

04-67-CD.
SHANNON D. ALLEN vs, JOHN A. HARTZFELD

Shannon Allenvs. John Hartzfeld
2004-67-CD

2

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

No. 04-67-CD

COMPLAINT IN CIVIL ACTION

Filed on behalf of:
PLAINTIFF

Counsel of record for this party:

TODD BERKEY, ESQUIRE
E-mail address: tberkey@edgarsnyder.com
PA I.D. No. 43689

GEOFFREY S. CASHER, ESQUIRE
E-mail address: gcasher@edgarsnyder.com
PA I.D. No. 35309

EDGAR SNYDER & ASSOCIATES, LLC
100 West High Street
Ebensburg, PA 15931-1539

(814) 472-9000

JURY TRIAL DEMANDED

FILED

JAN 15 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN	)	No.
)	
Plaintiff,)	
)	
vs.	)	CIVIL DIVISION
)	
JOHN A. HARTZFELD)	
)	
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 attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

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

LAWYER REFERRAL SERVICE -

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

Telephone (814) 765-2641, Ext: 50

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN	)	No.
)	
Plaintiff,)	
)	
vs.	)	CIVIL DIVISION
)	
JOHN A. HARTZFELD)	
)	
Defendant.)	

COMPLAINT IN CIVIL ACTION

NOW comes the Plaintiff, SHANNON D. ALLEN, by and through her attorneys, EDGAR SNYDER & ASSOCIATES, LLC, TODD BERKEY, ESQUIRE and GEOFFREY S. CASHER, ESQUIRE, and sets forth the following Complaint in Civil Action.

1. The Plaintiff, Shannon D. Allen, is an adult individual who resides at 3703 Morrisdale Allport Highway 2, Morrisdale, Clearfield County, Pennsylvania 16858.

2. The Defendant, John A. Hartzfeld, is an adult individual who resides at 681 Treasure Lake, DuBois, Clearfield County, Pennsylvania 15801.

3. The events hereinafter complained of occurred on or about 02/03/2003 at approximately 7:00 p.m. in or about the municipality of Decatur, Clearfield County, Pennsylvania on State Route 322. Said State Route runs generally in a East/West direction. At the point of the collision hereinafter described in this Complaint, said Route is a two lane undivided highway with a turning lane located in the center of the roadway.

4. At all times material hereto, the Plaintiff, Shannon D. Allen, was operating a 1998 Chevrolet Cavalier automobile. Plaintiff, Shannon D. Allen, was operating said automobile on State Route 322 in an easterly direction when she pulled into the center turn lane

of the roadway to make a left-hand turn. Shannon D. Allen had cautiously and properly activated her left turn signal to effectuate said turn and her vehicle was stopped in said turning lane to effectuate said left hand turn.

5. At approximately the same date and time complained of, the Defendant, John A. Hartzfeld was operating a 1997 Chevrolet automobile. Defendant, John A. Hartzfeld, was operating said automobile in a westerly direction on State Route 322 when he negligently, carelessly, recklessly, suddenly and without warning, veered into the center turn lane, in which the Plaintiff's vehicle was lawfully and properly occupying, thereby causing his vehicle to collide violently with the vehicle of the Plaintiff in a head-on fashion.

6. The hereinabove described accident was caused by the direct and approximate result of the negligence, carelessness, and recklessness of the Defendant, John A. Hartzfeld, generally and in the following particulars:

a. In traveling at an excessive and dangerous rate of speed under the circumstances then and there existing.

b. In failing to keep a safe, careful and adequate lookout for other vehicles on the roadway, including that of the Plaintiff, Shannon D. Allen.

c. In operating his vehicle in a direction towards the Plaintiff's vehicle when he new or should have known that to do so would result in a collision.

d. In failing to sound his horn, or in any other fashion, warn, signal, flash his lights, or in any other way warn the Plaintiff, Shannon D. Allen, of the impending collision.

e. In operating his vehicle in such a mental or physical condition that it was unsafe to do so.

f. In failing to maintain the assured clear distance ahead and in operating his vehicle at such a rate of speed that he was unable to bring his vehicle to a stop within his assured clear distance.

g. In failing to observe the vehicle of the Plaintiff, Shannon D. Allen.

h. In failing to yield the right-of-way to Plaintiff's vehicle which was entitled to the right-of-way under the circumstances.

i. In failing to stop or control his vehicle before entering the turning lane already then and there occupied by the Plaintiff's vehicle.

j. In violating the ordinances of Decatur Township and the laws and statutes of the Commonwealth of Pennsylvania.

k. In causing his vehicle to strike that of the Plaintiff's when she was prudently and lawfully in the turning lane and signaling her intention to turn left.

l. In failing to keep his vehicle under proper and adequate control at all times material hereto.

7. As a direct and proximate result of the aforesaid accident, the Plaintiff, Shannon D. Allen, suffered the following injuries, some of all which are permanent in nature.

- a. Compound fracture of the right distal tibia;
- b. Compound fracture of the right fibula shaft;
- c. IM rodding and screw insertion of fracture to right tibia;
- d. Right leg pain;
- e. Mild cardiomegaly;
- f. Head contusion;
- g. Surgical exploration, irrigation and debridement of the leg wound.

8. The Plaintiff, Shannon D. Allen, is entitled to recover non-economic damages under Pennsylvania Law, in that she elected the full tort option under the PA Motor Vehicle Financial Responsibility Act.

9. As a result of her aforesaid injuries, Plaintiff, Shannon D. Allen, has been damaged as follows:

a. She has been and will be required to expend large sums of money for surgical and medical attention, hospitalization, medical supplies, appliances, medicines and services of nurses.

b. She has suffered and will suffer great pain, inconvenience, embarrassment, mental anguish and loss of enjoyment of life.

c. She has been and will be deprived of her earnings.

d. Her earning power has been reduced and permanently impaired.

e. Her general health, strength and vitality have been impaired.

f. She has been disfigured.

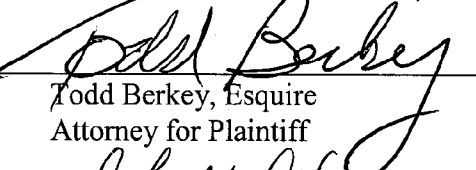
WHEREFORE, the Plaintiff, Shannon D. Allen, demands judgment in her favor against the Defendant in an amount in excess of the Statutory Arbitration limits.

A jury trial is demanded.

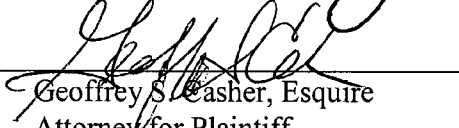
Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

By

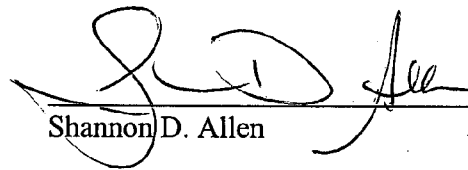

Todd Berkey, Esquire
Attorney for Plaintiff

By


Geoffrey S. Casher, Esquire
Attorney for Plaintiff

VERIFICATION

I, Shannon D. Allen, hereby verify that the foregoing averments of fact are true and correct and based upon my personal knowledge, information or belief. I understand that these averments of fact are made subject to the penalties of 18 Purdons Consolidated Statutes Section 4904, relating to unsworn falsification to authorities.


Shannon D. Allen

Date: 1-5-04

FILED
m 10:59 AM
JAN 15 2004
ICC Sheriff

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN,
Plaintiff

vs.

JOHN A. HARTZFELD,
Defendant

Type of Case: Civil Action

No. 04-67-CD

Type of Pleading:

Praeipe for
Entry of Appearance

Filed on Behalf of:

Defendant

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

(814) 371-7768

FILED

FEB 03 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

SHANNON D. ALLEN,
Plaintiff

No. 04-67-CD

-vs-

JOHN A. HARTZFELD,
Defendant

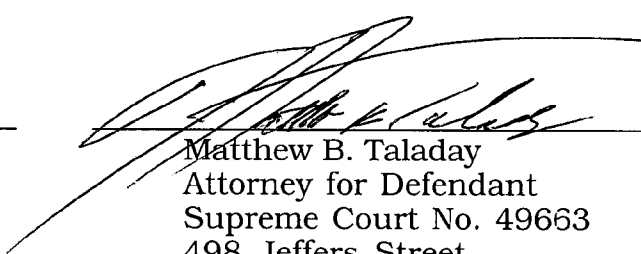
PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance for the Defendant, John A.
Hartzfeld, in the above captioned matter.

Dated: _____

2-2-04


Matthew B. Taladay
Attorney for Defendant
Supreme Court No. 49663
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801
(814) 371-7768

cc: Todd Berkey, Esq.
Geoffrey S. Casher, Esq.
Edgar Snyder & Associates, LLC
100 West High Street
Ebensburg, PA 15931-1539

FILED

M/10:45 AM
FEB 03 2004

William A. Shaw
Prothonotary/Clerk of Courts

NO
CC
8/21

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN,
Plaintiff

vs.

JOHN A. HARTZFELD,
Defendant

Type of Case: Civil Action

No. 04-67-CD

Type of Pleading:

Answer and
New Matter

Filed on Behalf of:

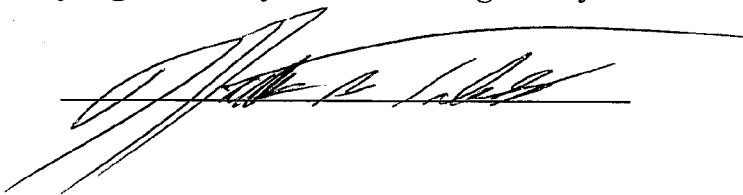
Defendant

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

(814) 371-7768

You are hereby notified to plead
to the within pleading within twenty
(20) days of service thereof or default
judgment may be entered against you.



FILED

FEB 11 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

SHANNON D. ALLEN,
Plaintiff

-vs-

JOHN A. HARTZFELD,
Defendant

:
:
:
:
:
:
:

No. 04-67-CD

ANSWER

AND NOW, comes the Defendant, John A. Hartzfeld, by his attorneys, Hanak, Guido and Taladay, and hereby responds to Plaintiff's Complaint as follows:

1. Upon information and belief, admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Denied as stated. It is admitted that the vehicle operated by John A. Hartzfeld collided with the car driven by Shannon D. Allen and further admitted that this collision was caused by John A. Hartzfeld who admits liability for the crash. The remaining allegations of paragraph 5 are denied.
6. Admitted in part and denied in part. It is admitted that the accident was caused by Defendant, John A. Hartzfeld, who concedes liability for this incident. The remaining allegations of paragraph 6 are denied in accordance with Pa.R.C.P. Rule 1029(e).

7. After reasonable investigation, this Defendant is without information to form a belief as to the truth of the averments set forth in paragraph 7 of Plaintiff's Complaint, therefore, the same are denied and strict proof thereof is demanded at the time of trial.

8. Paragraph 8 of Plaintiff's Complaint sets forth a conclusion of law to which no response is required. However, to the extent that a response may be required, it is denied that Plaintiff is entitled to recover non-economic damages due to application of the limited tort election due to Plaintiff's ownership of a registered uninsured vehicle at the time of the subject accident.

9. After reasonable investigation, this Defendant is without information sufficient to form a belief as to the truth of the averments of paragraph 9, therefore, these allegations are denied and strict proof thereof is demanded at the time of trial.

WHEREFORE, Defendant demands judgment in his favor.

NEW MATTER

10. Plaintiff's claims are barred or limited by application of the Pennsylvania Motor Vehicle Financial Responsibility Law.

A JURY TRIAL IS DEMANDED.

Respectfully submitted,

HANAK, GUIDO and TALADAY

By


Matthew B. Taladay

Attorney for Defendant

VERIFICATION

I, **John A. Hartzfeld**, do hereby verify that I have read the foregoing Answer & New Matter. The statements therein are correct to the best of my personal knowledge or information and belief.

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

Date:

2/9/04

John A. Hartzfeld
John A. Hartzfeld

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

SHANNON D. ALLEN,
Plaintiff

-vs-

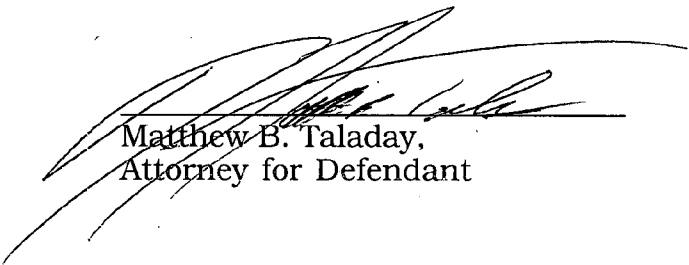
JOHN A. HARTZFELD,
Defendant

No. 04-67-CD

CERTIFICATE OF SERVICE

I certify that on the 10th day of February, 2004, a true
and correct copy of Defendant's Answer and New Matter was sent via
first class mail, postage prepaid, to the following:

Todd Berkey, Esq.
Geoffrey S. Casher, Esq.
Attorneys for Plaintiff
Edgar Snyder & Associates, LLC
100 West High Street
Ebensburg, PA 15931-1539



Matthew B. Taladay,
Attorney for Defendant

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN,
Plaintiff

vs.

JOHN A. HARTZFELD,
Defendant

Type of Case: Civil Action

No. 04-67-CD

Type of Pleading:

Notice of
Service

Filed on Behalf of:

Defendant

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

(814) 371-7768

FILED

FEB 11 2004

William A. Shaw
Prothonotary/Clerk of Courts

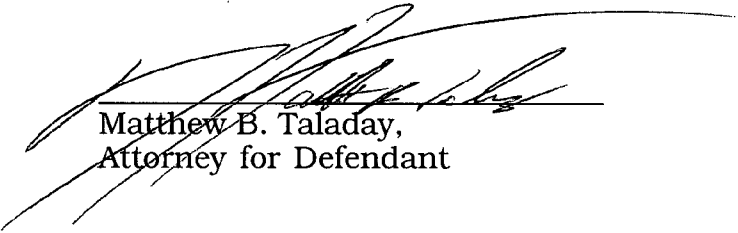
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

SHANNON D. ALLEN,	:	
Plaintiff	:	No. 04-67-CD
	:	
-vs-	:	
	:	
JOHN A. HARTZFELD,	:	
Defendant	:	

NOTICE OF SERVICE

I, Matthew B. Taladay, of Hanak, Guido and Taladay, being counsel of record for Defendant, do hereby certify that I propounded on Plaintiff, via United States mail, first class, postage pre-paid, this 10th day of February, 2004, Defendant's FIRST SET OF DISCOVERY MATERIALS to the below indicated person, at said address, being counsel of record for the Plaintiff:

Todd Berkey, Esq.
Attorney for Plaintiff
Edgar Snyder & Associates, LLC
100 West High Street
Ebensburg, PA 15931-1539


Matthew B. Taladay,
Attorney for Defendant

FILED NO CC

m/10:28:24
FEB 11 2004

6
100

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

No. 04-67-CD

REPLY TO NEW MATTER
CERTIFICATE OF SERVICE

Filed on behalf of:
PLAINTIFF

Counsel of record for this party:

GEOFFREY S. CASHER, ESQUIRE
E-mail address: gcasher@edgarsnyder.com
PA I.D. No. 35309

EDGAR SNYDER & ASSOCIATES, LLC
100 West High Street
Ebensburg, PA 15931-1539

(814) 472-9000

JURY TRIAL DEMANDED

FILED

FEB 20 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

)
)
)
)
)
)
)
)
)
)

No. 04-67-CD

CIVIL DIVISION

REPLY TO NEW MATTER

AND NOW comes forth the Plaintiff, SHANNON D. ALLEN, and files the within response to the Defendant's New Matter and avers as follows:

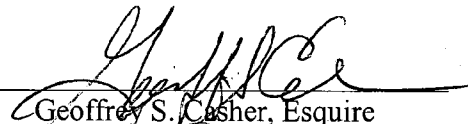
10. Denied. This is a conclusion of law to which no response is required however, to the extent a response is required, all allegations are denied and the Plaintiff denies that the claims asserted in her Complaint are barred or limited by application of the PA Motor Vehicle Financial Responsibility Law and strict proof is demanded at trial.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC.

Dated: 2/10/04

By


Geoffrey S. Casher, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

)
)
)
)
)
)
)
)
)

No. 04-67-CD

CIVIL DIVISION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Plaintiff's Reply to New Matter was served on all Counsel listed below, by First Class Mail, postage prepaid, on this 19th day of February, 2004:

Matthew B. Taladay, Esquire
HANAK, GUIDO AND TALADAY
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

EDGAR SNYDER & ASSOCIATES, LLC.

Dated: 2/18/04

By 

Geoffrey S. Casher, Esquire

FILED

in file Room No. 22

FEB 20 2004

[Signature]

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN,
Plaintiff

vs.

JOHN A. HARTZFELD,
Defendant

Type of Case: Civil Action

No. 04-67-CD

Type of Pleading:

Certificate of
Service

Filed on Behalf of:

Defendant

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

(814) 371-7768

FILED

MAR 05 2004

William A. Shaw
Prothonotary

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

SHANNON D. ALLEN,
Plaintiff

No. 04-67-CD

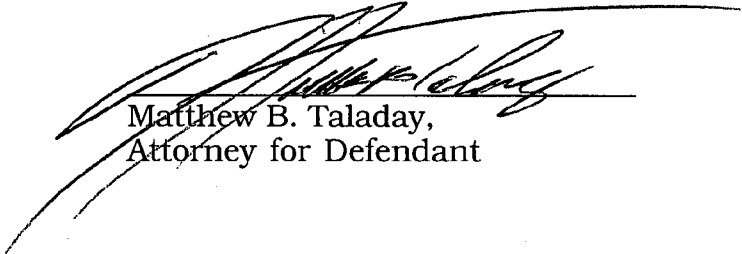
-vs-

JOHN A. HARTZFELD,
Defendant

CERTIFICATE OF SERVICE

I certify that on the 4th day of March, 2004, an original
Notice of Deposition, copy of which is attached hereto, was sent via
first class mail, postage prepaid, to the following:

Todd Berkey, Esq.
Attorney for Plaintiff
Edgar Snyder & Associates, LLC
100 West High Street
Ebensburg, PA 15931-1539



Matthew B. Taladay,
Attorney for Defendant

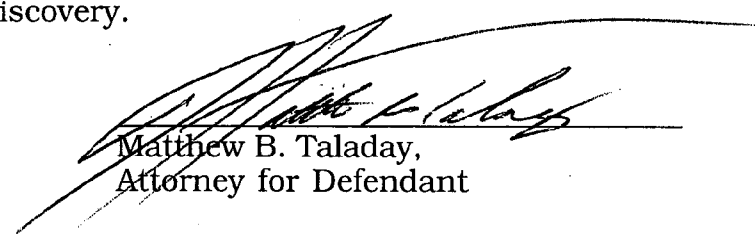
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

SHANNON D. ALLEN,	:	
Plaintiff	:	No. 04-67-CD
	:	
-vs-	:	
	:	
JOHN A. HARTZFELD,	:	
Defendant	:	

NOTICE OF DEPOSITION

TO: SHANNON D. ALLEN
c/o Todd Berkey, Esq.

TAKE NOTICE that your deposition by oral examination will be taken on **Wednesday, May 12, 2004 at 12:00 p.m.** at the law office of Hanak, Guido and Taladay, 498 Jeffers Street, DuBois, Pennsylvania. This deposition is being taken for the purpose of discovery and for use at trial, pursuant to the Pennsylvania Rules of Civil Procedure regarding Discovery.


Matthew B. Taladay,
Attorney for Defendant

cc: Schreiber Reporting Service

FILED

010:36 AM NCLL

MAR 05 2004 ~~ED~~

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN,
Plaintiff

vs.

JOHN A. HARTZFELD,
Defendant

Type of Case: Civil Action

No. 04-67-CD

Type of Pleading:

Notice of
Service

Filed on Behalf of:

Defendant

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

(814) 371-7768

FILED

MAR 17 2004

William A. Shaw
Prothonotary/Clerk of Courts

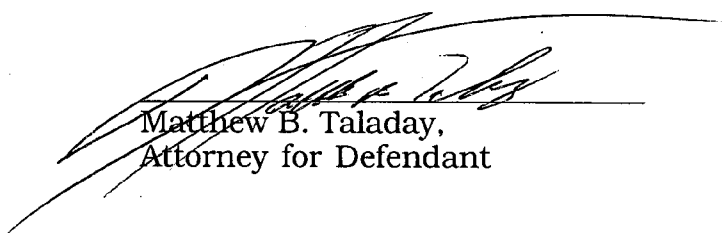
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

SHANNON D. ALLEN,	:	
Plaintiff	:	No. 04-67-CD
	:	
-vs-	:	
	:	
JOHN A. HARTZFELD,	:	
Defendant	:	

NOTICE OF SERVICE

I, Matthew B. Taladay, of Hanak, Guido and Taladay, being counsel of record for Defendant, do hereby certify that I propounded on Plaintiff, via United States mail, first class, postage pre-paid, this 16th day of March, 2004, Defendant's RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY MATERIALS to the below indicated person, at said address, being counsel of record for the Plaintiff:

Geoffrey S. Casher, Esq.
Attorney for Plaintiff
Edgar Snyder & Associates, LLC
100 West High Street
Ebensburg, PA 15931-1539



Matthew B. Taladay,
Attorney for Defendant

Prothonotary/Clerk of Courts

William A. Shaw

FILED
MAR 17 2004

NO cc


In The Court of Common Pleas of Clearfield County, Pennsylvania

ALLEN, SHANNON D.

VS.

HARTZFELD, JOHN A.

COMPLAINT

Sheriff Docket #

15071

04-67-CD

SHERIFF RETURNS

NOW JANUARY 20, 2004 AT 2:30 PM SERVED THE WITHIN COMPLAINT ON JOHN A. HARTZFELD, DEFENDANT AT RESIDENCE, 681 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO SHERRY HARTZFELD, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET/RYEN

Return Costs

Cost	Description
32.25	SHERIFF HAWKINS PAID BY: ATTY Ck# 175301
10.00	SURCHARGE PAID BY: ATTY CK# 175302

Sworn to Before Me This

15th Day Of April 2004
William A. Shaw

So Answers,

Chester A. Hawkins
My Mauley Hawk
Chester A. Hawkins
Sheriff

FILED

APR 15 2004

APR 15 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

No. 04-67-CD

PRAECIPE FOR TRIAL
CERTIFICATE OF SERVICE

Filed on behalf of:
PLAINTIFF

Counsel of record for this party:

GEOFFREY S. CASHER, ESQUIRE
E-mail address: gcasher@edgarsnyder.com
PA I.D. No. 35309

EDGAR SNYDER & ASSOCIATES, LLC
100 West High Street
Ebensburg, PA 15931-1539

(814) 472-9000

JURY TRIAL DEMANDED

FILED

JUN 24 2004

William A. Shaw
Prothonotary/Clerk of Courts

SHANNON D. ALLEN

No. 04-67-CD

Plaintiff,

VS.

CIVIL DIVISION

JOHN A. HARTZFELD

Defendant.

To the Prothonotary:

Please list the above-captioned case for trial.

As listing counsel, pursuant to Local Rule 212.2, I hereby certify:

1. There are no outstanding motions.
2. All discovery is completed and the pleadings are closed.
3. A jury trial is demanded.
4. All counsel of record and unrepresented parties have been served with this

Praecepta by United States Mail, first class, postage prepaid.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

[Handwritten signature]

Geoffrey S. Casher, Esquire
Attorney for Plaintiff

Dated: June 22, 2004

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

)
)
)
)
)
)
)
)
)
)

No. 04-67-CD

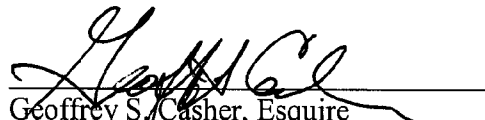
CIVIL DIVISION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within PRAECIPE FOR TRIAL was served upon the following, by First Class Mail, postage prepaid, on this 22nd day of June, 2004.

**Matthew B. Taladay, Esquire
HANAK, GUIDO & TALADAY
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801**

EDGAR SNYDER & ASSOCIATES, LLC


Geoffrey S. Casher, Esquire
Attorney for Plaintiff

FILED
JUN 24 2004

(mp)

NEG

William A. Shaw
Prothonotary/Clerk of Courts

copy to C/A

CP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

No. 04-67-CD

Plaintiff,

CERTIFICATE OF SERVICE

vs.

Filed on behalf of:
PLAINTIFF

JOHN A. HARTZFELD

Defendant.

Counsel of record for this party:

TODD BERKEY, ESQUIRE

E-mail address: tberkey@edgarsnyder.com

PA I.D. No. 43689

GEOFFREY S. CASHER, ESQUIRE

E-mail address: gcasher@edgarsnyder.com

PA I.D. No. 35309

EDGAR SNYDER & ASSOCIATES, LLC

100 West High Street

Ebensburg, PA 15931-1539

(814) 472-9000

JURY TRIAL DEMANDED

FILED *mc*
m 19:34 *SH*
AUG 12 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

)
)
)
)
)
)
)
)
)
)

No. 04-67-CD

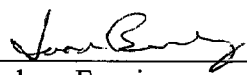
CIVIL DIVISION

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the within PRE-TRIAL STATEMENT was served upon the following, by First Class Mail, postage prepaid, on this 10th day of August, 2004.

Matthew B. Taladay, Esquire
HANAK, GUIDO & TALADAY
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

EDGAR SNYDER & ASSOCIATES, LLC



Todd Berkey, Esquire
Attorney for Plaintiff



Geoffrey S. Cisher, Esquire
Attorney for Plaintiff

C

HANAK, GUIDO and TALADAY
Attorneys at Law

Robert M. Hanak
Anthony S. Guido
Matthew B. Taladay

Telephone: (814) 371-7768
Fax: (814) 371-1974

498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

Nicole Hanak Bankovich
S. Casey Bowers

August 9, 2004

David S. Meholick
Court Administrator
Suite 228
230 East Market Street
Clearfield, PA 16830

AUG 10 2004

**COURT ADMINISTRATOR'S
OFFICE**

Re: Allen vs. Hartzfeld
No. 2004-67-CD

Dear Mr. Meholick:

Enclosed please find a Pre-Trial Statement submitted on behalf of the Defendant. Kindly note that by copy of this letter I have forwarded a copy to Todd Berkey, Attorney for Plaintiff. If you have any questions concerning the enclosed, please contact me.

Sincerely,



Matthew B. Taladay

MBT:kam

Enc.

cc: Todd Berkey, Esq.
Jennifer Murphey
Claim No. 010110464563

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN,
Plaintiff

vs.

JOHN A. HARTZFELD,
Defendant

Type of Case: Civil Action

No. 04-67-CD

Type of Pleading:

Pre-Trial Statement

Filed on Behalf of:

Defendant

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

(814) 371-7768

RECEIVED

AUG 10 2004

COURT ADMINISTRATOR'S
OFFICE

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

SHANNON D. ALLEN,	:	
Plaintiff	:	
	:	
-vs-	:	No. 04-67-CD
	:	
JOHN A. HARTZFELD,	:	
Defendant	:	

PRE-TRIAL STATEMENT

AND NOW, comes the Defendant, John Hartzfeld, by his attorneys, Hanak, Guido and Taladay, and hereby submits the within Pre-Trial Statement in accordance with Local Rule of Court L-212.

A Background

On February 3, 2003, John Hartzfeld was driving his 1997 Chevrolet in a westerly direction on State Route 322 in the Borough of Phillipsburg. Mr. Hartzfeld had passed through an intersection when his attention was momentarily diverted. His car traveled into the center turning lane and collided with a 1998 Chevrolet Cavalier operated by Shannon D. Allen.

As a result of the collision, Ms. Allen sustained a fracture of the lower leg, which was treated surgically. At the time of this incident, Ms. Allen was uninsured and therefore subject to the provisions of the Motor Vehicle Financial Responsibility Law regarding limited tort coverage.

Plaintiff has filed suit seeking money damages for her injuries. Defendant admits liability for the accident, but contests Plaintiff's damage claim.

B. Witnesses

1. John Hartzfeld
681 Treasure Lake
DuBois, PA 15801
2. Shannon D. Allen
3703 Morrisdale Allport Highway 2
Morrisdale, PA 16858
3. Any and all witnesses listed in the Pre-Trial Statement of Plaintiff.

Defendant reserves the right to supplement this witness list upon reasonable notice to the parties and in accordance with Local Rules of Court and applicable Rules of Civil Procedure.

C. Exhibits

1. Photographs of vehicles in question; and
2. Any and all exhibits listed in the Pre-Trial Statement of Plaintiff.

D. Plots and Plans

None

E. Hypothetical Questions

None

F. Unusual Questions of Law Anticipated

None

G. Estimated Time for Trial

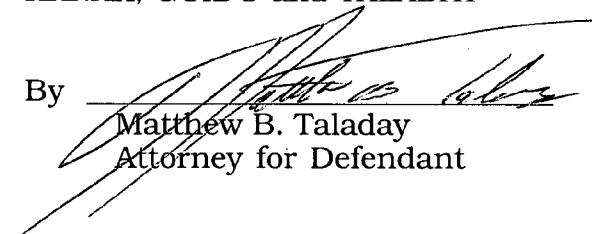
2 days

Respectfully submitted,

HANAK, GUIDO and TALADAY

Date: 8-9-04

By


Matthew B. Taladay
Attorney for Defendant



9

100 West High Street
Ebensburg, PA 15931

Telephone: 814/472-9000
Fax: 814/472-9411

Attorney Geoffrey S. Casher
E-mail: gcasher@edgarsnyder.com

Other Offices In: Pittsburgh
Altoona • Erie • Johnstown

August 10, 2004

Court Administrator's Office
ATTN: Marcy Kelley
CLEARFIELD COUNTY COURTHOUSE
1 North Second Street
Clearfield, PA 16830

Re: Allen vs. Hartzfeld
Docket No: 04-67-CD
Our File No: 347677

RECEIVED
AUG 11 2004
COURT ADMINISTRATOR'S
OFFICE

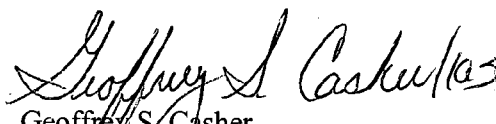
Dear Ms. Kelley:

Please find enclosed for filing in the above matter a Pre-Trial Statement and Certificate of Service. As indicated by the Certificate of Service, a true and correct copy has been sent to all counsel of record. Please forward the Certificate of Service to the Prothonotary's Office for filing.

I have also enclosed an additional coversheet for each document. Please time-stamp and return the coversheet to me in the enclosed self-addressed stamped envelope.

Thank you in advance for your anticipated attention to this matter.

Very truly yours,


Geoffrey S. Casher

GSC/las
Enclosures

cc: Matthew B. Taladay, Esquire (w/encl.)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

No. 04-67-CD

PRE-TRIAL STATEMENT

Filed on behalf of:
PLAINTIFF

Counsel of record for this party:

TODD BERKEY, ESQUIRE
E-mail address: tberkey@edgarsnyder.com
PA I.D. No. 43689

GEOFFREY S. CASHER, ESQUIRE
E-mail address: gcasher@edgarsnyder.com
PA I.D. No. 35309

EDGAR SNYDER & ASSOCIATES, LLC
100 West High Street
Ebensburg, PA 15931-1539

(814) 472-9000

JURY TRIAL DEMANDED

RECEIVED

AUG 11 2004

**COURT ADMINISTRATORS
OFFICE**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN	)	No. 04-67-CD
)	
Plaintiff,)	
)	
vs.	)	CIVIL DIVISION
)	
JOHN A. HARTZFELD)	
)	
Defendant.)	

PRE-TRIAL STATEMENT

AND NOW, comes the Plaintiff, SHANNON D. ALLEN, by and through her attorneys, EDGAR SNYDER & ASSOCIATES, LLC, and files her Pre-Trial Statement, and states the following in support thereof:

I. Narrative Statement of the Facts

This litigation arises out of an automobile accident which occurred on Monday, February 3, 2003 at approximately 7:05 p.m. in the municipality of Decatur, Clearfield County, Pennsylvania. At that time, the Plaintiff, Shannon D. Allen, was operating her 1998 Chevrolet Cavalier in an easterly direction, along State Route 322. About the same time, the Defendant, John Hartzfeld, was operating his vehicle along the same Route 322 in a westerly direction. Mr. John Hartzfeld negligently operated the vehicle he was driving, so as to lose control of his pick-up truck, causing his vehicle to cross the centerline or the center of the roadway and causing his vehicle to violently collide with the vehicle operated by the Plaintiff, Shannon D. Allen.

As a result of the accident, the Plaintiff, Shannon D. Allen, sustained severe injuries which consisted of a compound fracture of the right tibia and fibula shaft. As a result of the fractures, on February 6, 2003, the Plaintiff had an excisional debridement of the compound

fracture, irrigation of the wound, open reduction of the fracture and partial closure of the wound with an application of a splint. On February 7, 2003 Plaintiff underwent an additional surgical procedure wherein an open reduction internal fixation with rodding was performed of the right fractured tibia with insertion of screws under general anesthesia. While an inpatient in Clearfield Hospital, Plaintiff underwent a course of physical therapy for leg strengthening and ambulation with a walker. Plaintiff was released from Clearfield Hospital on February 12, 2003.

Further, as a result of the surgery, the Plaintiff has significant scarring about the right knee and above the right ankle. Plaintiff continues to suffer residual impairment and limitations as a result of the injuries she sustained from the accident.

As a result of the accident, a Complaint was filed in the instant case on January 15, 2004 under the above-captioned number and the case thereafter proceeded through the pleading and discovery stages, including depositions of the Plaintiff and Defendant, and is now set for pre-trial.

The total medical expenses billed are approximately \$34,112.77. Plaintiff did not have first party medical benefits and as a result qualified for the Department of Public Welfare benefits. The Department of Public Welfare has asserted a lien in this matter in the amount of \$3,933.76. The total amount of unpaid medical bills due and owing are \$4,843.00.

The Plaintiff is also presenting a claim for past and future pain and suffering, loss of future earning capacity and permanent disfigurement and scarring. Plaintiff's treating physician, Dr. Rodolfo S. Polintan opines Plaintiff will have a permanent intermittent limp and alteration of her gait due to the serious nature of the fractures which she sustained. Dr. Polintan also opines Plaintiff will have a limited capacity to stoop, crawl, crouch and bend and will only be able to be employed in a light to medium job capacity.

II. A List of All Exhibits to be Offered into Evidence

The Plaintiff reserves the right to introduce into evidence any and all exhibits listed in Defendant's Pre-Trial Statement, and may offer the following exhibits at the time of the trial:

- a. Photographs, diagrams, sketches, and/or other illustrations of the scene of the accident.
- b. Photographs showing the damage of Plaintiff's and Defendant's vehicle subsequent to the accident.
- c. Property damage estimates of both Plaintiff's and Defendant's vehicle.
- d. Any and all documents exchanged between parties pursuant to any request for production of documents and answers to interrogatories.
- e. Photographs of the Plaintiff, both prior to and post-accident.
- f. Photographs of the Plaintiff's injuries and/or scarring.
- g. Chart itemizing Plaintiff's medical bills and dates of treatment.
- h. Medical records.
- i. Medical bills.
- j. Any anatomical drawings, anatomical charts, medical illustrations, medical diagrams, skeletons, x-rays, x-rays made from positive medical exhibits, or any other medical demonstrative aids utilized by Plaintiff's treating physician during the course of their videotape deposition to help explain Plaintiff's injuries to the jury.
- k. Depositions taken by any party or witness and any exhibits attached to the depositions.
- l. Any and all documents regarding any liens being asserted by the Department of

Public Welfare or other responsible lien parties.

m. Any exhibits necessary for impeachment or rebuttal purposes based upon testimony.

a. Expert Reports/Physicians

A copy of Dr. Rodolfo S. Polentan's Medical Report dated June 1, 2004 and attached office notes, is attached hereto as Exhibit "A".

b. Non-Physician/Expert Reports

Police Reports.

III. Witnesses Expected to be Called at Trial

A. Liability Witnesses

It is believed that liability will be admitted by the Defendant. This is pursuant to Defendant's Answer to Plaintiff's Complaint in which Defendant, John Hartzfeld, admits liability and also pursuant to Defendant's deposition where Defendant also admitted fault for the cause of the accident.

However, if liability is disputed the following liability witnesses will be called.

John Hartzfeld, the Defendant
681 Treasure Lake
DuBois, PA 15801

Shannon D. Allen, the Plaintiff
3703 Morrisdale, Allport Hwy 2
Morrisdale, PA 16858

Trooper Dewaine Kephart, Jr.
PA State Police Barracks
Clearfield, PA 16830

Sherri L. Hartzfeld
681 Treasure Lake
DuBois, PA 15801

Mandy L. Schmidt
R.D. 1, Box 717
Morrisdale, PA 16858

Laura B. Sherwood
R.D. 1, Box 39B
Pennfield, PA 15849

Lettie Schmidt
R.D. 1, Box 717
Morrisdale, PA 16858

Representatives and responding attendants
of the Moshannon Valley Emergency Medical Services
P.O. Box 289
Phillipsburg, PA 16866

Any person named, mentioned, or otherwise identified in any Pre-Trial Statement filed by the other party to this action, and any and all supplements thereto filed.

Any person named, mentioned, or otherwise identified in the answers to interrogatories, request for production of documents, or depositions taken in this case.

Any person referred to in the Damage Witness sections of this Pre-Trial Statement, or any other Pre-Trial Statement filed in this action; and

Any person necessary for impeachment or rebuttal purposes based upon testimony introduced at trial.

B. Damage Witnesses

Any person named, mentioned and/or referred to in Section "A" of this
Pre-Trial Statement.

Shannon D. Allen, the Plaintiff
3703 Morrisdale, Allport Hwy 2
Morrisdale, PA 16358

Mandy L. Schmidt
R.D. 1, Box 717
Morrisdale, PA 16858

Laura B. Sherwood
R.D. 1, Box 39B
Pennfield, PA 15849

Lettie Schmidt
R.D. 1, Box 717
Morrisdale, PA 16858

Larry Allen
R.D. 2, Box 354B
Morrisdale, PA 16858

Dorothy Gaines
Sawmill Road
Irvona, PA

Medical Records Custodian and/or Representative of
Moshannon Valley EMS
P.O. Box 289
Phillipsburg, PA 16865

Medical Records Custodian and/or Representative of
Philipsburg Hospital
201 Loch Lomond Road
Philipsburg, PA 16866

Medical Records Custodian and/or Representative of
Clearfield Hospital
809 Turnpike Avenue
Clearfield, PA 16830

Rodolfo S. Polintan, M.D.
807 Turnpike Avenue
Clearfield, PA 16830

Representative and/or records custodian of PA Department of Public
Welfare or appropriate Financial Recovery Agent.

Record custodian of any hospital, physician's office, or any other place or
institution where Plaintiff received medical attention, not previously
mentioned herein.

All other persons named, mentioned or otherwise identified in any Pre-Trial Statement filed by the other party to this action, or in any amendment filed thereto.

All other persons named, mentioned or otherwise identified in the Damage Witness section of any other party's Pre-Trial Statement which has not been listed herein.

Any person necessary for impeachment or rebuttal purposes based upon testimony introduced at trial.

Plaintiff reserves the right to call any number of lay damage witnesses solely to testify on the issue of Plaintiff's pain and suffering. These witnesses testimony will be of a brief nature and solely on the issue of how this injury has affected the Plaintiff's life. These witnesses would include Plaintiff's friends, family members, neighbors, etc.

IV. Statement of Legal Theory

This action is based upon an automobile tort action and is based upon the theory of negligence, as set forth in the Plaintiff's Complaint. An additional issue to be presented to the Court is the issue of the Plaintiff being considered to have limited tort based upon the fact that she driving an uninsured automobile at the time of the accident. Plaintiff will present testimony and demonstrative evidence that will prove that the Plaintiff pierces the threshold for limited tort based upon serious impairment of bodily function and permanent scarring or disfigurement exceptions to the Pennsylvania Motor Vehicle Financial Responsibility Act (75 Pa CSA § 1705, 1702) and also which are set forth in Jury Instruction 6.02D.

Should this case fail to settle at or before the pre-trial conference, Plaintiff will file a Motion for Summary Judgment with this Court on the limited tort issue. Plaintiff believes there is no genuine issue of material fact with regards to whether Plaintiff's injuries get over the limited tort threshold.

V. Description of Damages Claimed and the Basis Thereof

A. Principal Injury or Injury Sustained

The Plaintiff sustained a nine centimeter open wound on the medial aspect of the right leg at the junction of the middle third and distal third of the right tibia. There was deformity to the right foot as a result of the accident. X-rays showed a compound, displaced fracture of the distal shaft of the right tibia and fibula. Surgery was performed February 3, 2003. Plaintiff was taken to the operating room of Clearfield Hospital and excisional debridement of the compound fractures of the right distal tibia and fibula were performed along with irrigation of the wound and open reduction of the fracture. The wound was partially closed with an application of coaptation splint and posterior leg splint. Later on February 6, 2003, Plaintiff was again taken to the operating room of Clearfield Hospital where expiration and irrigation of the wound was performed along with full closure of the wound. There was an application of a short leg posterior splint and a coaptation splint to the right leg. On February 7, 2003, Plaintiff was again taken to the operating room where open reduction and internal fixation surgery with intramedullary rodding of the fractured right tibia was performed with insertion of screws. The Plaintiff continues to suffer from a limp and alteration of her gait due to the fracture. Plaintiff also suffers from an inability or capacity to stoop, crawl, crouch or bend, and Plaintiff has a permanent limitation in her capacity to work which is limited to light to medium occupation. Plaintiff suffers from scarring and disfigurement to her lower right extremity.

B. Hospitalizations and Convalescence

Philipsburg Hospital (02/03/2003)
201 Loch Lomond Road
Philipsburg, PA 16866

Clearfield Hospital (02/03/2003-02/12/2003)
809 Turnpike Avenue

Clearfield, PA 16830

C. Present Disability

Plaintiff continues to suffer as a result of the injuries sustained in the automobile accident. At this time, the Plaintiff has permanent scarring and limitations as set forth previously in this Pre-Trial Statement. Plaintiff will also suffer from post-traumatic arthritis, permanent restrictions of activities and loss of range of motion in her right ankle and leg.

D. Summary of Special Monetary Damages

- a. Lost Wages – none are claimed;
- b. Plaintiff has suffered an impairment of earning capacity in that Plaintiff has a restricted ability to perform work. Dr. Polintan opines that Plaintiff will only be able to perform light to medium work.
- c. Total Billed Medical Specials: \$34,112.77

Provider:	Moshannon Valley EMS
Dates of Service:	02/03/2003
Amount of Bill:	\$860.00
Amount Due:	\$860.00

Provider:	Philipsburg Hospital
Dates of Service:	02/03/2003
Amount of Bill:	\$1,496.21

Provider:	Clearfield Hospital
Dates of Service:	02/03/2003 – 03/24/2003
Amount of Bill:	\$27,756.56
Amount Due:	\$21.00

Provider:	Rodolfo S. Polintan, M.D.
Dates of Service:	02/03/2003 – 11/25/2003
Amount of Bill:	\$4,000.00
Amount Due:	\$3,962.00

- d. Department of Welfare Lien
Lien Amount: \$3,933.76 (this amount is subject to change)
- e. Co-pays as a result of Department of Public Welfare
- f. Total unpaid medical bills due and owing: \$4,843.00

VI. Extraordinary Evidentiary Problems

No extraordinary problems are anticipated at this time.

VII. List of Stipulations

Plaintiff requests that Defendant stipulates to the admissibility of any and all medical records without the need to bring in the records custodian of the records, as well as the billing records custodian.

Plaintiff further requests that Defendant stipulates to the issue of liability as liability has been admitted via deposition of the Defendant and the Defendant's Answer to Plaintiff's Complaint.

VIII. Special Points for Charge

Plaintiff anticipates utilizing Pennsylvania Standard Civil Jury Instructions with regard to negligence, causation, and damages, and will submit additional points for charge upon request. Specifically, the Plaintiff will request Standard Civil Jury Instructions and special instructions on limited tort under 6.02(d) AUTO NEGLIGENCE: SERIES IMPAIRMENT and PERMANENT SCARRING AND DISFIGUREMENT under 75 Pa CSA § 1702, 1705. This assumes that the Court denies Plaintiff's Motion for Summary Judgment on the limited tort issue.

XI. Estimated Time for Trial

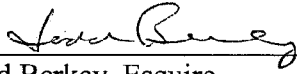
One and one-half to two days.

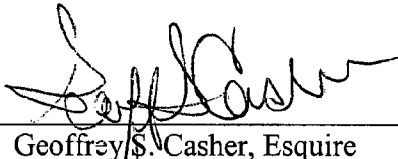
X. Reservations

- a. Plaintiff reserves the right to amend this Pre-Trial Statement at any time up to the trial;
- b. Plaintiff reserves the right to call as witness any person named or otherwise referred to in Defendant's Pre-Trial Statement and to elicit an opinion from such person as expressed in any report.
- c. Plaintiff reserves the right to call rebuttal witnesses not listed in this Pre-Trial Statement.

Respectfully submitted:

EDGAR SNYDER & ASSOCIATES, LLC

By 
Todd Berkey, Esquire
Attorney for Plaintiff

By 
Geoffrey S. Casher, Esquire
Attorney for Plaintiff

Rodolfo S. Polintan, M.D., P.C.

807 Turnpike Avenue
Clearfield, Pennsylvania 16830

Telephone (814) 765-8590

Fellow:
American College of Surgeons
American Academy of Orthopaedic Surgeons
American Academy of
Neurological and Orthopaedic Surgeons
International College of Surgeons

June 1, 2004

Goeffrey S. Casher, Esquire
100 West High Street
Ebensburg, PA 15931

RE: Shannon D. Allen
Your File No.: 347677

Dear Attorney Casher:

Enclosed please find, as you had requested, copies of records and bills from 3-25-03 to the present.

The following is a narrative report as you also had requested in regards to Ms. Shannon Allen.

The initial chief complaint was pain on the right leg.

HISTORY OF PRESENT ILLNESS: The patient is a 27-year-old Caucasian female who was involved in a vehicular accident on the night of February 3, 2003. She said two cars were involved. She was the driver of one of the cars. She basically sustained trauma to the right lower extremity. She sustained a compound fracture of the distal shaft of the right tibia and fibula. She also sustained a contusion of the head.

She was initially taken to the E.R. of Philipsburg Area Hospital wherein she was stabilized and evaluated by the E.R. doctor. She was splinted and transferred to the Clearfield Hospital for further evaluation and management.

ORTHOPEDIC EXAMINATION: On February 3, 2003 showed a well developed and well nourished Caucasian female. The right lower extremity showed a 9 cm. open wound on the medial aspect of the right leg at the junction of the middle third and the distal third. There was external rotation deformity of the right foot in relation to the leg. There was instability and there was tenderness. There

PLAINTIFF'S
EXHIBIT

A

Goeffrey S. Casher, Esquire
RE: Shannon D. Allen
June 1, 2004
Page Two

was no obvious neurological nor vascular deficit. X-rays showed a compound, displaced fracture of the distal shaft of the right tibia and fibula, and contusion of the head.

TREATMENT: (1) On February 3, 2003 she was taken to the Operating Room of the Clearfield Hospital and excisional debridement of the compound fracture, right distal tibia and fibula, irrigation, open reduction of the fracture and partial closure; application of coaptation and posterior leg splint.

(2) On 2-06-03 she was taken back to the Operating Room of the Clearfield Hospital, exploration of the wound, irrigation and closure was done. Application of a short leg posterior splint and a coaptation splint to the right leg.

(3) On 2-07-03 she was taken back to the Operating Room and open intramedullary rodding of the fractured right tibia was done and insertion of screws.

(4) Numerous visits while she was in the hospital and also follow-up visits in the office.

(5) Physical therapy, analgesics, antibiotics, wound care, and others.

The last time I saw her was on November 25, 2003. At that time she was complaining of achiness on the lateral aspect of the right ankle especially with activities. Otherwise, in my opinion, she was doing quite well considering the trauma that she sustained.

Examination at that time showed there was good range of motion of the right ankle and the right knee. Her incisions were healed, free of infection. There was no obvious tenderness on the distal tibia and fibula. She was ambulatory without any external support and without any obvious pain.

Examination at that time showed the fracture of the distal

Goeffrey S. Casher, Esquire
RE: Shannon D. Allen
June 1, 2004
Page Three

tibia healed. The fractured fibula was still healing; however, in good alignment. The intramedullary rod and screws on the right tibia were found to be stable and intact.

At that time she was instructed to do activities as tolerated, and she was told to see me in the Summer of 2004 for follow up exam and x-rays. She was told to call the office p.r.n. if needed.

It is my medical opinion, within a reasonable degree of medical certainty, that the surgeries that she had on 2-03-03, 2-06-03, and 2-07-03 were due to the injuries that she sustained from the car accident of 2-03-03. Within a reasonable degree of medical certainty, it is my opinion that Shannon has permanent injury to the right lower extremity even though the fractures are healed. She still has the sequela of this fracture. She still has the rod and screws in her right leg. She is left with some impairment: intermittent pain on the right lower extremity and intermittent swelling, and scars.

There is a great possibility of further medical treatment in regards to these injuries even on an occasional basis. I am sorry but I cannot estimate, even within a reasonable degree of medical certainty, the cost of the estimated medical treatment in the future.

Shannon, in my opinion, within a reasonable degree of medical certainty, will have the possibility of developing arthritis on the right lower extremity, the ankle, the knee and the hip. She will have intermittent limp and alteration of the gait due to the fracture. I believe this will be permanent. Due to this possibility, her capacity to do a lot of crawling, crouching, bending, is diminished. I did not appreciate on the last visit whether or not her foot angles or extends outward.

As far as work capacity is concerned, it is my opinion, within a reasonable degree of medical certainty, that she may do medium to light type of occupation. Because of the high incidence of

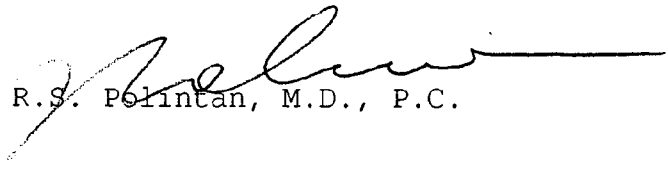
Goeffrey S. Casher, Esquire
RE: Shannon D. Allen
June 1, 2004
Page Four

arthritis after a fracture, I believe that it is in her best interest not to do any labor type of occupation.

To be more specific on her capacity at this time, she needs to be sent to an institution for a physical capacity evaluation. I would do this if so instructed.

Thank you very much, and it is my hope that this letter is sufficient for your purpose.

Sincerely,



R.S. Polintan, M.D., P.C.

RSP/jed
Enclosure

NAME

Shannon Allen

11-18-03

WORK

AUTO

LIABILITY

FAMILY DR.

REFERRED

ALLERGIES

PRESENT MEDS

Cancelled per patient.

Rescheduled to 11-25-03. BS.

11-25-03

Follow up Riley X-ray done.

Fibula not 100% healed

healed

5-10-04

X-ray 11/25/03

SHANNON ALLEN

11-25-2003

The patient returned. She has some soreness on the lateral aspect of the right ankle. Other than that, she is doing quite well.

EXAMINATION: There is good range of motion of the right ankle and the right knee. There is no obvious tenderness on the distal tibia and fibula. She is ambulatory without any external support and without any obvious pain.

X-rays showed the fracture of the tibia is healed. The fractured fibula is still healing, good alignment. The screw and the rod are in good alignment.

PLAN: Activities as tolerated. See her in the Summer of next year, x-ray right tibia. Call the office p.r.n. if there are any problems prior to the scheduled appointment.

RSP/jed

**CLEARFIELD HOSPITAL
IMAGING DEPARTMENT**

(814) 768 - 2275

PATIENT:	ALLEN, SHANNON DAWN	MR #:	060773			
AGE:	28	SEX:	F	ADM#:	51213726	OP
DOB:	04/22/1975	ROOM/BED:				
ORD DR:	POLINTAN, RODOLFO S	PT CLASS:	OUT			
ATT DR:	POLINTAN, RODOLFO S	PT TYPE:	R	FC:	A	
ALT DR:	POLINTAN, RODOLFO S	HOSP SVC:	IMG	ORDER #:	90017	

REFERRING DIAGNOSIS: POST FX RIGHT TIBIA SHAFT

CONTRAST DOCUMENTATION:

BRAND: AMT: BY:

HISTORY/ COMMENTS: F/U FX @1445

IS PATIENT PREGNANT? NA

LMP: 11/1/03

SHIELDED: YES

NO. OF FILMS: 4

FLUORO TIME:

ORDER #: 90017

11/25/2003 TIBIA-FIBULA 2 VIEWS RIGHT 73590

PROCEDURE ENDED: 11/25/2003 14:38 Initials: TSB

In comparison to views dated 8/19/03.

The patient is status post internal fixation with intramedullary rod in the tibia. Healing fracture of the distal fibula is noted. There is no interval change in alignment or position.

READING DOCTOR: ALFRED B. COREN, M.D.
ELECTRONICALLY SIGNED: **ALFRED B. COREN, M.D.**
TRANSCRIBED BY: PAR 11/26/2003 08:22AM

ORDERING DR BATCH

NAME

Shannon Allen

WORK

AUTO

LIABILITY

FAMILY DR.

REFERRED

ALLERGIES

PRESENT MEDS

NoneNone Known

8-26-03 - Follow-up Right Leg Area.
12 wk R 8/19/03
L - 8/19/03

SHANNON ALLEN

8-26-2003

The patient is better. She came to the office without any crutches. A little bit achy on the right leg.

She is trying to get into the Vocational Rehabilitation in DuBois.

EXAMINATION: Right ankle showed no tenderness, no signs of infection, good range of motion of the ankle and knee.

X-rays done on 8-19-03 reviewed. There is no failure of the hardware. The bone continues to heal.

PLAN: Activities only as tolerated. Follow up in twelve weeks. The patient is presently not working and she wishes to return by the Vocational Rehab which I believe is not a bad idea. I will see her back in twelve weeks, x-ray of the right tibia shaft. She may see me also p.r.n. if there are any problems.

RSP/jed

NAME Shannon Ailen



Ch 8/19/03

WORK _____
AUTO _____
LIABILITY _____

Had
viag
8/26/03
prescribed P

FAMILY DR. _____
REFERRED _____
ALLERGIES _____
PRESENT MEDS _____

**CLEARFIELD HOSPITAL
IMAGING DEPARTMENT**

(814) 768 - 2275

PATIENT:	ALLEN, SHANNON DAWN	MR #:	060773	
AGE:	28 SEX: F	ADM#:	50894153	OP
DOB:	04/22/1975	ROOM/BED:		
ORD DR:	POLINTAN, RODOLFO S	PT CLASS:	OUT	
ATT DR:	POLINTAN, RODOLFO S	PT TYPE:	R	FC: A
ALT DR:	POLINTAN, RODOLFO S	HOSP SVC:	IMG	ORDER #: 90016

REFERRING DIAGNOSIS: POST FX

CONTRAST DOCUMENTATION:

BRAND: AMT: BY:

HISTORY/ COMMENTS: POST FX CHECK UP. @1450

IS PATIENT PREGNANT? NO

LMP: 8/03/03

SHIELDED: YES

NO. OF FILMS: 4

FLUORO TIME:

ORDER #: 90016

08/19/2003 TIBIA-FIBULA 2 VIEWS RIGHT 73590

PROCEDURE ENDED: 08/19/2003 14:42 Initials: TSB EF

In comparison to the study dated 7-29-03.

Fractures of the tibia and fibula are healing without any interval change in alignment or position.

READING DOCTOR: ALFRED B. COREN, M.D.
ELECTRONICALLY SIGNED: ALFRED B. COREN, M.D.
TRANSCRIBED BY: PAR 08/20/2003 07:33AM

ORDERING DR BATCH

8-1-03 YDS.

DR:

RSP

NAME

Shannon Allen

BIRTH DATE

4-22-75

ADDRESS

PHONE

342-1513

INSURANCE

APPT DATE

REASON:

had blood clot test done yesterday
Did you receive any results
yet. Please let her know.

8/1/03

SHANNON ALLEN

8-01-2003

I talked to her on the phone. I got the report of her Venous Doppler ultrasound of the legs. According to the report, there is no evidence of any deep venous thrombosis.

At this point in time I feel that her pain is related to her activities although I will keep an open mind. I suggested she continue the crutches until most of the pain is gone. She should keep her appointment. Will do further tests depending on her symptoms and findings at that time. She has an appointment.

RSP/jed

**CLEARFIELD HOSPITAL
IMAGING DEPARTMENT**

(814) 768 - 2275

PATIENT:	ALLEN, SHANNON DAWN	MR #:	060773	
AGE:	28 SEX: F	ADM#:	50834217	OP
DOB:	04/22/1975	ROOM/BED:		
ORD DR:	POLINTAN, RODOLFO S	PT CLASS:	OUT	
ATT DR:	POLINTAN, RODOLFO S	PT TYPE:	R	FC: A
ALT DR:	POLINTAN, RODOLFO S	HOSP SVC:	IMG	ORDER #: 90015

REFERRING DIAGNOSIS: R LEG PAIN

HISTORY/ COMMENTS: RIGHT LOWER LEG PAIN; SWELLING X5 DAYS; PREVIOUS FRACTURE AND SURGERY 2/03

NO. OF FILMS: 1

ORDER #: 90015

07/31/2003 US EXTREMITY VEINS BILAT 93970

PROCEDURE ENDED: 07/31/2003 15:17 Initials: SAD MAL

Combining two dimensional imaging with pulsed doppler, audio, spectral and color flow analysis, the deep venous systems of the lower extremities were evaluated.

There is excellent compression of the deep venous structures. Normal venous waveforms are found. Normal response to digital augmentation is demonstrated.

IMPRESSION: Normal study. No evidence for deep vein thrombosis.

READING DOCTOR: ALFRED B. COREN, M.D.
ELECTRONICALLY SIGNED: **ALFRED B. COREN, M.D.**
TRANSCRIBED BY: CAH 07/31/2003 04:33PM

SHANNON ALLEN

7-29-2003

CHIEF COMPLAINT: Pain on the right ankle area.

HISTORY: The patient apparently had been active. She came to the office because of a few days' duration of pain on the right ankle. No history of any fever or trauma. She came in walking with a limp without any appliance. It is to be noted that she has crutches at home.

EXAMINATION: The right ankle showed no deformities. There is some swelling on the right ankle and right leg but no obvious calf tenderness. There is no localized warmth where the fracture is located and where her pain is located and there is no fluctuation. The tibia is stable.

X-ray of the right tibia shows the rod and the screws are intact. The fractures are healing very well. There are no signs of any bone infection. There is no evidence of loosening of the implants.

IMPRESSION: (1) Pain right ankle, probably secondary to over activity and her weight. (2) Rule out other causes. (3) Status post IM rodding for fracture of the right tibia and fibula.

PLAN AND RECOMMENDATION: I told her to rest the leg as much as possible. Use crutches and do only weight bearing as tolerated. Venous Doppler ultrasound to rule out any blood clots is scheduled for this coming Thursday.

I advised her to call me for the report and further recommendations.

RSP/jed

**CLEARFIELD HOSPITAL
IMAGING DEPARTMENT**

(814) 768 - 2275

PATIENT:	ALLEN, SHANNON DAWN	MR #:	060773	
AGE:	28Y SEX: F	ADM#:	50827393	OP
DOB:	04/22/1975	ROOM/BED:		
ORD DR:	POLINTAN, RODOLFO S	PT CLASS:	OUT	
ATT DR:	POLINTAN, RODOLFO S	PT TYPE:	R	FC: A
ALT DR:	POLINTAN, RODOLFO S	HOSP SVC:	IMG	ORDER #: 90013

REFERRING DIAGNOSIS: POST FX R TIBIA SHAFT
XRAYS N/IN OFFICE

CONTRAST DOCUMENTATION:
BRAND: AMT: BY:

HISTORY/ COMMENTS: FOLLOW UP; C/O SOME PAIN AND SWELLING IN RIGHT ANKLE NOW

IS PATIENT PREGNANT? NO LMP: 3 WEEKS AGO

SHIELDED: Y NO. OF FILMS: 4 FLUORO TIME:

ORDER #: 90013

07/29/2003 TIBIA-FIBULA 2 VIEWS RIGHT 73590

PROCEDURE ENDED: 07/29/2003 15:40 Initials: CAW

In comparison to views dated 6/24/03. The patient is status post internal fixation for tibia fracture with intermedullary rod. The fracture of the tibia and fibula are healing without any interval change in alignment or position.

READING DOCTOR: ALFRED B. COREN, M.D.
ELECTRONICALLY SIGNED: ALFRED B. COREN, M.D.
TRANSCRIBED BY: CAH 07/29/2003 06:48PM

ORDERING DR BATCH

SHANNON ALLEN

06/24/03

CHIEF COMPLAINT: Pain of the right leg.

The patient said that over the week end he works outside gardening about six hours. Today she is having some discomfort of the right leg.

EXAMINATION: the right leg shows no signs of infection. She is ambulatory without any appliance. She has minimal limp. She has no obvious tenderness at the fracture site & there is no gross mobility.

X-ray today showed further healing of the fracture but it is not complete.

IMPRESSION: Healing fracture of the right tibia & fibula post compound fracture.

PLAN/RECOMMENDATION: I told her that she is lucky that she did not get any infection. I believe she is doing well & I believe that she is just overdoing things. I told her to decrease her activities. I told her that the fractures are not completely healed.

Follow up in eight weeks, x-ray right tibia shaft.

RSP/prs

7-29-03

6 soreness @ lower leg -

*per ex
- wound
Dysb.
- to call*

*Thursday 7/31/03
2:30pm*

**CLEARFIELD HOSPITAL
IMAGING DEPARTMENT**

(814) 768-2275

PATIENT:	ALLEN, SHANNON DAWN	MR #:	060773	
AGE:	28 SEX: F	ADM#:	50717776	OP
DOB:	04/22/1975	ROOM/BED:		
ORD DR:	POLINTAN, RODOLFO S	PT CLASS:	OUT	
ATT DR:	POLINTAN, RODOLFO S	PT TYPE:	R	FC: A
ALT DR:	POLINTAN, RODOLFO S	HOSP SVC:	IMG	ORDER #: 90012

REFERRING DIAGNOSIS: POST FX RT TIBIA SHAFT

CONTRAST DOCUMENTATION:

BRAND: AMT: BY:

HISTORY/ COMMENTS: F/U FX. @1450

IS PATIENT PREGNANT? NA

LMP: 6-2-03

SHIELDED: YES

NO. OF FILMS: 4

FLUORO TIME:

ORDER #: 90012

06/24/2003 TIBIA-FIBULA 2 VIEWS RIGHT 73590

PROCEDURE ENDED: 06/24/2003 14:45 Initials: TSB

The intramedullary tibial rod is in position. No change in alignment has occurred since the last examination from 5-5-03. There is a healing fracture of the distal shaft of the fibula and tibia.

READING DOCTOR: RICHARD G. WILLIAMS, M.D.

ELECTRONICALLY SIGNED: **RICHARD G. WILLIAMS, M.D.**

TRANSCRIBED BY: PAR 06/25/2003 09:30AM

ORDERING DR BATCH

NAME

Shannon Allen

6-16-03

WORK

AUTO

LIABILITY

FAMILY DR.

REFERRED

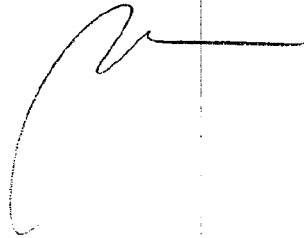
ALLERGIES

PRESENT MEDS

~~Call~~ No Show. BS

6/16/03

No call to report
any problem, questions
or concern.



6-24-03

Ⓟ leg discomfort - had XRay.

1st only
with the good
pouch
for PT.

NAME Shannon Allen

5-5-03

WORK _____
AUTO _____
LIABILITY _____

FAMILY DR None
REFERRED _____
ALLERGIES None Known
PRESENT MEDS _____

Check-up- Right tibia -
X-Rays done today.

H. S. M.

EPW -

5/12/03

6-12-
X - (S) TB -

SHANNON ALLEN

5-05-2003

The patient returned to the office. She is full weight bearing; a little bit of soreness on the ankle.

EXAMINATION: There is good range of motion of the ankle and knee. She is able to bear weight completely. She has a limp. There is good range of motion of the right knee and the ankle. There is no deformity. There is no sign of any infection. She has keloid formation.

X-rays showed stable fixation; the fracture is healing well. The screws and rod intact.

PLAN: She may bear weight fully with one crutch on the left hand. She would like to return to work. Her work is not very demanding. She does a lot of sitting. She is allowed to return to work 5-12-03 with one crutch. Follow up in six weeks, x-ray right tibia shaft.

RSP/jed

**CLEARFIELD HOSPITAL
IMAGING DEPARTMENT**

(814) 768 - 2275

PATIENT: **ALLEN, SHANNON DAWN**

MR #: **060773**

AGE: 28 SEX: F

ADM#: 50556455 OP

DOB: 04/22/1975

ROOM/BED:

ORD DR: POLINTAN, RODOLFO S

PT CLASS: OUT

ATT DR: POLINTAN, RODOLFO S

PT TYPE: R FC: A

ALT DR: POLINTAN, RODOLFO S

HOSP SVC: IMG ORDER #: 90011

REFERRING DIAGNOSIS: POST FX RT TIBIA SHAFT
PT HAS FILMS

CONTRAST DOCUMENTATION:
BRAND: AMT: BY:

HISTORY/ COMMENTS: POST FX

IS PATIENT PREGNANT?

LMP:

SHIELDED:

NO. OF FILMS: 4

FLUORO TIME:

ORDER #: 90011

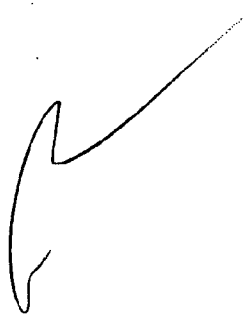
05/05/2003 TIBIA-FIBULA 2 VIEWS RIGHT 73590

PROCEDURE ENDED: 05/05/2003 09:07 Initials: HEF

There is an intermedullary rod in position in the tibia. This is well anchored proximally and distally. There is healing fracture at the site of the distal fracture. There is callus formation identified. There is a comminuted healing fracture of the distal shaft of the fibula as well.

IMPRESSION: Healing fracture of the distal shaft of the tibia and fibula. Stable appearance of intermedullary fixation rod.

READING DOCTOR: RICHARD G. WILLIAMS, M.D.
ELECTRONICALLY SIGNED: RICHARD G. WILLIAMS, M.D.
TRANSCRIBED BY: CAH 05/05/2003 07:01PM



ORDERING DR BATCH

**LEARFIELD HOSPITAL
IMAGING DEPARTMENT**

(814) 768 - 2275

PATIENT: **ALLEN, SHANNON DAWN**

AGE: 27 SEX: F

DOB: 04/22/1975

ORD DR: POLINTAN, RODOLFO S

ATT DR: POLINTAN, RODOLFO S

ALT DR: POLINTAN, RODOLFO S

MR #: **060773**

ADM#: 50426824 OP

ROOM/BED:

PT CLASS: OUT

PT TYPE: R FC: F

HOSP SVC: IMG ORDER #: 90010

REFERRING DIAGNOSIS: POST FX RT TIBIA SHAFT
RTO W/FILMS

CONTRAST DOCUMENTATION:
BRAND: AMT: BY:

HISTORY/ COMMENTS: POST FX

IS PATIENT PREGNANT? NO

LMP: 3/17/03

SHIELDED: Y

NO. OF FILMS: 4

FLUORO TIME:

ORDER #: 90010

03/25/2003 TIBIA-FIBULA 2 VIEWS RIGHT 73590

PROCEDURE ENDED: 03/24/2003 09:00 Initials: JS ERF

Cast and skin clips have been removed. Intermedullary rod is again seen reducing the fracture in the distal tibia. Partially healed fracture in the fibular is present as well. Alignment is similar to the previous study of 2/21/03.

READING DOCTOR: DAVID L. OBLEY, M.D.
ELECTRONICALLY SIGNED: DAVID L. OBLEY, M.D.
TRANSCRIBED BY: CAH 03/25/2003 08:45PM

ORDERING DR BATCH

NAME

Shannon Allen3-24-03

WORK

AUTO

LIABILITY

FAMILY DR.

REFERRED

ALLERGIES

PRESENT MEDS

NoneNone Known

Check-up. Right tibia shaft. X-Rays
done today.

SHANNON ALLEN

3-24-2003

50-75% w/a
1 crutch
6 wk - @ 173 lb

TSP

The patient returned to the office for recheck. She is doing very well. She didn't complain of any significant amount of pain. Her incisions are all healed; no signs of any infection. She has good range of motion of the knee and ankle. The fracture is non-tender and stable. No deformities.

X-rays showed satisfactory alignment and further healing noted.

PLAN: May bear weight 50 to 75% of body weight with two crutches x four weeks. After that, one crutch on the left hand, weight bearing as tolerated. Follow up in six weeks, x-ray right tibia shaft.

RSP/jed

NAME Shannon Allen

WORK _____

AUTO _____

LIABILITY _____

FAMILY DR _____

REFERRED BY _____

ALLERGIES _____

PRESENT MEDS _____

Houly Lal HH saw pt. today & they
would feel better if they could do one more
visit on Tuesday. Pt. is coming to see you
Friday 2/20/03.

The home conditions are not so good & they
would feel better if they could check the leg again.

OK PHS
3/1/03

NAME Shannon Allen

342-5169

WORK _____
AUTO _____
LIABILITY _____

FAMILY DR. _____
REFERRED _____
ALLERGIES _____
PRESENT MEDS _____

Will you order something for
pain for the pt. Her house burned down
Saturday - she had to hurry out of her house
- now is having a lot of pain in leg that you
put a rod in. PT uses CVS Phillipsburg speed #23

3/3/03 - Percocet # 10
sis T QPH per
for some pain

- Percocet # 1002
20
per # 1

sis T per QPH per
mild to moderate pain



R. S. POLINTAN, M.D., P.C.
807 TURNPIKE AVENUE
CLEARFIELD, PA 16830

(814) 765-8590

DEA #
LIC. # MD 022179-E

NAME S. Hannon Allen AGE 73
ADDRESS 1002 DATE 7/3/03

Rx ILLEGAL IF NOT SAFETY BLUE BACKGROUND

R

DDP - 500 N 1002
20
SIS - 1 p.m. 944
P. H. J.

REFILL 1 TIMES

☐ LABEL

SUBSTITUTION PERMISSIBLE

IN ORDER FOR A BRAND NAME PRODUCT TO BE DISPENSED, THE
PRESCRIBER MUST HAND WRITE "BRAND NECESSARY" OR
"BRAND MEDICALLY NECESSARY" IN THE SPACE BELOW.

OKOS0071245

Scripts - called in to CVS
in Philipsburg - at 10:45 am.
Patient called - to pick up
scripts. Mr. Barrett L.P.N.

X Grandmother received prescriptions 3-4-13.

X Evelyn McClarren

R. S. POLINTAN, M.D., P.C.
807 TURNPIKE AVENUE
CLEARFIELD, PA 16830

(814) 765-8590

DEA #
LIC. # MD 022179-E

NAME S. Hannon Allen AGE 73
ADDRESS 1002 DATE 7/3/03

Rx ILLEGAL IF NOT SAFETY BLUE BACKGROUND

R

per 5/3/25
10
SIS - 1 p.m. 944
P. H. J.

REFILL 1 TIMES

☐ LABEL

SUBSTITUTION PERMISSIBLE

IN ORDER FOR A BRAND NAME PRODUCT TO BE DISPENSED, THE
PRESCRIBER MUST HAND WRITE "BRAND NECESSARY" OR
"BRAND MEDICALLY NECESSARY" IN THE SPACE BELOW.

OKOS0071245

NAME Shannon Allen

2-21-03

WORK _____

AUTO _____

LIABILITY _____

FAMILY DR. _____

REFERRED _____

ALLERGIES _____

PRESENT _____

Follow up @ ankle - feeling

some better.

*5 wk
OK*

SHANNON ALLEN

2-21-2003

The patient is for follow up. Status post compound fracture of the right tibia and fibula and then IM rodding.

The patient doesn't have any acute pain anymore. She is independent on crutches; no evidence of any infection. Alignment of the leg is satisfactory. The incisions are healed. There are no signs of infection where she had the compound fracture.

She is having physical therapy at home.

TREATMENT AND PLAN: X-ray of the right tibia and fibula showed satisfactory alignment. There is some callous formation noted. The fixation is stable.

All staples were removed and all sutures removed. The patient may wash the leg with soap and water. She may discontinue the splint, do range of motion of the right knee, and may touch on the right foot with the crutches. Follow up in 5 weeks, x-ray of the right tibia shaft.

RSP/jed

**LEARFIELD HOSPITAL
IMAGING DEPARTMENT**

(814) 768 - 2275

PATIENT:	ALLEN, SHANNON DAWN	MR #:	060773	
AGE:	27 SEX: F	ADM#:	50329945	OP
DOB:	04/22/1975	ROOM/BED:		
ORD DR:	POLINTAN, RODOLFO S	PT CLASS:	OUT	
ATT DR:	POLINTAN, RODOLFO S	PT TYPE:	R	FC: F
ALT DR:	POLINTAN, RODOLFO S	HOSP SVC:	IMG	ORDER #: 90008

REFERRING DIAGNOSIS: FX RTO PT DROPPED OFF FILMS

CONTRAST DOCUMENTATION:

BRAND: AMT: BY:

HISTORY/ COMMENTS: STITCHES REMOVED TODAY

IS PATIENT PREGNANT? NO

LMP: 2/03/03

SHIELDED: Y

NO. OF FILMS: 4

FLUORO TIME:

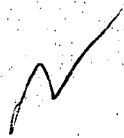
ORDER #: 90008

02/21/2003 TIBIA-FIBULA 2 VIEWS RIGHT 73590

PROCEDURE ENDED: 02/21/2003 11:45 Initials: MJB

Through the cast there is evidence of an intermedullary rod in the tibia. There is a healing fracture of the distal shaft of the fibula as well. No change in alignment has occurred since the last examination.

READING DOCTOR: RICHARD G. WILLIAMS, M.D.
ELECTRONICALLY SIGNED: **RICHARD G. WILLIAMS, M.D.**
TRANSCRIBED BY: CAH 02/21/2003 07:58PM



ORDERING DR BATCH

CLEARFIELD HOSPITAL, P.O. BOX 992, CLEARFIELD, PA 16830
DISCHARGE SUMMARY

PATIENT: ALLEN, SHANNON DAWN

MR# 060773

RODOLFO S POLINTAN, M.D.

ADMITTED: 02/03/2003

DISCHARGED: 02/12/2003

DISCHARGE DIAGNOSIS:

1. Compound fracture right tibia and fibula shaft.

OPERATION:

02/03/2003: Excisional debridement of the compound fracture right distal tibia and fibula shaft, irrigation, open reduction of the fracture tibia, pressure closure and application of coaptation and posterior leg splint.

02/06/2003: Exploration of the wound, irrigation and closure and application of short-leg posterior splint and coaptation splint to the right leg.

02/07/2003: IM rodding fracture right tibia and insertion of screws.

HISTORY: The patient is a 27-year-old female. She was involved in a vehicular accident on the night of 02/03/03. Two cars were involved. She was driving one car. She sustained trauma to the right lower leg consisting of a severely displaced compound fracture of the right distal tibia and fibula. The patient was brought to Philipsburg Area Hospital and subsequently transferred to Clearfield Hospital since no anesthesiologist was working at that time in the Philipsburg Area Hospital. On examination the open wound on the right leg is at the medial aspect. It is about 9 cm. No gross neurological nor vascular deficits.

HOSPITAL COURSE: The patient was admitted from the Philipsburg Area Hospital on 02/03/03 and informed consent was obtained and she was sent to the OR and debridement of the compound fracture was done, open reduction and splinting. She was given perioperative IV antibiotics. Cultures were taken. She was given PCA for pain postoperatively. Her leg was elevated postoperatively and she was sent to the OR for the second time on 02/06/03 and the exploration of the wound was done including further debridement and then splinting. The culture report shows no growth and the wound was benign. The patient was brought back to the OR after obtaining informed consent on 02/07/03 and the IM rodding was done.

Postoperatively the patient was given analgesics. She was given perioperative IV antibiotic. She was given Lovenox and she was sent to PT for leg strengthening, ambulation with a walker, toe-touch on the right foot. Her blood count remained stable. The IV antibiotics were discontinued on 02/10/03. The patient's pain became under control. The postoperative x-ray was stable and she was discharged to home on 02/12/03.

PERTINENT LABS AND X-RAYS: The CBC on 02/10/03: Hemoglobin 11.2, white count normal. Culture and sensitivity of the wound showed no growth. X-rays of the right tibia and fibula shows displaced fracture transverse distal third of the right tibia and fibula. Outside film interpretation of chest x-ray shows mild cardiomegaly, no acute disease in the chest. Postoperative x-ray of the right tibia and fibula shaft shows an IM rod traversing the fracture of the distal tibia. There is also a fracture of the fibular shaft. Follow-up x-ray of the right tibia and fibula showed no change in alignment.

DISCHARGE MEDICATIONS / INSTRUCTIONS:

Follow up: To my office in approximately 7-10 days

Medications:

Tylenol ES two q 4 hours PRN as needed

CLEARFIELD HOSPITAL, P.O. BOX 992, CLEARFIELD, PA 16830
DISCHARGE SUMMARY

PATIENT: ALLEN, SHANNON DAWN

MR# 60773

Percocet one q 4 PRN as needed

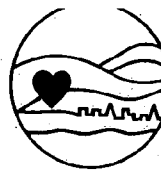
Buffered aspirin one PO once a day after eating times three weeks

Activities: Frequent elevation of the right leg, crutch walking, toe-touch on the right foot, change dressing as needed

PT: Leg strengthening and ambulation with a walker, toe-touch on the right foot with a cast boot

DATE	SIGNATURE
D: 03/12/2003	T: 03/13/2003
PR: (*Y1)	RSP / DEB

2570240 060773
ALLEN, SHANNON DAWN
04/22/1975 176-64-9703
POLITAN RODOLFO S 204 B-
02/03/03 F SUR F



Clearfield
Hospital

DISCHARGE ORDERS
HOME CARE INSTRUCTIONS

RETURN TO PHYSICIAN'S OFFICE 7-10 days Fri Feb 21, 11¹⁵

CALL FOR APPOINTMENT 765-8590

OTHER APPOINTMENT Med = Tylenol ES 11 P.M. as needed
pericard i P.M. as needed last dose
33 gm
Buffered ASA i po. o.p. after
Eating X3 wks

REFERRAL: ☐ LAB

☐ OTHER (SPECIFY) Diabetes = Frequent Urination P.D.

DIAGNOSIS: with walking toe to
change P foot
change dressing as needed

ACTIVITY ALLOWED

- | | | |
|--|---|--|
| <input type="checkbox"/> NO RESTRICTIONS | <input type="checkbox"/> WALK ABOUT IN HOUSE | <input type="checkbox"/> WORK/SCHOOL |
| <input type="checkbox"/> BATHROOM-SAME FLOOR | <input type="checkbox"/> WALK OUTSIDE IN YARD | <input type="checkbox"/> SEXUAL ACTIVITY |
| <input type="checkbox"/> BATHROOM-UPSTAIRS | <input type="checkbox"/> RIDE IN CAR | <input type="checkbox"/> DRIVING |
| <input type="checkbox"/> STAIRS-1XDAY | <input type="checkbox"/> LIGHT HOUSEWORK | <input type="checkbox"/> LIFTING |

OTHER P.T. - leg strengthening
ambulation with walking toe to

DIETS: REGULAR SPECIAL

DIET INSTRUCTIONS GIVEN TO PATIENTS ON SPECIAL DIET. ☐ YES ☒ NO P foot
with cast boot

TREATMENTS/DRESSINGS

- ☐ Pre Printed Discharge Instruction Sheet Provided Form #
☐ Own Medications Returned ☐ Medication Cards Given ☐ Food/Drug Interaction Information Given

I UNDERSTAND THESE INSTRUCTIONS:

2/12/03
Date
[Signature]
Attending Physician Signature
[Signature]
Patient Signature
[Signature]
Nurse Signature

MY FAMILY PHYSICIAN IS: _____
(Name and Address)

IF MY PHYSICIAN DIRECTS, SEND A SUMMARY OF MY HOSPITALIZATION.

**LEARFIELD HOSPITAL
IMAGING DEPARTMENT**

(814) 768 - 2275

PATIENT:	ALLEN, SHANNON DAWN	MR #:	060773
AGE:	27 SEX: F	ADM#:	2570240
DOB:	04/22/1975	ROOM/BED:	204 B-
ORD DR:	POLINTAN, RODOLFO S	PT CLASS:	IN
ATT DR:	POLINTAN, RODOLFO S	PT TYPE:	S FC: P
ALT DR:	POLINTAN, RODOLFO S	HOSP SVC:	SUR ORDER #: 90005

REFERRING DIAGNOSIS: FX DISTAL TIBIA/FIBULA
WITHOUT KNEE IMMOBILIZER

CONTRAST DOCUMENTATION:
BRAND: AMT: BY:

HISTORY/ COMMENTS: POST FX. @8:10

IS PATIENT PREGNANT? NA

LMP:

SHIELDED: YES

NO. OF FILMS: 5

FLUORO TIME:

ORDER #: 90005

02/09/2003 TIBIA-FIBULA 2 VIEWS RIGHT 73590

PROCEDURE ENDED: 02/09/2003 08:02 Initials: TSB EAL MJB

In comparison to views dated 2-7-03. The patient is status post ORIF for the fracture of the distal tibia with intramedullary rod. The bones are visualized through an overlying cast, and fine bony detail is obscured. Comminuted fracture of the distal fibular shaft is again identified.

IMPRESSION: Normal postoperative appearance.

READING DOCTOR: ALFRED B. COREN, M.D.
ELECTRONICALLY SIGNED: ALFRED B. COREN, M.D.
TRANSCRIBED BY: PAR 02/09/2003 11:11AM

**CLEARFIELD HOSPITAL
IMAGING DEPARTMENT**

(814) 768 - 2275

PATIENT: **ALLEN, SHANNON DAWN**
AGE: 27 SEX: F
DOB: 04/22/1975
ORD DR: POLINTAN, RODOLFO S
ATT DR: POLINTAN, RODOLFO S
ALT DR: POLINTAN, RODOLFO S

MR #: **060773**
ADM#: 2570240
ROOM/BED: 204 B-
PT CLASS: IN
PT TYPE: S FC: P
HOSP SVC: SUR ORDER #: 90004

REFERRING DIAGNOSIS: OR

CONTRAST DOCUMENTATION:

BRAND: AMT: BY:

HISTORY/ COMMENTS: IM ROD RIGHT LEG

IS PATIENT PREGNANT?

LMP: ?

SHIELDED: N

NO. OF FILMS: 2

FLUORO TIME: 9:08

ORDER #: 90004

02/07/2003 FLUOROSCOPY TIME <1 HOUR 76000

PROCEDURE ENDED: 02/07/2003 17:08 Initials: SSW

9 minutes and 8 seconds fluoroscopy time was utilized during intermedullary rod placement.

02/07/2003 TIBIA-FIBULA 2 VIEWS RIGHT 73590

PROCEDURE ENDED: 02/07/2003 17:08 Initials: SSW

An intermedullary rod traverses the fracture of the distal tibia. There is a fracture of the fibular shaft, as well.

IMPRESSION: Normal postoperative appearance.

READING DOCTOR: ALFRED B. COREN, M.D.
ELECTRONICALLY SIGNED: **ALFRED B. COREN, M.D.**
TRANSCRIBED BY: CAH 02/07/2003 07:29PM

ORDERING DR BATCH

CLEARFIELD HOSPITAL, P.O. BOX 992, CLEARFIELD, PA 16830
REPORT OF PROCEDURE

PATIENT: ALLEN, SHANNON DAWN

MR# 060773

HOSPITAL SERVICE: SUR 204 B-

PROCEDURE DATE: 02/07/2003

SURGEON: RODOLFO S. POLINTAN, M.D.

ASSISTANT: MARK A. NARTATEZ, D.O.

PREOPERATIVE DIAGNOSIS: Status post compound fracture right distal tibia and fibula shaft.

POSTOPERATIVE DIAGNOSIS: Status post compound fracture right distal tibia and fibula shaft

ANESTHESIA: General.

OPERATIVE PROCEDURE: IM rodding and insertion of screws, fracture right tibia.

IMPLANTS USED: IM rod from Zimmer size 32 x 11 and two cortical screws.

HISTORY AND FINDINGS: Patient is an adult Caucasian female with fracture of the right distal tibia and fibula shaft transverse. The patient had a compound fracture of the right distal tibia and fibula and the culture taken on February 7, 2003 showed no growth at 24 hours. The wound on the medial aspect of the right leg is benign. There is no sign of infection.

Preoperatively told the family and patient about the possible risks and most pertinent complications of this surgery as well as her fracture like blood clots, infection, failure of the bone to heal, nonunion, failure of the fixation, phlebitis, blood loss, medical complications, limp and others.

OPERATIVE TECHNIQUE AND FINDINGS: With the patient properly identified in a supine position. She was placed under general anesthesia. The right leg was elevated, Esmarch was applied to the right leg and then the tourniquet on the right thigh was inflated to 400 mmHg. The operative area was carefully prepped and draped in the usual sterile fashion.

A medial parapatellar incision was made from the medial aspect of the patella to going to the tibial tubercle in a slightly oblique manner. The incision was deepened to the subcutaneous tissues. The fascia was incised. Then the interval between the capsule and the patellar tendon medially was incised. The fatty tissue in the anterior aspect of the knee excised making sure that the menisci are not damaged.

With retractor in place, a drill hole was made on the anterior aspect of the right tibia, followed by insertion of the awl towards the metaphysis of the proximal tibia. After that a guidewire was inserted from the hole made on the proximal tibia across the metaphysis and then to the fracture site. Traction applied to the leg and the guidewire was inserted to the distal fragment close to the articular surface. The position of the guidewire was found to be inside the medullary canal on AP and lateral view on the C-arm.

Next the medullary canal of the tibial was reamed carefully with a flexible up to size 12 reamer was used. We then measured the length of the IM rod.

The exchange tube was inserted and then the guidewire was removed and a smaller guidewire was inserted across the fracture site and then the IM rod was inserted through the guidewire. It was impacted very gently and

CLEARFIELD HOSPITAL, P.O. BOX 992, CLEARFIELD, PA 16830
REPORT OF PROCEDURE

PATIENT: ALLEN, SHANNON DAWN

MR# 60773

LOCATION: SUR 204 B-

carefully towards the fracture site and then towards the distal fragment. The position was verified to be satisfactory on C-arm AP and lateral view and the fracture is then compressed by pushing the distal fragment proximally.

Using the guide the dynamic cortical screw was inserted proximally.

With the leg in neutral, the screw distally was inserted anteroposteriorly. The position appears to be satisfactory. Final x-ray through the C-arm AP and lateral view showed satisfactory alignment.

Bleeding electrocoagulated. The wound irrigated with antibiotic solution and then closed in the usual manner. The synovial on the knee joint was approximated using 2-0 Vicryl interrupted suture. The capsule of the joint together with the patellar tendon was sutured with #1 Tycron suture, subcutaneous tissue with 2-0 Vicryl and skin edges with staples. The incision on the ankle area was closed with a staple and the incision on the medial aspect of the right upper leg was closed with staples.

Pressure dressing applied and then a posterior short leg splint and coaptation splint applied and then a knee immobilizer. The tourniquet was deflated. Estimated blood loss: Approximately 150 cc to 200 cc, no blood was given.

The Anesthesia Department noted that the oxygen saturation dropped a little bit during the reaming of the medullary canal.

The patient's vital signs are stable. She was breathing spontaneously when she was sent to recovery room.

DATE _____ SIGNATURE _____

D: 02/08/2003

T: 02/10/2003

RSP/ KDK

PR: (*Y2)

cc: MARK A. NARTATEZ, D.O.

CLEARFIELD HOSPITAL, P.O. BOX 992, CLEARFIELD, PA 16830
REPORT OF PROCEDURE

PATIENT: ALLEN, SHANNON DAWN

MR# 060773

HOSPITAL SERVICE: SUR 204 B-

PROCEDURE DATE: 02/06/2003

SURGEON: RODOLFO S. POLINTAN, M.D.

PREOPERATIVE DIAGNOSIS: Status post compound fracture right tibia and fibula distal shaft.

POSTOPERATIVE DIAGNOSIS: Status post compound fracture right tibia and fibula distal shaft.

ANESTHESIA: General.

OPERATIVE PROCEDURE: Exploration of the wound, irrigation and closure and application of short leg posterior splint and a coaptation splint to the right leg.

OPERATIVE INDICATIONS: The patient is presently afebrile and the last culture was negative for any growth. Before the surgery, the patient was informed of the planned surgery and the possible risks and most pertinent complications like infection, blood clots, bleeding, she is going to need further surgery and medical complications and others.

OPERATIVE TECHNIQUE AND FINDINGS: With the patient properly identified in a supine position, she was placed under general anesthesia. The splint on the right lower extremity was removed. The wound on the right leg was found to be dry and clean. There is no drainage and there is no redness of the surrounding skin.

The fracture is very unstable.

The operative area was carefully prepped and draped in the usual sterile manner, no tourniquet was used. The sutures were removed. Some blood noted and culture and sensitivity was taken.

No further debridement was done since the wound looks good and the bones and the soft tissue irrigated with jet lavage using antibiotic solution. 6,000 cc of normal saline solution was used to irrigated the bone and the soft tissue. Tried to align the leg as much as possible and then sutured the subcutaneous tissue with 2-0 Vicryl and the skin edges with 3-0 nylon interrupted suture. Pressure dressing was applied including Sof-Rol and then a short leg posterior splint was applied and coaptation splint. Estimated blood loss: Negligible. Patient tolerated the procedure well, no apparent complications. She was sent to recovery room in satisfactory condition.

DATE _____

SIGNATURE _____

D: 02/10/2003

T: 02/10/2003

RSP/ KDK

PR: (*Y1)

**CLAREFIELD HOSPITAL
IMAGING DEPARTMENT**

(814) 768 - 2275

PATIENT:	ALLEN, SHANNON DAWN	MR #:	060773
AGE:	27 SEX: F	ADM#:	2570240
DOB:	04/22/1975	ROOM/BED:	204 B-
ORD DR:	POLINTAN, RODOLFO S	PT CLASS:	IN
ATT DR:	POLINTAN, RODOLFO S	PT TYPE:	S FC: F
ALT DR:	POLINTAN, RODOLFO S	HOSP SVC:	SUR ORDER #: 90001

REFERRING DIAGNOSIS: POST REDUCTION

CONTRAST DOCUMENTATION:

BRAND: AMT: BY:

HISTORY/ COMMENTS: @1:00

IS PATIENT PREGNANT?

LMP:

SHIELDED: NO

NO. OF FILMS: 2

FLUORO TIME:

ORDER #: 90001

02/04/2003 TIBIA-FIBULA 2 VIEWS RIGHT 73590

PROCEDURE ENDED: 02/04/2003 01:00 Initials: ARW

Post cast cross table and frontal views of the right distal tibia and fibula demonstrate the displaced fracture of the tibia and fibula along the distal third of the diaphysis of both tibia and fibula.

IMPRESSION: Cast in position.

Displaced transverse fractures of the distal third of the right tibia and fibula.

02/04/2003 OUTSIDE FILM INTERPRETATION:

(Examinations dated 2/3/03 from Philipsburg Area Hospital)

02/03/03 SUPINE CHEST:

There is cardiac enlargement without failure. There is no effusion or edema seen.

IMPRESSION: Mild cardiomegaly.

No acute disease in the chest.

02/03/03 RIGHT LOWER LEG:

A single view is submitted for interpretation of the lower right leg including the distal tibia and fibula.

There are transverse displaced fractures of the distal fibula and tibia.

READING DOCTOR: RICHARD G. WILLIAMS, M.D.
ELECTRONICALLY SIGNED: RICHARD G. WILLIAMS, M.D.
TRANSCRIBED BY: PAR 02/04/2003 01:30PM

ORDERING DR BATCH

CLEARFIELD HOSPITAL, P.O. BOX 992, CLEARFIELD, PA 16830
REPORT OF PROCEDURE

PATIENT: ALLEN, SHANNON DAWN
HOSPITAL SERVICE: SUR 204 B-
PROCEDURE DATE: 02/03/2003
SURGEON: RODOLFO S. POLINTAN, M.D.

MR# 060773

PREOPERATIVE DIAGNOSIS: Compound fracture of the distal shaft, right tibia and fibula.

POSTOPERATIVE DIAGNOSIS: Compound fracture of the distal shaft, right tibia and fibula.

ANESTHESIA: General.

OPERATIVE PROCEDURE: Excisional debridement of the compound fracture right distal tibia and fibula, irrigation, open reduction of the fracture and partial closure, and application of coaptation and posterior leg splint.

OPERATIVE INDICATIONS: The patient is a 27-year-old Caucasian female who was involved in a two vehicular accident on the night of February 3, 2003. She was the driver of one of the cars. She sustained a compound fracture of the distal shaft of the right tibia and fibula. The open wound is on the medial side of the right leg. It's about 9 cm in length and about 1.5 to 2 cm in width. There is oozing of blood, but there is no arterial bleeders.

She was initially transferred to Philipsburg Area Hospital and then subsequently transferred to Clearfield Hospital for further evaluation and management. At that time there was no anesthesiologist on duty in Philipsburg Area Hospital.

Preoperatively I discussed with the patient as well as with the mother, the severity of his injury and the benefits, risks and most pertinent complications of this surgery as well as the possible problems with this fracture, like but not limited to infection, nonunion, delayed union, blood clots, problems with the nerves and vessels. Problem with the swelling, medical complications, technical difficulties and others.

OPERATIVE TECHNIQUE AND FINDINGS: With the patient properly identified in a supine position, she was placed under general anesthesia. The right leg was carefully prepped and draped in the usual sterile manner. No tourniquet was used.

First incisional debridement of the skin and subcutaneous tissue was done. There is no obvious contamination of the wound and there was no foreign body noted.

After excisional debridement was carried out, the wound was lavaged. The fracture site exposed and then lavage was done with antibiotic solution.

12,000 cc of normal saline solution was used to lavage this compound fracture. With the aid of the bone hook the fracture is reduced, that is the tibia. Able to reduce this anatomically, but it's unstable since the fractured fibula is at the same level.

A large Penrose drain was inserted to the wound and then the wound was partially closed with 2-0 Vicryl and 3-0 nylon. Pressure dressing applied. Because of the fracture being unstable, we were not able to maintain the

* CLEARFIELD HOSPITAL, P.O. BOX 992, CLEARFIELD, PA 16830
REPORT OF PROCEDURE

PATIENT: ALLEN, SHANNON DAWN
LOCATION: SUR 204 B-

MR# 60773

reduction anatomically. Sof-Rol applied and then a coaptation short-leg splint was applied, also posterior short-leg splint. X-rays taken after the splint had set showed the fracture is in improving alignment, not anatomically reduced. The family and patient are aware that further surgery will be needed.

DATE	SIGNATURE
D: 02/05/2003	T: 02/05/2003
PR: (*Y1)	RSP/ KDK

CLEARFIELD HOSPITAL, P.O. BOX 992, CLEARFIELD, PA 16830
HISTORY AND PHYSICAL

PATIENT: ALLEN, SHANNON DAWN
LOCATION: SUR 204 B-
RODOLFO S. POLINTAN, M.D.

MR# 060773
ADM: 02/03/2003

CHIEF COMPLAINT: Pain on the right leg.

HISTORY OF PRESENT ILLNESS: Patient is a 27-year-old Caucasian female who was involved in a vehicular accident on the night of February 3, 2003. Two cars were involved. She was driving one car. She had passengers. She sustained mainly trauma to the right lower leg. She sustained a displaced fracture of the distal shaft of the right tibia and fibula with a compound wound. The compound wound is on the medial aspect of the right leg. She also sustained a bump on the head around the occipital area.

The patient was brought to the emergency room of Philipsburg Area Hospital was evaluated by the ER physician. She was given tetanus toxoid there and was given one gram of Ancef IV. The leg was dressed and splint applied.

The patient was transferred to Clearfield Hospital for further evaluation and management.

At the time of transfer the Philipsburg Area Hospital has no anesthesiologist.

PAST MEDICAL/SURGICAL HISTORY: No prior surgery, no medical problems. The patient has history of myringotomy when she was five-years-old. She is not allergic to any medication and does take any medication.

MEDICATIONS: None.

ALLERGIES: She is not allergic to any medication.

PSYCHOSOCIAL/FAMILY HISTORY: The patient lives with a friend. She does use any prosthetic or any assistive device.

SYSTEM REVIEW:

HEENT: No history of loss of consciousness. No headache. No neck pain.

CVS: No chest pains, nor palpitations.

RESPIRATORY: No shortness of breath.

GI: No abdominal pain.

GU: No complaint.

MUSCULOSKELETAL: Pain on the right lower leg. She did not complain of any numbness on the foot.

CLEARFIELD HOSPITAL, P.O. BOX 992, CLEARFIELD, PA 16830
HISTORY AND PHYSICAL

PATIENT: ALLEN, SHANNON DAWN
LOCATION: SUR 204 B-

MR# 60773
ADM: 02/03/2003

PHYSICAL EXAMINATION:

GENERAL: The patient is alert, apprehensive, very nervous.

VITALS: Temperature 36.2, pulse rate 110. Per minute respirations 26 per minute. Blood pressure 130/74. Weight 250 pounds, height 5'5".

HEENT: Head normocephalic. There is a swelling on the back of the head, but there is no cuts or any lacerations. Eyes: PERRLA. Sclerae nonicteric. Ears, nose and throat unremarkable.

NECK: Supple without any tenderness.

CHEST: No rib tenderness.

HEART: Regular rhythm.

LUNGS: Clear to auscultation. No rales. No wheezing.

BREAST: Deferred.

ABDOMEN: Soft and nontender. Obese.

EXTREMITIES: No pelvic tenderness. No hip tenderness. No knee tenderness. The right lower extremity showed an approximately 9 cm open wound on the medial aspect of the right leg at the junction of middle third and distal third. There is external rotation deformity of the right foot in relation to the leg. There is instability. Patient can wriggle the toes. The dorsalis pedis pulse is palpable. There is good capillary refill of the toes.

IMPRESSIONS: Compound fracture of the distal shaft right tibia and fibula.

DATE _____ SIGNATURE _____
D: 02/04/2003 T: 02/04/2003
PR: (*Y1)

RSP/ KDK

GA

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

SHANNON D. ALLEN

NO. 04-67-CD

V.

JOHN A. HARTZFELD

FILED

AUG 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

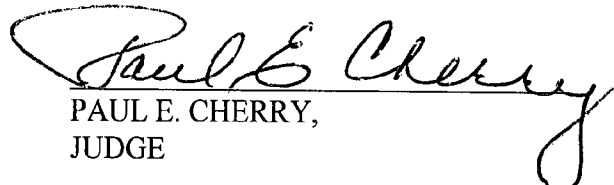
ORDER

AND NOW, this 18TH day of August, 2004, following Pre-Trial Conference, it is

the ORDER of this Court:

1. Jury Selection in this matter shall be scheduled for August 26, 2004, beginning at 9:00 A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Trial in this matter is scheduled for October 25 and 26, 2004 beginning at 9:00 A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. The deadline for providing any and all outstanding discovery shall be by and no later than thirty (30) days from this date.
4. The deadline for filing any and all Motions shall be by and no later than thirty (30) days from this date.
5. Counsel for the parties, if they so desire, may submit a Trial Brief to the Court no more than fifteen (15) days prior to the commencement of trial.
6. Points for Charge shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
7. Proposed Verdict Slip shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
8. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED 100 Atty's:
Berkey
Aug 19 2004
EIR
William A. Shaw
Prothonotary/Clerk of Courts
Toladay

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

No. 04-67-CD

**MOTION FOR SUMMARY JUDGMENT
CERTIFICATE OF SERVICE**

Filed on behalf of:
PLAINTIFF

Counsel of record for this party:

TODD BERKEY, ESQUIRE
E-mail address: tberkey@edgarsnyder.com
PA I.D. No. 43689

GEOFFREY S. CASHER, ESQUIRE
E-mail address: gcasher@edgarsnyder.com
PA I.D. No. 35309

EDGAR SNYDER & ASSOCIATES, LLC
100 West High Street
Ebensburg, PA 15931-1539

(814) 472-9000

JURY TRIAL DEMANDED

FILED

M 12:23 BA NOCC

SEP 17 2004

William A. Shaw
Pro. Secy.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

No. 04-67-CD

CIVIL DIVISION

MOTION FOR SUMMARY JUDGMENT

AND NOW, comes the Plaintiff, SHANNON D. ALLEN by her attorneys, EDGAR SNYDER & ASSOCIATES, LLC and TODD BERKEY, ESQUIRE and GEOFFREY S. CASHER, ESQUIRE, and moves for judgment in her favor. In support thereof she avers:

1. The Plaintiff, Shannon D. Allen, was severely injured in a motor vehicle accident on February 3, 2003 when she was operating her own vehicle, a 1998 Chevrolet Cavalier.

2. The accident was due to the negligence of JOHN HARTZFELD and counsel has stipulated and agreed that John Hartzfeld was solely liable for the accident complained of in this case.

3. The Plaintiff, Shannon D. Allen's vehicle, the 1998 Chevrolet Cavalier, was uninsured at the time of the accident.

4. As a result of the accident, Shannon D. Allen sustained a severe injury which consisted of a compound fracture of the right tibia and fibula shaft.

5. As a result of the collision, Shannon D. Allen sustained a severe fracture of her lower right leg which was treated surgically.

6. As a result of the fractures, on February 3, 2003, the Plaintiff had an operation which consisted of an excisional debridement of the compound fracture with irrigation of the wound, an open reduction of the fracture and partial closure of the wound with application of a splint.

7. On February 6, 2003, Shannon was taken back into the operating room whereby there was an exploration of the wound, irrigation and closure was done. There was an application of a short leg posterior splint and coaptation splint to right leg.

8. On February 7, 2003, Plaintiff underwent an additional surgical procedure whereby an open reduction and internal fixation with rodding was performed of the right fractured tibia with insertion of screws under general anesthesia.

9. While an inpatient in Clearfield Hospital, the Plaintiff underwent a course of physical therapy for leg strengthening and ambulation with a walker and was released from Clearfield Hospital on February 12, 2003.

10. Further as a result of the accident, the Plaintiff has scarring above her right ankle as a result of the compound fracture in which the tibia/fibula bones were forced through the protective skin of the Plaintiff's lower leg, causing a severe laceration to that area. (Photos of Plaintiff's scarring are attached hereto as Exhibit A.)

11. Further as a result of the surgery, the Plaintiff has significant scarring above the right knee and where the surgical implanting of the rod was performed. (Photos of Plaintiff's scarring are attached hereto as Exhibit A.)

12. The Plaintiff continues to suffer residual impairment and limitations as a result of the injuries which constitute a "serious impairment of bodily function" as a result of the accident which include the following as set forth in the Plaintiff's treating orthopedic physician, Dr. Rodolfo Polintan's Narrative Report. (A copy is attached hereto as Exhibit B.)

- a. Dr. Polintan notes in his report that Shannon has pain along the lateral aspect of the right ankle, especially with activity;
- b. Intermittent pain on the right lower extremity;
- c. Intermittent swelling;
- d. Scarring;
- e. Intermittent limp with alternation of the gait due to the fracture which the doctor believes to be permanent;
- f. Diminished capacity to crawl, crouch and bend;
- g. Permanent limitation to her ability to do work and as opined by Dr. Polintan that Shannon is limited to medium to light-types of occupation and ;
- h. Inability to do any type of labor-type occupations.

13. Additionally, the deposition testimony of the Plaintiff, Shannon Allen, is supportive of the proposition that she is entitled to non-economic damages because of a serious impairment of bodily function and/or permanent serious disfigurement. (Shannon Allen May 12, 2004 Deposition attached hereto as Exhibit C and cited as Allen Depo pg. _____.)

- a. Pain where the bone came through, very tender there. (Allen Depo pg. 49)
- b. Visible scarring approximately 6-7 inches long, with lumpy scar on left side of leg where they put pin in. (Allen Depo pg. 50)

- c. Scar continues to be reddish in color. (Allen Depo pg. 50)
- d. Scar on bottom of the base of the foot where they put the other surgical pin in. (Allen Depo pg. 50)
- e. Walking limitation and restriction of daily activity where Shannon does not walk her dog anymore. (Allen Depo pg. 51)
- f. Constant pain limits Shannon's ability to walk more than ¼ mile. (Allen Depo pg. 51)
- g. Inability to ride a stationary bike as a result of pain. (Allen Depo pg. 52)
- h. Shannon has a limp and a dull ache when she limps. (Allen Depo pgs. 52-53)
- i. Shannon can no longer kneel on the right knee. (Allen Depo pg. 50)
- j. Shannon can no longer get down on knees and scrub floors. (Allen Depo pg. 50)
- k. Shannon can no longer walk up and down stairs without stopping on each step to place both feet on said step. (Allen Depo pgs. 53-54)
- l. Shannon can't drive long distance and her leg starts to be painful after only fifteen minutes of driving. (Allen Depo pg. 54)

14. The Pennsylvania Motor Vehicle Financial Responsibility Law under 75 Pa. C.S.A. § 1705 permits a person to recover for non-economic damages if she has sustained a serious injury as set forth under the Motor Vehicle Financial Responsibility Law which is

described as follow: 75 Pa. C.S.A. § 1702 “a personal injury resulting in death, serious impairment of bodily function or permanent serious disfigurement.”

15. Plaintiff hereby requests this Court to declare that Shannon D. Allen is entitled to recover non-economic damages as a result of her serious injury and serious impairment of bodily function and/or permanent serious disfigurement.

16. That said determination is supported by Dr. Rodolfo Polintan's Narrative Medical Reports and attached photographs of the Plaintiff's scarring, as well as Plaintiff's deposition dated May 12, 2004 attached hereto.

17. Further, the Defendant has not requested nor has an independent medical examination been performed upon the person of the Plaintiff, Shannon D. Allen, and consequently the Defendant cannot argue against any of the opinions and findings of the treating orthopedic surgeon, Rodolfo Polintan.

18. That despite taking all inferences of fact to be resolved in favor of the Defendant, reasonable minds cannot differ as to the conclusion that the Plaintiff, Shannon Allen, is entitled to recover as a matter of law non-economic damages for her injuries. Washington v. Baxter, 719 A.2d 733 (1998).

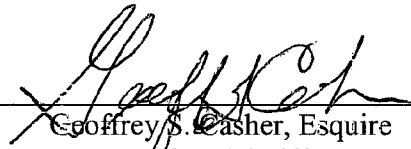
19. Thus, there being no genuine issue of material fact as to whether the Plaintiff, Shannon Allen, suffered a “serious injury” as defined by the Pennsylvania Motor Vehicle Financial Responsibility Act. The Plaintiff is entitled to Summary Judgment as a matter of law.

WHEREFORE, the Plaintiff, Shannon D. Allen, requests this Honorable Court to grant the Motion for Summary Judgment and enter an Order providing the Shannon D. Allen is

entitled to recovery of non-economic damages as a matter of law with regards to the accident of February 3, 2003.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

By 
Geoffrey S. Casher, Esquire
Attorney for Plaintiff

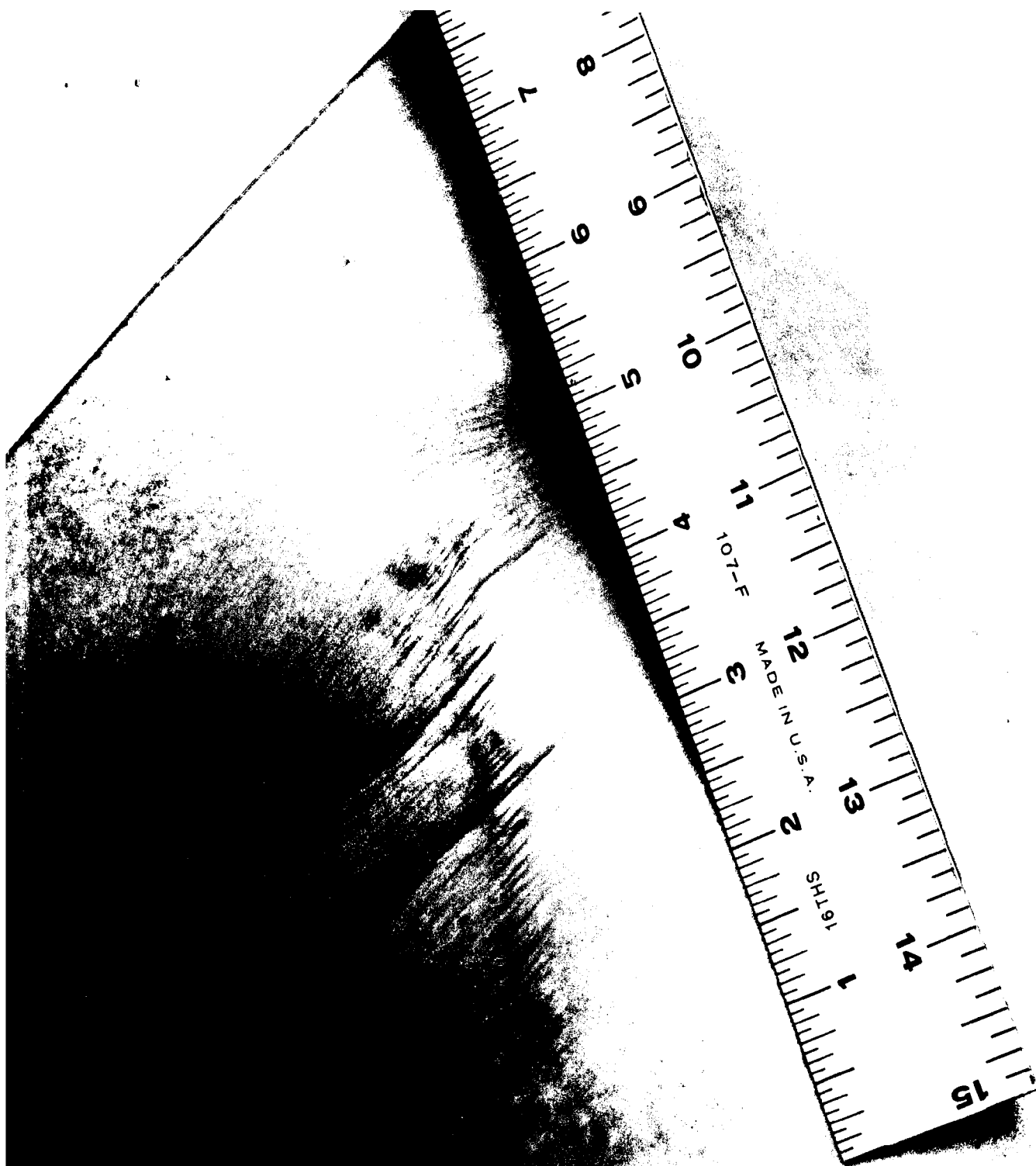
Geoffrey S. Casher, Esquire
Attorney for Plaintiff





Clearfield, PA 16830 (814) 765-4831

54322



004 NA DANON NIN+ 2 0852

Sabarschi Photographic Svc. ©

Clearfield, PA 16830 (814) 765-4837

42644 - (No. 819)

54371



009 NA QANQON NIN+ 1 0852

Sabuwesh Photographic Svc.®

Clayfield, PA 16830 (814) 765-4831

<No. 179>

54375

72644





008 NA 08A00N NNNT 2 0852

Sabavesh Photographic Svc.®

Clearfield, PA 16830 (814) 765-4831

A2644 - (No. 1 1A)

54374



Rodolfo S. Polintan, M.D., P.C.

807 Turnpike Avenue
Clearfield, Pennsylvania 16830

Telephone (814) 765-8590

Fellow:
American College of Surgeons
American Academy of Orthopaedic Surgeons
American Academy of
Neurological and Orthopaedic Surgeons
International College of Surgeons

June 1, 2004

Goeffrey S. Casher, Esquire
100 West High Street
Ebensburg, PA 15931

RE: Shannon D. Allen
Your File No.: 347677

Dear Attorney Casher:

Enclosed please find, as you had requested, copies of records and bills from 3-25-03 to the present.

The following is a narrative report as you also had requested in regards to Ms. Shannon Allen.

The initial chief complaint was pain on the right leg.

HISTORY OF PRESENT ILLNESS: The patient is a 27-year-old Caucasian female who was involved in a vehicular accident on the night of February 3, 2003. She said two cars were involved. She was the driver of one of the cars. She basically sustained trauma to the right lower extremity. She sustained a compound fracture of the distal shaft of the right tibia and fibula. She also sustained a contusion of the head.

She was initially taken to the E.R. of Philipsburg Area Hospital wherein she was stabilized and evaluated by the E.R. doctor. She was splinted and transferred to the Clearfield Hospital for further evaluation and management.

ORTHOPEDIC EXAMINATION: On February 3, 2003 showed a well developed and well nourished Caucasian female. The right lower extremity showed a 9 cm. open wound on the medial aspect of the right leg at the junction of the middle third and the distal third. There was external rotation deformity of the right foot in relation to the leg. There was instability and there was tenderness. There

EXHIBIT

B

Goeffrey S. Casher, Esquire
RE: Shannon D. Allen
June 1, 2004
Page Two

was no obvious neurological nor vascular deficit. X-rays showed a compound, displaced fracture of the distal shaft of the right tibia and fibula, and contusion of the head.

TREATMENT: (1) On February 3, 2003 she was taken to the Operating Room of the Clearfield Hospital and excisional debridement of the compound fracture, right distal tibia and fibula, irrigation, open reduction of the fracture and partial closure; application of coaptation and posterior leg splint.

(2) On 2-06-03 she was taken back to the Operating Room of the Clearfield Hospital, exploration of the wound, irrigation and closure was done. Application of a short leg posterior splint and a coaptation splint to the right leg.

(3) On 2-07-03 she was taken back to the Operating Room and open intramedullary rodding of the fractured right tibia was done and insertion of screws.

(4) Numerous visits while she was in the hospital and also follow-up visits in the office.

(5) Physical therapy, analgesics, antibiotics, wound care, and others.

The last time I saw her was on November 25, 2003. At that time she was complaining of achiness on the lateral aspect of the right ankle especially with activities. Otherwise, in my opinion, she was doing quite well considering the trauma that she sustained.

Examination at that time showed there was good range of motion of the right ankle and the right knee. Her incisions were healed, free of infection. There was no obvious tenderness on the distal tibia and fibula. She was ambulatory without any external support and without any obvious pain.

Examination at that time showed the fracture of the distal

Goeffrey S. Casher, Esquire
RE: Shannon D. Allen
June 1, 2004
Page Three

tibia healed. The fractured fibula was still healing; however, in good alignment. The intramedullary rod and screws on the right tibia were found to be stable and intact.

At that time she was instructed to do activities as tolerated, and she was told to see me in the Summer of 2004 for follow up exam and x-rays. She was told to call the office p.r.n. if needed.

It is my medical opinion, within a reasonable degree of medical certainty, that the surgeries that she had on 2-03-03, 2-06-03, and 2-07-03 were due to the injuries that she sustained from the car accident of 2-03-03. Within a reasonable degree of medical certainty, it is my opinion that Shannon has permanent injury to the right lower extremity even though the fractures are healed. She still has the sequela of this fracture. She still has the rod and screws in her right leg. She is left with some impairment: intermittent pain on the right lower extremity and intermittent swelling, and scars.

There is a great possibility of further medical treatment in regards to these injuries even on an occasional basis. I am sorry but I cannot estimate, even within a reasonable degree of medical certainty, the cost of the estimated medical treatment in the future.

Shannon, in my opinion, within a reasonable degree of medical certainty, will have the possibility of developing arthritis on the right lower extremity, the ankle, the knee and the hip. She will have intermittent limp and alteration of the gait due to the fracture. I believe this will be permanent. Due to this possibility, her capacity to do a lot of crawling, crouching, bending, is diminished. I did not appreciate on the last visit whether or not her foot angles or extends outward.

As far as work capacity is concerned, it is my opinion, within a reasonable degree of medical certainty, that she may do medium to light type of occupation. Because of the high incidence of


Goeffrey S. Casher, Esquire
RE: Shannon D. Allen
June 1, 2004
Page Four

arthritis after a fracture, I believe that it is in her best interest not to do any labor type of occupation.

To be more specific on her capacity at this time, she needs to be sent to an institution for a physical capacity evaluation. I would do this if so instructed.

Thank you very much, and it is my hope that this letter is sufficient for your purpose.

Sincerely,



R.S. Polintan, M.D., P.C.

RSP/jed
Enclosure

COPY

1

COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN,
PLAINTIFF

VS

NO. 04-67-CD

JOHN A. HARTZFELD,
DEFENDANT

DEPOSITION OF: SHANNON D. ALLEN

TAKEN BY: DEFENDANT

BEFORE: BETH A. KRUPA, REPORTER
NOTARY PUBLIC

DATE: MAY 12, 2004, 11:29 A.M.

PLACE: HANAK, GUIDO & TALADAY
498 JEFFERS STREET
DUBOIS, PENNSYLVANIA

APPEARANCES:

EDGAR SNYDER & ASSOCIATES
BY: GEOFFREY S. CASH, ESQUIRE

FOR - PLAINTIFF

HANAK, GUIDO & TALADAY
BY: MATTHEW B. TALADAY, ESQUIRE

FOR - DEFENDANT

SCHREIBER REPORTING SERVICE

EXHIBIT

C

INDEXWITNESSFOR DEFENDANTDIRECTCROSSREDIRECTRECROSS

Shannon Allen

3

STIPULATION

It is hereby stipulated by and between counsel for the respective parties that reading, signing, sealing, certification and filing are waived; and that all objections except as to the form of the question are reserved to the time of trial.

SHANNON D. ALLEN, called as a witness, being sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TALADAY:

Q Please state your full name.

A Shannon Dawn Allen.

Q What's your date of birth, Shannon?

A 4/22/75.

Q Your social security number?

A 176-64-9703.

Q Is it okay if I call you Shannon?

A Yes.

Q Where do you currently live?

A 3687 Morrisdale-Allport Highway, Number 2,

Morrisdale, PA 16858.

Q How long have you lived there?

- 1 A At that place, little over a year.
- 2 Q Who lives there with you?
- 3 A My roommate.
- 4 Q What's his or her name?
- 5 A Mandy Schmidt.
- 6 Q And where did you reside prior to your
- 7 current address?
- 8 A Right next door at 3703 Morrisdale-Allport
- 9 Highway, Number 2.
- 10 Q How long did you live at that address?
- 11 A Almost four years.
- 12 Q Let's go back now. Where did you attend
- 13 school, Shannon?
- 14 A Philipsburg-Osceola.
- 15 Q Did you graduate from high school?
- 16 A Yes.
- 17 Q In what year?
- 18 A '93.
- 19 Q What types of courses did you take in high
- 20 school?
- 21 A Academic.
- 22 Q And what kind of grades did you get?
- 23 A B's, A's.
- 24 Q Did you participate in any extracurricular
- 25 activities or sports in school?

1 A I was in the band and chorus and like the
2 silk squad.

3 Q Have you had any schooling since high school?

4 A Yes, I went to college. I took a year at
5 Bucknell and then I took half -- I guess it was half year at
6 Lock Haven.

7 Q Was your year at Bucknell immediately
8 following graduation from high school?

9 A Yes, yes.

10 Q And then half year at Lock Haven, when was
11 that?

12 A That was in '95.

13 Q And what was your reason for discontinuing
14 college?

15 A I ran out of money and I didn't get any loans
16 or grants.

17 Q What types of courses were you taking in
18 college?

19 A Computer science was what my major was going
20 to be. I was undeclared at the time.

21 Q When you left college, what was your GPA?

22 A About 2.8.

23 Q Were you working part time while you were in
24 college?

25 A No.

1 Q Were you holding any employment while you
2 were in high school?

3 A No.

4 Q What did you do after you left college in
5 '95?

6 A I got a job, I suppose, I guess.

7 Q What job was that?

8 A I think I worked at Pizza Hut. I worked at
9 Pizza Hut from '93 to '96.

10 Q Where was the Pizza Hut you worked at
11 located?

12 A I worked in Clearfield, then switched to
13 Philipsburg.

14 Q From '93 to '96 you worked at Pizza Hut. I
15 take it that you would have been working while you were in
16 college or during your breaks from college?

17 A Yes, I didn't work while I was in college,
18 but like sporadically here and there I went and I didn't
19 like have any work whenever I was in college.

20 Q What position did you hold at Pizza Hut?

21 A I was a pizza maker and I was a delivery
22 driver for Clearfield.

23 Q Do you have to have any special training to
24 be a pizza maker at Pizza Hut?

25 A No.

1 Q It's not like the guys that twirl and throw
2 it?

3 A No, it's all done by machines.

4 Q Okay. You said you worked through '96 at
5 Pizza Hut?

6 A Yes.

7 Q Had you ever worked full time at Pizza Hut?

8 A I worked 35 plus hours. I mean they didn't
9 put you on full time, because then they would have to give
10 you benefits.

11 Q What was your reason for discontinuing work
12 with Pizza Hut?

13 A I actually quit because I had a burn on my
14 hand and the manager wouldn't let me -- I had a very bad
15 burn. You can still see the scars. I didn't want to work
16 with the pizza with my hand like that. She said if you
17 leave, don't come back. I said okay.

18 Q Was that a burn that you sustained in the
19 course of your work?

20 A No, I did it at home.

21 Q Okay. So you left your job at Pizza Hut
22 because you really couldn't do the work because of your
23 injury?

24 A Yes.

25 Q When was the next time that you got a job?

- 1 A Just like right after that, like a month.
- 2 Q Had your burn healed by that point?
- 3 A Yes.
- 4 Q What job did you get after a month?
- 5 A I worked at, I think, it was a hotel at that
- 6 time. It was the motel, the Mainliner Motel in Philipsburg.
- 7 Q What was your position there?
- 8 A I just cleaned all the rooms.
- 9 Q Was that a 35, 40 hour week job?
- 10 A No, you just go in the morning, whenever
- 11 you're done, you're done.
- 12 Q Where were you living at that time?
- 13 A West Decatur.
- 14 Q And who were you living with there?
- 15 A Myself.
- 16 Q What are your parents name?
- 17 A Dorothy Gaines and Larry Allen.
- 18 Q Are your parents still together?
- 19 A No.
- 20 Q Which parent did you live with while you were
- 21 in high school?
- 22 A My mom.
- 23 Q When was the last time you lived with your
- 24 mom?
- 25 A '93.

1 Q When you were in school?

2 A Yes.

3 Q So you've been out on your own since '93?

4 A Yes.

5 Q How long did you work cleaning rooms at the

6 Mainliner Motel?

7 A Like four months and then they didn't have

8 the money anymore, so they said, sorry, we got to let you

9 go. I was like okay.

10 Q So what did you do next?

11 A I went and worked for Dominos.

12 Q Where is the Dominos located?

13 A In Clearfield.

14 Q And were you a pizza maker there also?

15 A I was a shift manager.

16 Q How many hours a week was that job?

17 A Thirty-five plus.

18 Q And what was your rate of pay at Dominos?

19 A 6.25.

20 Q When did you start work at Dominos?

21 A It was in -- I think it was June of '97.

22 Q And you started out as a shift manager?

23 A Yes.

24 Q How long did you work there?

25 A Until '98.

1 Q And what month in '98 did you leave work?
2 A August.
3 Q What was your reason for quitting Dominos?
4 A I found a better job.
5 Q What was that?
6 A It was being the manager of a cigarette
7 outlet in Port Matilda.
8 Q And you say that was a better job, I assume
9 it paid more?
10 A Yes.
11 Q What rate of pay were you making there?
12 A \$8 an hour.
13 Q When did you take that job?
14 A In September of '98.
15 Q How long did you work there?
16 A Four months, it went out of business.
17 Q During that four months, who was your
18 immediate supervisor?
19 A I don't remember the name.
20 Q When that store went out of business, did you
21 obtain or receive any type of unemployment compensation?
22 A No.
23 Q What did you do after that job finished?
24 A I went and worked for the -- it's a truck
25 stop in Kylertown, it's off Route 80. I don't remember the

1 name of it. It's had many different names.

2 Q At the interstate exit at Kylertown?

3 A Yes.

4 Q What did you do there?

5 A I was assistant manager.

6 Q When did you start that job?

7 A In November.

8 Q Of '98?

9 A Yes -- no, it wasn't November. It was in
10 February of '99.

11 Q So between September of '98 and February of
12 '99, you didn't have any employment?

13 A No, in -- whenever the job only lasted for
14 four months, right after that job, it was probably not even
15 a month I had another job.

16 Q Okay. There was only a month span between
17 jobs there?

18 A Yes.

19 Q And how long did that job last?

20 A That was a temporary job, it only lasted
21 three months.

22 Q What rate of pay were you making there?

23 A \$8 an hour.

24 Q And when you left that position, where did
25 you go?

- 1 A I went to work for my father.
- 2 Q And your father owns a construction company?
- 3 A Yes.
- 4 Q That's Larry Allen Construction?
- 5 A Yes.
- 6 Q Where is your father's business based out of?
- 7 A His home.
- 8 Q Where is that?
- 9 A In Morrisdale.
- 10 Q Had you ever worked for your father's
- 11 construction company even part time before that?
- 12 A No.
- 13 Q Did you have any special training as far as
- 14 working construction?
- 15 A No.
- 16 Q Did you receive any on-the-job training?
- 17 A Yes. I mean I worked with people who knew
- 18 what they were doing, so they helped me out.
- 19 Q When did you start working for your dad?
- 20 A February of '99, so it was right after that
- 21 job ended.
- 22 Q Okay. What was your position with your
- 23 father's company?
- 24 A Just laborer.
- 25 Q What type of activities did that involve?

1 A Roofs, windows, siding, building houses.

2 Q Does your father do both residential and
3 commercial construction?

4 A He's done like buildings and things like
5 that, but I wouldn't say -- he's mostly residential, not
6 commercial. He's done a few commercial buildings, but
7 that's it.

8 Q What was your rate of pay when you started
9 with your father?

10 A \$7.

11 Q And did that at some point increase?

12 A No.

13 Q Did you have any benefits through your
14 father's company?

15 A Other than he would give me money if I needed
16 it.

17 Q Okay. Any type of health insurance?

18 A No.

19 Q Did you have the use of a company vehicle or
20 anything of that nature?

21 A No.

22 Q At any time did your position or your job
23 responsibilities with your dad's company change?

24 A You mean that I have a different title?

25 Q Yes.

1 A No.

2 Q I was recently provided with some records
3 that indicate you had a claim of an on-the-job injury with
4 your father's company?

5 A Yes.

6 Q When did that happen?

7 A That happened in June of 2000.

8 Q And how did it happen?

9 A I was walking around the side of a house
10 carrying a piece of siding and my ankle turned over. I was
11 just walking beside a dumpster and my ankle turned over.

12 Q Was that right or left ankle?

13 A My right ankle.

14 Q Prior to that, had you ever had any problems
15 with your right ankle?

16 A Just sprains here and there whenever I was
17 younger, just, you know, whenever you're riding your bike
18 and you twist your ankle, nothing major.

19 Q Before your work incident in June of -- was
20 it 2000?

21 A I'm pretty sure it was 2000. If it wasn't
22 2000, it was 2001.

23 Q Prior to that, had you ever sought medical
24 treatment for any problems with your right ankle, knee, leg?

25 A No.

1 Q Before your work-related injury, had you ever
2 been hospitalized for any reason?

3 A I had tubes put in my ears when I was 5, so,
4 that was it.

5 Q Did you ever suffer a broken limb prior to
6 your work incident?

7 A I've had lots of broken fingers and like torn
8 ligaments in my left ankle and broken nose, but nothing
9 else.

10 Q Did you seek medical treatment for those
11 conditions?

12 A For my broken fingers and I've had three
13 casts on my left leg.

14 Q Three casts on your left leg?

15 A Yes.

16 Q But never a cast on your right leg?

17 A Not that I'm aware of.

18 Q Who was your family doctor when you were
19 growing up?

20 A Dr. Luge.

21 Q Where is he located?

22 A It's a she, she was located in Clearfield on
23 Turnpike Avenue.

24 Q How do you spell Dr. Luge?

25 A L-u-g-u-e.

1 Q She was on Turnpike Avenue in Clearfield?
2 A Yes.
3 Q Is she still practicing?
4 A Not that I'm aware of.
5 Q When was the last time you saw Dr. Lugee?
6 A When I was 18.
7 Q Have you had a regular physician since then?
8 A No.
9 Q Let's go back to talking about your work
10 injury. You injured your ankle and I take it because of
11 that you couldn't work for a period of time?
12 A Yes.
13 Q And it's my understanding that you submitted
14 a claim for workers' compensation?
15 A Yes.
16 Q How long were you on total disability
17 compensation?
18 A Total disability?
19 Q Yes.
20 A I was never on total disability. I had to
21 fight them to get them to pay for my medical bills and it's
22 just been a hassle ever since and they never -- I'm on
23 partial disability right now, but I was never on total
24 disability.
25 Q Were you represented by counsel in your

1 workers' compensation claim?

2 A Yes.

3 Q Who was that?

4 A Jim Naddeo.

5 Q From Clearfield?

6 A Yes.

7 Q Since your work injury on the construction
8 job, have you ever gone back to construction work?

9 A No.

10 Q How long was it before you obtained any type
11 of work after your work-related injury?

12 A I would say probably almost a year.

13 Q What was the next job that you took?

14 A I worked at Kephart's Hardware.

15 Q Where is that?

16 A In Philipsburg.

17 Q What type of job did you have there?

18 A Just waiting on customers and putting stock
19 away, things like that.

20 Q Sales clerk?

21 A Yes.

22 Q What was your rate of pay?

23 A Whatever minimum wage is.

24 Q And approximately how many hours per week
25 were you working?

1 A About 29.

2 Q How long did you keep that job?

3 A Three months.

4 Q What was your reason for leaving?

5 A I couldn't do it anymore with my ankle.

6 Q What type of symptoms were you experiencing

7 in your ankle?

8 A It's just I couldn't like stand on it and it

9 was bothering me and Dr. Polintan said that it would

10 probably be at least six months before it's better.

11 Q You were treating with Dr. Polintan for your

12 ankle injury?

13 A Yes.

14 Q Had you ever seen Dr. Polintan for anything

15 before your ankle injury?

16 A No.

17 Q Were you being provided with any type of

18 medication, therapy or brace for your ankle?

19 A I was -- I was receiving physical therapy and

20 I had -- first I had an air cast, then I had like a full leg

21 ugly thing, I don't know what it was. It was just something

22 you Velcro on there and it was really big.

23 Q How long did you use those braces?

24 A For as long as they told me, I don't remember

25 how long it was.

1 Q At some point before the accident that brings
2 us here today, did you discontinue using the brace or
3 support?

4 A Yes.

5 Q When was that?

6 A Probably about a year before that.

7 Q After you left your hardware store job, did
8 you seek employment?

9 A Yes.

10 Q Did you find employment?

11 A Yes.

12 Q Where at?

13 A At Progressive Business.

14 Q What type of concern is that?

15 A Annoying telemarketer.

16 Q You were doing telemarketing?

17 A Yes.

18 Q They always give them those fancy names. I
19 took it in that job you were encouraged to call people at
20 home?

21 A No, it was businesses you would call.

22 Q Okay. What was your rate of pay?

23 A Well, they say you can make 9 to \$10 an hour,
24 you really only get minimum wage.

25 Q How many hours a day were you working doing

1 that?

2 A Thirty-five a week.

3 Q How long were you able to stand that job?

4 A Well, actually they let me go because I
5 wasn't bringing in the clientele they wanted. I was only
6 there for two months.

7 Q So they terminated your employment?

8 A Yes, I wasn't a very good telemarketer.

9 Q Did you receive unemployment compensation?

10 A No.

11 Q You weren't there long enough?

12 A No.

13 Q What is the next job that you held after
14 that?

15 A I haven't had one since that.

16 Q You haven't worked since the telemarketer
17 job?

18 A Yes.

19 Q It's my understanding that you continue to
20 receive partial disability benefits from workers'
21 compensation?

22 A Yes.

23 Q Are you still treating with Dr. Polintan for
24 your ankle problem?

25 A No.

- 1 Q Let's talk about the accident that brings us
2 here today. I think we've already established that this
3 occurred just west of Philipsburg; is that right?
- 4 A Yes, right in front of McDonald's basically.
- 5 Q And you were driving what type of vehicle?
- 6 A '98 Chevy Cavalier.
- 7 Q Who did that belong to?
- 8 A Myself and my father, he was a cosigner.
- 9 Q He co-signed but the vehicle was in your
10 name?
- 11 A My name.
- 12 Q Was that vehicle paid for when the wreck
13 happened?
- 14 A No, I still owed \$2,000.
- 15 Q Do you know whether you had a valid policy of
16 insurance on that day?
- 17 A I had assumed I had, but I learned now that I
18 didn't. I had the insurance cards and everything, but. . .
- 19 Q What time of day did this wreck happen?
- 20 A 7:10 p.m.
- 21 Q Was there any type of daylight left?
- 22 A No.
- 23 Q It was dark?
- 24 A Yes.
- 25 Q What had you done that day prior to the

1 wreck?

2 A I had actually gotten a settlement in on
3 Saturday which was \$9,000 from the workers' comp people and
4 I went over to State College and did a little shopping and
5 then came home and then we decided to run into Philipsburg
6 to rent a movie and buy fish and we were going home.

7 Q You were coming from Morrisdale to
8 Philipsburg and then you were on your way home?

9 A Yes.

10 Q Who was with you?

11 A My roommate Mandy, her sister Sharon and
12 Sharon's friend Laura.

13 Q What's Sharon's last name?

14 A Schmidt.

15 Q And Laura?

16 A Sherwood.

17 Q Where does Laura live?

18 A They live in Penfield.

19 Q And what was their reason for being with you
20 that day?

21 A Because they live with me, so we all just
22 went out.

23 Q They lived with you?

24 A Yeah.

25 Q Okay. At the time they did?

1 A Yes.

2 Q So you were all roommates at that time?

3 A Yes.

4 Q What time of day did you leave your home that
5 morning?

6 A It was about -- well, I went to the bank at
7 9:00 and deposited my check and then left for State College
8 around 10:00 I would say.

9 Q And what did you do while you were in State
10 College?

11 A We went to the mall, went to Sam's Club, went
12 out to eat and just various stores.

13 Q You went to Philipsburg and did some
14 shopping, bought some items, were you returning home when
15 this happened?

16 A Yes. Well, we were getting gas, we were
17 turning to get gas, but then I was going home.

18 Q Now, where this accident happened, there were
19 two lanes either direction and a turning lane?

20 A There was one lane either direction.

21 Q One lane either direction and a turning lane?

22 A Yes.

23 Q And you had pulled or were pulling into the
24 turning lane?

25 A I was in the turning lane. I was sitting

1 there.

2 Q Did you have your turn signal activated?

3 A Yes.

4 Q Were your headlights on?

5 A Yes.

6 Q Was your car in motion or had it stopped?

7 A It had stopped.

8 Q What business were you going to go to to get
9 gasoline?

10 A The Kwik-Fill.

11 Q And obviously that would have been on your
12 left-hand side of the road?

13 A Yes.

14 Q Tell me what happened.

15 A We were sitting there, we just come from the
16 pet store and I was in the turning lane and Mandy was
17 talking to Liddy -- her name is Sharon, we call her Liddy
18 and Laura in the back seat and I was sitting there waiting
19 to turn and I go, what the hell is this guy doing. Then he
20 hit us, that quick.

21 Q What prompted your comment of, what the hell?

22 A Because I saw his vehicle turning right
23 towards me. I was like what's this guy doing and Mandy had
24 just enough time to turn and look. That was it.

25 Q What happened when the impact occurred?

1 A Like what do you mean?

2 Q What happened to you inside your vehicle?

3 A The air bags went off, Liddy and Laura hit
4 the back of the seats, because they are stupid and didn't
5 have seat belts on and Mandy hit the -- well, the air bag
6 deployed and hit her, so I guess the air bag hit her.

7 Q Was your car moved by this impact?

8 A Yes, it was pushed over the other lane up
9 onto the embankment.

10 Q I have the police accident report. In your
11 estimation, about how far was your car pushed?

12 A I couldn't tell you.

13 Q What's the first thing that you remember
14 after the impact?

15 A Mandy saying she was all wet. She thought
16 she was bleeding, here it was the fish water had exploded in
17 the front seat.

18 Q This wasn't a fish you were going to take
19 home to cook, it was a pet?

20 A Yes, it was a pet.

21 Q How did the fish make out in the accident?

22 A We were looking for it actually, so, I'm
23 sitting there, I go I think my leg is broke and I said
24 where's the fish, so -- because my leg hadn't hurt at the
25 time. It must have happened so quick that it really didn't

1 even hurt.

2 Q What was the sensation that you felt to make
3 you think your leg was broken?

4 A Because I tried to -- I went like -- I put my
5 hands underneath my thigh to try and lift my leg and my foot
6 stayed on the ground.

7 Q I take it you stayed in the car until --

8 A I wanted to get out, obviously didn't know it
9 was a compound fracture and Mandy tried to open the door and
10 she couldn't get it open, so I guess it's a good thing she
11 couldn't get it open.

12 Q Mr. Hartzfeld in his testimony mentioned that
13 he had come over to your car, do you recall that?

14 A The only thing I remember him saying, he goes
15 what happened. I said I don't know. You hit me. You tell
16 me. That's the only thing I remember.

17 Q Do you remember telling him that you thought
18 your leg was broken?

19 A I didn't say it to him directly. I just said
20 I think my leg is broken.

21 Q Did you overhear any conversations that he
22 may have had with the other occupants of your car?

23 A No.

24 Q Do you remember any conversations that you
25 had with anybody else in your car or anybody else on the

1 scene before the emergency personnel arrived?

2 A There was a guy who was behind us in the
3 accident, he actually was in the pet store with us, he came
4 out and he put a coat on me and he goes, boy, that guy was
5 flying, but, I couldn't say whether he was or not.

6 Q In the time that you had to observe the
7 vehicle that hit you, do you have any estimate as to how
8 fast it was traveling?

9 A I have no idea.

10 Q What was the first contact you had with
11 either police or emergency medical personnel at the scene?

12 A They came and opened my car door and got me
13 out of the car, the emergency people.

14 Q Briefly describe the technique they used to
15 get you out of the car.

16 A One person was inside the car and he was
17 holding onto my leg, the bottom part of my leg and the other
18 people were lifting me out, putting a stretcher underneath
19 me.

20 Q You said that at first you didn't really
21 experience any pain in the leg. Did that change at any
22 point during your extraction?

23 A Yes, not whenever they were taking me out, it
24 didn't hurt at all. They did a very good job, it didn't
25 hurt.

1 Q When did it start to hurt?

2 A Whenever I got to the hospital and they
3 started lifting me around and putting things under my leg
4 and things like that and it didn't hurt in the ambulance
5 either.

6 Q You told me that at first you didn't realize
7 you had a compound fracture. When did that become, when did
8 you become aware?

9 A When the EMT said can I have some gloves,
10 there's blood.

11 Q Apparently you have some medical knowledge to
12 know the difference between simple and compound fracture.
13 What sort of background do you have in that area?

14 A My mom is a nurse.

15 Q Have you had any first aid courses other --

16 A Just in high school.

17 Q Do you remember what type of treatment you
18 were given during your transport to the hospital?

19 A I wasn't given anything.

20 Q No type of IV or anything of that nature?

21 A No.

22 Q Which emergency room were you taken to?

23 A Philipsburg.

24 Q And briefly describe what happened there.

25 You told me that they had elevated your leg and began

1 treating you, give me a brief rundown as to what happened at
2 Philipsburg.

3 A Yes, they put a big thing of ice underneath
4 my leg and they gave me, I think two shots of morphine and
5 they did several x-rays.

6 Q Did you request some type of pain medication
7 at that point?

8 A No.

9 Q You said you noticed it started to hurt when
10 you got to the hospital?

11 A Yes.

12 Q Did the morphine shots seem to dull the
13 symptoms at all?

14 A They made my neck numb, that's about it.

15 Q You could still feel your leg?

16 A Oh, yes.

17 Q How long were you in the emergency room?

18 A At Philipsburg?

19 Q Yes.

20 A I have no idea.

21 Q What happened after you were discharged from
22 the emergency room?

23 A I don't think -- I didn't know. I was
24 transferred to Clearfield Hospital.

25 Q Okay. You were transferred to Clearfield?

- 1 A Yes.
- 2 Q Still the same evening?
- 3 A Yes.
- 4 Q What was the reason, to your understanding?
- 5 A They didn't have an anesthesiologist on duty.
- 6 Q At the time you were transferred to
- 7 Clearfield, had any type of medical procedures been done on
- 8 you?
- 9 A No.
- 10 Q Who transferred you to Clearfield?
- 11 A Ambulance.
- 12 Q Do you know which service?
- 13 A Moshannon Valley I think it was.
- 14 Q Were you given any type of treatment en route
- 15 to Clearfield?
- 16 A They gave me a shot of morphine.
- 17 Q At that point what was your understanding of
- 18 your injury?
- 19 A I just wanted them to put a cast on it and
- 20 send me home, but they said they couldn't do it. They said
- 21 I needed an operation to get it fixed.
- 22 Q So you went to Clearfield and who was the
- 23 doctor that you saw there?
- 24 A Dr. Polintan.
- 25 Q Did Dr. Polintan discuss with you what he

1 believed your injury to be?

2 A I don't remember, because I was drugged up
3 and all I remember is he said how are you doing. I said
4 good. He said I haven't seen you in a couple months. We'll
5 take good care of you. That's all I remember.

6 Q So before the operation was done, you really
7 didn't know what was --

8 A No.

9 Q Were either of your parents there?

10 A Yes, both of them were.

11 Q Both of them. The operation was done the
12 same night?

13 A One operation was done the same night.

14 Q What's your understanding of that operation?

15 A He told me that he cleaned the wound, aligned
16 the bone and put a drainage tube in.

17 Q Where on your leg was this fracture?

18 A My lower half of my leg, tibia, fibula on
19 bottom half.

20 Q The lower part, that would be sort of in the
21 shin to ankle area?

22 A Yes, probably about two inches above my
23 ankle.

24 Q Did you talk with Dr. Polintan after the
25 first operation?

- 1 A Right after, I don't know.
- 2 Q No, at some time after.
- 3 A Oh, yes.
- 4 Q And what was your understanding as to any
5 further treatment that he recommended?
- 6 A Thursday, this happened on Monday, on
7 Thursday he said that on Thursday he would go in and operate
8 again and clean it out again and make sure there's no
9 infection and then on Friday he would actually put the rod
10 in and fix all the bones.
- 11 Q So this was a series of three operations?
- 12 A Yes.
- 13 Q And the third operation that occurred on
14 Friday involved the placement of a rod into both bones or
15 just one?
- 16 A No, just the tibia.
- 17 Q And it's my understanding that in order to do
18 this operation, they had to perform an incision in a couple
19 different locations; is that right?
- 20 A They had to make two holes for the screws and
21 then on my knee.
- 22 Q You had an incision in your knee area also?
- 23 A Yes.
- 24 Q So the final operation took place on that
25 Friday?

1 A Yes.

2 Q When did you regain consciousness after that
3 operation?

4 A It was either 7:00 or 8:00 p.m.

5 Q In the evening?

6 A Yes.

7 Q And did you talk with Dr. Polintan at that
8 point?

9 A No.

10 Q When was the next time you talked with Dr.
11 Polintan?

12 A I don't recall. I know I talked to him, but
13 I don't remember when it was.

14 Q Whenever it was that you talked to him, did
15 you ask him about whether he thought the operation was
16 successful and what you might expect?

17 A No, he just said that everything went well
18 and that was about it. He looked at it and then covered me
19 back up and left.

20 Q Were you placed in any type of cast or
21 support after that operation of Friday?

22 A The first -- well, on Friday I had a splint,
23 the same splint I had on since Monday.

24 Q And they just put that on after the
25 operation?

- 1 A They put that splint on and they put ace
2 bandages around it and a knee mobilizer.
- 3 Q How long did you remain in the hospital?
- 4 A Until Tuesday.
- 5 Q And that was in Clearfield?
- 6 A No, Wednesday was when I got released.
- 7 Q That would have been from Clearfield
8 Hospital?
- 9 A Yes.
- 10 Q During the time from the operation until the
11 time you were released, did you undergo any type of physical
12 therapy?
- 13 A They came in on Monday after I was taken off
14 the morphine and after he had taken off the splint and they
15 were bending my leg and trying to get me to walk around and
16 things like that.
- 17 Q How did you feel when those things were
18 happening?
- 19 A Like crap.
- 20 Q Were you experiencing pain?
- 21 A Oh, my yes.
- 22 Q And you were on pain medication at that time?
- 23 A Yes.
- 24 Q Were you released directly from the hospital
25 to your home?

1 A Yes, I went home.
2 Q To your Morrisdale address or --
3 A Yes.
4 Q And did you have somebody there to help you
5 out with what you needed?
6 A Yes.
7 Q Who was that?
8 A My roommate Mandy.
9 Q Was Mandy working at that time?
10 A No.
11 Q Is she working now?
12 A No.
13 Q Is your apartment located on one level or are
14 there several different levels?
15 A I was on the second level.
16 Q How would you have to get to the second
17 level?
18 A Go up 37 flights of steps.
19 Q Thirty-seven separate, not 37 flights?
20 A Thirty-seven steps.
21 Q I'm sure you counted them on numerous
22 occasions.
23 A Yes.
24 Q When you first got out of the hospital, were
25 you able to get up and down the steps by yourself?

1 A My father and my stepfather had to carry me
2 up.

3 Q When you were released from the hospital,
4 were you permitted any weight bearing?

5 A No.

6 Q How long was it until you were allowed any
7 weight bearing on your right leg?

8 A I couldn't say. I would say three weeks I
9 was allowed toe touch, but probably a month and a half I was
10 allowed to start using my crutches and putting weight on it
11 then.

12 Q During that month and a half, did you have
13 any follow-up visits with Dr. Polintan?

14 A Yes, he took my stitches out and he took my
15 staples out and then I went to see him every six weeks.

16 Q During that month and a half period, are you
17 aware of any complications as far as your healing process?

18 A No, I mean he said my incision looked good
19 and I didn't have any infection.

20 Q At some point did you start physical therapy?

21 A I was -- I've had two days of physical
22 therapy that the physical therapist came to my house one day
23 and he showed me how to do these exercises and then he said
24 he would be back to show me how to go up and down the steps
25 whenever I need to go to doctor's appointments. That was

1 the only time I saw him.

2 Q Do you know whether Dr. Polintan prescribed
3 physical therapy for you?

4 A Not that I'm aware of.

5 Q How long were you using crutches?

6 A Three months.

7 Q And how long were you required to keep your
8 leg in a splint?

9 A Probably longer than I had. Two weeks after
10 the car accident, my house burned down because my heating
11 pad caught fire and my splint was burned in the fire.

12 Q Two weeks after the accident, that would have
13 been --

14 A March 1st.

15 Q Your apartment burned down?

16 A Yes, two weeks after the hospital, my splint
17 burned up in the fire.

18 Q What time of day was the fire discovered?

19 A 8:00 at night.

20 Q And who was at your house when that happened?

21 A Mandy and Liddy.

22 Q Just briefly tell me about how you found out
23 about the fire, how you got out of there?

24 A I was sitting in the living room and had just
25 ordered something to eat and I said it smells kind of smoky

1 in here. My roommate says I had to go downstairs and light
2 candles. Twenty minutes later, I said it's getting foggy in
3 here now and so they wouldn't get up to look. I said, okay,
4 I'll get up to look. I got up with my walker and walked to
5 the one bedroom and there was smoke in there and in my
6 bedroom was full of smoke and I walked out onto the deck and
7 I told Mandy to run into the bathroom and get my crutches
8 and she went in and got my crutches and I went down the
9 steps on crutches.

10 Q The bedroom where you saw all the smoke,
11 apparently you had been using a heating pad in there?

12 A Yes.

13 Q Was that something that your doctor
14 recommended that you do?

15 A If I had pain, use a heating pad.

16 Q From whom did you purchase the heating pad?

17 A It was my stepmother's.

18 Q Was that ultimately determined to be the
19 cause of the fire?

20 A Yes.

21 Q Were you able to use your crutches and get
22 out of the apartment by yourself?

23 A Not by myself, Mandy was --

24 Q She assisted you?

25 A Yes.

1 Q Was the whole building destroyed by fire?
2 A My apartment was.
3 Q And your splint was destroyed in that fire?
4 A Yes, it was in my bedroom. I had it off for
5 a few hours.
6 Q Where did you go after the fire?
7 A Right next door.
8 Q And who owned that?
9 A My dad.
10 Q Okay. Did your dad own the apartment that
11 burned also?
12 A Yes.
13 Q Does he own more than one apartment in that
14 area?
15 A No, he just owns one building.
16 Q So you went over to the other part, I take it
17 that was unoccupied?
18 A No, Mandy's mother lived in the bottom floor.
19 Q And is that the place where you live now?
20 A Yes.
21 Q So after the fire, you went next door and
22 you've lived there since?
23 A Yes.
24 Q Did you suffer any type of injury trying to
25 get away from the fire?

1 A No.

2 Q So you lost your splint two weeks after the
3 accident, had you used any type of splint then after that?

4 A No, I used that wrap.

5 Q Like an ace bandage?

6 A Except it's like tighter and it sticks to
7 itself.

8 Q And you had a walker at that time also?

9 A Um-hum.

10 Q When you were finally able to stop using
11 crutches, I think you said it was six weeks after the
12 accident?

13 A Three months.

14 Q Three months, I'm sorry. Did you require any
15 type of assistance to walk?

16 A Yes, I had to use a cane.

17 Q And how long did you have to continue to use
18 a cane?

19 A I used a cane until July.

20 Q Now, during the time period from the date of
21 the accident until July while you were still using the cane,
22 did you undertake or apply for any type of employment?

23 A No.

24 Q And at that point you were also still on your
25 partial disability claim from workers' comp?

- 1 A Yes.
- 2 Q In July when you discontinued use of the
3 cane, how was your leg feeling?
- 4 A The same as it is now.
- 5 Q Well, let's talk about that. How is it now?
- 6 A It's always sore. I mean I always have pain
7 in it, so. . .
- 8 Q Where is the pain focused?
- 9 A There's a lot in my calf and then there's up
10 front on the scar where the bone came out.
- 11 Q Have you asked Dr. Polintan about that?
- 12 A Yes.
- 13 Q What's your understanding about what's
14 causing the pain?
- 15 A He said I'll probably always have it, just
16 take Tylenol.
- 17 Q Can you describe the pain for me?
- 18 A It's just like a stabbing pain, and if I do
19 too much, it's even worse and then my ankle swells up on
20 both sides and my foot swells up and it looks like a
21 balloon. It's huge.
- 22 Q Using the ankle as one and the knee as ten
23 sort of as a measuring post, where would the pain be
24 located?
- 25 A Three.

1 Q And did I understand you to say that's the
2 area where your lower incision was?

3 A Yes.

4 Q Is there any hardware left in there?

5 A Yes.

6 Q What type of hardware is there?

7 A A rod and two screws.

8 Q And to your understanding, are there any
9 screws located in the area of this lower incision?

10 A There's only one down by my ankle, like the
11 top of my shin, but it's like down at the base of my foot.

12 Q Is the rod still present?

13 A Yes.

14 Q Did I hear you tell me that when you talked
15 to your doctor about the pain, he told you to take Tylenol?

16 A Yes.

17 Q Does that help with the pain?

18 A Yes, I take it at least twice a week.

19 Q Did Dr. Polintan place any restrictions on
20 you as far as the use of your leg as relates to your
21 fracture?

22 A The last time I saw him he said I was only
23 allowed to stand on it for no more than an hour a day.

24 Q What's your understanding for the reason of
25 that limitation?

1 A Because my second bone is not healed, he said
2 it will probably never heal.

3 Q When is the last time you saw Dr. Polintan?

4 A November.

5 Q Do you have an appointment scheduled as we
6 speak today?

7 A I see him in the summer. They said they
8 would call me in June to make an appointment.

9 Q Have you also been following up with Dr.
10 Polintan regarding your ankle?

11 A No.

12 Q When is the last time you saw Dr. Polintan
13 specifically about your ankle?

14 A November of 2000 -- 2001, whenever it
15 happened. If it was 2000, I saw him 2000. If it was in
16 2001, I saw him November of 2001.

17 Q Prior to this accident, up to the day of the
18 accident, had you continued to experience any problems with
19 your right ankle?

20 A Just the turning over all the time, it always
21 turns.

22 Q Did you have a problem with that before your
23 work injury?

24 A No.

25 Q Did you feel that you were able to return to

1 your old construction job?

2 A I wasn't released to go back to construction
3 work until March of this year.

4 Q And who released you to go back to
5 construction?

6 A Some doctor that the workers' comp people
7 sent me to.

8 Q It's my understanding that you were sent to
9 see -- I don't have the name here, but you were sent for an
10 examination by a doctor that workers' compensation had
11 picked?

12 A Yes.

13 Q That was in March of this year?

14 A Yes.

15 Q Where did that examination take place?

16 A State College.

17 Q And can you tell me generally the types of
18 questions that that doctor asked you?

19 A He just asked me if I still had any pain or
20 swelling in my ankle and he pushed on where it hurts and it
21 still hurts, but it's nothing like it was and he said you
22 probably have scar tissue in there, that's probably why it
23 hurts, because I scar badly.

24 Q Did he ask you anything about problems
25 relating to your fracture?

1 A No.

2 Q Did that doctor perform any type of physical
3 examination on you?

4 A Just touching my ankle.

5 Q Did he require you to do any type of tasks
6 like bending, stooping, picking things up?

7 A No.

8 Q Have you had any type of physical capacity
9 evaluation since the time of your work injury?

10 A No.

11 Q So I would take it you haven't had any
12 examination like that since your auto accident?

13 A No.

14 Q Do you know whether Dr. Polintan ever advised
15 you to attend rehab?

16 A For which?

17 Q For your leg injury.

18 A He said that if I wanted to, I could go to a
19 rehab station in Altoona.

20 Q And what was your response to that?

21 A I said I just want to go home.

22 Q I have a note that says you told someone that
23 you weren't interested in going to rehab; is that fair?

24 A I said I just want to go home.

25 Q Were you provided with any type of home

1 exercises to do following your fracture?

2 A Yes.

3 Q Can you briefly describe those for me?

4 A I was supposed to put a pillow under my leg
5 and under my knee and practice raising up my leg off the bed
6 in sets of tens and sit on the edge of the bed and swing my
7 leg back.

8 Q Did you ever do those exercises?

9 A Yes.

10 Q For how long?

11 A I couldn't say.

12 Q When is the last time you recall doing any of
13 those exercises?

14 A I don't know. It was after the fire, because
15 I still did them in the other place.

16 Q Okay. So at least for several weeks after
17 the injury?

18 A Yes.

19 Q As we speak today, are you on any type of
20 exercise program?

21 A No.

22 Q Has Dr. Polintan or any other physician
23 recommended any type of exercise program?

24 A No.

25 Q So as we speak right now, you have been

1 cleared to go back to construction work as regard to your
2 ankle injury?

3 A Yes.

4 Q I think if I read the report correctly, the
5 doctor recommended that you wear a brace if you're climbing
6 a ladder or walking on uneven terrain; is that right?

7 A Yes.

8 Q Do you have a brace for your ankle?

9 A I have an air cast.

10 Q Is that something that you could wear while
11 climbing a ladder or walking on --

12 A It wouldn't make much difference with a
13 ladder, but it would help prevent my ankle from turning. It
14 wouldn't stop it, but it would stabilize it a little more.

15 Q Do you currently have any pending
16 applications for employment anywhere?

17 A No.

18 Q Do you have any plans to go back to work?

19 A Yes.

20 Q In what field?

21 A I'm not sure yet.

22 Q Do you have any plans to continue your
23 education?

24 A Yes.

25 Q In what area or what field?

- 1 A Computer science.
- 2 Q Have you reapplied to go back to college?
- 3 A No, I'm paying off a loan to Lock Haven and
4 then I'm going to go back to Lock Haven.
- 5 Q To your knowledge, are there any grants or
6 loans available to you to go back to Lock Haven?
- 7 A I haven't applied for any, but I'm sure there
8 probably are.
- 9 Q Do you plan on seeking any type of employment
10 before you go back to college?
- 11 A I'm sure probably.
- 12 Q But you don't know?
- 13 A I don't know.
- 14 Q Do you have any plans to go back to work for
15 your dad?
- 16 A No.
- 17 Q Is there a position available for you at your
18 dad's business?
- 19 A Oh, yes, he would always hire me, but I could
20 never do that again.
- 21 Q And why don't you think you can do that type
22 of work?
- 23 A Because my leg doesn't permit it.
- 24 Q What about your leg wouldn't permit you?
- 25 A Well, first of all, if I stepped on something

1 or stepped on something too hard or anything of that nature,
2 I get pains up my leg and I can't walk and I can't lift
3 anything heavy because it puts the extra weight -- I mean I
4 know I'm a big girl, but the extra weight hurts my leg even
5 more.

6 Q Are the pains in the area of your ankle
7 sprain or --

8 A No, they're in my calf and then when the --
9 where the bone came through, my scar is very tender there.

10 Q The scar on the exterior of your leg?

11 A Yes.

12 Q Is that where you experience the pain on the
13 exterior of your leg?

14 A I wouldn't say it's the exterior, I would
15 just say the general area.

16 Q Your attorney provided me with some
17 photographs that showed your incision locations, apparently
18 several weeks after the accident, I believe the staples were
19 still in, do you have any more recent photographs of your
20 incision or scarring?

21 A I can show it to you.

22 Q Well, that's hard to get it on the record.

23 (Discussion held off the record.)

24 A I have some right after the staples and
25 stitches were taken out.

1 MR CASHER: No, more recent ones. I'll get
2 those to you, the ones that I took.

3 MR. TALADAY: Good.

4 BY MR. TALADAY:

5 Q Do you still believe that you have visible
6 scarring on your leg?

7 A Oh, yeah.

8 Q And can you describe for me, in your own
9 words, the scars?

10 A The one on my knee is, I think they said six
11 centimeters, I don't know centimeters, it's probably that
12 long.

13 MR CASHER: For the record --

14 A Six inches, seven inches, and it's lumpy and,
15 because I scar badly, then I have a scar on the left side
16 where they put a pin in and it's all like reddish colored
17 and then I have one at the bottom of the base of my foot
18 where they put another pin in, it's the same color and the
19 one on my leg is whitish and it's semi-flat, but it's -- it
20 has an indent in it.

21 Q I wanted to talk to you about how, if at all,
22 your life is different now after this auto accident than
23 before the accident. Are there any recreational activities
24 that you would do after your work injury but before your
25 auto accident that you won't do now?

1 A I used to walk my dog and I don't do that
2 anymore, because I can't walk long distances.

3 Q Have your doctors told you you can't walk
4 long distances or that's something --

5 A I can't do it.

6 Q The pain limits you?

7 A Yes.

8 Q About how long can you walk before your pain
9 prevents you from going further?

10 A Quarter of a mile.

11 Q Have you tried to incrementally increase that
12 distance?

13 A Yes.

14 MR CASHER: Wait until he finishes asking the
15 question.

16 A Sorry.

17 BY MR. TALADAY:

18 Q She's pretty good, but there's always that
19 gap where you know what I'm going to say before I finish my
20 words. Pretend we're on a CB radio, I have to let go of my
21 button before you start talking.

22 A Okay.

23 Q You can walk up to a quarter mile now and
24 you've tried to increase that?

25 A Yes.

1 Q And with what result?

2 A I can't do it. I have to turn around and go
3 back, because my roommate and I try to walk and I can't do
4 it.

5 Q Have you tried any other type of recreational
6 activities, bicycling or anything of that nature?

7 A I tried riding stationary bike and my knee --
8 I have like pains in my knee and I can't do it for very
9 long. I can do it for 20 minutes at a time.

10 Q In which knee?

11 A My right knee.

12 Q Have you asked your doctor about why you
13 would have pain in your knee?

14 A He said because of my limp and the way my leg
15 turns out that I will probably have to have a knee
16 replacement when I'm older. It's putting extra strain on my
17 leg, on my knee.

18 Q You walk with a limp regularly now?

19 A Yes.

20 Q Is that because of your ankle or because of
21 some other problem?

22 A No, because of the leg.

23 Q And what about the leg causes you to walk
24 with a limp?

25 A It didn't heal properly, I guess. I don't

1 know. I just have a limp. I can't say why it does it, but
2 I've had a limp since it happened.

3 Q Do you think that you limp because of some
4 discomfort or because of just some function that has
5 changed?

6 A Well, it always hurts. As soon as I walk, it
7 hurts. It's nothing that is like, you know, go to the
8 hospital hurt, but it's a dull ache.

9 Q Have you talked to your doctor about whether
10 there's any type of technique or device available to you
11 like an orthotic for in a shoe or something of that nature
12 that might help?

13 A No.

14 Q What about activities of daily living, the
15 chores that you would routinely do, things of that nature
16 that you did after your work injury but before your car
17 crash that have changed today?

18 A I can't -- I can no longer kneel on my knee
19 because of the scar on my knee, it's painful, so I can't
20 scrub the floors like I did. I have to -- I sit on my butt
21 and do it now and I can't walk up and down steps. That's
22 not a daily chore, but I can't do two at a time. I put one
23 leg on one step.

24 Q Do you usually lead with your right or your
25 left?

1 A I have no idea.

2 Q But you're telling me that you, for each step
3 at least at some point, have both feet on the same step?

4 A Yes.

5 Q Do you use the stairs less now?

6 A Well, yes, because I don't have stairs in my
7 apartment anymore and I don't usually go places that have
8 steps.

9 Q So you're on the first floor now?

10 A Yes.

11 Q And you've been there since a couple weeks
12 after the accident?

13 A Yes.

14 Q Any other ways in which you think your life
15 has changed since this car accident?

16 A I can't drive for long periods of time
17 because I get pains in my calf from it and the longest I can
18 drive I think has been two hours.

19 Q Have you asked your doctor about why your
20 calf would hurt from driving?

21 A He said that my muscle -- I had muscle damage
22 back there.

23 Q After two hours, is there something you can
24 do, like stop and rest or stretch it that would alleviate
25 the pain?

1 A My roommate usually takes over if we do
2 anything, if I go anywhere with her.

3 Q So do I take that to mean that you can travel
4 for distances over two hours, but you have difficulty
5 driving?

6 A Yes.

7 Q After some time of rest are you able to go
8 back to driving?

9 A Yes, after a period of time I would be able
10 to do it.

11 Q How long does it take before you can drive
12 without discomfort?

13 A Probably about 15 minutes.

14 Q In the records that your attorney provided,
15 it appears that some of your medical bills have been covered
16 by medical assistance?

17 A Yes.

18 Q Did you have a medical access card at the
19 time this accident occurred?

20 A No.

21 Q Did you obtain a medical access card
22 following this accident for purposes of covering your bills?

23 A Yes.

24 Q About how long after the accident did you
25 apply?

1 A I don't know, a month.

2 Q Have you received any cash assistance from
3 Pennsylvania Department of Welfare or any other source since
4 this accident?

5 A No.

6 Q I noted in your discovery responses that you
7 received a disability payment from an insurance company
8 after this accident?

9 A Yes.

10 Q What was the name of the company?

11 A Combine Insurance.

12 Q How did you get that coverage?

13 A Through my dad's business, they came to them
14 and said do you want this, I said okay.

15 Q So do I take it that was a benefit of your
16 employment with your dad?

17 A No, I'm sorry. It wasn't a benefit of
18 employment, they were just offering it. It had nothing to
19 do with him.

20 Q Did you, prior to this wreck, know that you
21 were covered or entitled to any benefit under this policy?

22 A Well, I knew if I had a stay in the hospital
23 or anything, they paid for it. I didn't know how much, but
24 I knew they paid.

25 Q This would have been a policy that your dad

1 held?

2 A It was in my name.

3 Q He purchased it for you?

4 A No, I purchased it for myself.

5 Q Through your employment?

6 A It had nothing to do with my dad's
7 employment.

8 Q When did you buy this policy?

9 A I don't remember. It was in the summertime.

10 Q Of what year?

11 A I have no idea.

12 MR. TALADAY: Off the record.

13 (Discussion held off the record.)

14 BY MR. TALADAY:

15 Q As we speak today, are you aware of any
16 unpaid medical bills from this accident?

17 A There is still an ambulance bill that needs
18 paid.

19 Q How much is that?

20 A I have no idea.

21 Q Do you have any out-of-pocket expenses from
22 this accident that have not been covered?

23 A Pain medicine.

24 Q What type of pain medicine and how much do
25 you estimate those expenses to be?

1 A It was Percocet and Darvocet and probably
2 around \$60.

3 Q When were those medications prescribed?

4 A There was one right after -- right when I got
5 out of the hospital that my mom picked up that I had to pay
6 her back for and then I got some more right after the fire
7 and I think that's it.

8 MR. TALADAY: I believe that's all the
9 questions I have. Thank you.

10 MR CASHER: Thank you.

11 (The deposition was concluded at 12:26 p.m.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

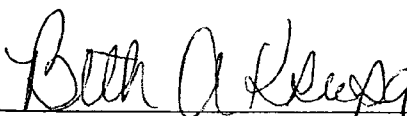
1 COUNTY OF CLEARFIELD :
2 COMMONWEALTH OF PENNSYLVANIA : ss.
3
4

5 I, Beth A. Krupa, a Reporter Notary-Public,
6 authorized to administer oaths within and for the
7 Commonwealth of Pennsylvania and take depositions in the
8 trial of causes, do hereby certify that the foregoing is the
9 testimony of SHANNON D. ALLEN.

10 I further certify that before the taking of
11 said deposition, the witness was duly sworn; that the
12 questions and answers were taken down stenographically by
13 the said Beth A. Krupa, a Reporter Notary-Public, approved
14 and agreed to, and afterwards reduced to typewriting under
15 the direction of the said Reporter.

16 I further certify that the proceedings and
17 evidence contained fully and accurately in the notes by me
18 on the within deposition, and that this copy is a correct
19 transcript of the same.

20 In testimony whereof, I have hereunto
21 subscribed my hand this 18th day of May, 2004.

22
23
24 
25 Beth A. Krupa, Reporter
Notary Public

My commission expires
on April 27, 2006.

A

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

SHANNON D. ALLEN

vs.

JOHN A. HARTZFELD

:
:
: No. 04-67-CD
:
:

ORDER

AND NOW, this 22ND day of September, 2004, upon consideration of Plaintiff's Motion for Summary Judgment filed in the above matter, it is the ORDER of the Court that argument on said Motion has been scheduled for the 11 day of October, 2004, at 10:30 A.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

FILED

SEP 23 2004

2cc
Atty Casher
w/ memo
Re: Service

William A. Shaw
Prothonotary/Clerk of Courts


PAUL E. CHERRY
Judge



COPY

OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

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

DAVID S. MEHOLICK
COURT ADMINISTRATOR

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

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

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

Please make note of the following:

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

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

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

No. 04-67-CD

ORDER OF COURT

CERTIFICATE OF SERVICE

Filed on behalf of:
PLAINTIFF

Counsel of record for this party:

TODD BERKEY, ESQUIRE
E-mail address: tberkey@edgarsnyder.com
PA I.D. No. 43689

GEOFFREY S. CASHER, ESQUIRE
E-mail address: gcasher@edgarsnyder.com
PA I.D. No. 35309

EDGAR SNYDER & ASSOCIATES, LLC
100 West High Street
Ebensburg, PA 15931-1539

(814) 472-9000

JURY TRIAL DEMANDED

FILED ⁽²⁾ NO CC
m) 1:07 PM
OCT 01 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

SHANNON D. ALLEN

vs.

JOHN A. HARTZFELD

:
:
: No. 04-67-CD
:
:

ORDER

AND NOW, this 22nd day of September, 2004, upon consideration of Plaintiff's Motion for Summary Judgment filed in the above matter, it is the ORDER of the Court that argument on said Motion has been scheduled for the 11 day of October, 2004, at 10:30 A.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

/s/ Paul E. Cherry

PAUL E. CHERRY
Judge

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

SEP 23 2004

Attest.

William L. Shaw
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

)
)
)
)
)
)
)
)
)
)

No. 04-67-CD

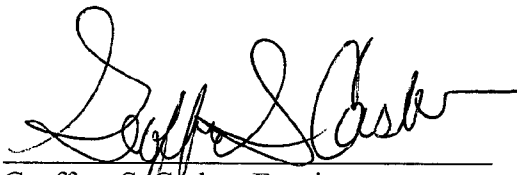
CIVIL DIVISION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **ORDER** dated **September 22, 2004** was served upon the following, by First Class Mail, postage prepaid, on this 30th day of September, 2004.

Matthew B. Taladay, Esquire
HANAK, GUIDO & TALADAY
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

EDGAR SNYDER & ASSOCIATES, LLC



Geoffrey S. Casher, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN,
Plaintiff

vs.

JOHN A. HARTZFELD,
Defendant

Type of Case: Civil Action

No. 04-67-CD

Type of Pleading:

Response to Motion
for Summary Judgment

Filed on Behalf of:

Defendant

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

(814) 371-7768

FILED 

OCT 05 2004

0/3:15/ 

William A. Shaw
Prothonotary/Clerk of Courts
ms c/c

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

SHANNON D. ALLEN,	:	
Plaintiff	:	No. 04-67-CD
	:	
-vs-	:	
	:	
JOHN A. HARTZFELD,	:	
Defendant	:	

RESPONSE TO MOTION FOR SUMMARY JUDGMENT

AND NOW, comes the Defendant, John A. Hartzfeld, by his attorneys, Hanak, Guido and Taladay, and hereby responds to Plaintiff's Motion for Summary Judgment as follows:

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

4. Denied as stated. It is admitted that Shannon D. Allen sustained a fracture to the right tibia and fibula. However, it is denied that this injury constitutes a serious injury under the Motor Vehicle Financial Responsibility law.

5. Denied as stated. However, it is admitted that Shannon D. Allen sustained a fracture to her right leg which was treated surgically.

6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.

10. Denied as stated, however, it is admitted that Plaintiff sustained a laceration.

11. Denied as stated. It is admitted that Plaintiff sustained scarring, however, it is denied that this scarring constitutes "serious, permanent disfigurement" as set forth in the Motor Vehicle Financial Responsibility Law.

12. Denied. To the contrary, the question of whether Plaintiff's injuries constitute a "serious impairment of a bodily function" is a question for the jury under the ruling of Washington vs. Baxter.

13. The deposition testimony of Shannon B. Allen is not a proper basis for summary judgment under the *Nanty Glo* Rule. The credibility of Shannon D. Allen and the extent of her impairment is a question for the jury.

14. Plaintiff's Motion correctly sets out the applicable portion of the Motor Vehicle Financial Responsibility Law.

15. The question of whether Shannon D. Allen is entitled to recover non-economic damages is a question for the jury and this issue should not be taken from the jury, except in the clearest of cases. (See Washington vs. Baxter.)

16. The testimony of Dr. Polintan and the photographs of Plaintiff's scarring may be considered by the jury in determining the issue of serious injury, which is not proper for judicial determination in this case.

17. It is admitted that Defendant has not requested an independent medical evaluation, however, the weight to be afforded the opinion testimony of Dr. Polintan is jury determination.

18. Denied. In reviewing all facts of this case in the light most favorable to the Defendant, reasonable minds could certainly differ as to whether Plaintiff, Shannon B. Allen, has suffered serious impairment of bodily function or serious and permanent disfigurement under the provisions of Washington vs. Baxter, 719 A.2d 733 (1998).

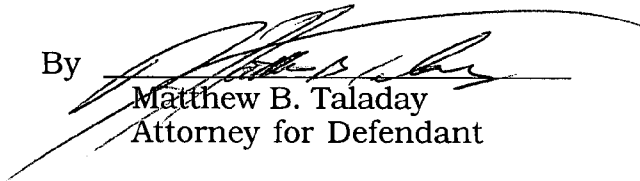
19. Denied. There remain genuine issues of material fact as to whether the Plaintiff has suffered a serious injury under the terms of the Motor Vehicle Financial Responsibility Law by entitling her to non-economic damages. This is a question for determination by the jury.

WHEREFORE, it is respectfully requested that Plaintiff's Motion for Summary Judgment be denied.

Respectfully submitted,

HANAK, GUIDO and TALADAY

By


Matthew B. Taladay
Attorney for Defendant

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

SHANNON D. ALLEN,	:	
Plaintiff	:	No. 04-67-CD
	:	
-vs-	:	
	:	
JOHN A. HARTZFELD,	:	
Defendant	:	

CERTIFICATE OF SERVICE

I certify that on the 4th day of October, 2004, a true
and correct copy of Defendant's Response to Motion for Summary
Judgment was sent via first class mail, postage prepaid, to the
following:

Todd Berkey, Esq.
Attorney for Plaintiff
Edgar Snyder & Associates, LLC
100 West High Street
Ebensburg, PA 15931-1539


Matthew B. Taladay,
Attorney for Defendant

A

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN,
Plaintiff

vs.

JOHN A. HARTZFELD,
Defendant

Type of Case: Civil Action

No. 04-67-CD

Type of Pleading:

Motion in
Limine

Filed on Behalf of:

Defendant

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

(814) 371-7768

FILED 

OCT 05 2004

0/3:15/2
William A Shaw

Prothonotary/Clerk of Courts

1 CEN to Dtr

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

SHANNON D. ALLEN,	:	
Plaintiff	:	
	:	
-vs-	:	No. 04-67-CD
	:	
JOHN A. HARTZFELD,	:	
Defendant	:	

MOTION IN LIMINE

Defendant's Motion to Preclude First Party Benefits

AND NOW, comes the Defendant, John A. Hartzfeld, by his attorneys, Hanak, Guido and Taladay, and hereby files the within Motion to Preclude First Party Benefits:

1. Plaintiff filed a claim seeking economic and non-economic damages arising out of an automobile accident of February 3, 2003, which occurred in Decatur Township, Clearfield County, Pennsylvania.
2. At the time of this incident, the Plaintiff was the owner and driver of a registered but uninsured 1998 Chevrolet Cavalier. An excerpt from Plaintiff's deposition taken for purposes of this action is attached hereto as Exhibit "A".
3. Because she was the driver of a registered but uninsured motor vehicle, Plaintiff is precluded from recovering any medical expenses or lost wages in accordance with the ruling of the Pennsylvania Superior Court in McClung vs. Breneman, 700 A.2d 495.

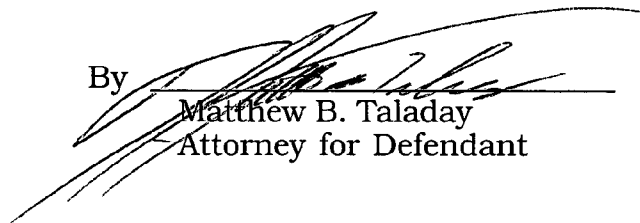
4. Defendant files the within Motion and requests the Court to preclude Plaintiff from attempting to prove or argue that the Plaintiff is in any way entitled to medical expenses or lost wages arising out of the within accident.

WHEREFORE, it is respectfully requested that the within Motion to preclude evidence be granted.

Respectfully submitted,

HANAK, GUIDO and TALADAY

By

A handwritten signature in black ink, appearing to read 'Matthew B. Taladay', is written over a horizontal line.

Matthew B. Taladay

Attorney for Defendant

ORIGINAL

1

COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN,
PLAINTIFF

VS

JOHN A. HARTZFELD,
DEFENDANT

NO. 04-67-CD

DEPOSITION OF: SHANNON D. ALLEN

TAKEN BY: DEFENDANT

BEFORE: BETH A. KRUPA, REPORTER
NOTARY PUBLIC

DATE: MAY 12, 2004, 11:29 A.M.

PLACE: HANAK, GUIDO & TALADAY
498 JEFFERS STREET
DUBOIS, PENNSYLVANIA

APPEARANCES:

EDGAR SNYDER & ASSOCIATES
BY: GEOFFREY S. CASH, ESQUIRE

FOR - PLAINTIFF

HANAK, GUIDO & TALADAY
BY: MATTHEW B. TALADAY, ESQUIRE

FOR - DEFENDANT

SCHREIBER REPORTING SERVICE

1 Q Let's talk about the accident that brings us
2 here today. I think we've already established that this
3 occurred just west of Philipsburg; is that right?

4 A Yes, right in front of McDonald's basically.

5 Q And you were driving what type of vehicle?

6 A '98 Chevy Cavalier.

7 Q Who did that belong to?

8 A Myself and my father, he was a cosigner.

9 Q He co-signed but the vehicle was in your
10 name?

11 A My name.

12 Q Was that vehicle paid for when the wreck
13 happened?

14 A No, I still owed \$2,000.

15 Q Do you know whether you had a valid policy of
16 insurance on that day?

17 A I had assumed I had, but I learned now that I
18 didn't. I had the insurance cards and everything, but. . .

19 Q What time of day did this wreck happen?

20 A 7:10 p.m.

21 Q Was there any type of daylight left?

22 A No.

23 Q It was dark?

24 A Yes.

25 Q What had you done that day prior to the

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

SHANNON D. ALLEN,
Plaintiff

-vs-

JOHN A. HARTZFELD,
Defendant

:
:
:
:
:
:
:

No. 04-67-CD

ORDER OF COURT

AND NOW, this _____ day of _____, 2004,
Defendant's motion to preclude evidence is hereby granted. Plaintiff
shall be precluded from introducing evidence of or argument for
damage consisting of medical expenses or lost wages at trial in this
matter.

BY THE COURT,

J.

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

SHANNON D. ALLEN,
Plaintiff

-vs-

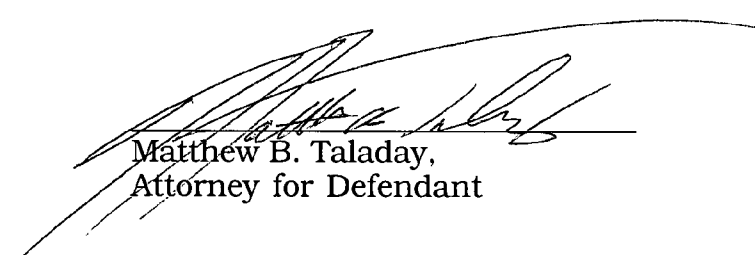
JOHN A. HARTZFELD,
Defendant

No. 04-67-CD

CERTIFICATE OF SERVICE

I certify that on the 4th day of October, 2004, a true and correct copy of Defendant's Motion in Limine was sent via first class mail, postage prepaid, to the following:

Geoffrey S. Casher, Esq.
Attorneys for Plaintiff
Edgar Snyder & Associates, LLC
100 West High Street
Ebensburg, PA 15931-1539



Matthew B. Taladay,
Attorney for Defendant

CA

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

SHANNON D. ALLEN

vs.

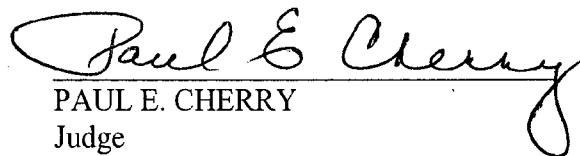
JOHN A. HARTZFELD

:
:
: No. 04-67-CD
:
:

ORDER

AND NOW, this 5th day of October, 2004, it is the Order of the Court that argument on Plaintiff's Motion for Summary Judgment in the above-captioned matter has been rescheduled from October 11, 2004 to **Wednesday, October 13, 2004 at 1:30 P.M.** in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


PAUL E. CHERRY
Judge

FILED ^{EGK}
019:2281 ^{ICC}
OCT 06 2004
Atty's: Cashner,
Talarack

A. Lynn A. Shaw
Prothonotary Clerk of Courts

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

SHANNON D. ALLEN,
Plaintiff

-vs-

JOHN A. HARTZFELD,
Defendant

No. 04-67-CD

ORDER

AND NOW, this 7th day of October, 2004,

Rule is hereby issued upon Plaintiff to show cause, if any, why
Plaintiff's Motion in Limine should not be granted.

Rule Returnable the 13 day of October,
2004, at 1:30 P M. in Courtroom No 2 of the Clearfield
County Courthouse, Second and Market Streets, Clearfield,
Pennsylvania.

BY THE COURT,

Paul E. Cherry

FILED

10:22 AM rec atty taladay
OCT 08 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

No. 04-67-CD

PLAINTIFF'S MOTION IN LIMINE

CERTIFICATE OF SERVICE

Filed on behalf of:
PLAINTIFF

Counsel of record for this party:

TODD BERKEY, ESQUIRE
E-mail address: tberkey@edgarsnyder.com
PA I.D. No. 43689

GEOFFREY S. CASHER, ESQUIRE
E-mail address: gcasher@edgarsnyder.com
PA I.D. No. 35309

EDGAR SNYDER & ASSOCIATES, LLC
100 West High Street
Ebensburg, PA 15931-1539

(814) 472-9000

JURY TRIAL DEMANDED

FILED

OCT 08 2004

WAS
WAS
William A. Shaw
Prothonotary/Clerk of Courts
no 9c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN	)	No. 04-67-CD
)	
Plaintiff,)	
)	
vs.	)	CIVIL DIVISION
)	
JOHN A. HARTZFELD)	
)	
Defendant.)	

MOTION IN LIMINE

AND NOW, comes the Plaintiff, SHANNON D. ALLEN, by and through her attorneys, EDGAR SNYDER & ASSOCIATES, LLC and GEOFFREY S. CASHER, ESQUIRE, and hereby files the within Motion in Limine and in support thereof avers the following:

1. This action was filed as a result of an automobile accident which occurred on February 3, 2003.
2. This action has proceeded through the discovery stage and a Pre-Trial was held on August 18, 2004.
3. A trial date has been scheduled in this action for October 25, 2004 and October 26, 2004 and the Defendant has stipulated to and admitted liability in this case.
4. One of the issue in this case is whether or not Shannon D. Allen suffered a serious impairment of bodily function pursuant to the Pennsylvania Motor Vehicle Financial Responsibility Act and/or she suffered permanent serious disfigurement.
5. Pursuant to the Pre-Trial, the defense has not solicited nor obtained an independent medical exam or defense medical exam of the person of Shannon D. Allen.
6. A copy of the Narrative Report prepared by Dr. Polintan, an orthopedic surgeon whose practice is in Clearfield, Pennsylvania, was attached as an exhibit to the

Plaintiff's Pre-Trial Statement, of which notice was given to the Defendant. Please find attached Dr. Polintan's Medical Report and Narrative marked Exhibit A.

7. Pursuant to said Report, Dr. Polintan has opined that Shannon D. Allen has suffered various permanent injuries and has suffered scarring.

8. Said Report indicates that Dr. Polintan opined that inter alia Shannon D. Allen has a.) "permanent injury to the right lower extremity, even though the fractures are healed"; b.) She still has Sequela of this fracture; c.) "She is left with some impairment: intermittent pain on the right lower extremity, intermittent swelling and scars"; d.) "There is a great possibility of future medical treatment..."; e.) "Shannon...will have possibility of developing arthritis on the right lower extremity, ankle, knee and hip"; f.) "She will have intermittent limp and alteration of the gait due to the fracture. I believe this will be permanent."; g.) "Due to this possibility her capacity to do a lot of crawling, crouching, bending is diminished." and h.) "As far as work capacity is concerned, it is my opinion, within a reasonable degree of medical certainty that she may do medium to light type of occupation."

9. The opinions expressed by Dr. Polintan have not been contradicted and consequently the defense should not be permitted to argue or make argument against the opinions of Dr. Polintan in this case.

10. The opinions expressed by Dr. Polintan are opinions on subjects which are "beyond the ken of the average layman." In Pennsylvania, expert testimony is admissible when "the subject on which the witness will express an opinion is so distinctively related to some science, profession, business or occupation and has to be beyond the ken of the average layman." Dambacher vs. Mallis, 48 A.2d 408 (1984); McCormick on Evidence 33 (3d Edition 1984).


11. The Plaintiff respectfully requests that the Defendant be precluded from:

- a. Entering any medical evidence in this case or medical testimony or opinion, as the defense has not given notice to the Plaintiff of any such testimony and or reports;
- b. That the Defendant be precluded from arguing causation of the injuries of the Plaintiff;
- c. That the Defendant be precluded from arguing or making argument on Shannon D. Allen's inability to do limited work activity;
- d. That the defense be precluded from arguing permanency of Shannon's injury, including her ability to walk, ambulate, alteration of gait or limitation or capacity to do a lot of crawling, crouching, bending;
- e. The Defendant should not be permitted to argue that Shannon does not have any intermittent pain on the right lower extremity, intermittent swelling and scars and that the fact that these are permanent in nature and
- f. That the Defendant should not be permitted to argue to the contrary to any of the opinions expressed by Dr. R.S. Polintan as set forth in his Narrative Report, updated Reports or Notes or other medical reports.

WHEREFORE, it is respectfully requested that an Order be entered denying the Defendant the right to make arguments on the above-listed opinions or any other opinions expressed by Dr. Rodolfo Polintan, an orthopedic surgeon.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

By 
Geoffrey S. Casher, Esquire
Attorney for Plaintiff

Rodolfo S. Polintan, M.D., P.C.

807 Turnpike Avenue
Clearfield, Pennsylvania 16830
Telephone (814) 765-8590

Fellow:
American College of Surgeons
American Academy of Orthopaedic Surgeons
American Academy of
Neurological and Orthopaedic Surgeons
International College of Surgeons

June 1, 2004

Goeffrey S. Casher, Esquire
100 West High Street
Ebensburg, PA 15931

RE: Shannon D. Allen
Your File No.: 347677

Dear Attorney Casher:

Enclosed please find, as you had requested, copies of records and bills from 3-25-03 to the present.

The following is a narrative report as you also had requested in regards to Ms. Shannon Allen.

The initial chief complaint was pain on the right leg.

HISTORY OF PRESENT ILLNESS: The patient is a 27-year-old Caucasian female who was involved in a vehicular accident on the night of February 3, 2003. She said two cars were involved. She was the driver of one of the cars. She basically sustained trauma to the right lower extremity. She sustained a compound fracture of the distal shaft of the right tibia and fibula. She also sustained a contusion of the head.

She was initially taken to the E.R. of Philipsburg Area Hospital wherein she was stabilized and evaluated by the E.R. doctor. She was splinted and transferred to the Clearfield Hospital for further evaluation and management.

ORTHOPEDIC EXAMINATION: On February 3, 2003 showed a well developed and well nourished Caucasian female. The right lower extremity showed a 9 cm. open wound on the medial aspect of the right leg at the junction of the middle third and the distal third. There was external rotation deformity of the right foot in relation to the leg. There was instability and there was tenderness. There

EXHIBIT

A

Goeffrey S. Casher, Esquire
RE: Shannon D. Allen
June 1, 2004
Page Two

was no obvious neurological nor vascular deficit. X-rays showed a compound, displaced fracture of the distal shaft of the right tibia and fibula, and contusion of the head.

TREATMENT: (1) On February 3, 2003 she was taken to the Operating Room of the Clearfield Hospital and excisional debridement of the compound fracture, right distal tibia and fibula, irrigation, open reduction of the fracture and partial closure; application of coaptation and posterior leg splint.

(2) On 2-06-03 she was taken back to the Operating Room of the Clearfield Hospital, exploration of the wound, irrigation and closure was done. Application of a short leg posterior splint and a coaptation splint to the right leg.

(3) On 2-07-03 she was taken back to the Operating Room and open intramedullary rodding of the fractured right tibia was done and insertion of screws.

(4) Numerous visits while she was in the hospital and also follow-up visits in the office.

(5) Physical therapy, analgesics, antibiotics, wound care, and others.

The last time I saw her was on November 25, 2003. At that time she was complaining of achiness on the lateral aspect of the right ankle especially with activities. Otherwise, in my opinion, she was doing quite well considering the trauma that she sustained.

Examination at that time showed there was good range of motion of the right ankle and the right knee. Her incisions were healed, free of infection. There was no obvious tenderness on the distal tibia and fibula. She was ambulatory without any external support and without any obvious pain.

Examination at that time showed the fracture of the distal

Goeffrey S. Casher, Esquire
RE: Shannon D. Allen
June 1, 2004
Page Three

tibia healed. The fractured fibula was still healing; however, in good alignment. The intramedullary rod and screws on the right tibia were found to be stable and intact.

At that time she was instructed to do activities as tolerated, and she was told to see me in the Summer of 2004 for follow up exam and x-rays. She was told to call the office p.r.n. if needed.

It is my medical opinion, within a reasonable degree of medical certainty, that the surgeries that she had on 2-03-03, 2-06-03, and 2-07-03 were due to the injuries that she sustained from the car accident of 2-03-03. Within a reasonable degree of medical certainty, it is my opinion that Shannon has permanent injury to the right lower extremity even though the fractures are healed. She still has the sequela of this fracture. She still has the rod and screws in her right leg. She is left with some impairment: intermittent pain on the right lower extremity and intermittent swelling, and scars.

There is a great possibility of further medical treatment in regards to these injuries even on an occasional basis. I am sorry but I cannot estimate, even within a reasonable degree of medical certainty, the cost of the estimated medical treatment in the future.

Shannon, in my opinion, within a reasonable degree of medical certainty, will have the possibility of developing arthritis on the right lower extremity, the ankle, the knee and the hip. She will have intermittent limp and alteration of the gait due to the fracture. I believe this will be permanent. Due to this possibility, her capacity to do a lot of crawling, crouching, bending, is diminished. I did not appreciate on the last visit whether or not her foot angles or extends outward.

As far as work capacity is concerned, it is my opinion, within a reasonable degree of medical certainty, that she may do medium to light type of occupation. Because of the high incidence of

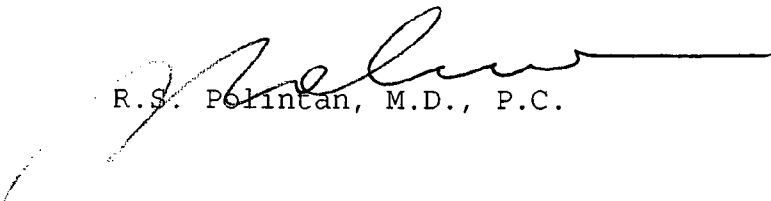
Goeffrey S. Casher, Esquire
RE: Shannon D. Allen
June 1, 2004
Page Four

arthritis after a fracture, I believe that it is in her best interest not to do any labor type of occupation.

To be more specific on her capacity at this time, she needs to be sent to an institution for a physical capacity evaluation. I would do this if so instructed.

Thank you very much, and it is my hope that this letter is sufficient for your purpose.

Sincerely,



R.S. Polintan, M.D., P.C.

RSP/jed
Enclosure

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

)
)
)
)
)
)
)
)
)
)

No. 04-67-CD

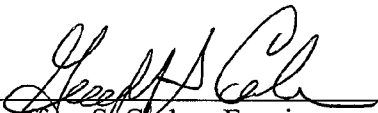
CIVIL DIVISION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **PLAINTIFF'S MOTION IN LIMINE** was served upon the following, by First Class Mail, postage prepaid, on this 7th day of October, 2004.

**Matthew B. Taladay, Esquire
HANAK, GUIDO & TALADAY
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801**

EDGAR SNYDER & ASSOCIATES, LLC



Geoffrey S. Casher, Esquire
Attorney for Plaintiff

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

No. 04-67-CD

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

PLAINTIFF'S MOTION IN LIMINE

CERTIFICATE OF SERVICE

Filed on behalf of:
PLAINTIFF

Counsel of record for this party:

TODD BERKEY, ESQUIRE
E-mail address: tberkey@edgarsnyder.com
PA I.D. No. 43689

GEOFFREY S. CASHER, ESQUIRE
E-mail address: gcasher@edgarsnyder.com
PA I.D. No. 35309

EDGAR SNYDER & ASSOCIATES, LLC
100 West High Street
Ebensburg, PA 15931-1539

(814) 472-9000

JURY TRIAL DEMANDED

FILED *NO*
010:1564 *CC*
OCT 12 2004
Shaw
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

)
)
)
)
)
)
)
)
)
)

No. 04-67-CD

CIVIL DIVISION

ORDER OF COURT

AND NOW, this _____ day of _____, 2004, after consideration of the Plaintiff's Motion in Limine, it is hereby Ordered that the Defendant or his counsel or any other witnesses are hereby precluded from referencing, mentioning, questioning or answering questions regarding the Plaintiff's prior workers' compensation injury, settlement or facts or making any other reference to said issue at the trial in this case.

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN	)	No. 04-67-CD
)	
Plaintiff,)	
)	
vs.	)	CIVIL DIVISION
)	
JOHN A. HARTZFELD)	
)	
Defendant.)	

MOTION IN LIMINE

AND NOW, comes the Plaintiff, SHANNON D. ALLEN, by and through her attorneys, EDGAR SNYDER & ASSOCIATES, LLC and GEOFFREY S. CASHER, ESQUIRE, and hereby files the within Motion in Limine and in support thereof avers the following:

1. This action was filed as a result of an automobile accident which occurred on February 3, 2003.
2. This action has proceeded through the discovery stage and a Pre-Trial was held on August 18, 2004.
3. A trial date has been scheduled in this action for October 25, 2004 and October 26, 2004 and the Defendant has stipulated to and admitted liability in this case.
4. One of the issue in this case is whether or not Shannon D. Allen suffered a serious impairment of bodily function pursuant to the Pennsylvania Motor Vehicle Financial Responsibility Act and/or she suffered permanent serious disfigurement.
5. Pursuant to the Pre-Trial, the defense has not solicited nor obtained an independent medical exam or defense medical exam of the person of Shannon D. Allen.
6. As part of the discovery process, defense counsel Matthew Taladay took the deposition testimony of Shannon D. Allen on May 12, 2004.

7. During the questioning of the Plaintiff, Attorney Taladay inquired into a prior on-the-job injury while employed with the Plaintiff's father's company. (Attached please find appropriate deposition testimony of Shannon D. Allen taken on May 12, 2004.) As a result of the on-the-job injury, the Plaintiff suffered a right ankle injury in June of 2001. For a period of time, the Plaintiff was off work and on partial disability.

8. Plaintiff subsequently was employed.

9. Plaintiff believes that the Defendant will inquire at trial as to the workers' compensation injury, partial disability benefits or other settlement of that workers' compensation case.

10. The Plaintiff believes that she will be prejudiced by said inquiry and that that inquiry is not relevant to the case herein and will only create bias and/or prejudice against the Plaintiff.

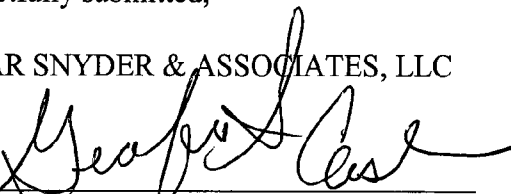
11. That the inquiry will be an attempt to insight prejudice in the minds of the Jury and divert attention away from the real issues with regards to the merits of the case.

WHEREFORE, the Plaintiff respectfully requested that your Honorable Court enter an Order prohibiting the defense counsel, Matthew Taladay, or any other defense counsel from inquiring as to the workers' compensation injury of June 2000/2001 or as to any payments, settlements or issues and/or facts regarding said workers' compensation injury.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

By



Geoffrey S. Casher, Esquire
Attorney for Plaintiff

1 A Roofs, windows, siding, building houses.

2 Q Does your father do both residential and
3 commercial construction?

4 A He's done like buildings and things like
5 that, but I wouldn't say -- he's mostly residential, not
6 commercial. He's done a few commercial buildings, but
7 that's it.

8 Q What was your rate of pay when you started
9 with your father?

10 A \$7.

11 Q And did that at some point increase?

12 A No.

13 Q Did you have any benefits through your
14 father's company?

15 A Other than he would give me money if I needed
16 it.

17 Q Okay. Any type of health insurance?

18 A No.

19 Q Did you have the use of a company vehicle or
20 anything of that nature?

21 A No.

22 Q At any time did your position or your job
23 responsibilities with your dad's company change?

24 A You mean that I have a different title?

25 Q Yes.

1 A No.

2 Q I was recently provided with some records
3 that indicate you had a claim of an on-the-job injury with
4 your father's company?

5 A Yes.

6 Q When did that happen?

7 A That happened in June of 2000.

8 Q And how did it happen?

9 A I was walking around the side of a house
10 carrying a piece of siding and my ankle turned over. I was
11 just walking beside a dumpster and my ankle turned over.

12 Q Was that right or left ankle?

13 A My right ankle.

14 Q Prior to that, had you ever had any problems
15 with your right ankle?

16 A Just sprains here and there whenever I was
17 younger, just, you know, whenever you're riding your bike
18 and you twist your ankle, nothing major.

19 Q Before your work incident in June of -- was
20 it 2000?

21 A I'm pretty sure it was 2000. If it wasn't
22 2000, it was 2001.

23 Q Prior to that, had you ever sought medical
24 treatment for any problems with your right ankle, knee, leg?

25 A No.

1 Q Before your work-related injury, had you ever
2 been hospitalized for any reason?

3 A I had tubes put in my ears when I was 5, so,
4 that was it.

5 Q Did you ever suffer a broken limb prior to
6 your work incident?

7 A I've had lots of broken fingers and like torn
8 ligaments in my left ankle and broken nose, but nothing
9 else.

10 Q Did you seek medical treatment for those
11 conditions?

12 A For my broken fingers and I've had three
13 casts on my left leg.

14 Q Three casts on your left leg?

15 A Yes.

16 Q But never a cast on your right leg?

17 A Not that I'm aware of.

18 Q Who was your family doctor when you were
19 growing up?

20 A Dr. Luge.

21 Q Where is he located?

22 A It's a she, she was located in Clearfield on
23 Turnpike Avenue.

24 Q How do you spell Dr. Luge?

25 A L-u-g-u-e.

1 Q She was on Turnpike Avenue in Clearfield?
2 A Yes.
3 Q Is she still practicing?
4 A Not that I'm aware of.
5 Q When was the last time you saw Dr. Lague?
6 A When I was 18.
7 Q Have you had a regular physician since then?
8 A No.
9 Q Let's go back to talking about your work
10 injury. You injured your ankle and I take it because of
11 that you couldn't work for a period of time?
12 A Yes.
13 Q And it's my understanding that you submitted
14 a claim for workers' compensation?
15 A Yes.
16 Q How long were you on total disability
17 compensation?
18 A Total disability?
19 Q Yes.
20 A I was never on total disability. I had to
21 fight them to get them to pay for my medical bills and it's
22 just been a hassle ever since and they never -- I'm on
23 partial disability right now, but I was never on total
24 disability.
25 Q Were you represented by counsel in your

1 workers' compensation claim?

2 A Yes.

3 Q Who was that?

4 A Jim Naddeo.

5 Q From Clearfield?

6 A Yes.

7 Q Since your work injury on the construction

8 job, have you ever gone back to construction work?

9 A No.

10 Q How long was it before you obtained any type

11 of work after your work-related injury?

12 A I would say probably almost a year.

13 Q What was the next job that you took?

14 A I worked at Kephart's Hardware.

15 Q Where is that?

16 A In Philipsburg.

17 Q What type of job did you have there?

18 A Just waiting on customers and putting stock

19 away, things like that.

20 Q Sales clerk?

21 A Yes.

22 Q What was your rate of pay?

23 A Whatever minimum wage is.

24 Q And approximately how many hours per week

25 were you working?

1 A About 29.

2 Q How long did you keep that job?

3 A Three months.

4 Q What was your reason for leaving?

5 A I couldn't do it anymore with my ankle.

6 Q What type of symptoms were you experiencing
7 in your ankle?

8 A It's just I couldn't like stand on it and it
9 was bothering me and Dr. Polintan said that it would
10 probably be at least six months before it's better.

11 Q You were treating with Dr. Polintan for your
12 ankle injury?

13 A Yes.

14 Q Had you ever seen Dr. Polintan for anything
15 before your ankle injury?

16 A No.

17 Q Were you being provided with any type of
18 medication, therapy or brace for your ankle?

19 A I was -- I was receiving physical therapy and
20 I had -- first I had an air cast, then I had like a full leg
21 ugly thing, I don't know what it was. It was just something
22 you Velcro on there and it was really big.

23 Q How long did you use those braces?

24 A For as long as they told me, I don't remember
25 how long it was.

1 Q At some point before the accident that brings
2 us here today, did you discontinue using the brace or
3 support?

4 A Yes.

5 Q When was that?

6 A Probably about a year before that.

7 Q After you left your hardware store job, did
8 you seek employment?

9 A Yes.

10 Q Did you find employment?

11 A Yes.

12 Q Where at?

13 A At Progressive Business.

14 Q What type of concern is that?

15 A Annoying telemarketer.

16 Q You were doing telemarketing?

17 A Yes.

18 Q They always give them those fancy names. I
19 took it in that job you were encouraged to call people at
20 home?

21 A No, it was businesses you would call.

22 Q Okay. What was your rate of pay?

23 A Well, they say you can make 9 to \$10 an hour,
24 you really only get minimum wage.

25 Q How many hours a day were you working doing

1 that?

2 A Thirty-five a week.

3 Q How long were you able to stand that job?

4 A Well, actually they let me go because I
5 wasn't bringing in the clientele they wanted. I was only
6 there for two months.

7 Q So they terminated your employment?

8 A Yes, I wasn't a very good telemarketer.

9 Q Did you receive unemployment compensation?

10 A No.

11 Q You weren't there long enough?

12 A No.

13 Q What is the next job that you held after
14 that?

15 A I haven't had one since that.

16 Q You haven't worked since the telemarketer
17 job?

18 A Yes.

19 Q It's my understanding that you continue to
20 receive partial disability benefits from workers'
21 compensation?

22 A Yes.

23 Q Are you still treating with Dr. Polintan for
24 your ankle problem?

25 A No.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

)
)
)
)
)
)
)
)
)
)

No. 04-67-CD

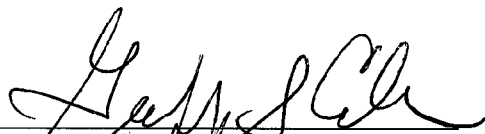
CIVIL DIVISION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **PLAINTIFF'S MOTION IN LIMINE** was served upon the following, by First Class Mail, postage prepaid, on this 12th day of October, 2004.

**Matthew B. Taladay, Esquire
HANAK, GUIDO & TALADAY
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801**

EDGAR SNYDER & ASSOCIATES, LLC


Geoffrey S. Casher, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

No. 04-67-CD

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

**PLAINTIFF'S SUPPLEMENT TO
MOTION FOR SUMMARY JUDGMENT**

CERTIFICATE OF SERVICE

Filed on behalf of:
PLAINTIFF

Counsel of record for this party:

TODD BERKEY, ESQUIRE
E-mail address: tberkey@edgarsnyder.com
PA I.D. No. 43689

GEOFFREY S. CASHER, ESQUIRE
E-mail address: gcasher@edgarsnyder.com
PA I.D. No. 35309

EDGAR SNYDER & ASSOCIATES, LLC
100 West High Street
Ebensburg, PA 15931-1539

(814) 472-9000

JURY TRIAL DEMANDED

FILED ^{ELK}
019:1661 ^{NO}
OCT 12 2004 ^{CC}

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

)
)
)
)
)
)
)
)
)
)

No. 04-67-CD

CIVIL DIVISION

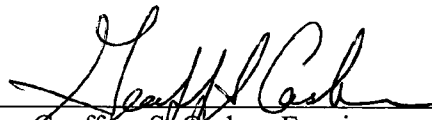
SUPPLEMENT TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT
SUPPLEMENTAL NARRATIVE REPORT FROM DR. RODOLFO S. POLINTAN

Attached herein you will find Dr. Rodolfo S. Polintan's Supplemental Narrative Report dated October 7, 2004 to supplement the Plaintiff's Motion for Summary Judgment dated September 16, 2004.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

By



Geoffrey S. Casher, Esquire
Attorney for Plaintiff

Rodolfo S. Polintan, M.D., P.C.

807 Turnpike Avenue
Clearfield, Pennsylvania 16830

Telephone (814) 765-8590

Fellow:
American College of Surgeons
American Academy of Orthopaedic Surgeons
American Academy of
Neurological and Orthopaedic Surgeons
International College of Surgeons

October 7, 2004

Attorney Goeffrey S. Casher
Edgar Snyder & Associates
100 West High Street
Ebensburg, PA 15931

RE: Shannon D. Allen

Dear Attorney Casher:

This is in response to your letter dated September 14, 2004 requesting more information in regards to Ms. Allen.

I did review Ms. Allen's chart and also I read your letter.

The following statements are within a reasonable degree of medical certainty.

Question #1. It is my opinion that the compound fractures that Shannon suffered in the car accident of 02-03-04 were very serious injuries that could have lead to osteomyelitis, nonunion, loss of function, deformity, and she could even have lost the leg completely. Fortunately she didn't develop any of these complications.

Question #2. I do believe with certainty that Ms. Allen suffered a serious impairment to her function of the leg including, but not limited to, pain, swelling, inability to ambulate without an appliance, decrease in her mobility, function, strength, and others while the fractures while the fractures were healing.

Question #3. I believe that Shannon suffered a permanent injury to her leg due to her subjective symptoms of intermittent soreness on the right knee and also on the right lower leg laterally. She also notices some swelling of the right leg intermittently especially with use.

Because of this pain and swelling, although only intermittent, it decreases her mobility and ability to stand for a long time, bend, and squat, and others.

Attorney Goeffrey S. Casher
RE: Shannon D. Allen
October 7, 2004
Page Two

Question #4. Because of her above symptoms, Shannon has restriction on her ability to work in the future. I don't believe that she could perform any labor type of occupation that needs a lot of squatting, bending, standing, walking, and others. As of this date I did not place any strict restriction on her but she may do any work that she could tolerate. For more specific work limitation, she needs to be referred to a institution for work capacity evaluation.

Question #5. Ms. Allen, in my opinion, has substantial risk of developing traumatic arthritis on her right ankle, right knee, and right hip. If this traumatic arthritis does occur, it will affect her gait, ambulation, work status, and others.

Question #6. As far as additional medical treatment in the future, it depends if she develops any complications from these fractures like, as I mentioned above, traumatic arthritis of her knee, ankle and hip. The type of treatment to be rendered depends on her symptoms, physical findings and x-rays at the time.

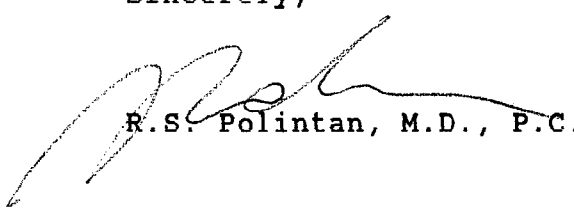
Question #7. I do believe that based on her injuries that Shannon will continue to suffer from intermittent pain and discomfort on her right leg.

In answer to the last two questions that you have about her current condition and complaints and results of most recent examination, I have enclosed a copy of the last office notes dated 9-13-04.

Thank you, and I hope that I answered your questions to your satisfaction, and should you have any questions, please feel free to call me.

Sincerely,

RSP/jed
Enclosure


R.S. Polintan, M.D., P.C.

SHANNON ALLEN

//.22-75-

9-13-2004

The patient returned to the office for follow up. She is working now at Target in State College. She is complaining of some intermittent soreness on the right knee and also on the right lower leg laterally. Also she noticed that the size of the right leg is slightly bigger in comparison to the left.

EXAMINATION: She is ambulatory without any appliance. She is obviously overweight. Examination of the right knee showed good range of motion. There is a scar anteriorly. No instability; no deformities. There is a hypertrophic scar anteriorly.

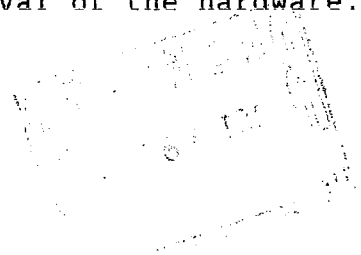
Examination of the right lower leg showed no deformities; mild soft tissue swelling laterally. Right ankle has good range of motion. No real tenderness that I elicited.

X-rays of the right tibia and fibula revealed the fractures are healed. The rod and screws are stable.

IMPRESSION: (1) Healed fracture of the right tibia and fibula shaft. (2) Status post IM rodding of the fractured right tibia with proximal and distal fixation. (3) Obesity. (4) Residual swelling of the right leg secondary to her fracture. (5) Intermittent soreness of the right lower leg secondary to her old injury.

PLAN AND RECOMMENDATION: No active management is necessary at this point. She may do activities as tolerated and I told her to contact the office should there be any problems in the future. I did discuss indication for removal of the hardware.

RSP/jed



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD

Defendant.

)
)
)
)
)
)
)
)
)

No. 04-67-CD

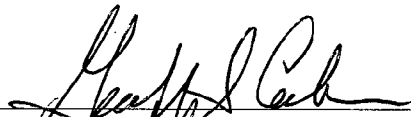
CIVIL DIVISION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **PLAINTIFF'S SUPPLEMENT TO MOTION FOR SUMMARY JUDGMENT** was served upon the following, by First Class Mail, postage prepaid, on this 12th day of October, 2004.

**Matthew B. Taladay, Esquire
HANAK, GUIDO & TALADAY
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801**

EDGAR SNYDER & ASSOCIATES, LLC



Geoffrey S. Cashner, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN,
Plaintiff

vs.

JOHN A. HARTZFELD,
Defendant

Type of Case: Civil Action

No. 04-67-CD

Type of Pleading:

Response to
Motion in Limine

Filed on Behalf of:

Defendant

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

(814) 371-7768

FILED NO CC
01/20/04
OCT 13 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

SHANNON D. ALLEN,	:	
Plaintiff	:	No. 04-67-CD
	:	
-vs-	:	
	:	
JOHN A. HARTZFELD,	:	
Defendant	:	

RESPONSE TO MOTION IN LIMINE

AND NOW, comes the Defendant, John A. Hartzfeld, by his attorneys, Hanak, Guido and Taladay, and hereby responds to Plaintiff's Motion in Limine as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Denied as stated. The opinions set forth in the Narrative Report, which will form the basis for Dr. Polintan's trial testimony, is subject to juror's scrutiny, and the jurors are free to accept or reject this opinion.
8. It is admitted that paragraph 8 of Plaintiff's Motion includes language of Dr. Polintan's report. However, any opinions to which the doctor will testify at trial are subject to the scrutiny of the jury who are free to accept or reject any or all of this testimony. See

PA Standard Suggested Jury Instruction 5.30; see also Commonwealth vs. Henry, 524 Pa. 135, 469 A.2d 929 (1990).

9. Denied. Defendant is entitled to vigorously cross examine Dr. Polintan and examine any and all witnesses and to zealously present any argument regarding what weight, if any, should be accorded Plaintiff's expert's testimony. Swartz vs. General Electric Company, 327 Pa.Super. 58, 474 A.2d 1172 (Pa.Super. 1984).

10. It is admitted that the opinions of Dr. Polintan are admissible as expert testimony. However, the weight, if any, to be accorded this testimony is solely within the providence of the jury.

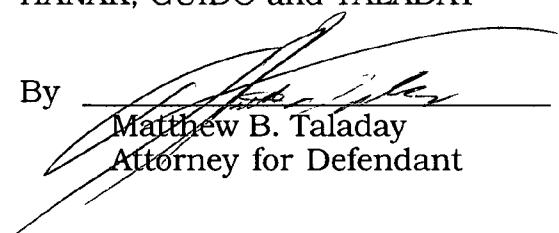
11. The Plaintiff's Motion in Limine should be denied because the termination of all issues set forth in paragraph 11, subparagraphs (a) through (f) of Plaintiff's Motion in Limine are fairly within the providence of the jury. Defendant should be permitted to question witnesses and present argument in furtherance of available defenses.

WHEREFORE, it is respectfully requested that Plaintiff's Motion in Limine be denied.

Respectfully submitted,

HANAK, GUIDO and TALADAY

By


Matthew B. Taladay
Attorney for Defendant

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

SHANNON D. ALLEN,	:	
Plaintiff	:	No. 04-67-CD
	:	
-vs-	:	
	:	
JOHN A. HARTZFELD,	:	
Defendant	:	

CERTIFICATE OF SERVICE

I certify that on the 12th day of October, 2004, a true and correct copy of Defendant's Response to Motion in Limine was forwarded via fax transmission and regular mail, postage prepaid, to the following:

Geoffrey S. Casher, Esq.
Attorney for Plaintiff
Edgar Snyder & Associates, LLC
100 West High Street
Ebensburg, PA 15931-1539
FAX: (814) 472-9411


Matthew B. Taladay,
Attorney for Defendant

CR

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

SHANNON D. ALLEN

vs.

JOHN A. HARTZFELD

:
:
: No. 04-67-CD
:
:

ORDER

AND NOW, this 13th day of October, 2004, upon
consideration of Plaintiff's Motion in Limine filed in the above matter, it is the
ORDER of the Court that argument on said Motion has been scheduled for the
13 day of October, 2004, at 1:30 P..M, in Courtroom
No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Paul E. Cherry
PAUL E. CHERRY
Judge

EGK
FILED ^{icc}
OCT 14 2004 ^{Arts:}
Casher, Tolachy

William A. Shaw
Prothonotary/Clerk of Courts

UP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

SHANNON D. ALLEN

:

VS.

: NO. 04-67-CD

JOHN A. HARTZFELD

:

O R D E R

NOW, this 13th day of October, 2004, this being the date set for argument on Motion in Limine filed by the Defendant and upon agreement of the parties, it is the ORDER of this Court that said Motion in Limine be and is hereby granted and the Plaintiff is precluded from offering any evidence for recovery of any medical expenses or lost wages.

As to Motion in Limine filed by the Plaintiff, said motion be and is hereby granted and Defendant is precluded from entering any medical evidence in the case or opinion of any medical expert or reports.

The Court will issue further ruling on the remaining issues as to future lost earning capacity and Motion for Summary Judgment filed by the Plaintiff.

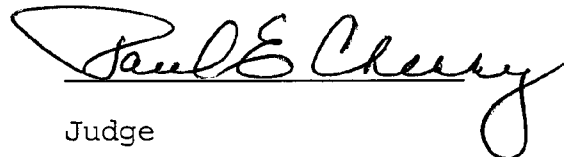
BY THE COURT:

FILED

EGH

O 10:50 PM 1 cc atty Cashier
2 cc atty Fulaboy

OCT 14 2004


Judge

William A. Shaw
Prothonotary

6X

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN

Plaintiff,

vs.

JOHN A. HARTZFELD and
ERIE INSURANCE GROUP

Defendant.

CIVIL DIVISION

No. 04-67-CD

**PLAINTIFF'S MOTION IN LIMINE TO
PRECLUDE EVIDENCE OF
UNRELATED PRIOR MEDICAL
CONDITIONS/INJURIES AND MOTION
TO STRIKE PORTIONS OF DR.
POLINTAN'S CROSS-EXAMINATION
REGARDING PRIOR UNRELATED
MEDICAL CONDITIONS/INJURIES**

Filed on behalf of:
PLAINTIFF

Counsel of record for this party:

TODD BERKEY, ESQUIRE
PA I.D. No. 43689

Firm No. 1605

EDGAR SNYDER & ASSOCIATES, LLC
Gulf Tower, Sixteenth Floor
707 Grant Street
Pittsburgh, PA 15219-1925

(412) 394-1000

JURY TRIAL DEMANDED

FILED

3:29 64 NOV

OCT 22 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN	)	CIVIL DIVISION
)	
Plaintiff,	)	NO.: 04-67-CD
)	
vs.)	
)	
JOHN A. HARTZFELD)	
)	
Defendant.)	

**PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF UNRELATED
PRIOR MEDICAL CONDITIONS/INJURIES AND MOTION TO STRIKE PORTIONS
OF DR. POLINTAN'S CROSS-EXAMINATION REGARDING PRIOR UNRELATED
MEDICAL CONDITIONS OR INJURIES**

AND NOW, comes the Plaintiff, SHANNON D. ALLEN, by and through her attorneys, EDGAR SNYDER & ASSOCIATES, LLC, TODD BERKEY, ESQUIRE and GEOFFREY S. CASHER, ESQUIRE, to file this Motion in Limine as follows:

1. The injuries which plaintiff, SHANNON ALLEN, sustained in the automobile accident of February 3, 2003 are open displaced compound fractures of the right tibia and fibula.
2. Dr. Rodolfo Polintan is plaintiff's treating orthopedic surgeon. Dr. Polintan's deposition was taken on Wednesday, October 20, 2004. Dr. Polintan testified at his deposition about the care and treatment he rendered to plaintiff as a result of the serious fractures she sustained in this automobile accident as well as his opinions with respect to her prognosis, including limitations and restrictions on her activities and work limitations and restrictions. Dr. Polintan testified that all of the care and treatment which he rendered to plaintiff as well as his opinions with respect to plaintiff's prognosis, including the limitations and restrictions he placed on her activities, as well as work limitations and restrictions were all directly related to the open displaced compound tibia and fibula fractures.

3. On cross-examination, defense counsel asked Dr. Polintan questions regarding a prior right ankle sprain which plaintiff suffered in August, 2001. Defense counsel asked several questions of Dr. Polintan regarding the ankle strain and/or tendonitis which plaintiff suffered in August, 2001.

4. Dr. Polintan testified he treated plaintiff for very short/brief period of time for that injury and, in fact, the last time he saw/treated the plaintiff for this injury was in October, 2001. At that time, he referred plaintiff to a podiatrist.

5. From October, 2001 until February 3, 2003, Dr. Polintan did not treat or see plaintiff for the ankle sprain/tendonitis condition. During that time period, plaintiff never called the doctor's office and/or never reported to the doctor that she was still experiencing any kind of problems, conditions, symptoms or concerns with her right ankle.

6. Dr. Polintan testified that from the date of the automobile accident of February 3, 2003 until the time he last saw plaintiff, which was September 13, 2004, plaintiff never mentioned to the doctor anything about her ankle sprain and/or that she was still experiencing any problems, conditions and/or symptoms with respect to her right ankle and/or receiving any treatment for her ankle.

7. Defense counsel will not be able to offer or present any evidence and/or testimony at the trial which will, in any way, substantiate the fact that at the time of the motor vehicle accident in question, plaintiff was still suffering from the effects of the ankle sprain/tendonitis which she suffered from in 2001. Furthermore, defense counsel will not offer or present any contradictory evidence and/or any medical evidence from another treating physician and/or independent examining physician which will support or substantiate the fact that plaintiff was still suffering from the effects of the ankle sprain/tendonitis which plaintiff suffered in 2001 at the time of this accident.

8. Furthermore, defendant will not be able to present or offer any evidence or testimony that any of the opinions which Dr. Polintan rendered regarding plaintiff's prognosis, including the limitations and restrictions he placed upon her activities as well as work limitations and restrictions, had anything other than to do with the injuries she sustained in the motor vehicle accident. Dr. Polintan clearly testified that his opinions with regard to plaintiff's prognosis, including the restrictions and limitations he placed upon her activities as well as work limitations and/or restrictions were solely due to the injuries plaintiff sustained in the motor vehicle accident of February 3, 2003.

9. Plaintiff hereby requests this Honorable Court to preclude defendant from cross-examining or questioning any witnesses, including the plaintiff, regarding her prior ankle strain/tendonitis which he suffered in 2001 and/or questioning any witnesses, including the plaintiff, regarding what effects or impact that ankle strain/tendonitis may have had upon her activities, functional ability, work ability, etc. at the time of the motor vehicle accident of February 3, 2003.

10. Further, plaintiff respectfully requests this Honorable Court to strike defendant's cross-examination of Dr. Polintan wherein defendant cross-examined Dr. Polintan on these issues. (Plaintiff will supply a copy of Dr. Polintan's deposition to the Court as soon as plaintiff receives the deposition transcript from the court reporter).

11. It is requested that this Honorable Court preclude this evidence on the ground that such evidence does not tend to make the existence of any fact of consequence in this trial more probable than not and, therefore, should be excluded under Pennsylvania Rule of Evidence 401 as well as Pennsylvania case law, see Bruno v. Brown, 414 Pa. 361, 200 A.2d 405, 407 (1964) and Pappa v. Pittsburgh-Penn Center Corp., 421 Pa. 228, 218 A.2d 783 (1966). Furthermore, to the extent there is any arguable margin or probative value to said evidence, the danger of unfair

prejudice, confusion of the issues or misleading the jury clearly outweighs any such probative value. Accordingly, the aforesaid evidence must be precluded under Pennsylvania Rule of Evidence 403 and Pennsylvania case law.

MEMORANDUM

Any evidence of any prior injuries, medical conditions, or of accidents in which plaintiff sustained or claimed to have sustained an injury, with the exception of the accident at issue in the case at bar, is irrelevant and should be excluded. In Bruno v. Brown, 414 Pa. 361, 200 A.2d 405, 407 (1964), the Supreme Court of Pennsylvania held that evidence that a plaintiff sustained a back injury on a previous occasion was not admissible to support an inference of a pre-existing condition absent testimony to show a connection between the injuries in the two accidents. In Papa v. Pittsburgh-Penn Center Corporation, 421 Pa. 228, 218 A.2d 783 (1966), the Superior Court excluded evidence that a plaintiff claiming injury in a slip and fall accident had sustained a previous injury in a fall because it allowed the jury to infer without evidence that plaintiff's currently claimed injuries were sustained in the prior fall. Id. 218 A.2d at 790. The Court stated that the evidence of the "prior fall, without more, offered for impeachment purposes, was collateral to the issues being tried, was not material, and was not sufficiently relevant to aid the jury in assessing the plaintiff's credibility as to justify confusing the issue being tried and prejudicing the plaintiff's case." Id. 218 A.2d at 790.

The danger of prejudice in admitting the prior accidents and injuries has been set forth succinctly in the subcommittee note in the Pennsylvania Suggested Standard Civil Jury Instructions §6.30. The note states as follows:

In many factual situations, it is not uncommon for a plaintiff to have had some complaints about physical distress in the past. . . . This brings into focus the relevancy of prior complaints of the same areas of the body for which a plaintiff seeks now to hold defendant liable in damages. . . . Although rulings on the admissibility of evidence are

left largely to the discretion of the trial judge, a preliminary determination must first be made to ascertain if such evidence of prior complaints is to be connected by the defendant to the complaints alleged to have originated from defendant's conduct; otherwise such evidence would be irrelevant and prejudicial. Papa v. Pittsburgh-Penn Center Corporation, 412 Pa. 228, 218 A.2d 783 (1966). The mere assertion by a tortfeasor that a plaintiff had prior complaints of a back ache, for example, is not probative evidence necessarily. Where, for example, plaintiff alleges a herniated disc and there is evidence of prior back complaints, such prior complaints should be excluded from evidence unless defendant's evidence furnishes the jury with an adequate basis for finding that independent of defendant's negligence, plaintiff's conditions would be the same today. Short of such a showing by defendant, such evidence would be inadmissible. . . .

PaSSCJI §5.30 (revised June, 1984).

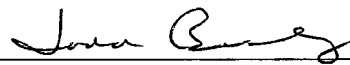
Since no testimony has been elicited by Defendant and no testimony is expected to be elicited that Plaintiff's pre-accident non-related injury to her ankle or any medical treatment plaintiff received for that injury are in any way related to the current extensive injuries sustained by Plaintiff in the accident at issue or to her prognosis, any such evidence has no relevance and therefore should be excluded. Pa. R.E. 401.

Any claimed marginal probative value that this evidence may have (which plaintiff argues is none) is clearly outweighed by the prejudicial effect of the evidence and the risk of confusion and medical speculation on the part of the jury. See Daset Mining Corp. v. Industrial Fuels Corp., 326 Pa. Super. 14, 473 A.2d 584 (1984). Pa. R.E. 403.

Respectfully submitted,

EDGAR SNYDER & ASSOCIATES, LLC

By: _____



Todd Berkey, Esquire
Attorney for Plaintiff

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the within **PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OF UNRELATED PRIOR MEDICAL CONDITIONS/INJURIES AND MOTION TO STRIKE PORTIONS OF DR. POLINTAN'S CROSS-EXAMINATION REGARDING PRIOR UNRELATED MEDICAL CONDITIONS/INJURIES** were served on all Counsel listed below, by Hand-Delivery, on this 21st day of October, 2004

**MATTHEW B. TALADAY, ESQUIRE
HANAK, GUIDO & TALADAY
498 JEFFERS STREET
P.O. BOX 487
DUBOIS, PA 15801**

**PROTHONOTARY'S OFFICE
CLEARFIELD COUNTY COURTHOUSE
1 NORTH SECOND STREET
CLEARFIELD, PA 16830**

**HONORABLE JUDGE PAUL E. CHERRY
CLEARFIELD COUNTY COURTHOUSE
1 NORTH SECOND STREET
CLEARFIELD, PA 16830**

EDGAR SNYDER & ASSOCIATES, LLC

By: 
Todd Berkey, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN	)	CIVIL DIVISION
)	
Plaintiff,	)	No.: 04-67-CD
)	
vs.)	
)	
JOHN A. HARTZFELD)	
)	
Defendant.)	

ORDER OF COURT

AND NOW, to-wit, this _____ day of October, 2004, it is hereby ORDERED, ADJUDGED and DECREED that plaintiff's Motion in Limine is granted and the defendant shall be precluded from offering and/or presenting any evidence or testimony regarding plaintiff's prior ankle injury which she sustained in 2001. Additionally, all portions of defense counsel's cross-examination of Dr. Polintan regarding plaintiff's prior ankle injury is also hereby stricken from the record.

BY THE COURT:

_____ J.

CM

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

SHANNON D. ALLEN

V.

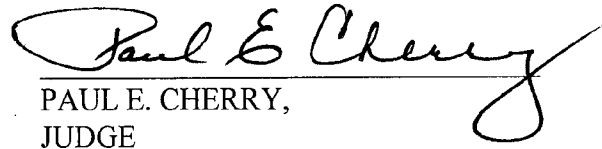
JOHN A. HARTZFELD

NO. 04-67-CD

ORDER

AND NOW, this 22nd day of October, 2004, the Court being advised that this matter has settled, it is the ORDER of this Court that trial be and is hereby cancelled and the jury empaneled are hereby dismissed. The parties shall have no more than thirty (30) days from this date to file a Stipulation and/or Discontinuance.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED ^{ice}
10/11/04
OCT 25 2004
William A. S...
Prothonotary/Clerk of Courts
^{Atty's:} Berkley
Casher
Taladay

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

SHANNON D. ALLEN

V.

JOHN A. HARTZFELD

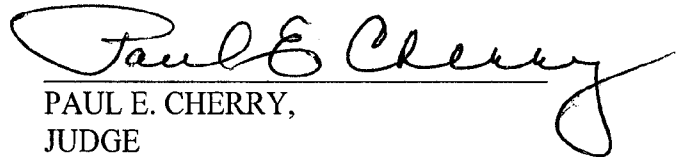
:
:
:
:
:

NO. 04-67-CD

ORDER

AND NOW, this 25th day of October, 2004, upon consideration of the Motion for Summary Judgment filed on behalf of Plaintiff and following argument thereon, it is the ORDER of this Court that said motion be and is hereby DENIED.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED ^{acc}
10/9/03
OCT 25 2004
Atty. Bertley, Toladay,
Casher
William A. Snaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

SHANNON D. ALLEN,
Plaintiff

vs.

JOHN A. HARTZFELD,
Defendant

Type of Case: Civil Action

No. 04-67-CD

Type of Pleading:

**PRAECIPE FOR
DISCONTINUANCE**

Filed on Behalf of:

PLAINTIFF

Counsel of Record for This
Party:

Geoffrey S. Casher, Esq.
PA I.D. No. 35309
Edgar Snyder & Associates, LLC
100 West High Street
Ebensburg, PA 15931-1539
814-472-9000

Eck
FILED *NoCC*
m/2:23/01 *Cort. of Disc.*
NOV 24 2004 *to Atty Talachy*
William A. Shaw
Prothonotary/Clerk of Courts *Copy to C/A*

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

SHANNON D. ALLEN,
Plaintiff

No. 04-67-CD


vs.

JOHN A. HARTZFELD,
Defendant

PRAECIPE FOR DISCONTINUANCE

TO THE PROTHONOTARY:

Please mark the above captioned matter settled, discontinued
and terminated.


Geoffrey S. Casher, Esq.
Edgar Snyder & Associates, LLC
100 West High Street
Ebensburg, PA 15931-1539

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

CIVIL DIVISION

Shannon D. Allen

Vs.

No. 2004-00067-CD

John A. Hartzfeld

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 November 24, 2004, marked:

Settled, Discontinued and Terminated

Record costs in the sum of \$85.00 have been paid in full by Todd Berkey, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 24th day of November A.D. 2004.

William A. Shaw, Prothonotary