. (See original for Discovery, Motions, Points of Charge, and Exhibit details) By the Court, Paul E. Cherry, 1 cc Attys Hopkins, Signorelli	1 Paul E. Cherry
11/02/2004	19 Motion in Limine filed by Atty. Signorelli. 1 CC to Atty.	11 Paul E. Cherry

Civil Other

Date		Judge
11/04/2004	Order, AND NOW, this 3rd day of Nov. , 2004, upon consideration of Defendant's Motion(s) in Limine filed in the above matter, it is the ORDER of the Court that argument on said Motion has been scheduled for the 24th day of November, 2004, at 11:00 a.m. in Courtroom No. 2, Clfd. Co. Courthouse. BY THE COURT: /s/ Paul E. Cherry, Judge. 3 CC to Atty.	Paul E. Cherry
11/30/2004	Order, Now, this 24th day of Nov., 2004, this being the date set for hearing on the Motion in Limine filed on behalf of the Defendant, it is the ORDER of this Court as follows: 1. David Hopkins, Esquire, is hereby precluded from introducing any testimony concerning his residence at the time of the accident; 2. Upon oral request of counsel for the Defendant to preclude testimony of prior knowledge and observation of Plaintiff concerning the Defendant , it is the ORDER of this Court that said request is hereby denied. BY THE COURT:/s/ Paul E. Cherry, Judge. 1CC Atty Hopkins, 1 CC Atty Signorelli (faxed 11/30/04)	Paul E. Cherry
	Order, NOW, this 29th day of Nov. 2004, upon consideration of the Motion in Limine filed on behalf of the Defendant, it is the ORDER of this Court as follows: (See Original) BY THE COURT, /s/ Paul E. Cherry, Judge. 1 CC & fax to Attys Hopkins, Signorelli	Paul E. Cherry
12/03/2004	Verdict Slip, Was the negligence of the Defendant, Mary Farrell, a substantial factor in causing any injuries to the Plaintiff, Pamela M. Owens? No, s/ Jury Foreperson. no cc	Paul E. Cherry
12/08/2004	Plaintiff's Motion for Post Trial Relief, filed by s/David J. Hopkins, Esq. No CC	Paul E. Cherry
12/10/2004	Scheduling Order: NOW, this 10th day of December, 2004, upon consideration of Plaintiff's Motion for Post Trial Relief; a hearing to consider Plaintiff's request is scheduled on the 4th day of Feb., 2005, at 1:30 p.m. in Courtroom No. 2 of the Clfd. co. Courthouse. BY THE COURT, /s/ Paul E. Cherry, Judge. 1CC Atty Hopkins	Paul E. Cherry
12/23/2004	Praeipice For Entry of Appearance, filed by Atty. Dennison Enter appearance on behalf of Mary Farrell s/ John C. Dennison, Esq.	Paul E. Cherry
01/12/2005	Order, AND NOW, this 11th day of Jan., 2005, Post Trial Conference shall be held on Feb. 4, 2005, at 1:30 P.M. in Judge Cherry's Chambers, Clfd. Co. Courthouse Annex. Said conference shall be held in lieu of the hearing which has been scheduled for same date. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Dennison, and Signorelli	Paul E. Cherry
02/15/2005	Order, AND NOW, this 15th day of February, 2005, Order that counsel for the parties provide the Court with a letter brief on Post-Trial Motions filed by the Plaintiff, by and no later than February 24, 2005. BY THE COURT: /s/Paul E. Cherry, Judge Two CC Attys: Hopkins, Dennison	Paul E. Cherry
03/04/2005	Order, AND NOW, this 2nd day of March, 2005, upon consideration of Plaintiff's Post-Trial Motions, and following conference, it is the ORDER of this Court that said Post-Trial Motion be and is hereby GRANTED. Plaintiff is hereby granted a new trial. BY THE COURT, /s/Paul E. Cherry, Judge. 2CC Attys: Hopkins, Dennison	Paul E. Cherry
03/11/2005	Certificate of Readines, filed by Atty. Hopkins no cert. copy to C/A	Paul E. Cherry
03/28/2005	Filing: Appeal to High Court Paid by: Dennison, John C. II (attorney for Farrell, Mary) Receipt number: 1898052 Dated: 03/28/2005 Amount: \$45.00 (Check) 1 Cert. to Superior Court w/\$60.00 Check	Paul E. Cherry
03/30/2005	Order, AND NOW, this 28th day of march, 2005, the Court having been notified of Appeal to the Superior Court of Pa. it is the ORDER of this Court that Appellant file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Dennison, Signorelli	Paul E. Cherry



The Superior Court of Pennsylvania
Office of the Prothonotary

GRANT BUILDING
310 GRANT STREET, SUITE 600
PITTSBURGH, PA 15219-2297

DAVID A. SZEWCZAK, ESQUIRE
PROTHONOTARY

ELEANOR R. VALECKO
DEPUTY PROTHONOTARY

(412) 565-7592

FAX: (412) 565-7711

WEBSITE: www.superior.pacourts.us

August 1, 2005

John C. Dennison, Esquire
293 Main Street
Brookville, PA 15825

**IN RE: PAMELA M. OWENS V. MARY FARRELL
NO. 532 WDA 2005**

Dear Mr. Dennison:

The Court has entered the following Order on your Application for Relief in the above-captioned matter. A certified copy of this order is being sent to the trial court.

"ORDER OF COURT"

Counsel for the appellant having sent correspondence to this court concerning the transcripts, stating that the trial court reporter did not require a deposit and that the failure of the transcripts to be prepared is not the fault of the appellant, the show cause order dated July 11, is discharged and the appeal shall proceed.

Date: August 1, 2005

Per Curiam"

Very truly yours,

Deputy Prothonotary

ERV/gjm

CC. David J. Hopkins, Esquire
Honorable Paul E. Cherry