

03-1770-CD
WILLIAM M. DANCH, vs. PAUL F. CHERRY, ESQUIRE, et al.

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

WILLIAM M. DANCH, an adult individual,

PLAINTIFF,

: No. 03-1770-CD

v.

PAUL E. CHERRY, ESQUIRE, an adult individual,
and CHERRY AND CHERRY, a Pennsylvania
Partnership,

DEFENDANTS.

Type of Pleading:

CIVIL COMPLAINT

Plaintiff

JURY TRIAL DEMANDED

Counsel of Record:

: Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
: (814)-375-2221
PA I.D.#: 55942

FILED

NOV 25 2003

**William A. Shaw
Prothonotary**

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

WILLIAM M. DANCH,
an adult individual;

PLAINTIFF,

v.
PAUL E. CHERRY, ESQUIRE, an adult
individual, and CHERRY and CHERRY,
a Pennsylvania Partnership

DEFENDANTS.

)
No. 03- 1770 -CD

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIM 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 CLAIM IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF(S). 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 AN ATTORNEY, OR CANNOT FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

David Meholick, Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
(814)-765-2641

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
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WILLIAM M. DANCH,)
an adult individual;)
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v.) No. 03- 1770 -CD
PAUL E. CHERRY, ESQUIRE, an adult)
individual, and CHERRY and CHERRY,)
a Pennsylvania Partnership)
DEFENDANTS.)

CIVIL COMPLAINT

NOW COMES, William M. Danch, Plaintiff, by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of his CIVIL COMPLAINT:

The Parties

1. Plaintiff is William M. Danch, who currently does reside at 520 South State Street, DuBois, Clearfield County, Pennsylvania and who did at all relevant and material times did reside within Clearfield County, Pennsylvania.
2. That first Defendant is Paul E. Cherry, upon information and belief, currently, and at all relevant and material times, a duly licensed attorney practicing in Pennsylvania currently with a principal place of business at 21 East Park Avenue, DuBois, Clearfield County, Pennsylvania.
3. That second Defendant is Cherry and Cherry, upon information and belief, a partnership existing at all relevant and material times, with a current principal place of business also at 21 East Park Avenue, DuBois, Clearfield County, Pennsylvania, with a primary business purpose of being engaged in the practice of law.
4. In the alternative, Cherry and Cherry is a sole proprietorship, upon information and belief, owned entirely by first defendant at all relevant and material times, at all times with its principal place of business in DuBois, Clearfield County, Pennsylvania.

Background

5. On or about June 2, 1993, William M. Danch, hereinafter "Danch", was rear-ended while he was operating his automobile and while stopped in a construction zone, by a vehicle being driven by Gertrude Dietrick, hereinafter "Dietrick", while on Route 219 in Sandy Township, Clearfield County, Pennsylvania.
6. That Danch, as a result of said collision, suffered serious and numerous bodily injuries, including broken vertebrae, which at present still causes him problems and for which he needs medications, and all of which required various medical treatments, including numerous x-rays, mri(s), hospitalizations and physical therapy sessions, at a cost in excess of Twenty Thousand Dollars (\$20,000). His exact treatments and associated costs will be proven more exactly at trial in this matter.
7. That besides his medical bills, Danch did suffer, and continues to suffer pain associated with his injuries, and probably will suffer as such for the rest of his natural life, for which he should have been compensated in an amount to be determined at time of trial.
8. That as a result of the collision with Dietrick, Danch has also lost an ability to enjoy life for which he should have been compensated in an amount to be determined at time of trial.
9. That Danch also lost income as a result of the collision with Dietrick, and probably lost earning potential which will probably continue for the remainder of his natural life, in an amount to be determined at time of trial, for which he should have been compensated.
10. That Danch also suffered disfigurement as a result of his collision with Dietrick, for which he should have been compensated in an amount to be determined at time of trial.
11. That Dietrick was negligent in her actions causing the accident with Danch in that she:
 - (a) rear-ended a stopped vehicle;
 - (b) failed to have her car under control;
 - (c) failed to pay proper attention to her attenuate circumstances;
 - (d) disregarded warnings that she was in a construction zone and should travel at a slower speed and/or use extra caution; and
 - (e) traveled at an excessive speed under the circumstances such that she could not maintain control of her vehicle.

12. That Danch's aforementioned injuries and damages were a direct and proximate result of Dietrick's aforementioned negligence.
13. That Dietrick was liable to Danch, in an amount to be determined at time of trial, as a result of the foregoing circumstances.
14. That sometime following the aforementioned accident, Danch retained Attorney Paul E Cherry, and the law firm of Cherry and Cherry, hereinafter "Cherry" and "Cherry and Cherry"; respectively, to prosecute a civil action and represent his interests concerning the accident with Dietrick.
15. That Cherry and Cherry and Cherry proceeded with the representation of Danch and did commence a cause of action, in the form of a writ of summons, to be initiated against Dietrick on June 1, 1995, in the Court of Common Pleas for Clearfield County, Pennsylvania.
16. That for some reason, unknown at the time to Danch, the writ of summons was never served upon Dietrick.
17. That the Court of Common Pleas sent notice to Cherry and Cherry and Cherry on or about July 1, 1998 that Danch's case against Dietrick was scheduled for a hearing on August 24, 1998, concerning dismissal of the case due to lack of activity in the case.
18. That neither Cherry nor Cherry and Cherry informed Danch on this adverse action as to his case.
19. That upon information and belief, neither Cherry nor Cherry and Cherry appeared nor argued against the dismissal of said case.
20. That, upon information and belief, Dietrick had not been prejudiced by the any delay in the case.
21. That on August 24, 1998, the Court of Common Pleas for Clearfield County entered an Order dismissing Danch's lawsuit as to Dietrick.
22. That neither Cherry nor Cherry and Cherry informed Danch that his case had been unfavorably decided against Danch.
23. Danch was under the belief that lawsuits "took time" and was not alarmed by the lengthy time period this matter was taking.

24. However, when Danch's wife suffered a personal injury, and was represented by another law firm, Danch requested said law firm to look at his case as to Dietrick.

25. The other law firm informed Danch in February, 2002, that the case with Dietrick had been dismissed and he should seek counsel for malpractice. This was the first instance at which anyone had informed Danch that his case against Dietrick had been unfavorably decided against him.

Count I: Negligence/Malpractice

26. That the averments of paragraph 1 - 25, inclusive, are hereby incorporated as if again fully set forth at length.

27. That Cherry and Cherry and Cherry owed Danch a standard of care to provide him with legal services which were within the standards of the legal community in the Clearfield County area.

28. That Cherry and Cherry and Cherry breached this standard of care in that they:

- (a) failed to adequately and diligently prosecute Danch's claim against Dietrick;
- (b) failed to preserve Danch's claim against Dietrick;
- (c) failed to cause the writ to be forwarded to Elk County for service;
- (d) failed to serve and/or timely serve the writ of summons on Dietrick;
- (e) failed to make diligent efforts to serve the writ of summon on Dietrick;
- (f) failed to adequately investigate Danch's case including gathering necessary information such as medical records and bills to present to Dietrick's insurance carrier;
- (g) failed to reinstate the writ of summons after the same had not been served and before the statute of limitations, which had been extended by the initial filing of the writ of summons, had expired, resulting in the case being time barred;
- (h) failed to object to the Court's announced intention to dismiss Danch's case against Dietrick due to inactivity;
- (i) failed to advise, in writing or in any manner, Danch that a hearing was to be held on August 24, 1998, concerning the potential dismissal of his case due to inactivity; and

(j) failed to advise, in writing or in any manner, Danch that his case was dismissed.

29. That as a direct and proximate result of Cherry's and Cherry and Cherry's breach of the aforementioned standard of care, Danch suffered economic loss, in an amount to be determined at time of trial, for the previously mentioned damages suffered as a result of Dietrick's negligence.

WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against Defendants, jointly and severally, in an amount in excess of \$25,000, to be more fully determined at time of trial, together with interest and costs.

Count II: Breaches of Contract

30. That the averments of paragraph 1 - 29, inclusive, are hereby incorporated as if again fully set forth at length.

31. That Danch and Cherry and Cherry and Cherry entered into a contract, which was, or should have been reduced to writing, concerning the services to be provided to Danch.

32. Despite efforts made to obtain a copy of said contract, more fully later detailed, Danch is not able to currently produce a copy of the same as an exhibit hereto.

33. That Cherry and Cherry and Cherry were to provide reasonable and customary services in their representation but failed to do so for the aforementioned reasons.

34. That Cherry and Cherry and Cherry breached the contract with Danch by failing to provide the aforementioned reasonable and customary services.

35. That as a result of Cherry and Cherry and Cherry's breach of contract, Danch suffered economic loss equal to the economic value of his claim against Danch, in an amount to be determined at time of trial.

WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against Defendants, jointly and severally, in an amount in excess of \$25,000, to be more fully determined at time of trial, together with interest and costs.

Count III: Breaches of Fiduciary Duty

36. That the averments of paragraph 1 - 35, inclusive, are hereby incorporated as if again fully set forth at length.
37. That as his attorney, Cherry and Cherry and Cherry owed Danch a fiduciary duty.
38. That Cherry and Cherry and Cherry breached the fiduciary duty owed to Danch in that they failed to communicate adverse developments with his case as follows:
 - (a) to inform him, in writing or in any manner, that his case was scheduled for a hearing concerning the case's dismissal due to inactivity; and
 - (b) to inform him, in writing or in any manner, that his case was dismissed.
39. That sometime after the writ of summons had been issued, Cherry informed Danch that Dietrick could not be located and it might be necessary to hire a private investigator.
40. That Danch himself located an address as to Dietrick's then location and informed Cherry of the same.
41. However, the records indicate that the writ had never been forwarded to Elk County for service which contradicts that Cherry knew Dietrick could not be located as nobody actually ever attempted service of the writ on Dietrick.
42. That based upon the above, upon information and belief, Cherry realized that a record had been established that showed diligent efforts to serve the writ were not made as would be required of Cherry and with potential serious consequences as to Danch's case against Dietrick.
43. That sometime later, Cherry informed Danch as this matter progressed that Dietrick's insurance carrier only offered \$2,000 for settlement.
44. That upon information and belief, based upon the fact that Dietrick had clear liability and given the amount of medical bills incurred by Danch as a result of his injuries, said offer is minimal and reflects more of a nuisance value.
45. That upon information and belief, Dietrick's insurance carrier's offer, if in fact it made such an offer, reflects that Cherry's and Cherry and Cherry's legal services were ineffective and fatal to Danch's case against Dietrick.

46. That Cherry never informed Danch that there were serious problems with his case against Dietrick and that Cherry and Cherry and Cherry were engaged in a cover up as to the mistakes performed by them, also breaching the fiduciary duty owed to Danch by Cherry and Cherry and Cherry.

47. That in actuality, Danch's case as to Dietrick had been well lost by the time the Court dismissed the case in August, 1998, in that Cherry and Cherry and Cherry had also failed to preserve the writ of summons by having the same reinstated after it had not been timely served, before the extended statute of limitations expired on, or about June 1, 1997.

48. That upon information and belief, Cherry and Cherry and Cherry realized this mistake that he and they committed and intentionally did not inform Danch either that the case was going to be dismissed or was dismissed as it would bring the true circumstances of this matter to light, thereby again breaching the fiduciary duty owed to Danch as his attorney.

49. That upon being advised that he had a malpractice case against Defendants, and deciding to pursue the same, Danch attempted to obtain his file concerning his case against Dietrick from the Defendants.

50. Danch initially called Cherry's office, sometime in July, 2003, and when informed that Attorney Cherry was not available, requested Attorney Cherry to call him but he did not receive any such return phone call.

51. After placing a few similar calls, again without receiving any response, Danch stopped in the Cherry and Cherry office and requested his file and was told to come back on a certain date, said date being in late August or early September.

52. When he stopped back on the date as instructed, Danch found a note on the window indicating that no one was available as Attorney Cherry was in court that date.

53. That the failure to deliver Danch's file to Danch as requested also breached the fiduciary duty owed to Danch by Cherry and Cherry and Cherry.

54. That the aforementioned breaches of the fiduciary duty owed to Danch are outrageous.

55. That Defendants, in addition to aforementioned economic losses suffered by Danch, should also pay to Danch punitive damages, in an amount to be determined at time of trial for said outrageous breaches of fiduciary duty owed to Danch as his attorney.

WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against Defendants, jointly and severally, in an amount in excess of \$25,000, to be more fully determined at time of trial, together with punitive damages, interest and costs.

Miscellaneous

56. Defendant Paul E. Cherry is a licensed professional with office in Clearfield County, Pennsylvania. Plaintiff is asserting a professional liability claim against this defendant.
57. That jurisdiction is proper.
58. That venue is proper.
59. That Defendants have joint and several liability.

WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against Defendants, jointly and severally, in an amount in excess of \$25,000, to be more fully determined at time of trial, together with punitive damages, interest and costs.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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an adult individual;

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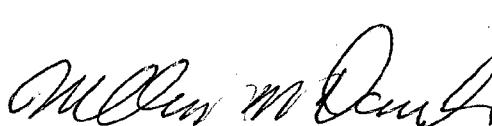
DEFENDANTS.

)
No. 03-_____ -CD

VERIFICATION

I, William M. Danch, Plaintiff, does hereby swear and affirm that I have read the foregoing and attached CIVIL COMPLAINT in the above captioned matter, and that to the best of my information, knowledge and belief, the facts as set forth therein are true and correct. Furthermore, that I make this statement subject to the penalties of 18 Pa.C.S.A. 4101, relating to unsworn falsification to authorities.

So made this 14th day of ^{November} October, 2003.



William M. Danch

William M. Danch, Plaintiff

FILED

NOV 25 2003
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William A. Shaw
Prothonotary
4-0-5-054

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

: No. 03- 1770 -CD

v.

PAUL E. CHERRY, ESQUIRE, an adult individual,
and CHERRY AND CHERRY, a Pennsylvania
Partnership,

DEFENDANTS.

: Type of Pleading:

: **CERTIFICATE OF MERIT**

: Plaintiff

JURY TRIAL DEMANDED

: Counsel of Record:

: Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
: (814)-375-2221
PA I.D.#: 55942

FILED

DEC 11 2003

William A. Shaw
Prothonotary/Clerk of Courts

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a Pennsylvania Partnership)
DEFENDANTS.)

CERTIFICATE OF MERIT AS TO DEFENDANT PAUL E. CHERRY, ESQUIRE

To: William A. Shaw, Prothonotary

Date: December 10, 2003

I, Theron G. Noble, Esquire, counsel for Plaintiff, William M. Danch, does hereby certify that an appropriate licensed professional has supplied a written statement to the undersigned that is the basis to conclude that the care, skill or knowledge exercised or exhibited by this defendant in the treatment, practice or work that is the subject matter of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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

WILLIAM M. DANCH,)
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PLAINTIFF,)) No. 03- 1770 -CD
)
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CERTIFICATE OF SERVICE

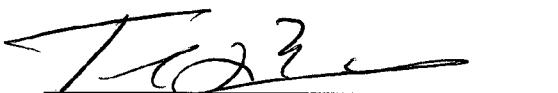
To: William A. Shaw, Prothonotary

Date: December 10, 2003

I, Theron G. Noble, Esquire, counsel for Plaintiff, William M. Danch, does hereby certify that I did mail a true and correct copy of this CERTIFICATE OF MERIT, via United States Mail, postage pre-paid, first class, to the Defendants, for whom no entry of appearance has been entered, addressed as follows, the day above written:

Paul E. Cherry, Esquire
Cherry & Cherry
23 E. Park Avenue
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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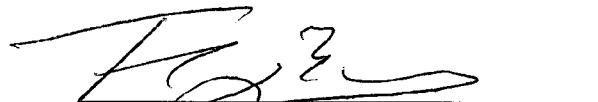
NOTICE OF SERVICE

To: William A. Shaw, Prothonotary
Date: December 11, 2003

I, Theron G. Noble, Esquire, counsel for Plaintiff, William M. Danch, does hereby certify that I did propound on Defendants, Plaintiff's FIRST SET OF DISCOVERY MATERIALS (including interrogatories and request for production), via United States Mail, postage pre-paid, first class, to the Defendants, for whom no entry of appearance has been entered, addressed as follows, the day above written:

Paul E. Cherry, Esquire
Cherry & Cherry
23 E. Park Avenue
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

FILED

DEC 12 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED
M 13 NOV
DEC 12 2008

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William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. DANCH,
an adult individual,

Plaintiff

vs.

PAUL E. CHERRY, ESQUIRE, an adult
individual, and CHERRY and CHERRY,
a Pennsylvania partnership

Defendants.

: No. 03 - 1770 - CD
:
:
: Type of Case: CIVIL
:
: Type of Pleading: ANSWER TO
: COMPLAINT and NEW MATTER
:
:
:
: Filed on Behalf of: DEFENDANTS
:
: Counsel of Record for This Party:
: PAUL E. CHERRY, ESQ
:
:
: Supreme Court No. 42945
:
:
: CHERRY & CHERRY
: 23 East Park Avenue
: DuBois, PA 15801
: (814) 371-3288

FILED

JAN 13 2004

William A. Shalv
Prothonotary/Clerk of Courts

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

WILLIAM M. DANCH, :
an adult individual, :
Plaintiff :
: :
: No. 03-1770-CD
vs. :
: :
PAUL E. CHERRY, ESQUIRE, an adult :
individual, and CHERRY and CHERRY, :
a Pennsylvania partnership :
Defendants. :
: :

NOTICE

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

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

David S. Meholic, Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641 Ext. 5982

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

WILLIAM M. DANCH,	:	
an adult individual,	:	
Plaintiff	:	
	:	
	:	No. 03-1770-CD
vs.	:	
	:	
PAUL E. CHERRY, ESQUIRE, an adult	:	
individual, and CHERRY and CHERRY,	:	
a Pennsylvania partnership	:	
Defendants.	:	
	:	
	:	
	:	

ANSWER TO COMPLAINT

AND NOW, come the Defendants, PAUL E. CHERRY, Esquire and CHERRY & CHERRY, who file the following Answer to Complaint and in support thereof aver the following;

1. Admitted.
2. Admitted in part and denied in part. It is admitted that Paul E. Cherry at all, said relevant times was a duly licensed attorney practicing in Pennsylvania. It is business ceased operation on January 2, 2004. denied that his principal place of business was at 21 East Park Avenue. On the contrary, the principal place of business was located at 23 East Park Avenue, DuBois, Clearfield County, Pennsylvania. By way of further answer
3. Denied. It is denied that CHERRY & CHERRY is a partnership with a place of business at 21 East Park Avenue, DuBois, Pennsylvania. On the contrary, CHERRY & CHERRY is a sole proprietorship. CHERRY & CHERRY ceased operating as a partnership in July 1994. By way of further answer, said business ceased operation on January 2, 2004.

4. Admitted. By way of further answer, said business ceased operation on January 2, 2004.

5. Admitted.

6. Defendants deny each and every allegation contained in paragraph 6 of Plaintiff's Complaint pursuant to Pa. R. Civ.P.1029(e). By way of further answer, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of the treatments and associated costs of Twenty Thousand Dollars (\$20,000.00), therefore, the same is denied and strict proof thereof is demanded at trial.

7. Defendants deny each and every allegation contained in paragraph 7 of Plaintiff's Complaint pursuant to Pa. R. Civ.P.1029(e). By way of further answer, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 7, therefore, the same is denied and strict proof thereof is demanded at trial.

8. Defendants deny each and every allegation contained in paragraph 8 of Plaintiff's Complaint pursuant to Pa. R. Civ.P.1029(e). By way of further answer, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 8, therefore, the same is denied and strict proof thereof is demanded at trial.

9. Defendants deny each and every allegation contained in paragraph 9 of Plaintiff's Complaint pursuant to Pa. R. Civ.P.1029(e). By way of further answer, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 9, therefore, the same is denied and strict proof thereof is demanded at trial.

10. Defendants deny each and every allegation contained in paragraph 10 of Plaintiff's Complaint pursuant to Pa. R. Civ.P.1029(e). By way of further answer, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 10, therefore, the same is denied and strict proof thereof is demanded at trial.

11. Defendants deny each and every allegation contained in paragraph 11 of Plaintiff's Complaint pursuant to Pa. R. Civ.P.1029(e). By way of further answer, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 11, therefore, the same is denied and strict proof thereof is demanded at trial. . By way of further answer, the allegations contained in Paragraph 11 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

12. Defendants deny each and every allegation contained in paragraph 12 of Plaintiff's Complaint pursuant to Pa. R. Civ.P.1029(e). By way of further answer, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 12, therefore, the same is denied and strict proof thereof is demanded at trial. By way of further answer, the allegations contained in Paragraph 12 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

13. Defendants deny each and every allegation contained in paragraph 13 of Plaintiff's Complaint pursuant to Pa. R. Civ.P.1029(e). By way of further answer, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the

truth or accuracy of Plaintiff's averments in Paragraph 12, therefore, the same is denied and strict proof thereof is demanded at trial. By way of further answer, the allegations contained in Paragraph 13 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

14. Admitted.

15. Admitted.

16. Admitted. However, by way of further answer, Plaintiff was informed by Defendants on several occasions in 1995 that the writ was not served upon Dietrick.

17. Admitted. However, by way of further answer, Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

18. Denied. By way of further answer, Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998. In addition, Plaintiff was informed on several occasions personally by Defendant, PAUL E. CHERRY when Plaintiff was at Defendants' prior location at 23 Beaver Drive, DuBois, Clearfield County, Pennsylvania when Defendant, PAUL E. CHERRY kept criminal charges from being filed against Plaintiff for the theft of monies from Plaintiff's employer.

19. Admitted. By way of further answer, Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice.

20. Denied. The allegations contained in Paragraph 20 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

21. Admitted.

22. Denied. On the contrary, Plaintiff was informed on several occasions personally by Defendant, PAUL E. CHERRY when Plaintiff was at Defendants' prior location at 23 Beaver Drive, DuBois, Clearfield County, Pennsylvania when Defendant, PAUL E. CHERRY kept criminal charges from being filed against Plaintiff for the theft of monies from Plaintiff's employer.

23. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 23, therefore, the same is denied and strict proof thereof is demanded at trial. By way of further answer, Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998. In addition, Plaintiff was informed on several occasions personally by Defendant, PAUL E. CHERRY when Plaintiff was at Defendants' prior location at 23 Beaver Drive, DuBois, Clearfield County, Pennsylvania when Defendant, PAUL E. CHERRY kept criminal charges from being filed against Plaintiff for the theft of monies from Plaintiff's employer.

24. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 24, therefore, the same is denied and strict proof thereof is demanded at trial.

25. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 25, therefore, the same is denied and strict proof thereof is demanded at trial. By way of further answer, Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998. In addition, Plaintiff was informed on several occasions personally by Defendant, PAUL E. CHERRY when Plaintiff was at Defendants' prior location at 23 Beaver Drive, DuBois, Clearfield County, Pennsylvania when Defendant, PAUL E. CHERRY kept criminal charges from being filed against Plaintiff for the theft of monies from Plaintiff's employer.

Count I: Negligence/Malpractice

26. Defendants incorporate by reference herein its responses to allegations contained in paragraphs 1 through and including 25 of the Complaint, as though set forth in full.

27. Admitted. By way of further answer, Defendants did provide legal services which were within the standards of the legal community in the Clearfield County area. Defendants did inform Plaintiff of what was happening in the case. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

28. The allegations contained in Paragraph 28 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

(a) The allegations contained in Paragraph 28(a) of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied; By way of further answer, Defendants did provide legal services which were within the standards of the legal community in the Clearfield County area. Defendants did inform Plaintiff of what was happening in the case. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

(b) The allegations contained in Paragraph 28(b) of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied; by way of further answer, Defendants did inform Plaintiff of what was happening in the case. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

(c) The allegations contained in Paragraph 28(c) of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied; by way of further answer, Defendants did inform Plaintiff of what was happening in the case. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants.

At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

(d) The allegations contained in Paragraph 28(d) of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied; by way of further answer, Defendants did inform Plaintiff of what was happening in the case. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

(e) The allegations contained in Paragraph 28(e) of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied; by way of further answer, Defendants did inform Plaintiff of what was happening in the case. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

(f) The allegations contained in Paragraph 28(f) of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied; by way of further answer, Defendants did inform Plaintiff of what was happening in the case.

Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants.

At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998. In addition, Plaintiff never assisted Defendants in the gathering of said information.

(g) The allegations contained in Paragraph 28(g) of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied; by way of further answer, Defendants did inform Plaintiff of what was happening in the case.

Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants.

At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

(h) The allegations contained in Paragraph 28(h) of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied; by way of further answer, Defendants did inform Plaintiff of what was happening in the case.

Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants.

At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

(i) The allegations contained in Paragraph 28(i) of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied; by way of further answer, Defendants did inform Plaintiff of what was happening in the case. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

(j) The allegations contained in Paragraph 28(j) of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied; by way of further answer, Defendants did inform Plaintiff of what was happening in the case. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

29. The allegations contained in Paragraph 29 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

WHEREFORE, Defendants pray that the claims asserted against them by Plaintiff be dismissed, and that judgment be entered in their favor and against the Plaintiff, with prejudice.

Count II: Breaches of Contract

30. Defendants incorporate by reference herein its responses to allegations contained in paragraphs 1 through and including 29 of the Complaint, as though set forth in full.

31. Admitted.

32. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 32, therefore, the same is denied and strict proof thereof is demanded at trial.

33. Denied. On the contrary, Defendants did provide reasonable and customary services in their representation. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998. In addition, Plaintiff was informed on several occasions personally by Defendant, PAUL E. CHERRY when Plaintiff was at Defendants' prior location at 23 Beaver Drive, DuBois, Clearfield County, Pennsylvania when Defendant, PAUL E. CHERRY kept criminal charges from being filed against Plaintiff for the theft of monies from Plaintiff's employer.

34. Denied. On the contrary, Defendants did provide reasonable and customary services in their representation. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998. In addition, Plaintiff was informed on several occasions personally by Defendant, PAUL E. CHERRY when Plaintiff was at Defendants' prior location at 23 Beaver Drive, DuBois, Clearfield County, Pennsylvania when Defendant, PAUL E. CHERRY kept criminal charges from being filed against Plaintiff for the theft of monies from Plaintiff's employer.

35. The allegations contained in Paragraph 35 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

WHEREFORE, Defendants pray that the claims asserted against them by Plaintiff be dismissed, and that judgment be entered in their favor and against the Plaintiff, with prejudice.

Count III: Breaches of Fiduciary Duty

36. Defendants incorporate by reference herein its responses to allegations contained in paragraphs 1 through and including 35 of the Complaint, as though set forth in full.

37. Admitted.

38. The allegations contained in Paragraph 38 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

39. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 39, therefore, the same is denied and strict proof thereof is demanded at trial. By way of further answer, Defendant CHERRY, denies ever informing Plaintiff that Dietrick could not be located and that it would be necessary to hire a private investigator.

40. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 40, therefore, the same is denied and strict proof thereof is demanded at trial.

41. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in

Paragraph 41, therefore, the same is denied and strict proof thereof is demanded at trial. By way of further answer, to the best of his recollection, CHERRY believed the writ had been forwarded for service. Defendants did inform Plaintiff of what was happening in the case.

42. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 41, therefore, the same is denied and strict proof thereof is demanded at trial. By way of further answer, to the best of his recollection, CHERRY believed the writ had been forwarded for service. Defendants did inform Plaintiff of what was happening in the case.

43. Denied. On the contrary, at no time did CHERRY ever inform Plaintiff that this matter could be settled for \$2000.00.

44. The allegations contained in Paragraph 44 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied. By way of further answer, at no time did CHERRY ever inform Plaintiff that this matter could be settled for \$2000.00.

45. The allegations contained in Paragraph 45 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied. By way of further answer, At no time did CHERRY ever inform Plaintiff that this matter could be settled for \$2000.00.

46. Denied. On the contrary, there never was a "cover up" by CHERRY. Defendants did inform Plaintiff of what was happening in the case. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

47. Admitted. By way of further answer, Plaintiff was well aware of the allegation contained in paragraph 47. Defendants did inform Plaintiff of what was happening in the case. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

48. Denied. On the contrary, Plaintiff was well aware of everything that was happening with his case. Defendants did inform Plaintiff of what was happening in the case. Defendants sent the notice to Plaintiff in 1998 to the address provided to Defendants. At no time did Plaintiff contact Defendants about the notice. In fact, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

49. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 49, therefore, the same is denied and strict proof thereof is demanded at trial. By way of further answer, in July 2003, Plaintiff had contact with Defendants by telephone which was the first contact Plaintiff had had with Defendants since sometime in early 1998.

50. Admitted in part and denied in part. It is admitted that in July 2003 Plaintiff telephoned Defendants office. It is denied he requested Defendant return his call. By way of further answer, this telephone call was the first contact Plaintiff had had with Defendants since early 1998. In addition, many bills were sent to Plaintiff since 1998 for costs and Defendants never heard from Plaintiff until July 2003.

51. Denied. It is denied that Plaintiff ever stopped in the office of Defendants. It is also denied that Plaintiff ever telephoned the Defendants office other than the July 2003 telephone call. Therefore, the same is denied and strict proof thereof is demanded at trial.

52. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth or accuracy of Plaintiff's averments in Paragraph 52, therefore, the same is denied and strict proof thereof is demanded at trial.

53. The allegations contained in Paragraph 53 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied. By way of further answer, Plaintiff never requested the file be delivered to him.

54. The allegations contained in Paragraph 54 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied. By way of further answer, Plaintiff never requested the file be delivered to him.

55. The allegations contained in Paragraph 55 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

WHEREFORE, Defendants pray that the claims asserted against them by Plaintiff be dismissed, and that judgment be entered in their favor and against the Plaintiff, with prejudice.

Miscellaneous

56. Admitted.

57. Admitted.

58. Admitted.

59. The allegations contained in Paragraph 59 of Plaintiff's Complaint are conclusions of law to which no responsive pleading is required under the Pennsylvania Rules of Civil Procedure and the same, therefore, are denied.

WHEREFORE, Defendants pray that the claims asserted against them by Plaintiff be dismissed, and that judgment be entered in their favor and against the Plaintiff on all counts, with prejudice.

NEW MATTER

60. Defendants aver that Plaintiff has not sustained some or all of the damages alleged in the Complaint.

61. Defendants aver that Plaintiff's Complaint fails to state any claims upon which relief can be granted.

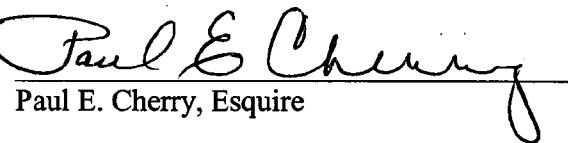
62. Defendants aver that it did not breach any fiduciary duty to Plaintiff.

63. Defendants aver that Plaintiff's claims are subject to, limited by and barred by any applicable statute of limitations.

WHEREFORE, Defendants pray for judgment in their favor and against Plaintiff and for dismissal of all claims asserted against all Defendants in the Complaint

Respectfully submitted,

CHERRY & CHERRY


Paul E. Cherry
Paul E. Cherry, Esquire

COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF CLEARFIELD :
:

PAUL E. CHERRY, Esquire, being duly sworn according to law deposes and says that the facts set forth in the foregoing Answer to Complaint and New Matter are true and correct to the best of his knowledge, information and belief and he makes this statement subject to the penalties of 18 Pa.C.S.A. 4101, relating to unsworn falsification to authorities.



Paul E. Cherry, Esquire

Date: Jan 10, 2004

10/3/84 MC

Henry B. Henry
23 EAST PARK AVENUE
DUBOIS, PENNSYLVANIA 15801

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

WILLIAM M. DANCH, an adult individual,

PLAINTIFF,

: No. 03- 1770 -CD

v.

PAUL E. CHERRY, ESQUIRE, an adult individual,
and CHERRY AND CHERRY, a Pennsylvania
Partnership,

DEFENDANTS.

: Type of Pleading:

REPLY TO NEW MATTER

: Plaintiff

JURY TRIAL DEMANDED

: Counsel of Record:

: Theron G. Noble, Esquire
Ferraraccio & Noble
: 301 East Pine Street
: Clearfield, PA 16830
: (814)-375-2221
: PA I.D.#: 55942

FILED

JAN 16 2004

1/11:45 (w)

William A. Shaw

Prothonotary/Clerk of Courts

wo c/c 

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

PLAINTIFF'S REPLY TO NEW MATTER

AND NOW, comes the Plaintiff, William M. Danch, by and through his counsel of record, Theron G. Noble, of Ferraraccio & Noble, who avers as follows as Plaintiff's REPLY TO NEW MATTER:

60 - 65. The same are conclusions of law for which no responses are deemed necessary.

WHEREFORE, Plaintiff requests JUDGMENT be entered in his favor as prayed for in his CIVIL COMPLAINT.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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

WILLIAM M. DANCH,)
an adult individual;)
)
PLAINTIFF,) No. 03- 1770 -CD
)
v.)
PAUL E. CHERRY, ESQUIRE, an adult)
individual, and CHERRY and CHERRY,)
a Pennsylvania Partnership)
)
DEFENDANTS.)

CERTIFICATE OF SERVICE

To: William A. Shaw, Prothonotary

Date: January 15, 2004

I, Theron G. Noble, Esquire, counsel for Plaintiff, William M. Danch, does hereby certify that I did mail a true and correct copy of Plaintiff's REPLY TO NEW MATTER, via United States Mail, postage pre-paid, first class, to the Defendants, to the below listed person, who has entered an appearance pro-se, addressed as follows, the day above written:

Paul E. Cherry, Esquire
Cherry & Cherry
21 E. Park Avenue
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

In The Court of Common Pleas of Clearfield County, Pennsylvania

DANCH, WILLIAM M.

VS.

CHERRY, PAUL E., ESQ. & CHERRY & CHERRY

COMPLAINT

Sheriff Docket # 14878

03-1770-CD

SHERIFF RETURNS

NOW DECEMBER 2, 2003 AT 2:58 PM SERVED THE WITHIN COMPLAINT ON CHERRY and CHERRY, a Pennsylvania Partnership, DEFENDANT AT EMPLOYMENT, 21 EAST PARK AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO PAUL CHERRY, P.I.C. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: McCLEARY/NEVLING

NOW DECEMBER 2, 2003 AT 2:58 PM SERVED THE WITHIN COMPLAINT ON PAUL E. CHERRY, ESQ., DEFENDANT AT EMPLOYMENT, 21 EAST PARK AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO PAUL CHERRY A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

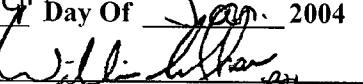
SERVED BY: MCCLEARY/NEVLING.

Return Costs

Cost	Description
38.05	SHERIFF HAWKINS PAID BY: ATTY CK# 1176
20.00	SURCHARGE PAID BY: ATTY ck# 1177

Sworn to Before Me This

29th Day Of Dec, 2004


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

So Answers,


Chester A. Hawkins
Sheriff

FILED

01/02/04
JAN 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. DANCH, an adult individual,

PLAINTIFF, :
v. : No. 03- 1770 -CD

PAUL E. CHERRY, ESQUIRE, an adult individual, :
and CHERRY AND CHERRY, a Pennsylvania
Partnership, :

DEFENDANTS. :

Type of Pleading:

MOTION TO COMPEL

Plaintiff

JURY TRIAL DEMANDED

: Counsel of Record:

: Theron G. Noble, Esquire
Ferraraccio & Noble
: 301 East Pine Street
: Clearfield, PA 16830
: (814)-375-2221
: PA I.D.#: 55942

FILED

FEB 04 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. DANCH,)
an adult individual;)
)
 PLAINTIFF,)) No. 03- 1770 -CD
 v.)
 PAUL E. CHERRY, ESQUIRE, an adult)
 individual, and CHERRY and CHERRY,)
 a Pennsylvania Partnership)
)
 DEFENDANTS.)

MOTION TO COMPEL

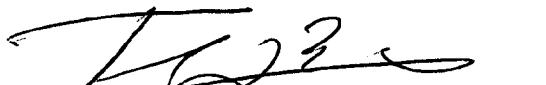
AND NOW comes the Plaintiff, William M. Danch, by and through his counsel of record, Theron G. Noble, Esquire of Ferraraccio & Noble, who avers as follows in support of his MOTION TO COMPEL:

1. This matter was commenced by the filing of a civil complaint on November 25, 2003.
2. This matter involves a professional liability issues and is therefore subject to Pa.R.Civ.P. 1042.
3. That Plaintiff filed a CERTIFICATE OF MERIT on December 10, 2003.
4. That pursuant to Pa.R.Civ.P. 1042.5, Plaintiff was entitled to engage in full discovery as of the date the CERTIFICATE OF MERIT was filed.
5. That on December 11, 2003, Plaintiff propounded its first set of discovery requests, consisting of Interrogatories and Request for Production of Documents on the defendants.
6. That Defendant has filed a timely ANSWER AND NEW MATTER, following Plaintiff's extension, and Plaintiff has filed a REPLY TO NEW MATTER.
7. That the parties have had preliminary communications about resolution of this matter but given the differences in positions, it does not appear likely that settlement will soon occur.
8. That since it appears settlement will not shortly happen, Plaintiff desires that Defendants respond to the discovery requests.

9. Defendants have not so responded despite Plaintiff's requests for them to so respond to Plaintiff's discovery materials.
10. That one request is for a copy of Plaintiff's files maintained by Defendants.
11. That Plaintiff has been seeking said files since this past summer.
12. That Defendant in September, 2003, assured Plaintiff's counsel that Plaintiff's file would be forthcoming.
13. Plaintiff has still not received copies of his files.
14. That said files rightfully belong to Plaintiff and Defendant has no legitimate reason for not producing the same, nor failing to respond to Plaintiff's discovery materials.

WHEREFORE, Plaintiff requests that its MOTION TO COMPEL be GRANTED and Defendants be ordered to respond to within ten (10) days hereof.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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

WILLIAM M. DANCH,)
an adult individual;)
)
PLAINTIFF,)
)
)
)
)
PAUL E. CHERRY, ESQUIRE, an adult)
individual, and CHERRY and CHERRY,)
a Pennsylvania Partnership)
)
)
DEFENDANTS.)
)
No. 03- 1770 -CD
v.

CERTIFICATE OF SERVICE

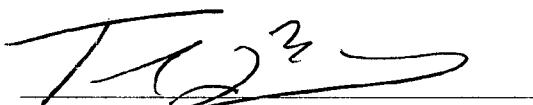
To: William A. Shaw, Prothonotary

Date: February 3, 2004

I, Theron G. Noble, Esquire, counsel for Plaintiff, William M. Danch, does hereby certify that I did mail a true and correct copy of this MOTION TO COMPEL, via United States Mail, postage pre-paid, first class, to the Defendants, for whom no entry of appearance has been entered, addressed as follows, the day above written:

Paul E. Cherry, Esquire
Cherry & Cherry
23 E. Park Avenue
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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

WILLIAM M. DANCH,
an adult individual

vs.

: No. 03-1770-CD

PAUL E. CHERRY, an adult individual,
and CHERRY and CHERRY, a
Pennsylvania Partnership

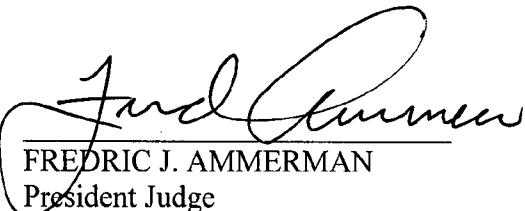
ORDER

AND NOW, this 15th day of April, 2004, it is the ORDER of the Court that argument on Plaintiff's Motion to Compel in the above matter has been scheduled for Monday, May 10, 2004 at 9:30 A.M. before a Sr. Judge, Specially Presiding. Please report to the Court Administrator's Office, 2nd floor, Clearfield County Courthouse, Clearfield, PA. You will be directed as to where the argument will be held.

BY THE COURT:

FILED

APR 02 2004


FREDRIC J. AMMERMAN
President Judge

William A. Shaw
Prothonotary

FILED

02/09/04 rec'd at noble office
cc Paul Chant, visiting judge
cc & mail for visiting judges

APR 02 2004

William A. Shaw
Prothonotary

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

WILLIAM M. DANCH, an adult individual,

PLAINTIFF, :
v. : No. 03- 1770 -CD

PAUL E. CHERRY, ESQUIRE, an adult individual, :
and CHERRY AND CHERRY, a Pennsylvania
Partnership, :

DEFENDANTS. :

Type of Pleading:

MOTION FOR SANCTIONS

Plaintiff

JURY TRIAL DEMANDED

: Counsel of Record:
: Theron G. Noble, Esquire
: Ferraraccio & Noble
: 301 East Pine Street
: Clearfield, PA 16830
: (814)-375-2221
: PA I.D.#: 55942

FILED

APR 02 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. DANCH,)
an adult individual;)
)
 PLAINTIFF,)) No. 03- 1770 -CD
 v.)
 PAUL E. CHERRY, ESQUIRE, an adult)
 individual, and CHERRY and CHERRY,)
 a Pennsylvania Partnership)
)
 DEFENDANTS.)

RULE TO SHOW CAUSE

Now, this _____ day of July, 2003, upon consideration of the attached Plaintiff's MOTION FOR SANCTIONS, a RULE is hereby issued upon the Defendants to SHOW CAUSE why the PETITION should not be granted. RULE RETURNABLE, for filing written response, is set for the _____ day of _____, 2004 and argument on the PETITION set for the _____ day of _____, 2004, at _____:_____, .M., in Courtroom No. ___, Clearfield County Courthouse, Clearfield, Pennsylvania.

NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION YOU SHOULD DO SO 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 ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITION. 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 CAN NOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Second & Market Streets
Clearfield, PA 16830
(814)-765-2641

By The Court,

Judge...

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

WILLIAM M. DANCH,)
an adult individual;)
)
PLAINTIFF,)) No. 03- 1770 -CD
)
v.)
PAUL E. CHERRY, ESQUIRE, an adult)
individual, and CHERRY and CHERRY,)
a Pennsylvania Partnership)
)
DEFENDANTS.)

MOTION FOR SANCTIONS

AND NOW comes the Plaintiff, William M. Danch, by and through his counsel of record, Theron G. Noble, Esquire of Ferraraccio & Noble, who avers as follows in support of his MOTION FOR SANCTIONS:

1. This matter was commenced by the filing of a civil complaint on November 25, 2003.
2. This matter involves professional liability issues and is therefore subject to Pa.R.Civ.P. 1042.
3. That Plaintiff filed a CERTIFICATE OF MERIT on December 10, 2003.
4. That pursuant to Pa.R.Civ.P. 1042.5, Plaintiff was entitled to engage in full discovery as of the date the CERTIFICATE OF MERIT was filed.
5. That on December 11, 2003, Plaintiff propounded its first set of discovery requests, consisting of Interrogatories and Request for Production of Documents on the defendants.
6. That Defendants failed to respond to the discovery requests, including production of Mr. Danch's files and Plaintiff filed a MOTION TO COMPEL on February 3, 2004.
7. Although Defendants finally produced a copy of Plaintiff's file on March 17, 2004, Defendants have otherwise failed to respond to Plaintiff's discovery requests.
8. Defendants, by letter of February 5th, informed Plaintiff's counsel via letter from an attorney, John M. Humphrey, Esquire, indicating Attorney Humphrey or someone from his firm might be representing Defendants in this matter and requesting an extension of thirty (30) days to respond to the discovery materials. Exhibit "A".

9. By letter of February 7th, Counsel for Plaintiff indicated that he would agree to such an extension providing two contingencies were agreed upon and asked for confirmation. Exhibit "B".
10. After receiving no such confirmation, Counsel for Plaintiff called Defendant's "possible" counsel, who was not available and left a message.
11. Plaintiff's counsel has not received a return phone call as of the time of filing this Motion.
12. Plaintiff's counsel sent another letter requesting the information, explanation for delays, a copy of Mr. Danch's file, whether the "possible attorney" was in fact going to enter an appearance of record, etc. etc. etc., again to which no response was received. Exhibit "C".
13. At present, the only information provided by Defendants is the production of a copy Mr. Danch's original file in this matter, no other files of Mr. Danch as requested nor any other information as sought in discovery has been provided.
14. The only explanation to the delay in production of the file which was produced was a hand written note, unsigned, stating that it was thought the file was going to be picked up.
15. The same is illogical in that no one was informed that the file was ready or available to be picked up.
16. Given the failure to respond to discovery requests, even within the requested extension, failure to respond to letters and phone calls, and the failure to explain any of the delays, Plaintiff requests that Defendants be appropriately sanctioned pursuant to Pa.R.Civ.P. 4019.

WHEREFORE, Plaintiff requests that its MOTION FOR SANCTIONS be GRANTED and Defendants appropriately sanctioned.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

A PARTNERSHIP
*Rieders, Travis, Humphrey, Harris,
Waters & Waffenschmidt*

FAX:
(570) 323-4192
(570) 567-1025

161 WEST THIRD STREET
P.O. BOX 215
WILLIAMSPORT, PENNSYLVANIA 17703-0215
lawoffices@riederstravis.com
www.riederstravis.com

PHONE:
(570) 323-8711

JEFFREY C. DOHRMANN
GARY T. HARRIS
JOHN M. HUMPHREY
CLIFFORD A. RIEDERS*
PA., N.Y. & D.C. Bars
RONALD C. TRAVIS
THOMAS WAFFENSCHMIDT
C. SCOTT WATERS

*Board Certified in Civil
Trial Advocacy, N.B.T.A.

February 5, 2004

RODNEY L. KNIER
PAMELA L. SHIPMAN
KIMBERLY A. PAULHAMUS
Firm Manager
JACQUELYN J. DIXON
Human Resources

Theron G. Noble, Esquire
Ferraraccio & Noble
301 E. Pine St.
Clearfield, PA 16830

Re: *William M. Danch v. Paul E. Cherry, et al.*

Dear Mr. Noble:

Judge Cherry has requested our firm to represent him in the above-captioned matter in the event it is determined that there is no insurance coverage for this claim. He is waiting to hear from the insurance company and, if it is determined that there is coverage, I assume the insurance company will be utilizing its own attorney to defend this case. In the meantime, we will probably be entering an appearance for Judge Cherry. This matter came in to my partner, Clifford A. Rieders, who is currently on vacation and not expected to return to the office until February 10th. I am not sure whether Mr. Rieders will be handling the matter or whether he will ask me to handle it.

In the meantime, I understand that you have just filed a Motion to compel answers to interrogatories and a response to your document requests. Given the uncertainties caused by Mr. Rieders' absence, I would request that you give us thirty (30) days from the date of this letter to respond to the discovery. Please let me know if you have any problem with this request for an extension.

Very truly yours,

John M. Humphrey, Esquire

JMH/jss

cc: Paul E. Cherry

FERRARACCIO & NOBLE

**301 East Pine Street
Clearfield, PA 16830
(814) 765-4990
(814) 375-2221
FAX: (814) 765-9377**

John M. Humphrey, Esquire
Rieders, Travis Humphrey, et.al.
161 West Third Street
Williamsport, PA 17703-0215

Exhibit "B"

February 7, 2004

Re: Danch v. Cherry, et.al.

Dear Mr. Humphrey:

COPY

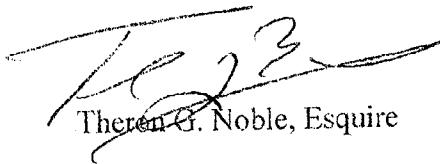
Thank you for your letter of February 5th. Although I normally would not oppose such an extension, it is difficult to explain the same to a client when the request for extension comes after letters requesting the materials have not received an earlier response. It is especially problematic in this situation in that some of the materials requested are actually the property of Mr. Danch who has been seeking these since July.

As per my last letter to Mr. Cherry, if this matter is not resolved, I intend to depose him shortly after I receive his response to the initial discovery requests. Combining these thoughts into a response to your request compels the following response, your request for an additional thirty days in which to respond to discovery is agreeable providing (i) a copy of Mr. Danch's file is provided earlier and (ii) a date for Mr. Cherry's deposition is arranged for sometime in the second or third week of March, which should permit a prior production of the responses and materials pursuant to your request.

I await to hear from you relative to these contingencies. I would also appreciate some explanation as to why there is a coverage issue and why it is taking so long to determine. It would seem to me that we are approaching three months since suit has been filed and a longer time period since Mr. Cherry has been made aware of this situation. I would think this issue has been resolved and am dumbfounded as to why it is still causing problems.

I await to hear from you. With regards, I am

Sincerely,

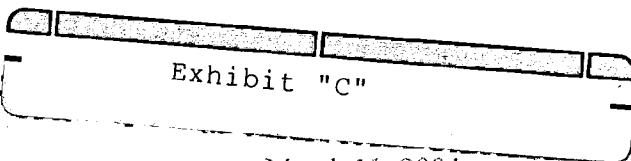

Theren G. Noble, Esquire

tn/TGN

cc: Mr. William M. Danch

FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830
(814) 765-4990
(814) 375-2221
FAX: (814) 765-9377

John M. Humphrey, Esquire
Rieders, Travis Humphrey, et.al.
161 West Third Street
Williamsport, PA 17703-0215



March 11, 2004

Re: Danch v. Cherry, et.al.

COPY

Dear Mr. Humphrey:

By letter of February 5th, you had requested an extension of time to respond to discovery information in the above captioned matter. By letter of February 7th, I responded to said request specifying certain conditions to that request. To date, I have not received a response to my letter nor the discovery information (despite the fact we are beyond the 30 days you requested).

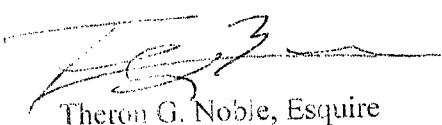
At this point, there is still not a definitive answer as to whether you represent Mr. Cherry, whether there is malpractice coverage, nor a date for his deposition. I honestly do not understand how Mr. Cherry can expect to keep Mr. Danch's file from him. I had hoped to keep ethics complaints out of this matter and allow the civil system to work, but this seems not possible unless you can provide me some explanation as to the basis Mr. Danch's files have not been provided.

I would appreciate an immediate update on these issues.

I understand from the Court Administrator's office that the Motion to Compel is awaiting a judge to be appointed.

With regards, I am

Sincerely,



Theron G. Noble, Esquire

tn/TGN
cc: Mr. William M. Danch

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

WILLIAM M. DANCH,)
an adult individual;)
)
PLAINTIFF,)) No. 03- 1770 -CD
)
v.)
PAUL E. CHERRY, ESQUIRE, an adult)
individual, and CHERRY and CHERRY,)
a Pennsylvania Partnership)
)
DEFENDANTS.)

CERTIFICATE OF SERVICE

To: William A. Shaw, Prothonotary

Date: April 1, 2004

I, Theron G. Noble, Esquire, counsel for Plaintiff, William M. Danch, does hereby certify that I did mail a true and correct copy of this MOTION FOR SANCTIONS, via United States Mail, postage pre-paid, first class, to the Defendants, for whom no entry of appearance has been entered, as well as to Attorney John M. Humphrey, who has indicated he might be representing Defendants, addressed as follows, the day above written:

Paul E. Cherry, Esquire Cherry & Cherry 23 E. Park Avenue DuBois, PA 15801	John M. Humphrey, Esquire Rieders, Travis, Humphrey, et.al. P.O. Box 215 Williamsport, PA 17703-0215
---	---

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

Civil Other

Date	Judge
11/26/2003 ✓ Filing: Civil Complaint Paid by: Noble, Theron G., Esq. Receipt number: 1869725 Dated: 11/26/2003 Amount: \$85.00 (Check)	No Judge
12/11/2003 ✓ Certificate of Merit. filed by, s/Theron G. Noble, Esquire Certificate of Service no cc	No Judge
12/15/2003 ✓ Notice of Service, filed by Atty. Noble no cert. copies. ✓ Propound on Defendants, Plaintiff's First Set of Discovery Materials via 1st Class Mail.	No Judge
01/13/2004 ✓ Answer and New Matter filed by Atty. Cherry no cert. copies.	No Judge
01/16/2004 ✓ Reply to New Matter. filed by, s/Theron G. Noble, Esquire Certificate of Service no c/c	No Judge
01/29/2004 ✓ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
02/04/2004 ✓ Motion To Compel. filed by, s/Theron G. Noble, Esquire Certificate of Service no cc	No Judge
04/02/2004 ✓ Order AND NOW, this 1st day of April, 2004, it is the ORDER of the Court that argument on Plaintiff's Motion to Compel in the above matter has been scheduled for Monday, May 10, 2004 at 9:30 AM before a Sr. Judge, Specially Presiding. S/FJA 2 CC to Atty. Noble, 1 CC to Paul Cherry's Office, 1 CC to Marcy for Visiting Judge. ✓ Motion for Sanctions, filed by s/Theron G. Noble, Esq. No CC	No Judge
04/08/2004 ✓ Certificate of Service, ORDER issued upon Plaintiff's MOTION TO COMPEL upon Paul E. Cherry, Esquire and John M. Humphrey, Esq. filed by, s/Theron G. Noble, Esquire no cc	No Judge
04/13/2004 ✓ ORDER, AND NOW, this 13th day of April, 2004, re; Argument on Plaintiff's Motion for Sanctions has been included with the Motion to Compel currently scheduled for Monday, May 10, 2004, at 9:30 a.m. before a Sr. Judge, Specially Presiding. by the Court, s/FJA,P.J. 2 cc to Atty Noble	No Judge
04/16/2004 ✓ Certificate of Service, ORDER issued upon Plaintiff's MOTION FOR SANCTIONS upon: Paul E. Cherry, Esq., and John M. Humphrey, Esq. filed by, s/Theron G. Noble, Esquire no cc	No Judge
05/10/2004 ✓ Praeclipe For Entry Of Appearance On Behalt Of Defendants. s/John M. William L. Henry Humphrey, Esquire Certificate of Service no cc Copy to C/A	

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

WILLIAM M. DANCH,)
an adult individual;)
)
PLAINTIFF,)) No. 03- 1770 -CD
v.)
PAUL E. CHERRY, ESQUIRE, an adult)
individual, and CHERRY and CHERRY,)
a Pennsylvania Partnership)
)
DEFENDANTS.)

CERTIFICATE OF SERVICE

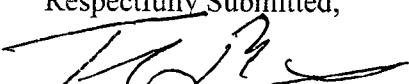
To: William A. Shaw, Prothonotary

Date: April 6, 2004

I, Theron G. Noble, Esquire, counsel for Plaintiff, William M. Danch, does hereby certify that I did mail a true and correct copy of the ORDER issued upon Plaintiff's MOTION TO COMPEL, via United States Mail, postage pre-paid, first class, to the Defendants, for whom no entry of appearance has been entered, as well as to Attorney John M. Humphrey, who has indicated he might be representing Defendants, addressed as follows, the day above written:

Paul E. Cherry, Esquire Cherry & Cherry 23 E. Park Avenue DuBois, PA 15801	John M. Humphrey, Esquire Rieders, Travis, Humphrey, et.al. P.O. Box 215 Williamsport, PA 17703-0215
---	---

Respectfully Submitted,



T.G.N.

T.G.N., Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

FILED

APR 08 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. DANCH,
an adult individual

vs.

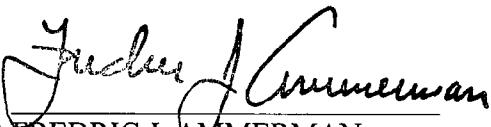
: No. 03-1770-CD

PAUL E. CHERRY, an adult individual,
and CHERRY and CHERRY, a
Pennsylvania Partnership

ORDER

AND NOW, this 13th day of April, 2004, it is the ORDER of the Court that argument on Plaintiff's Motion for Sanctions in the above matter has been included with the Motion to Compel currently scheduled for Monday, May 10, 2004 at 9:30 A.M. before a Sr. Judge, Specially Presiding. Please report to the Court Administrator's Office, 2nd floor, Clearfield County Courthouse, Clearfield, PA. You will be directed as to where the argument will be held.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED

APR 13 2004

William A. Shaw
Prothonotary

FILED

0 2/13/04 2nd dist. Clerk

APR 13 2004

CT
AKD

William A. Shaw
Prothonotary

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

WILLIAM M. DANCH,
an adult individual;

PLAINTIFF,

v.
PAUL E. CHERRY, ESQUIRE, an adult
individual, and CHERRY and CHERRY,
a Pennsylvania Partnership

DEFENDANTS.

) No. 03- 1770 -CD

CERTIFICATE OF SERVICE

To: William A. Shaw, Prothonotary

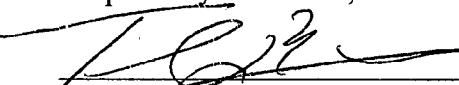
Date: April 15, 2004

I, Theron G. Noble, Esquire, counsel for Plaintiff, William M. Danch, does hereby certify that I did mail a true and correct copy of the ORDER issued upon Plaintiff's MOTION FOR SANCTIONS, via United States Mail, postage pre-paid, first class, to the Defendants, for whom no entry of appearance has been entered, as well as to Attorney John M. Humphrey, who has indicated he might be representing Defendants, addressed as follows, the day above written:

Paul E. Cherry, Esquire
Cherry & Cherry
23 E. Park Avenue
DuBois, PA 15801

John M. Humphrey, Esquire
Rieders, Travis, Humphrey, et.al.
P.O. Box 215
Williamsport, PA 17703-0215

Respectfully Submitted,



T G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

FILED

APR 16 2004
m/12:151 m/s
William A. Shaw
Prothonotary/Clerk of Courts
No C/C
e/s
JES

WILLIAM M. DANCH,

Plaintiff

vs.

PAUL E. CHERRY, ESQUIRE, an adult
individual, and CHERRY and
CHERRY, a Pennsylvania Partnership,

Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY

CIVIL ACTION – LAW

NO. 03-1770-CD

JUDGE:

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance on behalf of the Defendants in the above-captioned
matter.

RIEDERS, TRAVIS, HUMPHREY, HARRIS,
WATERS & WAFFENSCHMIDT

John M. Humphrey, Esquire
I.D. PA16723
161 W. Third St., PO Box 215
Williamsport, PA 17703-0215
Tel: (570) 323-8711
Fax: (570) 323-4192
E-Mail: jhumphrey@riederstravis.com

FILED

MAY 10 2004

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

AND NOW comes John M. Humphrey, Esquire, Attorney for Defendants, and certifies that the foregoing Praeclipe for Entry of Appearance has been served upon Theron G. Noble, Esquire, Ferraraccio & Noble, 301 E. Pine St., Clearfield, PA 16830, this 10th day of May, 2004, by handing a copy of same to Mr. Noble.

RIEDERS, TRAVIS, HUMPHREY, HARRIS,
WATERS & WAFFENSCHMIDT

John M. Humphrey, Esquire
I.D. PA16723
161 W. Third St., PO Box 215
Williamsport, PA 17703-0215
Tel: (570) 323-8711
Fax: (570) 323-4192
E-Mail: jhumphrey@riederstravis.com .

FILED NO cc
MAY 18, 2004 COPY TO CLA
MAY 10 2004 KBD
William A. Shaw
Prothonotary/Clerk of Courts

Date: 05/05/2004

Clearfield County Court of Common Pleas

User: BANDERSON

Time: 01:33 PM

ROA Report

Page 1 of 1

Case: 2003-01770-CD

Current Judge: William L. Henry

William M. Danch vs. Paul E. Cherry, Cherry and Cherry

Civil Other

Date		Judge
11/26/2003	Filing: Civil Complaint Paid by: Noble, Theron G., Esq. Receipt number: 1869725 Dated: 11/26/2003 Amount: \$85.00 (Check)	No Judge ✓
12/11/2003	Certificate of Merit. filed by, s/Theron G. Noble, Esquire Certificate of Service no cc	No Judge ✓
12/15/2003	Notice of Service, filed by Atty. Noble no cert. copies. Propound on Defendants, Plaintiff's First Set of Discovery Materials via 1st Class Mail.	No Judge ✓
01/13/2004	Answer and New Matter filed by Atty. Cherry no cert. copies.	No Judge ✓
01/16/2004	Reply to New Matter. filed by, s/Theron G. Noble, Esquire Certificate of Service no c/c	No Judge ✓
01/29/2004	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge ✓
02/04/2004	Motion To Compel. filed by, s/Theron G. Noble, Esquire Certificate of Service no cc	No Judge ✓
04/02/2004	Order AND NOW, this 1st day of April, 2004, it is the ORDER of the Court that argument on Plff's Motion to Compel in the above matter has been scheduled for Monday, May 10, 2004 at 9:30 AM before a Sr. Judge, Specially Presiding. S/FJA 2 CC to Atty. Noble, 1 CC to Paul Cherry's Office, 1 CC to Marcy for Visiting Judge.	No Judge ✓
	Motion for Sanctions, filed by s/Theron G. Noble, Esq. No CC	No Judge ✓
04/08/2004	Certificate of Service, ORDER issued upon Plaintiff's MOTION TO COMPEL upon Paul E. Cherry, Esquire and John M. Humphrey, Esq. filed by, s/Theron G. Noble, Esquire no cc	No Judge ✓
04/13/2004	ORDER, AND NOW, this 13th day of April, 2004, re; Argument on Plaintiff's Motion for Sanctions has been included with the Motion to Compel currently scheduled for Monday, May 10, 2004, at 9:30 a.m. before a Sr. Judge, Specially Presiding. by the Court, s/FJA,P.J. 2 cc to Atty. Noble	No Judge ✓
04/16/2004	Certificate of Service, ORDER issued upon Plaintiff's MOTION FOR SANCTIONS upon: Paul E. Cherry, Esq., and John M. Humphrey, Esq. filed by, s/Theron G. Noble, Esquire no cc	No Judge ✓

Date: 04/07/2004

Clearfield County Court of Common Pleas

User: BANDERSON

Time: 10:53 AM

Hearings by Judge

Page 4 of 8

CT COMMON PLEAS, Prothonotary CT Location Only

All Case Types

From 04/12/2004 08:00 AM to 04/19/2004 05:00 PM

Paul E. Cherry

Begin Date and Time End Date and Time

04/15/2004 10:30 AM 04/15/2004 10:30 AM **Joseph Casher, et al. vs. William Franklin Test**

Case: 2001-01610-CD

upstair Pre-Trial Conference

Courtroom:

Plaintiffs: Casher, Joseph

Attorney: Naddeo, James A.

Casher, Patricia M.

Attorney: Lewis, Linda C.

Defendant: Test, William Franklin

Attorney: Harper, Troy J.

04/15/2004 11:00 AM 04/15/2004 11:00 AM **Vinson Santelmo, et al. vs. Dennis F. Leighty Jr., et al.**

Case: 2001-01935-CD

upstairs Pre-Trial Conference

Courtroom:

Plaintiffs: Santelmo, Vinson

Attorney: Drexler, Stephen P. Esq

Santelmo, Karen

Attorney: Drexler, Stephen P. Esq

Defendants: Leighty, Dennis F. Jr.

Alias: Denny's Beer Barrel Pub (1 of 1)

Attorney: McCormick, Donald J.

Denny's Beer Barrel Pub

Alias: Dennis F. Leighty Jr. (1 of 2)

Attorney: McCormick, Donald J.

04/15/2004 11:30 AM 04/15/2004 11:30 AM **James M. McHugh, et al. vs. Ann Zazworsky**

Case: 2003-01114-CD

upstairs Pre-Trial Conference

Courtroom:

Plaintiffs: McHugh, James M.

Attorney: Naddeo, James A.

McHugh, Marie E.

Attorney: Naddeo, James A.

Defendant: Zazworsky, Ann

Attorney: Mason, David C.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FILED

MAY 10 2004

William A. Shaw
Prothonotary/Clerk of Courts

WILLIAM M. DANCH

-VS-

No. 03-1770-CD

PAUL E. CHERRY, and adult
individual, and CHERRY &
CHERRY, a Pennsylvania
Corporation

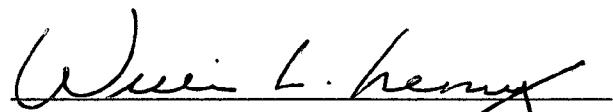
O R D E R

AND NOW, May 10th, 2004, after entertaining the Motion to Compel and the Motion for Sanctions filed in the above-captioned matter, it is ORDERED as follows:

1. Defense counsel, John Humphrey, shall on or before Wednesday, the 19th day of May, 2004, forward to Plaintiff's counsel, Attorney Noble, any files that the Defendant has regarding any work done for the Plaintiff after 1993;
2. The deposition of the Defendant, Paul E. Cherry, shall be taken at the law offices of Attorney Noble on the 22nd day of June, 2004, at 1:00 p.m.;
3. Attorney John Humphrey having testified as to the reasons for the delay in this matter, the

Plaintiff's Motion of Sanctions is denied.

BY THE COURT,



THE HONORABLE WILLIAM L. HENRY
Senior Judge, Specially Presiding

FILED

cc: Angus Humphrey, Noble

Off. of the
MAY 10 2004
cc:

William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. DANCH,
an adult individual;

Plaintiff

No. 03-1770-CD

PAUL E. CHERRY, ESQUIRE, an adult
individual, and CHERRY and CHERRY,
a Pennsylvania Partnership

Defendants

CERTIFICATE OF SERVICE

AND NOW comes John M. Humphrey, Esquire, Attorney for Defendant, and certifies that a copy of the foregoing Defendants First Set of Interrogatories and Request for Production of Documents Directed to Plaintiff William M. Danch has been served this 21 st day of May, 2004, by first class mail, postage prepaid upon the following:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

RIEDERS, TRAVIS, HUMPHREY, HARRIS,
WATERS & WAFFENSCHMIDT

John M. Humphrey, Esquire
Attorney for Defendants
PA ID#16921
161 W. Third Street
P.O. Box 215
Williamsport, PA 17701
(570) 323-8711

FILED

MAY 25 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED
MAY 25 2004
No. 04-11584
cc
W.A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. DANCH,
an adult individual;)
PLAINTIFF,)
v.)
PAUL E. CHERRY, ESQUIRE, an adult
individual, and CHERRY and CHERRY,
a Pennsylvania Partnership)
DEFENDANTS.)
No. 03- 1770 -CD

NOTICE OF SERVICE

To: William A. Shaw, Prothonotary

Date: June 11, 2004

I, Theron G. Noble, Esquire, counsel for Plaintiff, William M. Danch, does hereby certify that I did mail a true and correct copy of NOTICE OF DEPOSITION issued by Plaintiff, via United States Mail, postage pre-paid, first class, to the Defendants' counsel of record, addressed as follows, the day above written:

John M. Humphrey, Esquire
Rieders, Travis, Humphrey, et.al.
P.O. Box 215
Williamsport, PA 17703-0215

Respectfully Submitted,

~~Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942~~

FILED

JUN 14 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. DANCH,)
an adult individual;)
PLAINTIFF,)
v.) No. 03- 1770 -CD
PAUL E. CHERRY, ESQUIRE, an adult)
individual, and CHERRY and CHERRY,)
a Pennsylvania Partnership)
DEFENDANTS.)

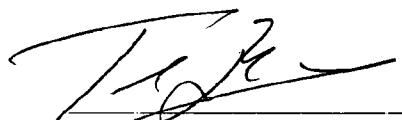
PRAECIPE TO DISCONTINUE

To: William A. Shaw, Prothonotary

Date: September 16, 2004

Please mark the above captioned case, SETTLED, ENDED and forever DISCONTINUED,
with prejudice, as to all defendants.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 E. Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.No.: 55942

FILED 

SEP 17 2004
mch 13 2004
William A. Shaw
Prothonotary/Clerk of Courts
no ccma

ccma of ms -
to arr & copy
to c/n

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

WILLIAM M. DANCH,)
an adult individual;)
)
PLAINTIFF,)) No. 03- 1770 -CD
v.)
PAUL E. CHERRY, ESQUIRE, an adult)
individual, and CHERRY and CHERRY,)
a Pennsylvania Partnership)
)
DEFENDANTS.)

NOTICE OF SERVICE

To: William A. Shaw, Prothonotary

Date: September 16, 2004

I, Theron G. Noble, Esquire, counsel for Plaintiff, William M. Danch, does hereby certify that I did mail a true and correct copy of PRAECIPE TO DISCONTINUE issued by Plaintiff, via United States Mail, postage pre-paid, first class, to the Defendants' counsel of record, addressed as follows, the day above written:

John M. Humphrey, Esquire
Rieders, Travis, Humphrey, et.al.
P.O. Box 215
Williamsport, PA 17703-0215

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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

CIVIL DIVISION

William M. Danch

Vs.

No. 2003-01770-CD

**Paul E. Cherry
Cherry and Cherry**

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 17, 2004, marked:

Settled, Ended and forever Discontinued

Record costs in the sum of \$\$143.05 have been paid in full by Atty. Theron G. Noble.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 17th day of September A.D. 2004.

William A. Shaw, Prothonotary