

03-1075-CD  
ROBERT L. STEVENS et al. vs. THOMAS J. DUNLAP, et al

Date: 12/29/2004

**Clearfield County Court of Common Pleas**

User: BANDERSON

Time: 12:29 PM

## ROA Report

Page 1 of 2

Case: 2003-01075-CD

Current Judge: Fredric Joseph Ammerman

Robert L. Stevens, Carrie Stevens vs. Thomas J. Dunlap, Tommy D's Restaurant

## Civil Other

Date		Judge
07/23/2003	Filing: Writ of Summons Paid by: Edgar Snyder & Assoc. Receipt number: 1863432 Dated: 07/23/2003 Amount: \$85.00 (Check) 1 CC & Writ to Shff.	No Judge
09/18/2003	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
09/25/2003	Motion to Compel Defendant's Appearance at Deposition, filed by s/Nathaniel B. Smith, Esq. No CC	No Judge
09/26/2003	ORDER OF COURT, AND NOW, to wit, this 26th day of September, 2003, re: THOMAS J. DUNLAP, shall present himself for the purposes of taking his deposition by counsel for the Plaintiffs, within a period of thirty days from the date of this Order. Failure to adhere to this time limitation shall result in the Defendant being penalized for Contempt of Court. by the Court, s/JKR,JR.,P.J. 1 cc to Atty	John K. Reilly Jr.
10/03/2003	Notice of Deposition of Thomas J. Dunlap. No CC.	John K. Reilly Jr.
10/28/2003	Second Motion to compel Defendant's appearance at Deposition. No CC.	John K. Reilly Jr.
12/11/2003	Notice Of Rescheduled Deposition of Thomas J. Dunlap. filed by, s/Nathaniel B. Smith, Esquire Certificate of Service no cc	John K. Reilly Jr.
01/27/2004	Complaint in Civil Action, filed on behalf of Plaintiffs, filed by s/Nathaniel B. Smith, Esq. One CC Sheriff	John K. Reilly Jr.
02/09/2004	Praecipe For Appearance On Behalf Of Defendant, Thomas J. Dunlap and Tommy D's Restaurant. s/Bernard W. O'Keefe, Esquire Cert of Svc no cc Copy to C/A	John K. Reilly Jr.
02/12/2004	Notice of Service of Interrogatories upon counsel for Plaintiff. s/Bernard W. O'Keefe, Esq. Certificate of Service no cc	John K. Reilly Jr.
03/25/2004	Answer And New Matter. filed by, s/Bernard W. O'Keefe, Esquire Verification, s/Thomas Dunlap Certificate of Service no cc	John K. Reilly Jr.
04/23/2004	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	John K. Reilly Jr.
06/01/2004	Notice of Service Of Interrogatories And Request For Production Of Documents Directed To Defendant(s). filed by, s/Nathaniel B. Smith, Esquire no cc	John K. Reilly Jr.
06/28/2004	Reply to New Matter, s/Nathaniel B. Smith, Esq. No CC	John K. Reilly Jr.
07/21/2004	Praecipe For Entry of Appearance, filed Atty. Grater. Enter appearance of Atty. Grater on behalf of Defendants and withdraw appearance of Atty. O'Keefe. s/ Paul T. Grater	John K. Reilly Jr.
09/14/2004	Motion to Compel Answers to Interrogatories and Request for Production of Documents, filed by s/Nathaniel B. Smith, Esq. No CC	John K. Reilly Jr.
09/15/2004	Order AND NOW, to wit, this 15th day of Sept. 2004, it is hereby ORDERED, ADJUDGED and DECREED that Def. shall file full and complete answers with 30 days from the date hereof to Plaintiff's Interrogatories and Request for Production of Documents. S/FJA 4 CC to Atty. Smith.	John K. Reilly Jr.
10/15/2004	Praecipe For Entry of Appearance, filed, on behalf of Defendant, filed by s/ Scott T. Redman, Esquire. Withdrawl of Appearance, by s/ Paul T. Grater, Esquire. 1 CC to Atty.	John K. Reilly Jr.
12/02/2004	Motion for Sanctions, filed by s/Nathaniel B. Smith, Esq. No CC	John K. Reilly Jr.

Date: 12/29/2004

Time: 12:29 PM

Page 2 of 2

**Clearfield County Court of Common Pleas**

ROA Report

Case: 2003-01075-CD

User: BANDERSON

Current Judge: Fredric Joseph Ammerman

Robert L. Stevens, Carrie Stevens vs. Thomas J. Dunlap, Tommy D's Restaurant

Civil Other

Date		Judge
12/08/2004	Scheduling Order, filed 2 cert. and memo to Atty. Smith. Hearing on Plaintiff's Motion for Sanctions shall take place on the 3rd day of January, 2005.	Fredric Joseph Ammerman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS, his wife

Plaintiffs

vs.

THOMAS J. DUNLAP, t/d/b/a  
TOMMY D'S RESTAURANT

Defendant.

No. 03-1075-C

PRAECIPE FOR WRIT OF SUMMONS

Filed on behalf of: Plaintiffs

Counsel of record for this party:

NATHANIEL B. SMITH, ESQUIRE

PA I.D. No. 34277

EDGAR SNYDER & ASSOCIATES, LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, PA 16601

(814) 942-3699

**FILED**

JUL 23 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS, his wife

No.:

Plaintiffs

Vs.

THOMAS J. DUNLAP, t/d/b/a  
TOMMY D'S RESTAURANT

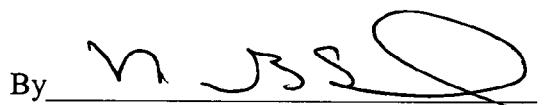
**PRAECIPE FOR WRIT OF SUMMONS**  
**IN A CIVIL ACTION**

TO: Prothonotary of Clearfield County

Kindly issue a Writ Of Summons In A Civil Action on behalf of the Plaintiffs Robert L. Stevens and Carrie Stevens, his wife, against Defendant, Thomas J. Dunlap, t/d/b/a Tommy D's Restaurant of 42 South Brady Street, DuBois, Clearfield County, Pennsylvania 15801 arising out of an incident occurring on or about February 10, 2003.

EDGAR SNYDER & ASSOCIATES, LLC

By

  
Nathaniel B. Smith, Esq.  
Attorney for Plaintiff(s)

**FILED**

in 1-41 bat pd 8550  
JUL 23 2003 100 & West to Shaff

William A. Shaw  
Prothonotary

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

COPY

**SUMMONS**

**Robert L. Stevens  
Carrie Stevens**

**Vs.**

**NO.: 2003-01075-CD**

**Thomas J. Dunlap, t/d/b/a  
Tommy D's Restaurant**

**TO: THOMAS J. DUNLAP, t/d/b/a  
TOMMY D'S RESTAURANT**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 07/23/2003

---

William A. Shaw  
Prothonotary

Issuing Attorney:

Nathaniel B. Smith  
2900 Old Route 220  
Altoona, PA 16601  
(814) 942-3699

In The Court of Common Pleas of Clearfield County, Pennsylvania

STEVENS, ROBERT L. & CARRIE

VS.

DUNLAP, THOMAS J. T/D/B/A TOMMY D'S RESTAURANT

SUMMONS

Sheriff Docket # 14355

03-1075-CD

**SHERIFF RETURNS**

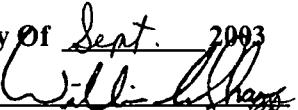
NOW JULY 24, 2003 AT 11:00 AM SERVED THE WITHIN SUMMONS ON THOMAS J. DUNLAP T/D/B/A TOMMY D'S RESTAURANT, DEFENDANT AT EMPLOYMENT, 42 SOUTH BRADY ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO PAMELA KLAIBER, HOSTESS A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: RYEN

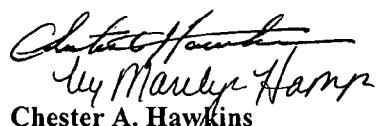
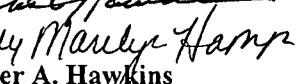
**Return Costs**

Cost	Description
31.68	SHERIFF HAWKINS PAID BY: ATTY CK# 2656
10.00	SURCHARGE PAID BY: ATTY CK# 2657

Sworn to Before Me This

18 Day of Sept. 2003  


So Answers,

  
by   
Chester A. Hawkins  
Sheriff

**FILED**

0 3:16 AM  
SEP 18 2003 

William A. Shaw  
Prothonotary

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

ROBERT L. STEVENS and CARRIE No. 03- 1075 CD  
STEVENS

Plaintiffs,  
vs.

THOMAS J. DUNLAP, t/d/b/a  
TOMMY D'S RESTAURANT,

Defendant.

**MOTION TO COMPEL DEFENDANT'S  
APPEARANCE AT DEPOSITION**

Filed on behalf of:

Plaintiffs

Counsel of record for this party:

NATHANIEL B. SMITH, ESQUIRE

PA I.D. No. 34277

EDGAR SNYDER & ASSOCIATES, LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, PA 16601

(814) 942-3699

**FILED**

SEP 25 2003

William A. Shaw  
Prothonotary/Clerk of Courts

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

ROBERT L. STEVENS and  
CARRIE STEVENS,

No.: 03 – 1075 CD

Plaintiffs

vs.

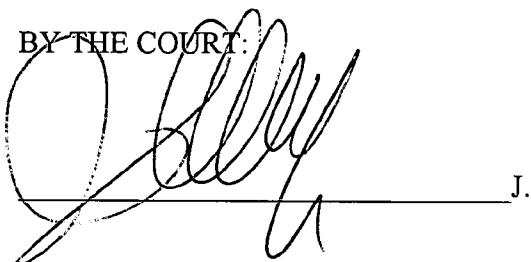
THOMAS J. DUNLAP t/d/b/a  
TOMMY D'S RESTAURANT

Defendant

ORDER OF COURT

AND NOW, to wit, this 20<sup>th</sup> day of September, 2003, upon consideration of the Plaintiffs' Motion to Compel Defendant's Appearance at Deposition, it is hereby Ordered, Adjudged and Decreed that the Defendant Thomas J. Dunlap, shall present himself for the purposes of taking his deposition by counsel for the Plaintiffs, within a period of thirty days from the date of this Order. Failure to adhere to this time limitation shall result in the Defendant being penalized for contempt of Court.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J. DUNLAP", is written over a horizontal line. To the left of the signature, the text "BY THE COURT:" is printed in a smaller font.

**FILED**

SEP 26 2003

William A. Shaw  
Prothonotary

**FILED**

03-5344-1 CC to attorney  
SEP 26 2003  
*WAS*

William A. Shaw  
Prothonotary

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

ROBERT L. STEVENS and  
CARRIE STEVENS,

No.: 03 – 1075 CD

Plaintiffs

vs.

THOMAS J. DUNLAP t/d/b/a  
TOMMY D'S RESTAURANT

Defendant

**MOTION TO COMPEL DEFENDANT'S APPEARANCE AT DEPOSITION**

AND NOW, come the Plaintiffs, Robert L. Stevens and Carrie Stevens, by their attorneys, EDGAR SNYDER & ASSOCIATES, LLC, and NATHANIEL B. SMITH, ESQUIRE, to file the following Motion to Compel and in support thereof the following is averred.

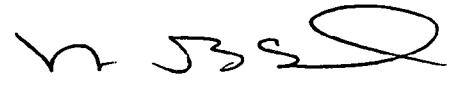
1. This is a civil action which arises out of a fall down accident which occurred on February 10, 2003.
2. Litigation was commenced by the filing of a Praecept for Writ of Summons which was served upon the Defendant, Thomas J. Dunlap, t/d/b/a Tommy D's Restaurant, 42 South Brady Street, DuBois, Pennsylvania on July 24, 2003.
3. By way of correspondence dated August 18, 2003, Plaintiffs scheduled the deposition of the Defendant and forwarded the Notice of Deposition by Certified Mail to the attention of Defendant Thomas J. Dunlap at 42 South Brady Street, DuBois, Pennsylvania 15801.
4. On September 18, 2003, Defendant Thomas J. Dunlap failed to present himself for the above mentioned deposition without any notice of his intention to not appear being given to Plaintiffs or Plaintiffs' counsel.

5. Plaintiffs' counsel was present on September 18, 2003 at 9:30 a.m., at the offices of Sargent's Court Reporting, 106 N. Second Street, Clearfield, Pennsylvania for the scheduled deposition. Plaintiffs' counsel waited forty-five minutes, until 10:15 a.m., for Defendant Thomas J. Dunlap. Defendant did not appear for his scheduled deposition.
6. Plaintiffs' counsel respectfully seeks an Order from this Honorable Court requiring the Defendant to appear within the next thirty (30) days for the taking of his deposition or failure to do so will result in Defendant Thomas J. Dunlap being penalized for contempt of Court.

WHEREFORE, Plaintiffs pray that this Honorable Court issue an Order requiring the appearance of the Defendant for the purposes of taking his deposition within a period of thirty (30) days.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

By: 

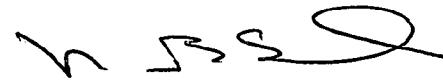
Nathaniel B. Smith, Esquire  
Counsel for the Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within **Motion to Compel Defendant's Appearance at Deposition** was served on the Defendant listed below, by First Class Mail, postage prepaid, and by certified mail, return receipt requested, on this 24th day of September, 2003:

Thomas J. Dunlap  
42 South Brady Street  
DuBois, PA 15801

EDGAR SNYDER & ASSOCIATES, LLC

By: 

Nathaniel B. Smith  
Attorney for Plaintiffs'

FILED NO  
m/3:00 PM  
SEP 25 2003

WAS  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS

No. 2003-01075-CD

Plaintiff,

vs.

THOMAS J. DUNLAP  
TOMMY D'S RESTAURANT  
Defendant.

NOTICE OF DEPOSITION OF THOMAS J.  
DUNLAP

Filed on behalf of:  
ROBERT L. STEVENS and CARRIE  
STEVENS

Counsel of record for this party:

NATHANIEL B. SMITH, ESQUIRE

PA I.D. No. 34277

EDGAR SNYDER & ASSOCIATES, LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, PA 16601

(814) 942-3699

FILED

OCT 03 2003

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS, his wife,

Plaintiffs

No.:2003 01075 CD

Vs.

THOMAS J. DUNLAP, t/d/b/a/  
TOMMY D'S RESTAURANT

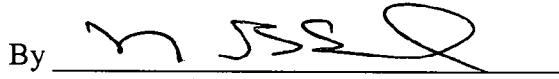
**NOTICE OF DEPOSITION**

To: Thomas J. Dunlap  
42 South Brady Street  
DuBois, PA 15801

PLEASE TAKE NOTICE that the Plaintiff(s) Robert Stevens and Carrie Stevens, by my/their Attorneys, EDGAR SNYDER & ASSOCIATES, LLC, will take the deposition of Thomas J. Dunlap, pursuant to Rule 4007, et seq., of the Pennsylvania Rules of Civil Procedure, as amended, before a court reporter duly authorized to administer oaths, on Friday, October 17, 2003, at 9:30 a.m., at the offices of Sargent's Court Reporting, 106 N. Second Street, Clearfield, PA, at which time and place you are invited to appear and take such part as shall be fitting and proper.

The deposition shall be taken before a Notary Public employed by Sargent's Court Reporting.

EDGAR SNYDER & ASSOCIATES, LLC

By   
Nathaniel B. Smith, Esq.  
Attorney for Plaintiff(s)

cc: Sargent's Court Reporting

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within Notice of Deposition was served upon the individual listed below, by First Class Mail, postage prepaid, and by Certified Mail, return receipt requested, on this 2<sup>nd</sup> day of October, 2003:

Thomas J. Dunlap  
42 South Brady Street  
DuBois, PA 15801

EDGAR SNYDER & ASSOCIATES LLC

  
Nathaniel B. Smith, Esq.  
Attorney for Plaintiffs

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

ROBERT L. STEVENS and CARRIE No. 03- 1075 CD  
STEVENS

Plaintiffs,  
vs.

THOMAS J. DUNLAP, t/d/b/a  
TOMMY D'S RESTAURANT,

Defendant.

**SECOND MOTION TO COMPEL  
DEFENDANT'S APPEARANCE AT  
DEPOSITION**

Filed on behalf of:

Plaintiffs

Counsel of record for this party:

NATHANIEL B. SMITH, ESQUIRE

PA I.D. No. 34277

EDGAR SNYDER & ASSOCIATES, LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, PA 16601

(814) 942-3699

**FILED**

OCT 28 2003

William A. Shaw  
Prothonotary/Clerk of Courts

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

ROBERT L. STEVENS and  
CARRIE STEVENS,

No.: 03 – 1075 CD

Plaintiffs

vs.

THOMAS J. DUNLAP t/d/b/a  
TOMMY D'S RESTAURANT

Defendant

**PLAINTIFF'S SECOND MOTION TO COMPEL  
DEFENDANT'S APPEARANCE AT DEPOSITION**

AND NOW, come the Plaintiffs, Robert L. Stevens and Carrie Stevens, by their attorneys, EDGAR SNYDER & ASSOCIATES, LLC, and NATHANIEL B. SMITH, ESQUIRE, to file the following Motion to Compel and in support thereof the following is averred.

1. This is a civil action which arises out of a fall down accident which occurred on February 10, 2003.
2. Litigation was commenced by the filing of a Praecept for Writ of Summons which was served upon the Defendant, Thomas J. Dunlap, t/d/b/a Tommy D's Restaurant, 42 South Brady Street, DuBois, Pennsylvania on July 24, 2003.
3. By way of correspondence dated August 18, 2003, Plaintiffs scheduled the deposition of the Defendant and forwarded the Notice of Deposition by Certified Mail to the attention of Defendant Thomas J. Dunlap at 42 South Brady Street, DuBois, Pennsylvania 15801.

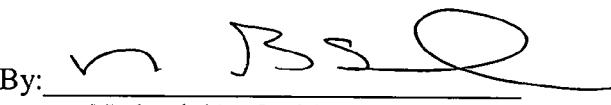
4. On September 18, 2003, Defendant Thomas J. Dunlap failed to present himself for the above mentioned deposition without any notice of his intention to not appear being given to Plaintiffs or Plaintiffs' counsel.
5. Plaintiffs' counsel was present on September 18, 2003 at 9:30 a.m., at the offices of Sargent's Court Reporting, 106 N. Second Street, Clearfield, Pennsylvania for the scheduled deposition. Plaintiffs' counsel waited forty-five minutes, until 10:15 a.m., for Defendant Thomas J. Dunlap. Defendant did not appear for his scheduled deposition.
6. On September 26, 2003 the Honorable John K. Reilly, Jr. signed an Order requesting that the Defendant Thomas J. Dunlap present himself for the purpose of taking his deposition within thirty days from that date.
7. Plaintiff's counsel rescheduled Defendant Thomas J. Dunlap's deposition for Friday, October 17, 2003 at 9:00 at Sargent's Court Reporting in Clearfield, PA. Once again the Defendant failed to appear for his deposition in violation of the Order of Court dated September 16, 2003 signed by the Honorable Judge John K. Reilly, Jr.
8. Based upon Defendant's failure to appear for his deposition on October 17, 2003, it is requested that an Order be issued directing the Sheriff of Clearfield County to take Thomas J. Dunlap into custody and deliver him to Sargent's Court Reporting located at 106 N. Second Street, Clearfield, PA on a date mutually agreed upon by Plaintiff's counsel and the Sheriff's Office of Clearfield County.
9. Any Sheriff's costs associated with this matter will be borne by Thomas J. Dunlap, the Defendant in this case.

WHEREFORE, Plaintiffs pray that this Honorable Court issue an Order directing the Sheriff of Clearfield County to take Thomas J. Dunlap into custody and deliver him to Sargent's Court

Reporting located at 106 N. Second Street, Clearfield, PA for the purpose of taking his deposition.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

By:   
Nathaniel B. Smith, Esquire  
Counsel for the Plaintiffs

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

ROBERT L. STEVENS and  
CARRIE STEVENS,

No.: 03 - 1075 CD

Plaintiffs

vs.

THOMAS J. DUNLAP t/d/b/a  
TOMMY D'S RESTAURANT

Defendant

ORDER OF COURT

AND NOW, to wit, this \_\_\_\_\_ day of \_\_\_\_\_, 2003, upon consideration of the Plaintiffs' Second Motion to Compel Defendant's Appearance at Deposition, it is hereby ORDERED, ADJUDGED and DECREED that the Sheriff of Clearfield County shall take Thomas J. Dunlap into custody and deliver him to Sargent's Court Reporting located at 106 N. Second Street, Clearfield, PA for the purpose of his scheduled deposition. The date of the rescheduled deposition will be a date mutually agreed upon by Plaintiff's counsel and the Sheriff's Office of Clearfield County. Any Sheriff's costs will be assessed against Defendant Thomas J. Dunlap.

BY THE COURT:

J.

*I'll sign this 10/30/03  
I sent a letter to Atty  
Smith w/ a cause of  
action to take before  
he will reconsider  
signing this.*

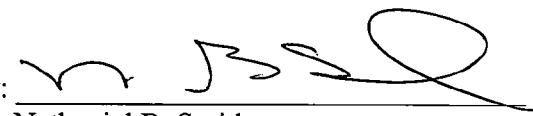
*me -*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within **Second Motion to Compel Defendant's Appearance at Deposition** was served on the Defendant listed below, by First Class Mail, postage prepaid, and by certified mail, return receipt requested, on this 23 day of October, 2003:

Thomas J. Dunlap  
42 South Brady Street  
DuBois, PA 15801

EDGAR SNYDER & ASSOCIATES, LLC

By:   
Nathaniel B. Smith  
Attorney for Plaintiffs'

877  
M 39  
Oct 28 2003  
FILED  
No  
cc

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS

No. 2003-01075-CD

Plaintiff,  
vs.

THOMAS J. DUNLAP  
TOMMY D'S RESTAURANT  
Defendant.

NOTICE OF RESCHEDULED DEPOSITION  
OF THOMAS J. DUNLAP

Filed on behalf of:  
ROBERT L. STEVENS and CARRIE  
STEVENS

Counsel of record for this party:

NATHANIEL B. SMITH, ESQUIRE  
PA I.D. No. 34277

EDGAR SNYDER & ASSOCIATES, LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, PA 16601

(814) 942-3699

**FILED**

DEC 11 2003

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS, his wife,

Plaintiffs

No.:2003 01075 CD

Vs.

THOMAS J. DUNLAP, t/d/b/a/  
TOMMY D'S RESTAURANT

**NOTICE OF RESCHEDULED DEPOSITION**

To: Thomas J. Dunlap  
42 South Brady Street  
DuBois, PA 15801

PLEASE TAKE NOTICE that the Plaintiff(s) Robert Stevens and Carrie Stevens, by my/their Attorneys, EDGAR SNYDER & ASSOCIATES, LLC, will take the deposition of Thomas J. Dunlap, pursuant to Rule 4007, et seq., of the Pennsylvania Rules of Civil Procedure, as amended, before a court reporter duly authorized to administer oaths, on Friday, January 9, 2004, at 9:30 a.m., at the offices of Sargent's Court Reporting, 106 N. Second Street, Clearfield, PA, at which time and place you are invited to appear and take such part as shall be fitting and proper.

The deposition shall be taken before a Notary Public employed by Sargent's Court Reporting.

EDGAR SNYDER & ASSOCIATES, LLC

By   
Nathaniel B. Smith, Esq.  
Attorney for Plaintiff(s)

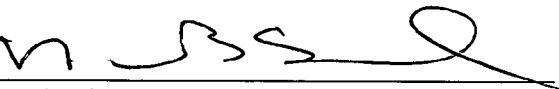
cc: Sargent's Court Reporting

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within Notice of Deposition was served upon the individual listed below, by First Class Mail, postage prepaid, and by Certified Mail, return receipt requested, on this 10<sup>th</sup> day of December, 2003:

Thomas J. Dunlap  
42 South Brady Street  
DuBois, PA 15801

EDGAR SNYDER & ASSOCIATES LLC

  
\_\_\_\_\_  
Nathaniel B. Smith, Esq.  
Attorney for Plaintiffs

FILED NO  
M 11 45 PM  
DEC 11 2003  
by

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and CARRIE No. 2003-01075 CD  
STEVENS

Plaintiffs

COMPLAINT IN CIVIL ACTION

vs.

THOMAS J. DUNLAP and TOMMY  
D'S RESTAURANT,  
Defendant

Filed on behalf of:

ROBERT L. STEVENS and CARRIE  
STEVENS

Counsel of record for this party:

NATHANIEL B. SMITH, ESQUIRE

PA I.D. No. 34277

EDGAR SNYDER & ASSOCIATES, LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, PA 16601

(814) 942-3699

**FILED**

**JAN 27 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS,

Plaintiffs

CIVIL DIVISION

vs.

No. 2003-01075 CD

THOMAS J. DUNLAP and  
TOMMY D'S RESTAURANT

Defendants

**NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. 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 claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

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

LAWYER REFERRAL SERVICE -

Court Administrator's Office  
1 North Second Street  
Clearfield, PA 16830

Telephone (814) 765-2641, Ext: 50

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS  
Plaintiffs

CIVIL ACTION - LAW  
No.: 2003-01075 CD

vs.

THOMAS J. DUNLAP t/d/b/a  
TOMMY D'S RESTAURANT,  
Defendants

**COMPLAINT IN CIVIL ACTION**

AND NOW come the Plaintiffs ROBERT L. STEVENS and CARRIE STEVENS, by and through their attorneys EDGAR SNYDER & ASSOCIATES LLC and NATHANIEL B. SMITH, ESQUIRE, and files the within Complaint in Civil Action and in support thereof aver the following:

1. Plaintiffs Robert L. Stevens and Carrie Stevens are adult individuals who reside at 426 N. 4<sup>th</sup> Street, Reynoldsville, Jefferson County, Pennsylvania 15851.
2. Defendant Thomas J. Dunlap is an adult individual who is believed to reside at 412 Treasure Lake, DuBois, Clearfield County, Pennsylvania. Further, Defendant Thomas J. Dunlap trades and does business as Tommy D's Restaurant which has a principal place of business located at 42 South Brady Street, DuBois, Clearfield County, Pennsylvania 15801.
3. Defendant Thomas J. Dunlap is the owner of the piece of real estate on which the business known as Tommy D's Restaurant is located.
4. The events hereinafter complained of occurred on February 10, 2003, at approximately 2:00 a.m. at 42 South Brady Street, DuBois, Clearfield County, Pennsylvania, on the real estate owned by Defendant Thomas J. Dunlap on which Defendant's restaurant is located.

5. At said time and place, and for a substantial period of time prior to the time of the accident, there existed a dangerous and hazardous condition on the sidewalk of Defendant's premises consisting of ice that had been present for a sufficient amount of time so as to have formed in hills and ridges. Further, the ice that had formed in hills and ridges was obscured by a layer of snow that had fallen upon such ice. The hazardous icy condition was allowed to remain on the sidewalk of Defendant's business premises for such a period of time that the Defendant knew or should have known of its existence.

6. The Defendant Thomas J. Dunlap, t/d/b/a Tommy D's Restaurant, had actual or constructive notice of the dangerous and hazardous condition that was permitted to exist on the sidewalk area of Defendant's premises.

7. Despite using reasonable care and due caution while leaving Defendant's restaurant as a business invitee, Plaintiff Robert Stevens, was caused to fall upon the hazardous and dangerous icy condition existing upon the sidewalk of Defendant's premises.

8. The injuries and damages sustained by Plaintiff Robert L. Stevens were caused solely by and were a direct and proximate result of the negligence of the Defendant Thomas J. Dunlap, t/d/b/a Tommy D's Restaurant as aforesaid generally and in the following particulars.

- a. In failing to remove snow and ice from the sidewalk on his property;
- b. In failing to remove snow and ice from the sidewalk that had existed for an unreasonable period of time;
- c. In failing to remove snow and ice from the sidewalk when Defendant knew or should have known that said sidewalk posed a dangerous condition to business invitees such as the Plaintiff.

d. In failing to inspect the sidewalk adjacent to the restaurant for dangerous icy and snowy conditions.

e. In permitting hills and ridges of ice to build up and cause a dangerous condition for the Plaintiff and other pedestrians.

f. In failing to warn pedestrians and business invitees such as the Plaintiff of the dangerous condition on his business premises.

g. In allowing the sidewalk to remain in an unsafe condition in violation of the statutes of the Commonwealth of Pennsylvania and ordinances of the City of DuBois.

h. In allowing the sidewalk to remain in an unsafe condition when there was no alternative safe path for the Plaintiff and other business invitees who were entering or exiting Defendant's business premises.

9. Plaintiff's aver that the Defendant had actual notice or should have known of the existence of said dangerous condition consisting of hills and ridges of ice upon the sidewalk of the premises above mentioned for a long time prior to the happening of the accident, and that the hills and ridges of ice were in existence for an unreasonable length of time prior to the accident.

10. Solely as a result of the aforesaid negligence of the Defendant, Thomas J. Dunlap, t/d/b/a Tommy D's Restaurant, the Plaintiff, Robert L. Stevens, was caused to suffer various physical injuries as follows:

- a. Splenic trauma/lacerated spleen.
- b. Splenic laceration requiring splenectomy;
- c. Cervical strain/sprain.
- d. Contusion injuries to left flank area;
- e. Contusion/strain of the left shoulder;

- f. Depression;
- g. Severe shock, strain or sprain of the nerves, muscles, tissues, ligaments and vessels of the musculoskeletal system.

11. As a result of the aforesaid injuries caused by Defendant Thomas J. Dunlap, t/d/b/a Tommy D's Restaurant, the Plaintiff Robert L. Stevens has been damaged as follows:

- a. He has suffered and may in the future suffer, great pain, inconvenience, embarrassment, mental anguish and loss of enjoyment of life's pleasures;
- b. He has been deprived and may in the future be deprived of his health, strength and vitality.
- c. He has incurred and may in the future incur medical expenses and doctor's expenses which are recoverable.
- d. He has suffered scarring and disfigurement,
- e. He is required to and inconvenienced by having to undergo preventative vaccines and other medical treatment in the future in order to prevent the risk of serious infection that accompanies persons without spleens.

12. As a result of the injuries and damages caused by the Defendant Thomas J. Dunlap, t/d/b/a Tommy D's Restaurant and sustained by husband/Plaintiff Robert L. Stevens, wife/Plaintiff Carrie Stevens has suffered the following damages:

- a. Wife/Plaintiff has suffered a loss of consortium; and
- b. Wife/Plaintiff has suffered great inconvenience and loss of services which were provided by husband/Plaintiff.

WHEREFORE, Plaintiffs Robert L. Stevens and Carrie Stevens demand judgment against the Defendant Thomas J. Dunlap, t/d/b/a Tommy D's Restaurant in an amount in excess of the jurisdictional limits of arbitration of the Court of Common Pleas of Clearfield County.

A JURY TRIAL IS DEMANDED.

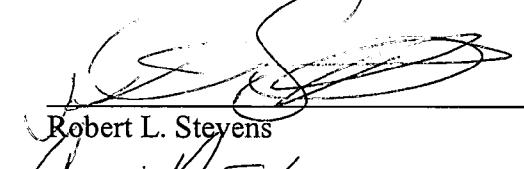
Respectfully submitted,



Nathaniel B. Smith, Esq.

**VERIFICATION**

We, ROBERT L. STEVENS and CARRIE STEVENS, hereby verify that the foregoing averments of fact are true and correct and based upon our personal knowledge, information or belief. We understand that these averments of fact are made subject to the penalties of 18 Purdons Consolidated Statutes Section 4904, relating to unsworn falsification to authorities.



Robert L. Stevens



Carrie Stevens

Date: Jan 19, 04

FILED 1cc Shs

19-3584  
JAN 27 2004

William J. W.  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS,

Plaintiffs,

Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

Defendant.

CIVIL DIVISION

NO. 2003-01075 CD

PRAECIPE FOR APPEARANCE

Filed on behalf of Defendant

Counsel of Record for this  
Party:

Bernard W. O'Keefe, Esquire  
Pa. I.D. No. 28125

Law Offices of Bernard W. O'Keefe  
300 Weyman Plaza  
Suite 310  
Pittsburgh, PA 15236

Telephone: (412) 884-4697  
Facsimile: (412) 884-6712

**FILED**

**FEB 09 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS,

CIVIL DIVISION  
NO. 2003-01075 CD  
Plaintiffs,

Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

Defendant.

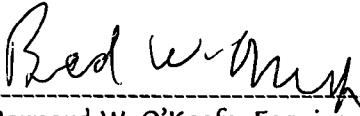
PRAECIPE FOR APPEARANCE

To: Prothonotary of Said Court:

KINDLY enter my appearance on behalf of the Defendant THOMAS J. DUNLAP  
and TOMMY D'S RESTAURANT.

Respectfully submitted,

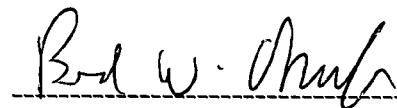
LAW OFFICES OF BERNARD W. O'KEEFE

BY:   
Bernard W. O'Keefe, Esquire

CERTIFICATE OF SERVICE

I, BERNARD W. O'KEEFE, ESQUIRE, hereby certify that a true and correct copy of the within Praeclipe for Appearance was forwarded to all counsel of record by U.S. Mail, postage prepared, on the 5th day of February, 2004.

Nathaniel B. Smith, Esquire  
Edgar Snyder & Associates LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, Pa 16601



Bernard W. O'Keefe

FILED NO  
M 1:30 PM  
FEB 09 2004 COPY + CLA  
EJD  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS,

Plaintiffs,

Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

Defendant.

CIVIL DIVISION

NO. 2003-01075 CD

NOTICE OF SERVICE OF  
INTERROGATORIES DIRECTED TO  
PLAINTIFFS

Filed on behalf of Defendant

Counsel of Record for this  
Party:

Bernard W. O'Keefe, Esquire  
Pa. I.D. No. 28125

Law Offices of Bernard W. O'Keefe  
300 Weyman Plaza  
Suite 310  
Pittsburgh, PA 15236

Telephone: (412) 884-4697  
Facsimile: (412) 884-6712

FILED

FEB 12 2004

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS,

CIVIL DIVISION  
NO. 2003-01075 CD  
Plaintiffs,

Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

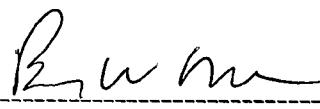
Defendant.

NOTICE OF SERVICE OF INTERROGATORIES

Kindly take Notice that Interrogatories have been served on counsel for Plaintiff by First Class Mail, postage prepaid, on this 10th day of February, 2004 along with the notice that answers to the same are due within thirty (30) days from the date of service.

Respectfully submitted,

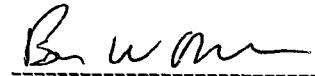
LAW OFFICES OF BERNARD W. O'KEEFE

BY:   
Bernard W. O'Keefe, Esquire

CERTIFICATE OF SERVICE

I, BERNARD W. O'KEEFE, ESQUIRE, hereby certify that a true and correct copy of the within Notice of Service of Interrogatories Directed to Plaintiffs was forwarded to all counsel of record by U.S. Mail, postage prepared, on the 10th day of February, 2004.

Nathaniel B. Smith, Esquire  
Edgar Snyder & Associates LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, Pa 16601



-----  
Bernard W. O'Keefe

**FILED**

NO CC  
M 11:20 AM  
FEB 12 2004  
GJPS

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS,

Plaintiffs,

Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

Defendants.

CIVIL DIVISION

NO. 2003-01075 CD

ANSWER AND NEW MATTER

Filed on behalf of Defendants

Counsel of Record for this  
Party:

Bernard W. O'Keefe, Esquire  
Pa. I.D. No. 28125

Law Offices of Bernard W. O'Keefe  
300 Weyman Plaza  
Suite 310  
Pittsburgh, PA 15236

Telephone: (412) 884-4697  
Facsimile: (412) 884-6712

TO THE WITHIN PARTIES:

You are hereby required to plead to the  
within New Matter within twenty(20)  
days of the date of service hereof, or a  
default judgment may be entered against  
you.

Bernard W. O'Keefe

FILED

MAR 25 2004

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS,

CIVIL DIVISION  
NO. 2003-01075 CD  
Plaintiffs,

Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

Defendants.

ANSWER

AND NOW, come the defendants Thomas J. Dunlap t/d/b/a Tommy D's Restaurant (hereinafter the defendants cumulatively referred to as "Thomas Dunlap") and files the following Answer and New Matter to plaintiffs' Complaint and in support thereof avers as follows:

1. After reasonable investigation, these Defendants is without knowledge or information to form a belief as to the truth or falsity of Paragraph 1 of Plaintiffs' Complaint, and the same is specifically denied and strict proof is demanded at the time of trial.
2. Denied. Paragraph 2 sets forth conclusions of law to which no response is required.
3. Admitted.
4. Denied. Paragraph 4 sets forth conclusions of law which are deemed by operation of law. As far as any response may be required, all said allegations of paragraph 4 are specifically denied and strict demanded at the time of trial.

5. Denied. Paragraph 5 sets forth conclusions of law which are deemed by operation of law. As far as any response may be required, all said allegations of paragraph 5 are specifically denied and strict demanded at the time of trial.

6. Denied. Paragraph 6 sets forth conclusions of law which are deemed by operation of law. As far as any response may be required, all said allegations of paragraph 6 are specifically denied and strict demanded at the time of trial. Further, it is specifically denied that the plaintiff fell on any premises owned or controlled by the defendants Thomas Dunlap.

7. Denied. Paragraph 7 sets forth conclusions of law which are deemed by operation of law. As far as any response may be required, all said allegations of paragraph 7 are specifically denied and strict demanded at the time of trial. Further, it is affirmatively averred that Robert Stevens own negligence, carelessness and recklessness was the sole and proximate cause of his alleged fall. Further, it is denied that any dangerous and/or icy condition existed on the sidewalk or premises of these defendants. Further, it is specifically denied that the plaintiff fell on any premises owned or controlled by the defendants Thomas Dunlap.

8. Denied. Paragraph 8, and all of its subparts, set forth conclusions of law which are deemed by operation of law. As far as any response may be required, all said allegations of paragraph 8, and all of its subparts, are specifically denied and strict demanded at the time of trial. It is denied that the defendants, Thomas Dunlap was negligent in any manner. It is further denied that any dangerous or unsafe condition existed on any premises owned or controlled by the defendants. Further, it is specifically denied that plaintiff slipped or fell on any premises under the ownership or control of the defendants. Strict proof of the area of plaintiff's fall is

demanded at the time of trial. Further, plaintiff's own negligence, carelessness and recklessness are the sole and proximate cause of plaintiff's alleged fall.

9. Denied. Paragraph 6 sets forth conclusions of law which are deemed by operation of law. As far as any response may be required, all said allegations of paragraph 6 are specifically denied and strict demand is made at the time of trial. Further, it is specifically denied that the plaintiff fell on any premises owned or controlled by the defendants Thomas Dunlap.

10.-12. Denied. Paragraphs 10, 11 and 12, and all of their subparts, set forth conclusions of law which are deemed denied by operation of law. Insofar as any response may be required, all said allegations of paragraphs 10, 11 and 12, and all of their subparts, are specifically denied and strict proof is demanded at time of trial. It is denied that the defendants, Thomas Dunlap, were negligent in any manner. Plaintiff Robert Stevens' own negligence is the sole and proximate cause of this alleged fall. Further, it is denied that plaintiff Robert Stevens fell on any premises owned or under the control of defendants, Thomas Dunlap. Further, all of plaintiff's alleged injuries and damages as set forth in paragraphs 10, 11 and 12, and all of their subparts, are specifically denied, and strict proof demanded at the time of trial.

WHEREFORE, plaintiffs' Complaint should be immediately dismissed and costs assessed against the plaintiff.

NEW MATTER

13. The averments contained in Paragraphs 1 through 12 of this Answer and New Matter are hereby incorporated as though fully set forth at length herein.

14. The rights of the Plaintiff in this action are restricted, governed, diminished, and/or barred by the provisions of the Pennsylvania Financial Responsibility Law.

15. Any injuries, losses, damages, or occurrences alleged in Plaintiffs' Complaint, were the result of an independent or intervening causes or causes over which these Defendants had no control or in any way participated.

16. These Defendants specifically avers that if Plaintiff suffered any injuries, losses or damages, the same being specifically denied that the rights of the Plaintiff in this action are diminished or fully barred by the Plaintiff's contributory negligence in accordance with the provisions of the Pennsylvania Comparative Negligence Law.

17. These Defendants pleads as an affirmative defense all of the immunities and protections of the Pennsylvania Workers' Compensation Act as said Workers' Compensation Act prohibits or reduces Plaintiff's recovery in this case.

18. Any and all claims against Defendants, Thomas Dunlap, which have been asserted or may be asserted by Plaintiff or any party to this action, are barred by the applicable statute of limitations.

19. These Defendants, Thomas Dunlap, hereby fully asserts the defenses of contributory negligence, comparative negligence, and assumption of the risk pursuant to the Comparative Negligence Act and all other statutes and case law of Pennsylvania.

20. Plaintiff's claims are barred and/or limited by his failure to mitigate his alleged damages.

21. These Defendants avers that the Plaintiff may not recover any medical expenses reimbursements in excess of amounts accepted as full payment in satisfaction by medical providers pursuant to Moorhead v. Crozier Medical Center.

22. To the extent proven at the time of trial, any injuries and/or damages allegedly suffered by Plaintiff are the result of actions or conduct of parties other than Thomas Dunlap and over whose actions or conduct Thomas Dunlap exercise no control and for which Thomas Dunlap cannot be held responsible.

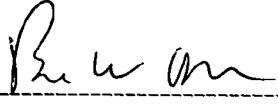
23. Thomas Dunlap believes and therefore avers that any injuries and/or damages allegedly suffered by Plaintiff pre-existed the date of the alleged accident, and it may therefore may not be held liable for such injuries and/or damages should same be proven at time of trial.

24. To the extent justified by the evidence developed in discovery or the testimony at the time pf trial, these Defendants reserve the right to assert any and all other affirmative defenses which discovery may reveal appropriate and/or proper.

WHEREFORE, Defendants, Thomas Dunlap and Tommy D's Restaurant, demand judgment in its favor and demands judgment in its favor and against Plaintiff with costs of suit.

Respectfully submitted,

LAW OFFICES OF BERNARD W. O'KEEFE

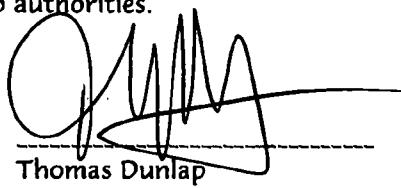
BY:   
Bernard W. O'Keefe, Esquire

VERIFICATION

I, Thomas Dunlap, have read the foregoing Answer and New Matter and verify that the statements contained therein are true to the best of my knowledge, information and belief.

This statement is made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: 3/18/03

  
Thomas Dunlap

CERTIFICATE OF SERVICE

I, BERNARD W. O'KEEFE, ESQUIRE, hereby certify that a true and correct copy of the within Answer and New Matter was forwarded to all counsel of record by U.S. Mail, postage prepared, on the 23rd day of March, 2004.

Nathaniel B. Smith, Esquire  
Edgar Snyder & Associates LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, Pa 16601

Bernard W. O'Keefe

Bernard W. O'Keefe

FILED NO  
3112270  
MAR 25 2004 EAS  
FBI

William A. Shaw  
Prothonotary/Clerk of Courts

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

**STEVENS, ROBERT L. & CARRIE**

**VS.**

**DUNLAP, THOMAS J. and TOMMY D'S RESTAURANT**

**COMPLAINT**

**Sheriff Docket # 15130**

**03-1075-CD**

**SHERIFF RETURNS**

NOW FEBRUARY 26, 2004 AT 10:30 AM SERVED THE WITHIN COMPLAINT ON THOMAS J. DUNLAP, DEFENDANT AT EMPLOYMENT, 42 SOUTH BRADY ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO THOMAS DUNLAP A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: MCCLEARY

**Return Costs**

<b>Cost</b>	<b>Description</b>
<b>60.75</b>	<b>SHERIFF HAWKINS PAID BY: ATTY CK# 2719</b>
<b>10.00</b>	<b>SURCHARGE PAID BY: ATY Ck# 2720</b>

**Sworn to Before Me This**

23<sup>rd</sup> Day Of April 2004  
W. A. Shaw

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

**So Answers,**

Chester A. Hawkins  
By Marilyn Hays  
Chester A. Hawkins  
Sheriff

**FILED**  
03-1075-CD Ei  
APR 23 2004

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS, and  
CARRIE STEVENS,

Plaintiffs

CIVIL ACTION - LAW

vs.

No.: 2003-01075 CD

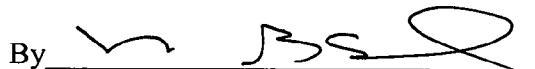
THOMAS J. DUNLAP t/d/b/a  
TOMMY D'S RESTAURANT  
Defendants

**NOTICE OF SERVICE OF INTERROGATORIES AND**  
**REQUEST FOR PRODUCTION OF DOCUMENTS**  
**DIRECTED TO DEFENDANT[S]**

I hereby certify that on this 26th day of May, 2003, the original INTERROGATORIES DIRECTED TO DEFENDANT[S], and REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANT[S] and one (1) copy of NOTICE OF SERVICE OF INTERROGATORIES and REQUEST FOR PRODUCTION OF DOCUMENTS were mailed by First Class Mail, postage prepaid, to counsel for Defendant[s] at the following address[es]:

Bernard W. O'Keefe, Esq.  
Law Offices of Bernard W. O'Keefe  
330 Weyman Plaza  
Suite 310  
Pittsburgh PA 15236

EDGAR SNYDER & ASSOCIATES, LLC

By   
Nathaniel B. Smith  
Attorney for Plaintiff(s)

FILED

JUN 01 2004

William A. Shaw  
Prothonotary/Clerk of Courts

FILED  
MAY 6 2004  
JUN 6 2004  
cc  
William A. Shaw  
Prothonotary/Clerk of Courts  
*[Handwritten signature]*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS  
and CARRIE STEVENS

No. 2003-01075 CD

Plaintiff,

REPLY TO NEW MATTER

vs.

THOMAS J. DUNLAP t/d/b/a  
TOMMY D's RESTAURANT  
Defendant.

Filed on behalf of:  
ROBERT L. STEVENS and CARRIE  
STEVENS

Counsel of record for this party:

NATHANIEL B. SMITH, ESQUIRE

PA I.D. No. 34277

EDGAR SNYDER & ASSOCIATES, LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, PA 16601

(814) 942-3699

FILED

JUN 28 2004

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS,

Plaintiffs

No.: 2003-01075 CD

Vs.

THOMAS J. DUNLAP t/d/b/a  
TOMMY D'S RESTAURANT

Defendants

**REPLY TO NEW MATTER**

AND NOW comes the Plaintiffs Robert L. Stevens and Carrie Stevens, by and through their attorneys EDGAR SNYDER & ASSOCIATES LLC and NATHANIEL B. SMITH, ESQ., to make reply to the New Matter asserted on behalf of the Defendants Thomas J. Dunlap and Tommy D's Restaurant, whereof the following is a statement:

1. Plaintiffs incorporate their Complaint in Civil Action against the Defendants as if the same were fully set forth at length herein.
2. Plaintiffs have been advised and therefore aver that the averments contained in paragraph 14 of Defendant's New Matter contain conclusions of law to which no response is required. By way of further response, this action involves a slip and fall due to hazardous icy conditions and, therefore, the provisions of the Pennsylvania Financial Responsibility Law have nothing to do with this action.
3. Plaintiffs have been advised and therefore aver that the averments contained in paragraph 15 of Defendants' New Matter contain conclusions of law to which no response is required. However, if such a response is deemed necessary, then it is specifically denied that the injuries, losses and damages sustained by Plaintiffs were the result of an independent or

intervening cause or causes over which the Defendants had no control or in any way participated in.

4. Plaintiffs have been advised and therefore aver that the averments contained in paragraph 16 of Defendants' New Matter contain conclusions of law to which no response is required. However, if such a response is deemed necessary, then it is specifically denied that Plaintiffs' claims are diminished or fully barred by the Plaintiffs' contributory negligence in accordance with the provisions of the Pennsylvania Comparative Negligence Law. On the contrary, Plaintiff was exercising reasonable care and due caution when the incident causing his injuries and damages occurred.

5. Plaintiffs have been advised and therefore aver that the Pennsylvania Workers' Compensation Act has no applicability to the subject action.

6. Plaintiffs have been advised and therefore aver that the averments of paragraph 18 of Defendants' New Matter contain conclusions of law to which no response is required. However, if such response is deemed necessary then it is specifically denied that the Plaintiff's action is barred by the applicable statute of limitations.

7. Plaintiffs have been advised and therefore aver that the averments contained in paragraph 19 of Defendants' New Matter contain conclusions of law to which no response is required. However, if such a response is deemed necessary, then it is specifically denied that Plaintiff was contributorily or comparatively negligent and it is further denied that Plaintiff assumed the risk of injury under the circumstances prevailing herein.

8. Plaintiffs have been advised and therefore aver that the averments contained in paragraph 20 of Defendants' New Matter contain conclusions of law to which no response is

required. However, if such a response is deemed necessary, then it is specifically denied that Plaintiffs' claims are barred and/or limited by his failure to mitigate his alleged damages.

9. Plaintiffs have been advised and therefore aver that the averments contained in paragraph 21 of Defendant's New Matter contain conclusions of law to which no response is required.

10. Plaintiffs have been advised and therefore aver that the averments of paragraph 22 of Defendant's New Matter contain conclusions of law to which no response is required. However, if such a response is deemed necessary, then it is specifically denied that the injuries and damages suffered by Plaintiff are the result of actions or conduct to the parties other than Thomas Dunlap whose actions or conduct Thomas Dunlap exercised no control and for which Thomas Dunlap cannot be held responsible. On the contrary, it is believed that Thomas Dunlap allowed the involved hazardous condition to exist on the premises of his business property in spite of his knowledge of the hazard and/or for such an unreasonable period of time after he knew or should have known of the existence thereof.

11. The averments of paragraph 23 of Defendant's New Matter are denied. It is specifically denied that Plaintiff's injuries and/or damages pre-existed the date of the alleged accident. On the contrary, Plaintiff's claims pertain to injuries and damages sustained as result of the incident on which Plaintiff's claim is based.

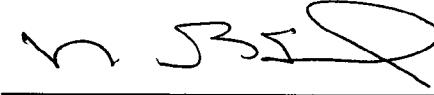
12. The averments contained in paragraph 24 of Defendants' New Matter contain no averments of fact and/or law to which a reply can be or need to be made.

WHEREFORE, Plaintiffs Robert L. Stevens and Carrie Stevens demand judgment against the Defendant Thomas J. Dunlap t/d/b/a Tommy D's Restaurant in an amount in excess of the jurisdictional limits of arbitration of the Court of Common Pleas of Clearfield County.

A JURY TRIAL IS DEMANDED.

Respectfully submitted,

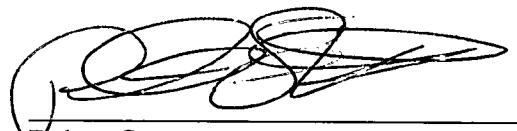
EDGAR SNYDER & ASSOCIATES LLC

By: 

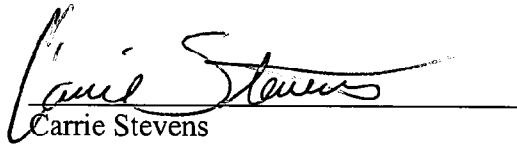
Nathaniel B. Smith, Esquire  
Attorney for Plaintiffs

**VERIFICATION**

We, Robert Stevens and Carrie Stevens, hereby verify that the foregoing averments of fact are true and correct and based upon our personal knowledge, information or belief. We understand that these averments of fact are made subject to the penalties of 18 Purdon's Consolidated Statutes Section 4904, relating to unsworn falsification to authorities.



Robert Stevens



Carrie Stevens

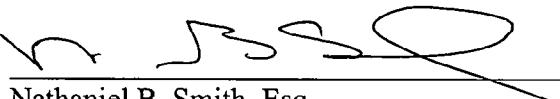
Date: 6/25/04

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within Reply to New Matter was served on all Counsel listed below, by First Class Mail, postage prepaid, on this 25 day of June 2004:

Bernard W. O'Keefe, Esq.  
300 Weyman Plaza  
Suite 310  
Pittsburgh, PA 15236

EDGAR SNYDER & ASSOCIATES LLC

  
\_\_\_\_\_  
Nathaniel B. Smith, Esq.  
Attorney for Plaintiffs

FILED

7/1/2004  
JUN 28 2004  
cc

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS,

Plaintiffs,

Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

Defendant.

CIVIL DIVISION

NO. 2003-01075 CD

PRAECIPE FOR SUBSTITUTE APPEARANCE

Filed on behalf of Defendant

Counsel of Record for this  
Party:

PAUL T. GRATER, ESQUIRE  
Pa. I.D. No. 27560

300 Weyman Plaza  
Suite 310  
Pittsburgh, PA 15236

Telephone: (412) 884-4697  
Facsimile: (412) 884-7326

FILED *RE*  
m11:23:04  
JUL 21 2004 copy to CIA  
No  
cc

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS,

Plaintiffs,

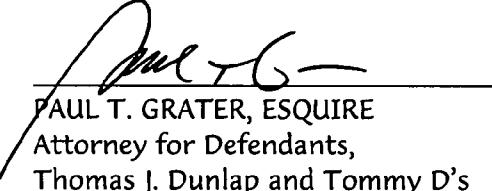
Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

Defendant.

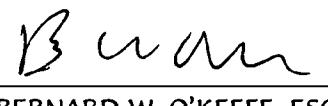
PRAECIPE FOR APPEARANCE

Kindly substitute my appearance on behalf of the defendant, Thomas J. Dunlap and Tommy D's Restaurant, in the above-captioned action.

  
PAUL T. GRATER, ESQUIRE  
Attorney for Defendants,  
Thomas J. Dunlap and Tommy D's  
Restaurant

WITHDRAWAL OF APPEARANCE

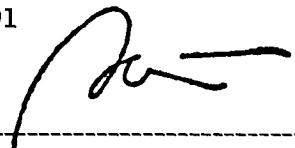
Kindly withdraw my appearance for defendants, Thomas J. Dunlap and Tommy D's Restaurant, in the above-captioned matter.

  
BERNARD W. O'KEEFE, ESQUIRE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Praecipe for Substitute Appearance was forwarded to all counsel of record by U.S. Mail, postage prepared, on the 19<sup>th</sup> day of July, 2004.

Nathaniel B. Smith, Esquire  
Edgar Snyder & Associates LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, Pa 16601



PAUL T. GRATER, ESQUIRE

**FILED**

**JUL 21 2004**

William A. Shatley  
Prothonotary Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS,

Plaintiffs,

vs.

THOMAS J. DUNLAP and TOMMY  
D'S RESTAURANT,

Defendants

03-1075-C  
No. GD 98-18773

MOTION TO COMPEL ANSWERS TO  
INTERROGATORIES AND REQUEST FOR  
PRODUCTION OF DOCUMENTS

Filed on behalf of:  
Robert L. Stevens and Carrie Stevens

Counsel of record for this party:

NATHANIEL B. SMITH, ESQUIRE

PA I.D. No. 34277

EDGAR SNYDER & ASSOCIATES, LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, PA 16601

(814) 942-3699

FILED NO  
m/12/04  
SEP 14 2004

W.A. Shaw  
Notary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS,  
Plaintiffs

CIVIL DIVISION

Vs.

No.: 2003-01075 CD

THOMAS J. DUNLAP and TOMMY  
D'S RESTAURANT,  
Defendant

**MOTION TO COMPEL**

AND NOW, comes the Plaintiffs, Robert L. Stevens and Carrie Stevens, by their attorneys, EDGAR SNYDER & ASSOCIATES LLC, and NATHANIEL B. SMITH, ESQUIRE, and files the following Motion to Compel and in support thereof the following is averred.

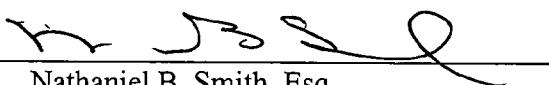
1. Plaintiffs, Robert L. Stevens and Carrie Stevens, served Interrogatories and Request for Production of Documents upon Defendants Thomas J. Dunlap and Tommy D's Restaurant, on May 26, 2004. A true and correct copy of the Notice of Service thereof is attached hereto and marked as Exhibit 1.
2. Plaintiffs sent a follow-up letter to counsel for Thomas J. Dunlap and Tommy D's Restaurant, on July 22, 2004. A true and correct copy of this letter is attached hereto and marked as Exhibit 2.
3. Defendants Thomas J. Dunlap and Tommy D's Restaurant, have not served responses to Plaintiffs' discovery to date.

WHEREFORE, it is requested that this Honorable Court enter an Order compelling Defendants, Thomas J. Dunlap and Tommy D's Restaurant, to file full and complete answers within twenty (20) days from the date hereof to counsel for the Plaintiff.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

By:

  
Nathaniel B. Smith, Esq.  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS, and  
CARRIE STEVENS,

Plaintiffs

CIVIL ACTION - LAW

vs.

No.: 2003-01075 CD

THOMAS J. DUNLAP t/d/b/a  
TOMMY D'S RESTAURANT  
Defendants

**NOTICE OF SERVICE OF INTERROGATORIES AND**  
**REQUEST FOR PRODUCTION OF DOCUMENTS**  
**DIRECTED TO DEFENDANT[S]**

I hereby certify that on this 26th day of May, 2003, the original INTERROGATORIES DIRECTED TO DEFENDANT[S], and REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANT[S] and one (1) copy of NOTICE OF SERVICE OF INTERROGATORIES and REQUEST FOR PRODUCTION OF DOCUMENTS were mailed by First Class Mail, postage prepaid, to counsel for Defendant[s] at the following address[es]:

Bernard W. O'Keefe, Esq.  
Law Offices of Bernard W. O'Keefe  
330 Weyman Plaza  
Suite 310  
Pittsburgh PA 15236

EDGAR SNYDER & ASSOCIATES, LLC

By

  
Nathaniel B. Smith  
Attorney for Plaintiff(s)

EXHIBIT

# Edgar Snyder & ASSOCIATES LLC

A Law Firm Representing Injured People.

Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, PA 16601  
Telephone: 814/942-3699  
Fax: 814/942-9337

Nathaniel B. Smith, Esquire  
Also admitted to practice in Maryland  
Email: [nsmith@edgarsnyder.com](mailto:nsmith@edgarsnyder.com)

Other Offices In: Ebensburg  
Erie • Johnstown • Pittsburgh

July 22, 2004

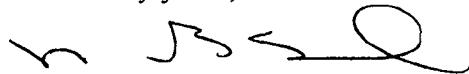
Paul T. Grater, Esq  
300 Wayman Plaza  
Suite 310  
Pittsburgh, PA 15236

Re: Robert Stevens and Carrie Stevens v. Thomas Dunlap and Tommy D's Restaurant  
No.: 2003-01075 CD

Dear Mr. Grater:

This is a follow-up to our telephone conversation of July 20, 2004, during which time you informed me that Attorney O'Keefe is no longer associated with your firm. We have discussed the outstanding discovery that exists on this case in the form of Plaintiffs' Interrogatories and Plaintiffs' Request for Production of Documents. You have indicated that you will attempt to file responses on behalf of the Defendant within the next thirty days. I am agreeable to a thirty day extension. I will diary this matter for thirty days. If upon the conclusion of thirty days answers have not been filed, I will proceed with the filing of a Motion to Compel. Thank you for your courtesy and cooperation in this regard.

Sincerely yours,



Nathaniel B. Smith

NBS:lmw

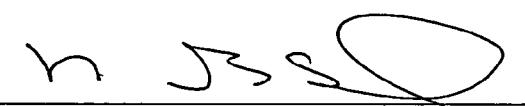


## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Motion to Compel was served on all Counsel listed below, by U.S. First Class Mail, postage prepaid, on this 13 day of September, 2004.

Paul T. Grater, Esq.  
300 Wayman Plaza  
Suite 310  
Pittsburgh, PA 15236

EDGAR SNYDER & ASSOCIATES, LLC

By: 

Nathaniel B. Smith, Esq.  
Attorney for Plaintiff

**FILED**

**SEP 14 2004**

*William A. Shaw*  
Prothonotary/Clerk of Courts

CR

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS,  
Plaintiffs

Vs.

No.: 2003-01075 CD

THOMAS J. DUNLAP and  
TOMMY D'S RESTAURANT  
Defendants

**ORDER OF COURT**

AND NOW, to wit, this 15th day of September, 2004, it is hereby ORDERED, ADJUDGED and DECREED that Defendants, Thomas J. Dunlap and Tommy D'S Restaurant, shall file full and complete answers within 30, (30) days from the date hereof to Plaintiff's Interrogatories and Request for Production of Documents.

BY THE COURT:

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

FILED  
013-10811  
68 SEP 15 2004  
William A. Shaw  
Prothonotary/Clerk of Courts  
4CC Atty N. Smith

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS,

Plaintiffs,

Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

Defendants.

CIVIL DIVISION

NO. 2003-01075 CD

**PRAECIPE FOR APPEARANCE**

Filed on behalf of Defendant, THOMAS J.  
DUNLAP and TOMMY D'S  
RESTAURANT

Counsel of Record for this  
Party:

Scott T. Redman, Esquire  
Pa. I.D. No. 236752

Redman & Pongrace  
300 Weyman Plaza  
Suite 310  
Pittsburgh, PA 15236

Telephone: (412) 884-4697  
Facsimile: (412) 884-6712

FILED *EWK*  
*10/22/04 10:20 AM*

OCT 15 2004

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS, CIVIL DIVISION  
Plaintiffs, NO. 2003-01075 CD

Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

Defendants.

**PRAECIPE FOR APPEARANCE**

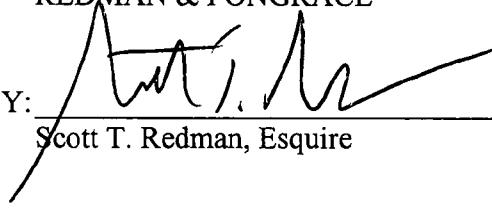
To: Prothonotary of Said Court:

KINDLY enter my appearance on behalf of the defendants, THOMAS J.  
DUNLAP and TOMMY D'S RESTAURANT.

Respectfully submitted,

REDMAN & PONGRACE

BY:

  
Scott T. Redman, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS,

Plaintiffs,

Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

Defendant.

**WITHDRAWAL OF APPEARANCE**

Kindly withdraw my appearance for defendants, Thomas J. Dunlap and Tommy  
D's Restaurant, in the above-captioned matter.



PAUL T. GRATER, ESQUIRE

**CERTIFICATE OF SERVICE**

I, Scott T. Redman, Esquire, hereby certify that a true and correct copy of the  
within Praecipe for Appearance was forwarded to all counsel of record by U.S. Mail,  
postage prepared, on the 13<sup>th</sup> day of October, 2004.

Nathaniel B. Smith, Esquire  
Edgar Snyder & Associates LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, Pa 16601

Scott T. Redman, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS,

No. 2003-01075 CD

Plaintiffs,

MOTION FOR SANCTIONS

vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

Defendants

Filed on behalf of:

ROBERT L. STEVENS and CARRIE  
STEVENS

Counsel of record for this party:

NATHANIEL B. SMITH, ESQUIRE

PA I.D. No. 34277

EDGAR SNYDER & ASSOCIATES, LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, PA 16601

(814) 942-3699

FILED NO CC  
m11:44 AM  
DEC 02 2004

WAS

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS,  
Plaintiffs

CIVIL ACTION - LAW

Vs.

No.: 2003-01075 CD

THOMAS J. DUNLAP and  
TOMMY D'S RESTAURANT,  
Defendants

**ORDER OF COURT**

AND NOW, to-wit, this \_\_\_\_ day of \_\_\_\_\_, 2004, it is hereby ORDERED  
ADJUDGED and DECREED that Defendants are precluded from offering any evidence in the trial of  
this case unless, within ten (10) days from the date of this Order, the Defendants Respond to Plaintiffs'  
Interrogatories and Request for Production of Documents. It is further ordered that the Defendants are  
prohibited from presenting any defense witness on the issue of liability at the time of trial.

BY THE COURT:

---

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS,  
Plaintiffs

CIVIL ACTION - LAW

Vs.

No.: 2003-01075 CD

THOMAS J. DUNLAP and  
TOMMY D'S RESTAURANT,  
Defendants

**MOTION FOR SANCTIONS**

AND NOW, comes the Plaintiffs, Robert L. Stevens and Carrie Stevens, by and through their attorneys, Edgar Snyder & Associates, LLC and Nathaniel B. Smith, Esquire, and submits the following Motion For Sanctions:

1. Plaintiff filed the instant case seeking recovery of damages against the Defendants for damages suffered as a result of a fall that occurred at Tommy D's Restaurant, located at 42 South Brady Street, DuBois, Clearfield County, Pennsylvania on February 10, 2003.
2. On May 26, 2004, Defendants were served with Plaintiffs' Interrogatories and Request for Production of Documents. A copy of the Notice of Service is attached hereto and marked as Exhibit "A".
3. On July 22, 2004, Plaintiffs sent a follow-up letter to counsel for Thomas J. Dunlap and Tommy D's Restaurant.
4. This Honorable Court granted Plaintiffs' Motion to Compel Discovery on September 15, 2004 directing Defendants to submit their Responses to Plaintiffs' Interrogatories and Request for Production of Documents within thirty (30) days from the date of the Order. A copy of the Order is attached hereto and marked as Exhibit "B".

5. By copy of correspondence dated October 13, 2004, Scott Redman, Esquire, current counsel for the Defendant confirmed in writing that Plaintiffs' counsel had agreed to another thirty (30) day extension beyond this Honorable Court's deadline for answers to discovery. A copy of defense counsel's letter of October 13, 2004 is attached hereto and incorporated herein as Exhibit "C".

6. To date, Defendants have not responded to the written discovery and are therefore in violation of the Court Order dated September 15, 2004, and in violation of a further extension granted by Plaintiffs' counsel, and continue to prejudice Plaintiffs' counsel's ability to prosecute this case.

7. Pursuant to Pennsylvania Rule of Civil Procedure 4019(g)(1), counsel for Plaintiffs is seeking sanctions against the Defendant for his violation of the Order of September 15, 2004, and further extended delay in answering Plaintiffs' discovery. Plaintiffs request that an order be issued prohibiting the Defendant from presenting any defense witness on the issue of liability at the time of trial.

WHEREFORE, Plaintiffs' counsel respectfully requests that this Honorable Court grant the relief set forth in the foregoing Motion for Sanctions.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES LLC

By:   
Nathaniel B. Smith, Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS, and  
CARRIE STEVENS,

Plaintiffs

CIVIL ACTION - LAW

vs.

No.: 2003-01075 CD

THOMAS J. DUNLAP t/d/b/a  
TOMMY D'S RESTAURANT  
Defendants

**NOTICE OF SERVICE OF INTERROGATORIES AND**  
**REQUEST FOR PRODUCTION OF DOCUMENTS**  
**DIRECTED TO DEFENDANT[S]**

I hereby certify that on this 26th day of May, 2003, the original INTERROGATORIES DIRECTED TO DEFENDANT[S], and REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANT[S] and one (1) copy of NOTICE OF SERVICE OF INTERROGATORIES and REQUEST FOR PRODUCTION OF DOCUMENTS were mailed by First Class Mail, postage prepaid, to counsel for Defendant[s] at the following address[es]:

Bernard W. O'Keefe, Esq.  
Law Offices of Bernard W. O'Keefe  
330 Weyman Plaza  
Suite 310  
Pittsburgh PA 15236

EDGAR SNYDER & ASSOCIATES, LLC

By   
Nathaniel B. Smith  
Attorney for Plaintiff(s)



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS,  
Plaintiffs

Vs.

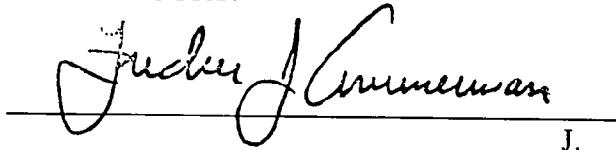
No.: 2003-01075 CD

THOMAS J. DUNLAP and  
TOMMY D'S RESTAURANT  
Defendants

**ORDER OF COURT**

AND NOW, to wit, this 15th day of September, 2004, it is hereby ORDERED, ADJUDGED and DECREED that Defendants, Thomas J. Dunlap and Tommy D'S Restaurant, shall file full and complete answers within (30) days from the date hereof to Plaintiff's Interrogatories and Request for Production of Documents.

BY THE COURT:

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

I hereby certify that the foregoing  
is a true and correct copy of the original  
instrument, dated as above.

SEP 15 2004

Attest:

Commonwealth  
Court of Appeals

fsl

LAW OFFICES  
**REDMAN & PONGRACE**  
(STAFF COUNSEL FOR HARLEYSVILLE INSURANCE)

SCOTT T. REDMAN  
PAUL E. PONGRACE, III

WRITER'S EMAIL: SREDMAN@LEGAL.ORG.COM

300 WEYMAN PLAZA  
SUITE 310  
PITTSBURGH, PA 15236  
TELEPHONE: (412) 884-4697  
FACSIMILE: (412) 884-7326

October 13, 2004

Nathaniel B. Smith, Esquire  
EDGAR SNYDER & ASSOCIATES, LLC  
2900 Old Route 220, Suite 210  
Altoona, PA 16601

Re: Robert Stevens and Carrie Stevens  
vs. Thomas J. Dunlap and Tommy D's Restaurant  
Docket No.: 2003-01075 CD  
Our File No.: 04-244

Dear Nat:

This will confirm and thank you for our telephone conversation of Tuesday, October 12, 2004 in which we discussed the above-captioned case and in which I advised that I had recently assumed the defense of Thomas J. Dunlap and Tommy D's Restaurant in the above-captioned case. Enclosed is a copy of my Praeince for Appearance which I have filed with the court in Clearfield County.

As we discussed, I have only recently joined Harleysville's staff legal office here in Pittsburgh and have not had an opportunity to thoroughly review this case. This will confirm your gracious agreement to allow me some additional time in which to respond to the Interrogatories and Request for Production of Documents which you had served some time ago. In this regard, I note that you did obtain a Court Order from Judge Ammerman in Clearfield County which would have required us to respond by October 15, 2004 however, as noted above that you have graciously agreed to extend that time. I will probably require thirty more days in which to respond to the Interrogatories and Request for Production of Documents.

I will shortly be discussing this case with my client and the insurance carrier and will then contact you once we have completed the answers to discovery and also to discuss possible resolution of this case. As we further discussed, it may be possible to submit this case to mediation although I need to speak with the client and the claim representative before agreeing to proceed to mediation.

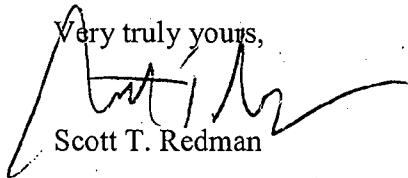


October 13, 2004

Page 2

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Thank you and I look forward to discussing this matter with you.

Very truly yours,  
  
Scott T. Redman

STR/rmc

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within Motion for Sanctions was served on all Counsel listed below, by First Class Mail, postage prepaid, on this 30<sup>th</sup> day of November 2004:

Scott T. Redman, Esq.  
Redman & Pongrace  
300 Weyman Plaza  
Suite 310  
Pittsburgh, PA 15236

EDGAR SNYDER & ASSOCIATES LLC



Nathaniel B. Smith, Esq.  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVERS and  
CARRIE STEVENS,

Plaintiffs

No.: 2003-01075 CD

Vs.

THOMAS J. DUNLAP and TOMMY  
D'S RESTAURANT,  
Defendants

**SCHEDULING ORDER**

A hearing on Plaintiffs' Motion for Sanctions shall take place on the 3 day of January,  
2005, at 10:00 o'clock A.m., before the Honorable Frederic J. Ammerman, President Judge, in  
Courtroom No. 1.

BY THE COURT:

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

12/8/04



**FILED** 2004  
01/03/05 Memo Re: Service  
DEC 08 2004 to Atty. N. Smith

William A. Shaw  
Prothonotary/Clerk of Courts



OFFICE OF COURT ADMINISTRATOR  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE  
SUITE 228, 230 EAST MARKET STREET  
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK  
COURT ADMINISTRATOR

PHONE: (814) 765-2641  
FAX: 1-814-765-7649

MARCY KELLEY  
DEPUTY COURT ADMINISTRATOR

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

**\*\*\* Please note: This also includes service of scheduling orders obtained as the result of the filing of any pleading.**

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

ROBERT L. STEVENS and  
CARRIE STEVENS

-VS-

No. 03-1075-CD

THOMAS J. DUNLAP, t/d/b/a  
TOMMY D'S RESTAURANT

**ORDER**

NOW, this 3rd day of January, 2005, this being the date set for argument on the Plaintiffs' Motion for Sanctions relative allegations of the failure of the Defendants to comply with the Court's Discovery Order of September 15, 2004; the Court noting that counsel for the Plaintiffs has appeared and that neither the Defendants nor their attorney of record have appeared; counsel for the Plaintiffs having certified on the record that he served Defense counsel, it is therefore the ORDER of this Court that the Defendants be and are hereby prohibited from presenting any Defense witnesses or evidence during trial on the issue of liability in this case.

BY THE COURT,

Frederick J. Kremersky

President Judge

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS,

Plaintiffs,

Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

Defendants.

CIVIL DIVISION

NO. 2003-01075 CD

**NOTICE OF DEPOSITION OF  
ROBERT L. STEVENS**

Filed on behalf of Defendant, THOMAS J.  
DUNLAP and TOMMY D'S  
RESTAURANT

Counsel of Record for this  
Party:

Scott T. Redman, Esquire  
Pa. I.D. No. 236752

Redman & Pongrace  
300 Weyman Plaza  
Suite 310  
Pittsburgh, PA 15236

Telephone: (412) 884-4697  
Facsimile: (412) 884-6712

**FILED**

MAY 20 2005  
m/11:50/2005  
William A. Shay

Prothonotary/Clerk of Courts

1 Court to App

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

ROBERT L. STEVENS and CARRIE  
STEVENS, CIVIL DIVISION  
Plaintiffs,  
NO. 2003-01075 CD

Vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT,

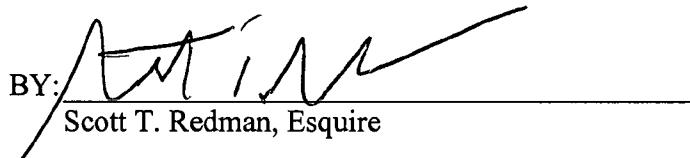
Defendants.

**NOTICE OF DEPOSITON OF ROBERT L. STEVENS**

To: Robert L. Stevens  
c/o Nathaniel B. Smith, Esquire  
**EDGAR SNYDER & ASSOCIATES, LLC**  
2900 Old Route 220, Suite 210  
Altoona, PA 16601

NOTICE is hereby given that the deposition of Robert L. Stevens has been scheduled for Friday, July 1, 2005 commencing at 11:00 a.m. at the offices of Sargent's Court Reporting Service, 106 North Second Street, First Floor Clearfield, PA 16830. This deposition will be taken pursuant to Pa.R.C.P. Nos. 4002 and 4007.1, and other relevant rules respecting discovery.

REDMAN & PONGRACE

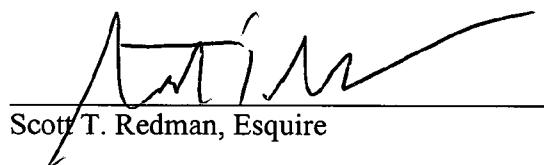
BY:   
\_\_\_\_\_  
Scott T. Redman, Esquire

**CERTIFICATE OF SERVICE**

I, Scott T. Redman, Esquire, hereby certify that a true and correct copy of the within Notice of Deposition of Robert L. Stevens was forwarded to all counsel of record by U.S. Mail, postage prepared, on the 18<sup>th</sup> day of May, 2005.

Nathaniel B. Smith, Esquire  
Edgar Snyder & Associates LLC  
Regency Square  
2900 Old Route 220, Suite 201  
Altoona, Pa 16601

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

  
\_\_\_\_\_  
Scott T. Redman, Esquire

FILED

MAY 20 2005

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS,

Plaintiffs,

vs.

THOMAS J. DUNLAP and TOMMY D'S  
RESTAURANT  
Defendant.

No. 2003-01075 CD

NOTICE OF DEPOSITION OF THOMAS J.  
DUNLAP

Filed on behalf of:  
ROBERT L. STEVENS and CARRIE  
STEVENS

Counsel of record for this party:

NATHANIEL B. SMITH, ESQUIRE

PA I.D. No. 34277

EDGAR SNYDER & ASSOCIATES, LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, PA 16601

(814) 942-3699

**FILED**

MAY 31 2005

May 11:30 AM  
William A. Shaw  
Prothonotary  
w/o C/C 66

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS  
Plaintiffs

No. 03-1075 CD

Vs.

THOMAS J. DUNLAP, t/d/b/a  
TOMMY D'S RESTAURANT,  
Defendants

**NOTICE OF DEPOSITION**

To: Thomas J. Dunlap  
c/o Scott T. Redman, Esq.  
300 Weyman Plaza  
Suite 310  
Pittsburgh, PA 15236

PLEASE TAKE NOTICE that the Plaintiff(s) Robert and Carrie Stevens, by my/their Attorneys, EDGAR SNYDER & ASSOCIATES, LLC, will take the deposition of Thomas J. Dunlap, pursuant to Rule 4007, et seq., of the Pennsylvania Rules of Civil Procedure, as amended, before a court reporter duly authorized to administer oaths, on July 1, 2005, at 12:30 p.m., at the offices of Sargent's Court Reporting Service, 106 North Second Street, First Floor, Clearfield, PA, at which time and place you are invited to appear and take such part as shall be fitting and proper.

The deposition shall be taken before a Notary Public employed by Sargent's Court Reporting.

EDGAR SNYDER & ASSOCIATES, LLC

By

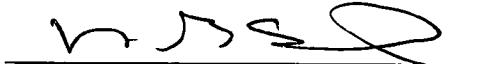
  
Nathaniel B. Smith, Esq.  
Attorney for Plaintiff(s)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above **NOTICE OF DEPOSITION** was served on all Counsel of Record by First Class Mail, postage prepaid, on this 26th day of May, 2005.

Scott Redman, Esq.  
300 Weyman Plaza, Suite 310  
Pittsburgh, PA 15236

EDGAR SNYDER & ASSOCIATES, LLC

By   
Nathaniel B. Smith  
Attorney for Plaintiff(s)

FILED

MAY 31 2005

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and CARRIE STEVENS No. 2003-01075 CD

Plaintiff,

vs.

THOMAS J. DUNLAP and TOMMY D'S RESTAURANT  
Defendants

PRAECEIPE TO SETTLE AND  
DISCONTINUE

Filed on behalf of:  
ROBERT L. STEVENS and CARRIE STEVENS

Counsel of record for this party:

NATHANIEL B. SMITH, ESQUIRE

PA I.D. No. 34277

EDGAR SNYDER & ASSOCIATES, LLC  
Regency Square  
2900 Old Route 220  
Suite 201  
Altoona, PA 16601

(814) 942-3699

FILED NO Cc  
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SEP 28 2005 Cert. of Disc.  
to Atty  
William A. Shaw  
Prothonotary/Clerk of Court  
Copy to CIA  
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT L. STEVENS and  
CARRIE STEVENS,  
Plaintiffs

No. 2003 01075 CD

Vs.

CIVIL ACTION - LAW

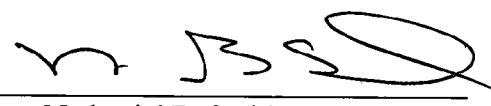
THOMAS J. DUNLAP and  
TOMMY D'S RESTAURANT,  
Defendants

**PRAECIPE TO SETTLE AND DISCONTINUE**

To: Prothonotary of Clearfield County

Please settle and discontinue the within matter.

EDGAR SNYDER & ASSOCIATES, LLC

By 

Nathaniel B. Smith, Esq.  
Attorney for Plaintiff(s)

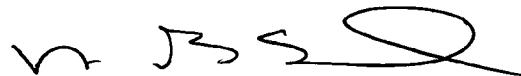
Date: 9-26-05

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within Praeclipe to Settle was served on all Counsel listed below, by First Class Mail, postage prepaid, on this 26 day of September 2005:

Scott Redman, Esq.  
Redman & Pongrace  
300 Weyman Plaza  
Suite 310  
Pittsburgh, PA 15236

EDGAR SNYDER & ASSOCIATES LLC



Nathaniel B. Smith, Esq.  
Attorney for Plaintiffs

FILED

SEP 28 2005

WILLING, S. J.  
Prothonotary Clerk

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

 COPY

CIVIL DIVISION

**Robert L. Stevens  
Carrie Stevens**

Vs.  
**Thomas J. Dunlap  
Tommy D's Restaurant**

**No. 2003-01075-CD**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on September 28, 2005, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by Edgar Snyder & Associates, LLC.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 28th day of September A.D. 2005.

---

William A. Shaw, Prothonotary