

03-1865-CD
TERESA L. CGDEN, etal. vs. BOROUGH OF CLEARFIELD, etal.

Date: 9/7/2006

Clearfield County Court of Common Pleas

User: LMILLER

Time: 02:10 PM

ROA Report

Page 1 of 2

Case: 2003-01865-CD

Current Judge: Paul E. Cherry

Teresa L. Ogden, Jake Adams vs. Clearfield Borough Police Dept., Harold M. Titus

Civil Other

Date		Judge
12/19/2003	Filing: Civil Complaint Paid by: Mark A. Smith, Esq. Receipt number: 1870783 Dated: 12/19/2003 Amount: \$85.00 (Check)	No Judge
1/20/2004	Praecipe For Entry of Appearance On Behalf of Defendants, Borough of Clearfield and Harold M. Titus. filed by, s/John B. Cromer, Esquire Certificate of Service	No Judge
2/13/2004	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
5/3/2004	Answer, New Matter and New Matter Pursuant To PA. R.C.P. 2252(c). filed by, s/John B. Cromer, Esquire Verification s/H. Michael Titus s/F. Cortez Bell, III, Es. Certificate of Service no cc	No Judge
5/20/2004	Reply To New Matter. filed by, s/Victor H. Pribanic Verification s/Mark A. Smith, Esquire Certificate of Service no cc	No Judge
12/7/2004	Praecipe For Substitution of Counsel, on behalf of Defendants Borough of Clearfield and Harold M. Titus, substitute the appearance of Edmond R. Joyal, Jr., Esquire in place of John B. Cromer, Esquire. No CC	No Judge
	Notice of Firm Name Change/Change of Address, filed on behalf of Defendants. New firm name of the Law Office of Joseph S. Weimer in place of Gigler & Joyal and change the address to the Law Office of Joseph S. Weimer, 975 Two Chatham Center, Pittsburgh, Pennsylvania 15219. The new telephone number is (412) 338-3184. Filed by s/ Edmond R. Joyal, Jr., Esquire. No CC	No Judge
11/21/2005	Praecipe For Argument, filed by s/ Mark A. Smith, Esquire. 1CC Atty. M. Smith	No Judge
	Motion To Withdraw as Counsel, filed by s/ Mark A. Smith, Esquire. 1CC Atty. M. Smith	No Judge
1/10/2006	Order, NOW, this 10th day of Jan., 2006, upon consideration of the Motion to Withdraw as Counsel filed by Attorney Mark A. Smith, argument has been scheduled for the 27th day of Jan., 2006 at 9:30 a.m. in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. M. Smith	No Judge
1/30/2006	Order, NOW, this 27th day of Jan., 2006, Plaintiffs' Motion to Withdraw as Counsel is granted, Mark A. Smith and law firm of Pribanic & Pribanic shall be permitted to withdraw as counsel on behalf of Teresa Ogden and Jake Adams. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC to Atty. Mark Smith, copy to C/A	Fredric Joseph Ammerman
2/9/2006	Return mailed, Order dated January 27, 2006, remailed to Mark A. Smith at 1735 Lincoln Way, White Oak, PA 15131	Paul E. Cherry
2/16/2006	Praecipe to Withdraw as Counsel, filed. Kindly withdraw the appearance of Pribanic & Pribanis LLC and specifically, that of the undersigned, Mark A. Smith, on behalf of Plaintiffs, Teresa L. Ogden and Jake Adams, a minor, by his guardian, Teresa Ogden, in regard to the above-captioned matter, filed by s/ Mark A. Smith, Esq. 1CC to Atty.	Paul E. Cherry
6/26/2006	Defendants' Motion For Summary Judgment, filed by s/ Edmond R. Joyal, Esquire. No CC	Paul E. Cherry
7/17/2006	Order, NOW, this 14th day of July, 2006, the Defendants' Motion for Summary Judgment is scheduled for argument on the 25th day of August, 2006 before the Honorable Paul E. Cherry, Judge in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Joyal	Paul E. Cherry

Date: 9/7/2006

Clearfield County Court of Common Pleas

User: LM

Time: 02:10 PM

ROA Report

Page 2 of 2

Case: 2003-01865-CD

Current Judge: Paul E. Cherry

Teresa L. Ogden, Jake Adams vs. Clearfield Borough Police Dept., Harold M. Titus

Civil Other

Date		Judge
7/31/2006	Order, NOW, this 28th day of July, 2006, Ordered that argument on Defendants' Motion for Summary Judgment has been rescheduled from August 25, 2006 to Monday, August 28, 2006 at 10:00 a.m. in Courtroom No. 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Joyal, 2CC Plff-216 Susquehanna St., Curwensville, PA 16833	Paul E. Cherry
8/29/2006	Order, NOW, this 28th day of August, 2006, Ordered that Argument on Def.'s Motion for Summary Judgment scheduled this date is continued until the 15th day of Sept. 2006, at 10:30 a.m. in Courtroom No. 2. By the Court, /s/ Paul E. Cherry, Judge. 2CC Plffs-216 Susquehanna St., Curwensville, PA 16833. 2CC Atty. Joyal	Paul E. Cherry

9-19-06 Order, dated Sept. 15, 2006

Shaw
Prothonotary/Clerk of Courts

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

TERESA L. OGDEN and JAKE ADAMS,)
Minor by his guardian, TERESA OGDEN,)

Plaintiffs,)

vs.)

BOROUGH OF CLEARFIELD and)
HAROLD M. TITUS,)

Defendant.)

CIVIL DIVISION

GD 03- 1865-0

COMPLAINT

Code: 001

Filed on behalf of:

TERESA L. OGDEN, et ux.

Counsel of Record for this Party:

MARK A SMITH, ESQUIRE
P.A. I.D. No.: 89597

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444 NJZ

JURY TRIAL DEMANDED

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

TERESA L. OGDEN and JAKE ADAMS,	)	CIVIL DIVISION
Minor by his guardian, TERESA OGDEN,)	
)	
Plaintiffs,	)	GD 03-
)	
)	
vs.)	
)	
BOROUGH OF CLEARFIELD and)	
HAROLD M. TITUS,)	
)	
Defendant.)	

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 an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you. **YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

David S. Meholick
Court Administrator
Clearfield County Courthouse
Clearfield, Pennsylvania, 16830
Telephone: (814) 765-2641 ext: 5982

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

TERESA L. OGDEN and JAKE ADAMS,	)	CIVIL DIVISION
Minor by his guardian, TERESA OGDEN,)	
)	
Plaintiffs,	)	GD 03-
)	
vs.)	
)	
BOROUGH OF CLEARFIELD and)	
HAROLD M. TITUS,)	
)	
Defendant.)	

COMPLAINT

AND NOW, comes TERESA L. OGDEN and JAKE ADAMS, minor by his guardian, TERESA OGDEN , Plaintiffs, by and through their counsel, Mark A. Smith, Esquire, and PRIBANIC & PRIBANIC, L.L.C., and files the following COMPLAINT IN CIVIL ACTION and in support thereof avers as follows:

1. Plaintiff, Teresa Ogden is an adult individual resident of Clearfield County, Pennsylvania and the mother of the minor child, Jake Adams.

2. Defendant, Harold M. Titus, is upon information and belief, an adult individual who was at all relevant times the duly constituted and authorized agent, servant, police officer and/or employee of Defendant, Borough of Clearfield, specifically located at 14 S. Front Street, Clearfield County, Clearfield, Pennsylvania, 16830.

3. Defendant, Borough of Clearfield, is upon information and belief, a political entity existing and doing business as such in Clearfield County, Pennsylvania specifically located at 14 S. Front Street, Clearfield, Pennsylvania, 16830.

4. Park Avenue/Route 153 is a public thoroughfare in Lawrence Township, Clearfield County, Pennsylvania, running generally in a Northerly and Southerly direction.

5. On or about July 27, 2003, Plaintiff, Teresa Ogden, was operating her motor vehicle traveling Northbound on Park Avenue/Route 153 when Defendant, Harold M. Titus, traveling Southbound at a high rate of speed on Park Avenue/Route 153 on the same date and time, struck Teresa Ogden's vehicle when she was turning left onto the 879 Bypass causing Plaintiffs, Teresa Ogden, as well as her minor son, Jake Adams, who was sitting in the back seat, to sustain severe and serious injuries more fully described hereafter.

6. At all relevant times hereto, Defendant, Harold M. Titus was on duty as a police officer employed by Defendant, Borough of Clearfield.

7. Immediately preceding the collision between Plaintiff's vehicle and the vehicle being driven by Defendant, Harold M. Titus on or about July 27, 2003, Mr. Titus was driving his vehicle at an excessively high rate of speed (approximately a 100 mph) without the use of emergency and/or police sirens.

8. At all relevant times hereto, no emergency situation and/or job-related purpose existed permitting Defendant, Harold M. Titus to drive his vehicle at an excessively high rate of speed.

9. Defendant, Harold M. Titus's vehicle was not seen by the Plaintiff, Teresa L. Ogden until a few seconds before the incident because of a hill on Park Avenue/Route 153 located south of the entrance to the 879 Bypass as well as because of Defendant, Harold M. Titus's excessive speed.

FIRST CAUSE OF ACTION- NEGLIGENCE

COUNT I

TERESA L. OGDEN v. HAROLD M. TITUS

Plaintiff, Teresa L. Ogden, incorporates by reference thereto Paragraphs 1 through 9 of the Complaint as though fully set forth herein, and further avers that:

10. The injuries and damages hereinafter set forth were caused solely by and were the direct and proximate result of the negligent, reckless, and wanton misconduct of the Defendant in any or all of the following respects:

- (a) in operating the vehicle at a high, dangerous, and reckless speed under the circumstances;
- (b) in failing to have the vehicle under proper control;
- (c) in that the driver was inattentive and failed to maintain a reasonable lookout of the road and the surrounding traffic conditions;
- (d) in failing to exercise reasonable care and caution as was required under the circumstances;
- (e) in violating various statutes and municipal ordinances pertaining to the operation of motor vehicles on public thoroughfares in the Commonwealth, including but not limited to the statutory provisions relative to Title 75: §3301 Driving on right side of roadway, §3302 Meeting vehicle proceeding in opposite direction, §3303 Overtaking vehicle on the left, §3321 Vehicle approaching or entering intersection, §3322 Vehicle turning left, §3361 Driving Vehicle at Safe Speed, §3367 Racing on highways, §3714 Careless Driving and §3736 Reckless Driving;
- (f) in failing to have sirens and/or other emergency lights turned on when traveling at such a high rate of speed;

- (g) in that the driver was not in a proper physical condition to drive the vehicle; and,
- (h) in failing to maintain a reasonable lookout for the presence of other motor vehicles on the road.

11. Solely as the result of the negligence of the Defendant as here-in-above set forth, Plaintiff, Teresa L. Ogden, sustained injuries, which are or may be of a serious and permanent nature, including injuries to the bones, muscles, tissues, and ligaments of her arms, legs, head, neck, back, and spine generally, shock and injury to her nerves and nervous system, and other severe and serious injuries.

12. As a further direct and proximate result of the foregoing described collision and Defendant's negligence as set forth above, Plaintiff has suffered the following damages:

- (a) past, present, and future physical and mental pain, suffering, and inconvenience with respect to the above injuries;
- (b) past, present, and future lost earnings and lost earning capacity;
- (c) past, present, and future medical expenses;
- (d) diminished life expectancy and loss of the pleasures and enjoyment of life;
- (e) loss of the feeling of well being;
- (f) disfigurement and scarring;
- (g) worry, anxiety, apprehension, and frustration;
- (h) any and all out-of-pocket expenses related to the automobile incident described here and above;
- (i) emotional upset; and,
- (j) severe limitation of activities.

13. Plaintiff is entitled to pursue an action for non-economic damages in the captioned action by virtue of election of the full tort option pursuant to the provision of the Pennsylvania Motor Vehicle Financial Responsibility Law, or in the alternative, Plaintiff under the circumstances of this action falls within an exception of the rule barring recovery for non-economic damages in the event Plaintiff has elected the limited tort option pursuant to the terms of the foregoing statute.

WHEREFORE, Plaintiff, Teresa L. Ogden, brings this suit against Defendant, Harold M. Titus to recover compensatory damages in an amount in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT II

JAKE ADAMS, MINOR BY HIS GUARDIAN, TERESA L. OGDEN v. HAROLD

M. TITUS

Plaintiff, Jake Adams, minor by his guardian, Teresa L. Ogden, incorporates by reference thereto Paragraphs 1 through 13 of the Complaint as though fully set forth herein, and further avers that:

14. The injuries and damages hereinafter set forth were caused solely by and were the direct and proximate result of the negligent, reckless, and wanton misconduct of the Defendant in any or all of the following respects:

- (a) in operating the vehicle at a high, dangerous, and reckless speed under the circumstances;
- (b) in failing to have the vehicle under proper control;
- (c) in that the driver was inattentive and failed to maintain a reasonable lookout of the road and the surrounding traffic conditions;

- (d) in failing to exercise reasonable care and caution as was required under the circumstances;
- (f) in violating various statutes and municipal ordinances pertaining to the operation of motor vehicles on public thoroughfares in the Commonwealth, including but not limited to the statutory provisions relative to Title 75: §3301 Driving on right side of roadway, §3302 Meeting vehicle proceeding in opposite direction, §3303 Overtaking vehicle on the left, §3321 Vehicle approaching or entering intersection, §3322 Vehicle turning left, §3361 Driving Vehicle at Safe Speed, §3367 Racing on highways, §3714 Careless Driving and §3736 Reckless Driving;
- (f) in failing to have sirens and/or other emergency lights turned on when traveling at such a high rate of speed;
- (g) in that the driver was not in a proper physical condition to drive the vehicle; and,
- (h) in failing to maintain a reasonable lookout for the presence of other motor vehicles on the road.

15. Solely as the result of the negligence of the Defendant as here-in-above set forth, Plaintiff, Jake Adams, minor by his guardian, Teresa L. Ogden, sustained injuries, which are or may be of a serious and permanent nature, including injuries to the bones, muscles, tissues, and ligaments of her arms, legs, head, neck, back, and spine generally, shock and injury to her nerves and nervous system, and other severe and serious injuries.

16. As a further direct and proximate result of the foregoing described collision and Defendant's negligence as set forth above, Plaintiff has suffered the following damages:

- (a) past, present, and future physical and mental pain, suffering, and inconvenience with respect to the above injuries;

- (b) past, present, and future lost earnings and lost earning capacity;
- (c) past, present, and future medical expenses;
- (d) diminished life expectancy and loss of the pleasures and enjoyment of life;
- (e) loss of the feeling of well being;
- (f) disfigurement and scarring;
- (g) worry, anxiety, apprehension, and frustration;
- (h) any and all out-of-pocket expenses related to the automobile incident described here and above;
- (i) emotional upset; and,
- (j) severe limitation of activities.

17. Plaintiff is entitled to pursue an action for non-economic damages in the captioned action by virtue of election of the full tort option pursuant to the provision of the Pennsylvania Motor Vehicle Financial Responsibility Law, or in the alternative, Plaintiff under the circumstances of this action falls within an exception of the rule barring recovery for non-economic damages in the event Plaintiff has elected the limited tort option pursuant to the terms of the foregoing statute.

WHEREFORE, Plaintiff, Jake Adams, minor by his guardian, Teresa L. Ogden, brings this suit against Defendant, Harold M. Titus to recover compensatory damages in an amount in excess of the jurisdiction of the Board of Arbitrators of this Court.

SECOND CAUSE OF ACTION- VICARIOUS LIABILITY

COUNT III

TERESA L. OGDEN v. BOROUGH OF CLEARFIELD

Plaintiff, Teresa L. Ogden, incorporates by reference hereto Paragraphs 1 through 17 of the Complaint as though fully set forth herein and further avers that:

18. As a direct result of the conduct of Defendant Harold M. Titus, Defendant, Borough of Clearfield's agent, servant employee and/or police officer, as described in Count I hereof, Plaintiff has suffered the injuries and damages described therein.

WHEREFORE, Plaintiff, Teresa L. Ogden, brings this suit against Defendants to recover compensatory damages in an amount in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT IV

JAKE ADAMS, MINOR BY HIS GUARDIAN, TERESA L. OGDEN v.

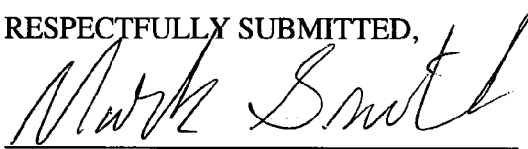
BOROUGH OF CLEARFIELD

Plaintiff, Jake Adams, Minor by his Guardian, Teresa L. Ogden, incorporates by reference hereto Paragraphs 1 through 18 of the Complaint as though fully set forth herein and further avers that:

19. As a direct result of the conduct of Defendant Harold M. Titus, Defendant, Borough of Clearfield's agent, servant employee and/or police officer, as described in Count I hereof, Plaintiff has suffered the injuries and damages described therein.

WHEREFORE, Plaintiff, Jake Adams, Minor by his Guardian, Teresa L. Ogden,
brings this suit against Defendants to recover compensatory damages in an amount in
excess of the jurisdiction of the Board of Arbitrators of this Court.

RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script, appearing to read "Mark A. Smith", written over a horizontal line.

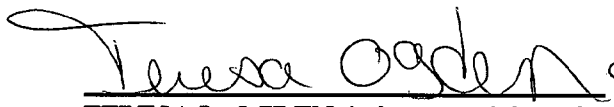
MARK A. SMITH, Esquire
Attorney for Plaintiffs

JURY TRIAL DEMANDED

VERIFICATION TO COMPLAINT

Plaintiff, Teresa L. Ogden in her own right and Guardian for the Minor Child, Jake Adams, verifies that they are the Plaintiffs in the foregoing action; that the foregoing Complaint is based upon information which she has furnished to their counsel and information which has been gathered by their counsel in the preparation of the lawsuit. The language of the Complaint is that of counsel and not of the Plaintiffs. Plaintiff, Teresa L. Ogden, has read the Complaint and to the extent that the Complaint is based upon information which she have given to their counsel, it is true and correct to the best of her knowledge, information and belief. To the extent that the content of the Complaint is that of counsel, she have relied upon counsel in making this Affidavit. Plaintiff, Teresa L. Ogden, understands that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

12-4-03
Date


TERESA L. OGDEN, in her own right and
Guardian for the minor child, JAKE
ADAMS

FILED

Att'y pd. 85.00

~~27/3/00~~
DEC 19 2003

2 cc SHF

William A. Shaw

Prothonotary/Clerk of Courts

1 cc Att'y

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and HAROLD
M. TITUS,

Defendants.

CIVIL DIVISION

No.: G.D. 03-1865- CD

**PRAECIPE FOR ENTRY OF
APPEARANCE**

Filed on behalf of:
Defendants.

Counsel of Record for this Party:

John B. Cromer, Esquire
Pa. I.D. #66773

GIGLER & JOYAL

612 Frick Building
437 Grant Street
Pittsburgh, PA 15219

(412) 471-9640

FILED

JAN 20 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and HAROLD
M. TITUS,

Defendants.

CIVIL DIVISION

No.: G.D. 03-1865- CD

**PRAECIPE FOR ENTRY OF
APPEARANCE**

Filed on behalf of:
Defendants.

Counsel of Record for this Party:

John B. Cromer, Esquire
Pa. I.D. #66773

GIGLER & JOYAL

612 Frick Building
437 Grant Street
Pittsburgh, PA 15219

(412) 471-9640

FILED

JAN 20 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

CIVIL DIVISION

No.: G.D. 03-1865-CD

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and HAROLD
M. TITUS,

Defendants.

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter the appearance of John B. Cromer, Esquire on behalf of Defendants,
Borough of Clearfield and Harold M. Titus, concerning the above-captioned action.

GIGLER & JOYAL

BY: 

John B. Cromer, Esquire
Attorney for Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praecipe for Entry of Appearance has been served by First Class Mail, postage pre-paid, upon the following parties on this 4th day of January, 2004.

Mark A. Smith, Esquire
Pribanic & Pribanic, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

GIGLER & JOYAL

BY: 

John B. Cromer, Esquire
Attorney for Defendants.

In The Court of Common Pleas of Clearfield County, Pennsylvania

OGDEN, TERESA L. and JAKE ADAMS minor by his guardian TERESA OG

Sheriff Docket # 14952

VS.

03-1865-CD

BOROUGH OF CLEARFIELD and HAROLD M. TITUS

COMPLAINT

SHERIFF RETURNS

NOW DECEMBER 26, 2003 AT 9:30 AM SERVED THE WITHIN COMPLAINT ON BOROUGH OF CLEARFIELD, DEFENDANT AT EMPLOYMENT, 14 S. FRONT ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JUDD ZIMMER, CHIEF A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: COUDRIET/RYEN

NOW DECEMBER 26, 2003 AT 9:30 AM SERVED THE WITHIN COMPLAINT ON HAROLD M. TITUS, DEFENDANT AT EMPLOYMENT, CLEARFIELD BOROUGH POLICE DEPARTMENT, 14 S. FRONT ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO HAROLD M. TITUS A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

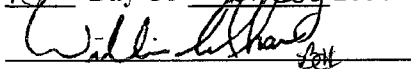
SERVED BY: COUDRIET/RYEN

Return Costs

Cost	Description
31.00	SHERIFF HAWKINS PAID BY: ATTY CK# 1062
20.00	SURCHARGE PAID BY: ATTY CK# 1063

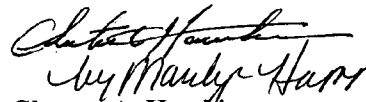
Sworn to Before Me This

13th Day Of February 2004




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

So Answers,



Chester A. Hawkins
Sheriff

FILED

012:57/101
FEB 13 2004 

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and HAROLD
M. TITUS,

Defendants,

-vs-

TERESA L. OGDEN,

Additional Defendant

CIVIL DIVISION

No.: G.D. 03-1865- CD

**ANSWER, NEW MATTER AND NEW
MATTER PURSUANT TO PA R.C.P.
2252(d)**

Filed on behalf of:
Defendants.

Counsel of Record for this Party:

John B. Cromer, Esquire
Pa. I.D. #66773

GIGLER & JOYAL

612 Frick Building
437 Grant Street
Pittsburgh, PA 15219

(412) 471-9640

You are hereby notified to file a written
response to the enclosed Answer and New
Matter within 20 days from service
hereof or a judgment may be entered
against you.

By: 

John B. Cromer, Esquire

FILED

MAY 03 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

CIVIL DIVISION

No.: G.D. 03-1865-CD

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and HAROLD
M. TITUS,

Defendants,

-vs-

TERESA L. OGDEN,

Additional Defendant

**ANSWER, NEW MATTER AND NEW MATTER
PURSUANT TO PA R.C.P. 2252(d)**

AND NOW, comes the Defendants Borough of Clearfield and Harold M. Titus, by and through their attorneys, GIGLER & JOYAL and John B. Cromer, Esquire and hereby files this Answer to Plaintiff's Complaint filed in the above-referenced matter and avers the following:

ANSWER

1. The averments of Paragraph 1 are admitted.
2. The averments of Paragraph 2 are admitted.
3. The averments of Paragraph 3 are admitted.

4. The averments of Paragraph 4 are admitted.

5. The averments of Paragraph 5 set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, the averments are denied as stated. All averments regarding injuries are also denied, as after reasonable investigation, these Defendants are unable to determine the truth of the averments, and as such, the same are hereby denied. Plaintiff, Teresa Ogden, made a left turn into the right-of-way of Defendant Titus as Defendant Titus was lawfully, with lights and siren having been on, pursuing a vehicle which was in violation of the laws of the Commonwealth of Pennsylvania.

6. The averments of Paragraph 6 are admitted.

7. The averments of Paragraph 7 are denied. Defendant Titus was not traveling at a speed of approximately 100 mph and Defendant Titus utilized his siren and lights on the police car.

8. The averments of Paragraph 8 set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, the averments are denied. Plaintiff, Teresa Ogden, made a left turn into the right-of-way of Defendant Titus as Defendant Titus was lawfully, with lights and siren having been on, pursuing a vehicle which was in violation of the laws of the Commonwealth of Pennsylvania.

9. The averments of Paragraph 9 set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, the same are denied pursuant to Pa.R.C.P. 1029.

COUNT I

10. The Defendants' Answer as set forth above is incorporated herein by reference.

11. The averments of Paragraph 10 (a-h inclusive) set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, no response is required pursuant to the provisions of Pa. R.C.P. 1029(e) and strict proof thereof will be demanded at trial. By way of further answer, any allegation of liability is denied.

12. The averments of Paragraph 11 set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, upon reasonable investigation, this Defendant is unable to form a belief as to the truth of the averments contained in Paragraph 11 of the Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

13. The averments of Paragraph 12 (a-j inclusive) set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, upon reasonable investigation, this Defendant is unable to form a belief as to the truth of the averments contained in Paragraph 12 of the Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

14. The averments of Paragraph 13 set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, upon reasonable investigation, this Defendant is unable to form a belief as to the truth of the averments contained in Paragraph 13 of the Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

WHEREFORE, the Defendants demand judgment in their favor.

COUNT II

15. The Defendants' Answer as set forth above is incorporated herein by reference.

16. The averments of Paragraph 14 (a-h inclusive) set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, no response is required pursuant to the provisions of Pa. R.C.P. 1029(e) and strict proof thereof will be demanded at trial. By way of further answer, any allegation of liability is denied.

17. The averments of Paragraph 15 set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, no response is required pursuant to the provisions of Pa. R.C.P. 1029(e) and strict proof thereof will be demanded at trial.

18. The averments of Paragraph 16 (a-j inclusive) set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, upon reasonable investigation, this Defendant is unable to form a belief as to the truth of the averments contained in Paragraph 16 of the Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

19. The averments of Paragraph 17 set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, upon reasonable investigation, this Defendant is unable to form a belief as to the truth of the averments contained

in Paragraph 17 of the Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

WHEREFORE, the Defendants demand judgment in their favor.

COUNT III

20. The Defendants' Answer as set forth above is incorporated herein by reference.

21. The averments of Paragraph 18 set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, upon reasonable investigation, this Defendant is unable to form a belief as to the truth of the averments contained in Paragraph 20 of the Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial. By way of further answer, Defendants admit that Officer Titus was acting in the course and scope of his employment at the time of the allegations complained of.

WHEREFORE, the Defendants demand judgment in their favor.

COUNT IV

22. The Defendants' Answer as set forth above is incorporated herein by reference.

23. The averments of Paragraph 19 set forth conclusions of law to which no response is required. To the extent said averments are factual in nature, upon reasonable investigation, this Defendant is unable to form a belief as to the truth of the averments contained

in Paragraph 20 of the Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial. By way of further answer, Defendants admit that Officer Titus was acting in the course and scope of his employment at the time of the allegations complained of.

WHEREFORE, the Defendants demand judgment in their favor.

NEW MATTER

24. The Defendants' Answer as set forth above is incorporated herein by reference.

25. If it is determined that the Defendants are liable under the Plaintiffs' cause of action, then Plaintiffs' recovery should be eliminated or reduced in accordance with the Pennsylvania Comparative Negligence Act, 42 Pa. C.S.A. Section 1702, and said defense is hereby preserved without the need of further pleading pursuant to the provisions of Pa. R.C.P. 1030(b).

26. If the Plaintiffs suffered any injuries as alleged, husband-Plaintiff, by his conduct, assumed the risk of those injuries and damages due to the conduct herein before alleged, and said defense is hereby preserved without the need of further pleading pursuant to the provisions of Pa. R.C.P. 1030(b).

27. The Defendants assert all defenses, limitations and exclusions under the Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. Section 1701 et seq. and aver that Plaintiffs may not plead, prove, introduce into evidence or recover any benefits paid or payable under the Motor Vehicle Financial Responsibility Law.

28. The damages and injuries allegedly sustained by the Plaintiffs were proximately caused by the acts and/or omissions of Plaintiffs or third persons for whose actions these Defendants are not legally responsible.

29. Defendants are immune from suit pursuant to the Political Subdivision Tort Claims Act.

30. The Plaintiff's rights, if any, are limited and controlled by the provisions of the aforementioned Political Subdivision Tort Claims Act and/or Claims against Local Agencies Act, including but not limited to immunity rights and limitations on damages.

31. Under the provisions of the aforementioned Act, if the Plaintiff receives or is entitled to benefits under a policy of insurance other than a life insurance policy as a result of losses for which damages are recoverable under the appropriate section of the Act, the amount of such benefits shall be deducted from the amount of damages which would otherwise be recoverable by the Plaintiff.

32. It is averred that Defendant was not given proper or timely notice of the alleged incident or injuries by the Plaintiff s or on behalf of the Plaintiffs as required under law, 42 P. S. §5522.

33. Defendants assert all defenses, limitations and exclusions under the Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. Section 1701 et seq. and aver that Plaintiff may not plead, prove, introduce into evidence or recover any benefits paid or payable under the Motor Vehicle Financial Responsibility Law.

34. The Defendant avers that the Plaintiff elected to include in his Pennsylvania automobile insurance policy, the "limited tort" option, as approved by the Pennsylvania Legislature in 1990. As such, Plaintiff's entitlement for recovery, if any, will only be for medical and other out-of-pocket expenses, but not for pain and suffering or other non-monetary damages.

35. The Defendant avers that none of the Plaintiff's claims constitute an exception defined in Section 75 Pa. C. S. A. 1705(d), to the limited tort option and, therefore, are precluded from maintaining an action for any non-economic damages.

36. The Defendant avers the affirmative defense of release to the extent it is entitled to the benefit of any release executed by Plaintiff with regard to this accident or any injuries sustained therein.

WHEREFORE, the Defendants demand judgment in their favor.

NEW MATTER PURSUANT TO Pa. R. C. P. 2252(d)

37. Defendants hereby join as an Additional Defendant, Plaintiff, Teresa Ogden, with regard to the claims of minor, Jake Ogden.

38. Plaintiff/Additional Defendant, Teresa Ogden, was responsible for safe and due car driving with minor, Jake Ogden, as a passenger.

39. Plaintiff/Additional Defendant, Teresa Ogden, was negligent in the following particulars:

- (a) In failing to yield the right-of-way to Defendant Titus;

- (b) In failing to yield the right-of-way to Defendant Titus who was, at the time of the accident, driving an emergency vehicle, in the course of the emergency vehicle doctrine;
- (c) In failing to have her vehicle under proper control;
- (d) In failing to be attentive and in failing to maintain a proper lookout;
- (e) In failing to have her minor child properly restrained;
- (f) In violating various statutes and municipal ordinances pertaining to the operation of motor vehicles, including but not limited to, driving on the right side of the road, meeting vehicle proceeding in opposite direction, driving on divided highways, required position and method of turning, and turning movements and required signals;
- (g) In failing to be properly licensed and to have the vehicle properly registered.

40. Plaintiff/Additional Defendant's negligence is the proximate cause of the incident in question.

41. Any damages sustained by the minor Plaintiff, Jake Ogden, was due to the negligence of the Plaintiff/Additional Defendant and Plaintiff/Additional Defendant is solely liable to minor Plaintiff, Jake Ogden, or liable over to Original Defendants for contribution and/or indemnification.

WHEREFORE, Original Defendants request judgment in their favor and against Plaintiff/Additional Defendant, Teresa Ogden.

NEW MATTER PURSUANT TO Pa. R. C. P. 2252(d)

42. Defendants hereby join as an additional Defendant, Plaintiff, Teresa Ogden, with regard to the claims Plaintiff, Borough of Clearfield.

43. The Defendants' Answer, New Matter and 2252(d) as set forth above is incorporated herein by reference.

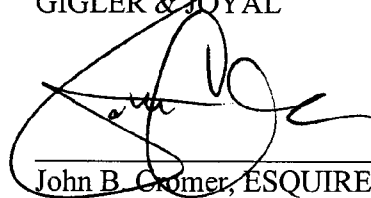
44. Defendant, Borough of Clearfield, was the proper and legal owner of the vehicle driven by Officer Harold Titus which is part of the subject of this lawsuit.

45. As a result of the negligence of Plaintiff-Additional Defendant, Teresa Ogden, as set for more fully in paragraph 35, the Borough of Clearfield sustained property damage to its police car in the amount of \$12,749.50.

46. Plaintiff/Additional Defendant's negligence is the proximate cause of the incident in question, and thus, Plaintiff/Additional Defendant is legally responsible for the property damage as mentioned in Paragraph 39.

WHEREFORE, Original Defendants request judgment in their favor and against Plaintiff/Additional Defendant, Teresa Ogden, with regard to the property damage of the police car involved in the accident.

Respectfully submitted,
GIGLER & JOYAL



John B. Cromer, ESQUIRE
Counsel for Defendants

VERIFICATION

I, Harold M. Titus, have read the foregoing ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO PA R.C.P. 2252(d). The statements therein are correct to the best of my personal knowledge or information and belief.

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

Date: 4/6/04 H. Michael Titus

VERIFICATION

I, F. Cortez Bell, III, on behalf Borough of Clearfield, have read the foregoing ANSWER and NEW MATTER and NEW MATTER PURSUANT TO PA R.C.P. 2252(d). The statements therein are correct to the best of my personal knowledge or information and belief.

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

Date: 4-15-2004

F C Bell III
Clearfield Boro Solicitor &
Asst. Boro Secretary

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO PA R.C.P. 2252(d) of Appearance has been served by First Class Mail, postage pre-paid, upon the following parties on this 29th day of April, 2004.

Mark A. Smith, Esquire
Pribanic & Pribanic, L.L.C.
1735 Lincoln Way
White Oak, PA 15131
(Counsel for Plaintiffs)

GIGLER & JOYAL

BY: 

John B. Cromer, Esquire
Attorney for Defendants.

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

TERESA L. OGDEN and JAKE ADAMS,)
Minor by his guardian, TERESA OGDEN,)

Plaintiffs,)

vs.)

BOROUGH OF CLEARFIELD and)
HAROLD M. TITUS,)

Defendants,)

vs.)

TERESA L. OGDEN,)

Additional)
Defendant.)

CIVIL DIVISION

GD 03-1865-CD

REPLY TO NEW MATTER

Code: 001

Filed on behalf of:

TERESA L. OGDEN, et ux.

Counsel of Record for this Party:

MARK A SMITH, ESQUIRE
P.A. I.D. No.: 89597

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

JURY TRIAL DEMANDED

FILED

MAY 20 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

TERESA L. OGDEN and JAKE ADAMS,	)	CIVIL DIVISION
Minor by his guardian, TERESA OGDEN,)	
)	
Plaintiffs,	)	GD 03-1865-CD
)	
)	
vs.)	
)	
BOROUGH OF CLEARFIELD and)	
HAROLD M. TITUS,)	
)	
Defendants,)	
)	
vs.)	
)	
TERESA L. OGDEN,)	
)	
Additional)	
Defendant.)	

REPLY TO NEW MATTER

Plaintiffs, by their counsel, Mark A. Smith, Esquire, files the within Reply to New Matter asserted on behalf of Defendant and in support thereof avers:

1. The averments of paragraphs 24 through 36 of Defendants' New Matter are denied.
2. The application of the current joint and several liability legislation in the Commonwealth of Pennsylvania is unconstitutional.

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

TERESA L. OGDEN and JAKE ADAMS,	)	CIVIL DIVISION
Minor by his guardian, TERESA OGDEN,)	
)	
Plaintiffs,	)	GD 03-1865-CD
)	
)	
vs.)	
)	
BOROUGH OF CLEARFIELD and)	
HAROLD M. TITUS,)	
)	
Defendants,)	
)	
vs.)	
)	
TERESA L. OGDEN,)	
)	
Additional)	
Defendant.)	

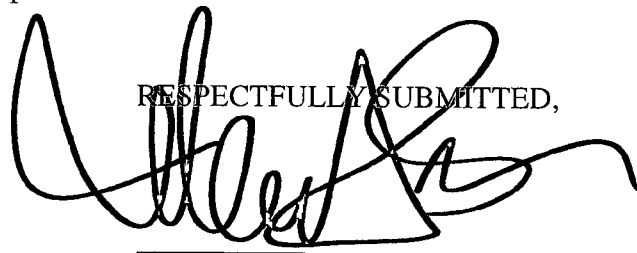
REPLY TO NEW MATTER

Plaintiffs, by their counsel, Mark A. Smith, Esquire, files the within Reply to New Matter asserted on behalf of Defendant and in support thereof avers:

1. The averments of paragraphs 24 through 36 of Defendants' New Matter are denied.
2. The application of the current joint and several liability legislation in the Commonwealth of Pennsylvania is unconstitutional.

WHEREFORE, Plaintiffs respectfully request that they be afforded the relief sought in the Complaint filed in the captioned action.

RESPECTFULLY SUBMITTED,

A large, stylized handwritten signature in black ink, appearing to read 'Victor H. Pribanic', is written over the text 'RESPECTFULLY SUBMITTED,'.

VICTOR H. PRIBANIC
Counsel for Plaintiff

VERIFICATION

Mark A. Smith, Esquire, deposes and says that he is counsel for the foregoing party; that he is authorized to make this Verification; that the facts set forth in the foregoing are true and correct based upon information supplied to him by the foregoing party; that the purposes of this verification are to expedite the litigation; and that a Verification by the party hereto will be furnished if requested. This statement is made subject to penalties of 18 Pa. C.S. Section 4909 relating to unsworn falsification of authorities.

A large, stylized handwritten signature in black ink, appearing to read 'Mark A. Smith', is written over a horizontal line.

MARK A. SMITH, ESQUIRE
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **REPLY TO NEW MATTER** has been served via U. S. Postal Service postage prepaid on the 18th day of May, 2004 upon the following:

John B. Cromer, Esquire
Gigler & Joyal
612 Frick Building
437 Grant Street
Pittsburgh, PA 15219



PRIBANIC & PRIBANIC, L.L.C.

Mark A. Smith, Esquire
Counsel for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and HAROLD
M. TITUS,

Defendants,

-vs-

TERESA L. OGDEN,

Additional Defendant

CIVIL DIVISION

No.: G.D. 03-1865- CD

**PRAECIPE FOR SUBSTITUTION OF
COUNSEL**

Filed on behalf of:
Defendants.

Counsel of Record for this Party:

Edmond R. Joyal, Esquire
Pa. I.D. #65907

LAW OFFICE OF JOSEPH S. WEIMER

975 Two Chatham Center
Pittsburgh, PA 15219

(412) 338-3184

FILED

m/l: 53801
DEC 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

CIVIL DIVISION

No.: G.D. 03-1865-CD

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and HAROLD
M. TITUS,

Defendants,

-vs-

TERESA L. OGDEN,

Additional Defendant

PRAECIPE FOR SUBSTITUTION OF COUNSEL

TO: PROTHONOTARY

PLEASE substitute the appearance of Edmond R. Joyal, Jr., Esquire, of the Law
Office of Joseph S. Weimer in place of John B. Cromer, Esquire for Defendants, Borough of
Clearfield and Harold M. Titus, with regard to the above-captioned case.

Respectfully submitted,
LAW OFFICE OF JOSEPH S. WEIMER



Edmond R. Joyal, Jr., Esquire
Counsel for Defendants

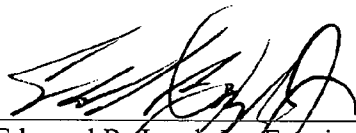
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PRAECIPE FOR
SUBSTITUTION OF COUNSEL has been served by First Class Mail, postage pre-paid, upon
the following parties on this 2ND day of December, 2004.

Mark A. Smith, Esquire
Pribanic & Pribanic, L.L.C.
1735 Lincoln Way
White Oak, PA 15131
(Counsel for Plaintiffs)

LAW OFFICE OF JOSEPH S. WEIMER

BY:



Edmond R. Joyal, Jr., Esquire
Attorney for Defendants.

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

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and HAROLD
M. TITUS,

Defendants,

-vs-

TERESA L. OGDEN,

Additional Defendant

CIVIL DIVISION

No.: G.D. 03-1865- CD

**NOTICE OF FIRM NAME
CHANGE/CHANGE OF ADDRESS**

Filed on behalf of:
Defendants.

Counsel of Record for this Party:

Edmond R. Joyal, Esquire
Pa. I.D. #65907

LAW OFFICE OF JOSEPH S. WEIMER

975 Two Chatham Center
Pittsburgh, PA 15219

(412) 338-3184

FILED

DEC 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

CIVIL DIVISION

No.: G.D. 03-1865-CD

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and HAROLD
M. TITUS,

Defendants,

-vs-

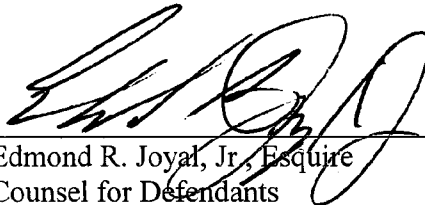
TERESA L. OGDEN,

Additional Defendant

NOTICE OF FIRM NAME CHANGE/CHANGE OF ADDRESS

Kindly change the docket to reflect the new firm name of the Law Office of Joseph S. Weimer in place of Gigler & Joyal and change the address to the Law Office of Joseph S. Weimer, 975 Two Chatham Center, Pittsburgh, Pennsylvania 15219. The new telephone number is (412) 338-3184.

Respectfully submitted,
LAW OFFICE OF JOSEPH S. WEIMER


Edmond R. Joyal, Jr., Esquire
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF FIRM NAME CHANGE/CHANGE OF ADDRESS has been served by First Class Mail, postage pre-paid, upon the following parties on this 2nd day of December, 2004.

Mark A. Smith, Esquire
Pribanic & Pribanic, L.L.C.
1735 Lincoln Way
White Oak, PA 15131
(Counsel for Plaintiffs)

LAW OFFICE OF JOSEPH S. WEIMER

BY: 

Edmond R. Joyal, Jr., Esquire
Attorney for Defendants.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

TERESA L. OGDEN and JAKE ADAMS,)
Minor by his guardian, TERESA OGDEN,)

Plaintiffs,)

vs.)

BOROUGH OF CLEARFIELD and)
HAROLD M. TITUS,)

Defendants,)

vs.)

TERESA L. OGDEN,)

Additional)
Defendant.)

CIVIL DIVISION

GD 03-1865-CD

PRAECIPE FOR ARGUMENT

Code: 001

Filed on behalf of:

TERESA L. OGDEN, et ux.

Counsel of Record for this Party:

MARK A SMITH, ESQUIRE
P.A. I.D. No.: 89597

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

JURY TRIAL DEMANDED

FILED ^{icc}
m 11:20 AM ^{Atty}
NOV 21 2005 ^{m-smith}

William A. Shaw ⁽⁶⁴⁾
Prothonotary/Clerk of Courts

TERESA L. OGDEN and JAKE ADAMS,)
Minor by his guardian, TERESA OGDEN,)

Plaintiffs,

VS.

BOROUGH OF CLEARFIELD and
HAROLD M. TITUS,

Defendants,

VS.

TERESA L. OGDEN,

Additional
Defendant.

TO: Prothonotary,

RESPECTFULLY SUBMITTED.

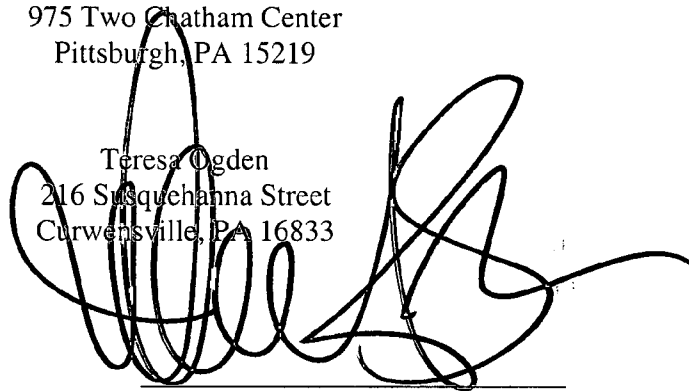
Mark A. Smith
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via U. S. Postal Service postage prepaid on the 18th day of November, 2005, upon the following:

Edmond R. Joyal, Jr., Esquire
Law Offices of Joseph S. Weimer
975 Two Chatham Center
Pittsburgh, PA 15219

Teresa Ogden
216 Susquehanna Street
Curwensville, PA 16833

A large, stylized handwritten signature in black ink, which appears to read 'Mark A. Smith', is written over the printed name and address of the sender.

Mark A. Smith

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

TERESA L. OGDEN and JAKE ADAMS,)
Minor by his guardian, TERESA OGDEN,)

Plaintiffs,)

vs.)

BOROUGH OF CLEARFIELD and)
HAROLD M. TITUS,)

Defendants,)

vs.)

TERESA L. OGDEN,)

Additional)
Defendant.)

CIVIL DIVISION

GD 03-1865-CD

MOTION TO WITHDRAW
AS COUNSEL

Code: 001

Filed on behalf of:

TERESA L. OGDEN, et ux.

Counsel of Record for this Party:

MARK A SMITH, ESQUIRE
P.A. I.D. No.: 89597

PRIBANIC & PRIBANIC, L.L.C.

1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

JURY TRIAL DEMANDED

FILED^{rec}
m/11/20/05 Amy
NOV 21 2005 M. Smith

William A. Shaw ^{CR}
Prothonotary/Clerk of Courts

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

TERESA L. OGDEN and JAKE ADAMS,	)	CIVIL DIVISION
Minor by his guardian, TERESA OGDEN,)	
)	
Plaintiffs,	)	GD 03-1865-CD
)	
)	
vs.)	
)	
BOROUGH OF CLEARFIELD and)	
HAROLD M. TITUS,)	
)	
Defendants,)	
)	
vs.)	
)	
TERESA L. OGDEN,)	
)	
Additional)	
Defendant.)	

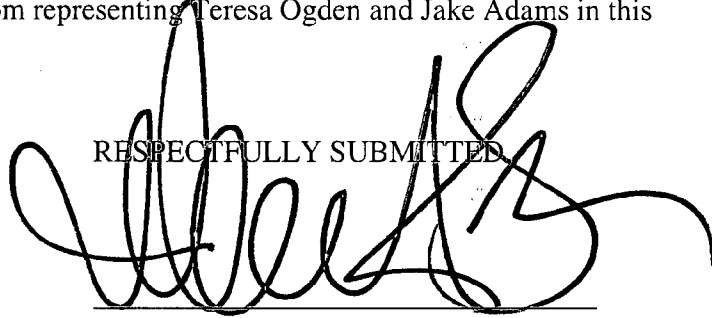
MOTION TO WITHDRAW AS COUNSEL

AND NOW, comes Mark A. Smith, counsel for Plaintiffs, and sets forth the following:

1. The Plaintiff, Jake Adams, and parent of the minor Plaintiff, Teresa L. Ogden, have not cooperated with counsel in providing discovery responses and has not responded to any request to participate in the prosecution of this action.
2. This action has been in a virtual standstill due to the failure of the Plaintiff to participate in the prosecution of this action.
3. The Plaintiff has not responded to correspondence nor returned any phone calls from counsel throughout the course of this case.

WHEREFORE, counsel for the Plaintiff and the minor Plaintiff respectfully request that he be granted permission to withdraw from representing Teresa Ogden and Jake Adams in this case.

RESPECTFULLY SUBMITTED,

A large, stylized handwritten signature in black ink, appearing to read 'Mark A. Smith', is written over the text 'RESPECTFULLY SUBMITTED,'.

Mark A. Smith
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via U. S. Postal Service postage prepaid on the 18th day of November, 2005, upon the following:

Edmond R. Joyal, Jr., Esquire
Law Offices of Joseph S. Weimer
975 Two Chatham Center
Pittsburgh, PA 15219

Teresa Ogden
216 Susquehanna Street
Curwensville, PA 16833



Mark A. Smith

_____, J.

CA

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

TERESA L. OGDEN and JAKE
ADAMS, Minor by his guardian,
TERESA OGDEN,

vs.

:
:
:
:
: No. 03-1865-CD

BOROUGH OF CLEARFIELD and
HAROLD M. TITUS,

vs.

TERESA L. OGDEN

:
:
:
:
:
:
:

ORDER

AND NOW, this 10th day of January, 2006, upon consideration of
the Motion to Withdraw as Counsel filed by Attorney Mark A. Smith in the above
matter, it is the Order of the Court that argument has been scheduled for the 27th
day of January, 2006, at 9:30 A.M, in Courtroom No.
1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

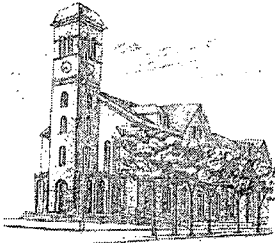


FREDRIC J. AMMERMAN
President Judge

FILED
JAN 10 2006

400
Atty M. Smith
EX

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 11/10/06

X You are responsible for serving all appropriate parties.

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

 Plaintiff(s)/Attorney(s)

 Defendant(s)/Attorney(s)

 Other

 Special Instructions:

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

TERESA L. OGDEN and JAKE
ADAMS, Minor by his
guardian, TERESA OGDEN

-VS-

No. 03-1865-CD

BOROUGH OF CLEARFIELD and
HAROLD M. TITUS

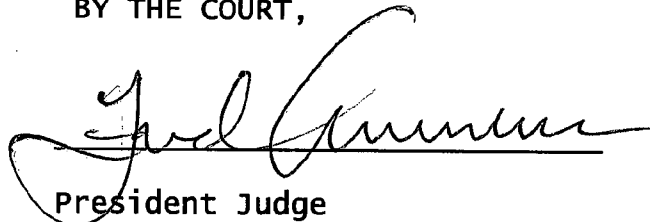
-VS-

TERESA L. OGDEN

O R D E R

NOW, this 27th day of January, 2006, upon
consideration of Plaintiffs' Motion to withdraw as Counsel,
it is hereby granted, and Mark A. Smith and the law firm of
Pribanic & Pribanic shall be permitted to withdraw as
counsel on behalf of Teresa Ogden and Jake Adams in the
above-captioned action.

BY THE COURT,


President Judge

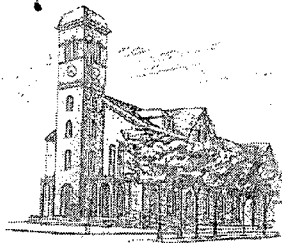
FILED

JAN 30 2006

6/4:00/w
William A. Shaw
Prothonotary/Clerk of Courts

4 COPY TO ATTY
MARK SMITH

COPY TO C/A



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 1-30-06

☒ You are responsible for serving all appropriate parties.

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

☐ Plaintiff(s)/Attorney(s)

☐ Defendant(s)/Attorney(s)

☐ Other

☐ Special Instructions:

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

FILED *Re-sent to*
M/10:38/301 Atty Mark A. Smith
FEB 09 2006 *1735 Lincoln Way*
White Oak, PA *15131*

William A. Shaw
Prothonotary/Clerk of Courts

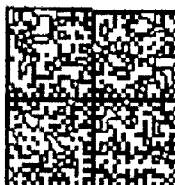
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~~Mark A. Smith~~
~~Wolf, Block Schorr and Solis-q~~
~~22nd Floor~~
~~1650 Ar~~
~~Philadel~~

RETURN TO SENDER
NO LONGER AT THIS ADDRESS

☐ A ☐ INSUFFICIENT ADDRESS
☐ C ☐ ATTEMPTED NOT KNOWN
☐ S ☐ NO SUCH NUMBER/STREET
☐ OTHER
☐ NOT DELIVERABLE AS ADDRESSED
☐ UNABLE TO FORWARD

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IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

TERESA L. OGDEN and JAKE
ADAMS, Minor by his
guardian, TERESA OGDEN

-VS-

No. 03-1865-CD

BOROUGH OF CLEARFIELD and
HAROLD M. TITUS

-VS-

TERESA L. OGDEN

O R D E R

NOW, this 27th day of January, 2006, upon
consideration of Plaintiffs' Motion to Withdraw as Counsel,
it is hereby granted, and Mark A. Smith and the law firm of
Pribanic & Pribanic shall be permitted to withdraw as
counsel on behalf of Teresa Ogden and Jake Adams in the
above-captioned action.

BY THE COURT,

/s/ Fredric J. Ammerman

President Judge

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

JAN 30 2006

Attest.

William B. Shaw
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

TERESA L. OGDEN and JAKE ADAMS,)
Minor by his guardian, TERESA OGDEN,)

Plaintiffs,)

vs.)

BOROUGH OF CLEARFIELD and)
HAROLD M. TITUS,)

Defendants,)

vs.)

TERESA L. OGDEN,)

Additional)
Defendant.)

CIVIL DIVISION

GD 03-1865-CD

PRAECIPE TO WITHDRAW
AS COUNSEL

Code: 001

Filed on behalf of:

TERESA L. OGDEN, et ux.

Counsel of Record for this Party:

MARK A SMITH, ESQUIRE
P.A. I.D. No.: 89597

PRIBANIC & PRIBANIC, L.L.C.

1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

JURY TRIAL DEMANDED

FILED

FEB 16 2006

0/12:20/20

William A. Shaw

Prothonotary/Clerk of Courts

1 Cent TO A+K

Mark A. Smith

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via U. S. Postal Service postage prepaid on the 14th day of February, 2006, upon the following:

Edmond R. Joyal, Jr., Esquire
Law Offices of Joseph S. Weimer
975 Two Chatham Center
Pittsburgh, PA 15219

Teresa Ogden
216 Susquehanna Street
Curwensville, PA 16833



Mark A. Smith

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

Plaintiff,

-VS-

BOROUGH OF CLEARFIELD and HAROLD
M. TITUS,

Defendants.

CIVIL DIVISION

No.: G.D. 03-1865- CD

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Filed on behalf of:
Defendants.

Counsel of Record for this Party:

Edmond R. Joyal, Esquire
Pa. I.D. #65907

LAW OFFICE OF JOSEPH S. WEIMER
975 Two Chatham Center
Pittsburgh, PA 15219

(412) 338-3098

FILED NO
cc
7/11/06
JUN 26 2006 @

William A. Shaw
Prothonotary/Clerk of Courts

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

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

CIVIL DIVISION

No.: G.D. 03-1865-CD

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and
HAROLD M. TITUS,

Defendants.

MOTION FOR SUMMARY JUDGMENT

AND NOW comes the Defendants, BOROUGH OF CLEARFIELD and HAROLD M. TITUS, by and through their attorney, Edmond R. Joyal, Jr., Esquire and the Law Office of Joseph S. Weimer, and hereby files the following Motion For Summary Judgment as follows:

1. This action involves an automobile accident which occurred on or about July 27, 2003.
2. In the Complaint, Plaintiff alleges that she sustained injuries and damages as a result of the accident in question.
3. On or about November 15, 2005, Defendants served Request for Admissions on Plaintiff through counsel for Plaintiff. (Attached hereto as Exhibit A).
4. More than thirty (30) days have elapsed since the service of the Request for Admissions.
5. No response to the Request for Admissions has been made within the thirty day period as set forth in Pa. R. C. P. 4014.
6. Because of Plaintiff's failure to respond within thirty days the matters contained therein are admitted, Rule 4014 (b).

7. Request number 14 states: "On July 27, 2004, Plaintiff, Theresa Ogden, made a left turn onto the Rt. 879 bypass from Northbound Park Avenue/Rt. 153 into the path of the Defendant, Officer Titus, who was lawfully operating his vehicle southbound on Park Avenue/Rt. 153."

8. Request number 14 states: "The collision on July 23, 2003, was caused by the actions of Theresa Ogden in turning in front of Officer Titus' vehicle."

9. Request number 15 states: "There was no obstruction to Theresa Ogden's view of the road on July 23, 2003, at the time of the accident."

10. Although there is a typographical error at Requests 14 and 15, it is clear that the accident occurred on July 27, 2004, as set forth in Plaintiffs' Complaint.

11. Plaintiff's failure to respond to these Requests within the time period set forth in Rule 4014 (b), operates as an admission of the facts contained therein.

12. Plaintiff's admission that she made a turn into the path of Defendant's vehicle and that her actions caused the accident create no issues of material fact.

13. The typographical error in Request 14 should be held as harmless since Plaintiff and her counsel were well aware of the correct date of the accident and did not respond either by answer, objection or request of Court to extend time.

14. These Defendants are entitled to Summary Judgment as a matter of law.

WHEREFORE, the Defendants request this Honorable Court to grant their Motion For Summary Judgment , according to the form of the attached proposed Order of Court.

LAW OFFICE OF JOSEPH S. WEIMER

BY: 

Edmond R. Joyal, Jr., Esquire
Attorney for Defendants, Borough
of Clearfield and Harold M. Titus

CERTIFICATE OF SERVICE

I, Edmond R. Joyal, Jr., Esquire, hereby certify that a true and correct copy of the foregoing **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT** has been served via First Class Mail, postage pre-paid, upon the following parties on this 21st day of June, 2006.

Teresa L. Ogden
216 Susquehanna Street
Curwensville, PA 16833
(Pro Se Plaintiff)

LAW OFFICE OF JOSEPH S. WEIMER

BY: 

Edmond R. Joyal, Jr., Esquire
Attorney for Defendants, Borough
of Clearfield and Harold M. Titus

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

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

CIVIL DIVISION

No.: G.D. 03-1865-CD

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and
HAROLD M. TITUS,

Defendants.

ORDER OF COURT

AND NOW, to wit, this _____ day of _____, 2006, upon consideration of Defendants' Motion for Summary Judgment, it is hereby ordered that said Motion is GRANTED and Judgment is entered for the Defendants and against the Plaintiff.

BY THE COURT:

J.

CA

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

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and HAROLD
M. TITUS,

Defendants.

CIVIL DIVISION

No.: G.D. 03-1865- CD

**DEFENDANTS' SCHEDULING ORDER
FOR DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Filed on behalf of:
Defendants.

Counsel of Record for this Party:

Edmond R. Joyal, Esquire
Pa. I.D. #65907

LAW OFFICE OF JOSEPH S. WEIMER
975 Two Chatham Center
Pittsburgh, PA 15219

(412) 338-3098

FILED 2cc
01/4:00/01 Amy
JUL 17 2006 Joyal
CR

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

TERESA L. OGDEN and JAKE ADAMS,
Minor by his guardian, TERESA OGDEN,

CIVIL DIVISION

No.: G.D. 03-1865-CD

Plaintiff,

-vs-

BOROUGH OF CLEARFIELD and
HAROLD M. TITUS,

Defendants.

ORDER OF COURT

AND NOW, to wit, this 14th day of July, 2006, the
Defendants' Motion for Summary Judgment is scheduled for argument on the 25th day of
August, 2006 before the Honorable Paul E. Cherry
01:30 PM.
at the Clearfield County Courthouse in Courtroom No. 2.

BY THE COURT:

Paul E. Cherry J.

FILED

JUL 17 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 7/17/06

X You are responsible for serving all appropriate parties.

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

___ Plaintiff(s)

___ Plaintiff(s) Attorney

___ Defendant(s)

___ Defendant(s) Attorney

___ Special Instructions:

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

TERESA L. ODGEN and JAKE
ADAMS, Minor by his guardian,
TERESA OGDEN

vs.

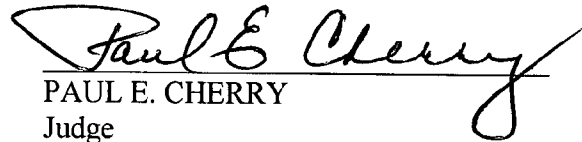
BOROUGH OF CLEARFIELD and
HAROLD M. TITUS

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: No. 03-1865-CD
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ORDER

AND NOW, this 28th day of July, 2006, it is the Order of the Court
that argument on Defendants' Motion for Summary Judgment in the above-captioned
matter has been rescheduled from August 25, 2006 to **Monday, August 28, 2006 at**
10:00 A.M. in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


PAUL E. CHERRY
Judge

FILED
07/10:2006 LCC
JUL 31 2006 Amy Joyal

William A. Shaw
Prothonotary/Clerk of Courts

216 Susquehanna St.
Clearfield, PA

(610)

16833

FILED

JUL 31 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 7/31/06

 You are responsible for serving all appropriate parties.

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

X Plaintiff(s) Plaintiff(s) Attorney Other

 Defendant(s) X Defendant(s) Attorney

 Special Instructions:

CA


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

TERESA L. OGDEN and JAKE ADAMS, : NO. 03-1865-CD
Minor by his guardian, TERESA OGDEN :
:
V. :
:
BOROUGH OF CLEARFIELD and :
HAROLD M. TITUS :

ORDER

AND NOW, this 28th day of August, 2006, it is the ORDER of this Court that
Argument on Defendant's Motion for Summary Judgment scheduled this date be and is
hereby continued until the 15th day of September, 2006, at
10:30 o'clock A.M. in Courtroom No. 2 of the Clearfield
County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED

01/11/01/01
AUG 29 2006

William A. Shaw
Prothonotary/Clerk of Courts

2cc -
Pffs
216 Susquehanna St.
Clearsville, PA 16833

Attg Joyal

62

FILED

AUG 29 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/29/06

___ You are responsible for serving all appropriate parties.

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

X Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) X Defendant(s) Attorney

___ Special Instructions:

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

TERESA L. OGDEN and JAKE
ADAMS, Minor by his
Guardian, TERESA OGDEN

-VS-

BOROUGH OF CLEARFIELD and
HAROLD M. TITUS

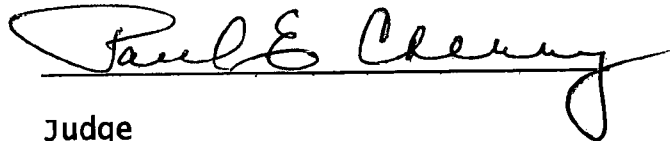
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No. 03-1865-CD

O R D E R

NOW, this 15th day of September, 2006, in
consideration of the Defendants' Motion for Summary
Judgment, Plaintiff having failed to appear despite
receiving due and proper notice, it is the ORDER of this
Court that Defendants' Motion for Summary Judgment shall be
is hereby granted and judgment entered in favor of the
Defendants and against the Plaintiff.

BY THE COURT,



Judge

FILED
019:1761
SEP 19 2006

CR

William A. Shaw
Prothonotary/Clerk of Courts
ACC - Teresa Ogden
Jake Adams
216 Susquehanna St.
Coudersville, PA 16833

ACC - Atty Joyal

William A. Shaw
Prothonotary/Clerk of Courts

SEP 19 2006

FILED

DATE: 9/19/06

 You are responsible for serving all appropriate parties.

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

X Plaintiff(s) Plaintiff(s) Attorney Other

 Defendant(s) X Defendant(s) Attorney

X Special Instructions:

(Soyak) Please file a Proceide to Enter Judgment
with the \$20.00 filing fee. Thank you.