

04-1404-CD
JASON W. WITHERITE VS. WILLIAM F. BRADY, et al.

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

Jason W. Witherite, an
individual

Plaintiff

vs .

William E. Brady an, individual,
and Karen S. Brady, an
individual, and William E.
Brady and Karen S. Brady,
husband and wife,
Defendant

:
:
: CIVIL DIVISION
:
:
: No. 2004- 1404 C. D.
:
: Type of Pleading: Praecipe
: For Writ Of Summons
:
: Filed on Behalf of:
: Plaintiff
:
:
:
: Counsel of Record for
: Plaintiff
: Mary L. Pothoven, Esquire
: Supreme Court I.D. No. 195611
: 600 East Main Street
: P.O. Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

FILED *1cc & 2 writs*
m/11:07/04 to SHH
SEP 10 2004 *Att. pd. 85.00*
William A. Shaw
Prothonotary/Clerk of Courts

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


Jason W. Witherite, an :
individual :
Plaintiff : CIVIL DIVISION
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No. 2004-_____ C. D.
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vs . :
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William E. Brady an, individual, :
and Karen S. Brady, an :
individual, and William E. :
Brady and Karen S. Brady, :
husband and wife, :
Defendant :

PRAECIPE FOR WRIT OF SUMMONS

TO THE PROTHONOTARY:

Kindly enter my appearance for the Plaintiff and please
issue a Writ of Summons in a civil action in the above-captioned
matter against the above-named Defendants.

Dated: September 8, 2004


Mary L. Pothoven, Esq.
Attorney for Plaintiffs

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

COPY

SUMMONS

Jason W. Witherite, an individual

Vs.

NO.: 2004-01404-CD

**William E. Brady, an individual, and
Karen S. Brady, an individual, and
William E. Brady and Karen S. Brady,
husband and wife**

**TO: WILLIAM E. BRADY
KAREN S. BRADY**

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

Date: 09/10/2004

William A. Shaw
Prothonotary

Issuing Attorney:

Mary L. Pothoven Esq
600 E. Main Street
Reynoldsville, PA 15851

In The Court of Common Pleas of Clearfield County, Pennsylvania

WITHERITE, JASON W.

VS.

BRADY, WILLIAM E. & KAREN S.

Sheriff Docket #

16267

04-1404-CD

SUMMONS

SHERIFF RETURNS

NOW SEPTEMBER 29, 2004 AT 1:55 PM SERVED THE WITHIN SUMMONS ON KAREN S. BRADY, DEFENDANT AT RESIDENCE, 101 WOODLAND LANE, SYLVAN HEIGHTS, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO KAREN S. BRADY A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET

NOW SEPTEMBER 29, 2004 AT 1:55 PM SERVED THE WITHIN SUMMONS ON WILLIAM E. BRADY, DEFENDANT AT RESIDENCE, 101 WOODLAND LANE, SYLVAN HEIGHTS, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO KAREN S. BRADY, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET

Return Costs

Cost	Description
52.87	SHERIFF HAWKINS PAID BY: ATTY CK# 26923
20.00	SURCHARGE PAID BY: ATTY Ck# 26924

Sworn to Before Me This

8 Day Of October, 2004
William A. Shaw

So Answers,

Chester A. Hawkins
by Marty Hamer
Chester A. Hawkins
Sheriff

FILED EVL

O 3:11 BA NOC

OCT 08 2004

William A. Shaw
Prothonotary

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD

:
: TYPE OF PLEADING:
: **PRAECIPE FOR ENTRY**
: **OF APPEARANCE**

:
: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**

:
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

FILED NO CC
m) 11:55 AM
NOV 01 2004
William A. Shaw
Prothonotary/Clerk of Court

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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: No. 2004-01404-CD
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PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

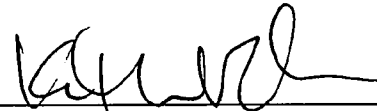
Please enter our appearance on behalf of the Defendants, William E. Brady and Karen S.

Brady, in the above-captioned matter.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

Dated: October 29, 2004

By: _____



Katherine V. Oliver, Esquire
I.D. No. 77069

James M. Horne, Esquire
I.D. No. 26908

811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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No. 2004-01404-CD

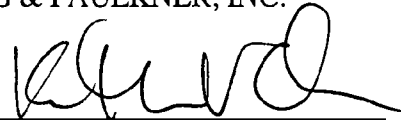
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of our Praecept for Entry of Appearance on behalf the Defendants William E. Brady and Karen S. Brady, in the above-captioned matter was mailed by U.S. 1st Class Mail, postage prepaid, on this 29th day of October, 2004, to the attorney of record:

Mary L. Pathoven, Esquire
600 East Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Katherine V. Oliver, Esquire
I.D. No. 77069
James M. Horne, Esquire
I. D. No. 26908
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD
:
: TYPE OF PLEADING:
: **CERTIFICATE OF SERVICE**
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:
: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**
:
:
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

FILED

NOV 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendants' Second Request for Production of Documents and Tangible Things Directed to Plaintiff in the above-referenced matter was mailed by U.S. First Class Mail, postage paid, this 19th day of November, 2004, to the attorney(s) of record:

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Dated: November 19, 2004

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD
:
: TYPE OF PLEADING:
: **CERTIFICATE OF SERVICE**
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: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**
:
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: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

EBK
FILED NO
m/11:30
NOV 23 2004 CC

William A. Shaw
Prothonotary/Clerk of Courts

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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: No. 2004-01404-CD
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendants' Interrogatories and Request for Production of Documents Directed to Plaintiff (Set One) in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 19th day of November, 2004 to the attorney(s) of record:

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Katherine V. Oliver, Esquire
I.D. No. 77069
James M. Horne, Esquire
I. D. No. 26908
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: November 19, 2004

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD
:
: TYPE OF PLEADING:
: **CERTIFICATE OF SERVICE**
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:
: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**
:
:
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

EGK
FILED *NO CC*
mjl:3351
NOV 24 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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No. 2004-01404-CD


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Notice of Intent to Serve Subpoenas for Production of Documents and Things in the above-referenced matter was mailed by U.S. First Class Mail, postage paid, this 23rd day of November, 2004, to the attorneys/parties of record:

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD
:
: TYPE OF PLEADING:
: **CERTIFICATE PREREQUISITE**
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: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**
:
:
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

Ebk
FILED
mjl:3761
NOV 30 2004
no cc

William A. Shaw
Prothonotary/Clerk of Courts

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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No. 2004-01404-CD

CERTIFICATE
PREREQUISITE TO SERVICE OF SUBPOENAS
PURSUANT TO RULE 4009.22

As a prerequisite to service of subpoenas for documents and things pursuant to Rule 4009.22, Defendants certify that:

- 1) a notice of intent to serve the subpoenas with a copy of the subpoenas attached thereto were mailed or delivered to the party at least twenty days prior to the date on which the subpoenas are sought to be served,
- 2) a copy of the notice of intent, including the proposed subpoenas, are attached to this certificate,
- 3) Plaintiff's attorney has waived the 20-day objection period; and
- 4) the subpoenas which will be served are identical to the subpoenas which are attached to the notice of intent to serve the subpoenas.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC

By: 

Katherine V. Oliver, Esquire
I.D. No. 77069
James M. Horne, Esquire
I. D. No. 26908
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: November 29, 2004

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

**NOTICE OF INTENT TO SERVE SUBPOENAS TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Defendants intend to serve subpoenas identical to those attached to this notice to Altoona General Hospital, State Farm Insurance Companies and Blair Orthopedic and Sports Medicine.

You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoenas. If no objection is made, the subpoenas may be served.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendants

Dated: November 23, 2004

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

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

TO: *Blair Orthopedic and Sports Medicine*
Attention: Records Custodian
3000 Fairway Drive
Altoona, PA 16602

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *See attached.*

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

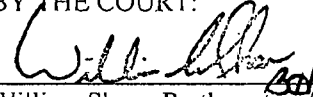
You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things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

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

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

NAME: *Katherine V. Oliver, Esquire*
ADDRESS: *811 University Drive, State College, PA 16801*
TELEPHONE: *(814) 238-4926*
SUPREME CT ID#: *77069*
ATTORNEY FOR: *Defendants*

BY THE COURT:



William Shaw, Prothonotary/Clerk
Civil Division
[Seal of the Court]

Dated: 11/24/04

Jason W. Witherite v. William E. Brady & Karen S. Brady

DOCUMENTS TO BE PRODUCED

Any and all records for as long as you retain same and regardless of treating physician on Jason W. Witherite, (DOB: 1/25/1973), including but not limited to, treatment invoices and/or payment ledgers, treatment notes, reports, history/physical examination, progress notes, laboratory reports, x-ray/CT scan/MRI reports, consultation reports, physical/occupational/rehabilitation therapy progress notes (inpatient and outpatient), prognosis for future care and treatment, prescription records, any and all correspondence pertaining to Jason W. Witherite's health status (regardless of source), etc.

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

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

TO: State Farm Insurance Companies
P.O. Box 41
Concordville, PA 19331-0041

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *A true and complete copy of the first-party file pertaining to Jason W. Witherite, (DOB: 1/25/1973) accident date of 9/15/02, Claim No. 38-K020-864, Policy No. 707-5266-C27-38E.*

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

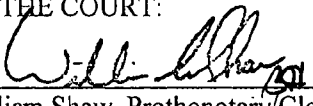
You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things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

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

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

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive, State College, PA 16801
TELEPHONE: (814) 238-4926
SUPREME CT ID#: 77069
ATTORNEY FOR: Defendants

BY THE COURT:


William Shaw, Prothonotary/Clerk
Civil Division
[Seal of the Court]

Dated: 11/24/04

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

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

TO: Altoona General Hospital
Attention: Records Custodian
620 Howard Avenue
Altoona, PA 16601

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *See attached.*

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

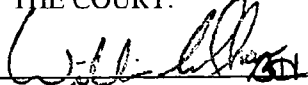
You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things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

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

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

NAME: Katherine V. Oliver, Esquire
ADDRESS: 811 University Drive, State College, PA 16801
TELEPHONE: (814) 238-4926
SUPREME CT ID#: 77069
ATTORNEY FOR: Defendants

BY THE COURT:


William Shaw, Prothonotary/Clerk
Civil Division
[Seal of the Court]

Dated: 11/24/04

Jason W. Witherite v. William E. Brady & Karen S. Brady

DOCUMENTS TO BE PRODUCED

Any and all records for as long as you retain same and regardless of treating physician on Jason W. Witherite, (DOB: 1/25/1973), including but not limited to, treatment invoices and/or payment ledgers, treatment notes, reports, history/physical examination, progress notes, laboratory reports, x-ray/CT scan/MRI reports, consultation reports, physical/occupational/rehabilitation therapy progress notes (inpatient and outpatient), prognosis for future care and treatment, prescription records, any and all correspondence pertaining to Jason W. Witherite's health status (regardless of source), etc.

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

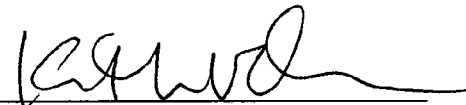
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Certificate Prerequisite to Service of Subpoenas Directed to Altoona General Hospital, State Farm Insurance Companies and Blair Orthopedic and Sports Medicine, in the above-captioned matter was mailed by U.S. 1st Class Mail, postage prepaid, on this 29th day of November, 2004, to the attorney of record:

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD

:
: TYPE OF PLEADING:
: **CERTIFICATE OF SERVICE**

:
: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**

:
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

EBK
FILED *No*
cc
1/12/01
DEC 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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: No. 2004-01404-CD
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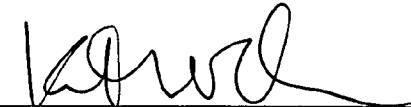
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Notice of Intent to Serve Subpoenas for Production of Documents and Things in the above-referenced matter was mailed by U.S. First Class Mail, postage paid, this 3rd day of December, 2004, to the attorneys/parties of record:

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendants

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

Jason W. Witherite, an :
individual :
Plaintiff : CIVIL DIVISION
:
:
: No. 2004-01404 C. D.
:
: Type of Pleading: COMPLAINT
:
vs . :
:
William E. Brady an, individual, : Filed on Behalf of:
and Karen S. Brady, an : Plaintiff
individual, and William E. :
Brady and Karen S. Brady, :
husband and wife, :
Defendant :
:
: Counsel of Record for
: Plaintiff
: Mary L. Pothoven, Esquire
: Supreme Court I.D. No. 72164
: 600 East Main Street
: P.O. Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

FILED

M 1:11 pm 100 to atty.

W DEC 22 2004

William A. Shaw
Prothonotary

Jason W. Witherite, an individual
Plaintiff
vs .
William E. Brady an, individual,
and Karen S. Brady, an individual, and William E.
Brady and Karen S. Brady,
husband and wife,
Defendant

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

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
2ND AND MARKET STREETS
CLEARFIELD, PA 16830
(814) 765-2641

Jason W. Witherite, an
individual
Plaintiff
vs .
William E. Brady an, individual,
and Karen S. Brady, an
individual, and William E.
Brady and Karen S. Brady,
husband and wife,
Defendant

AND NOW, comes the Plaintiff, by and through his attorney,
Mary L. Pothoven, Esq., and brings this Complaint of which the
following is a concise statement:

1. The Plaintiff, Jason W. Witherite, is a sui juris adult who resides at Box 11, Luthersburg, Clearfield County, Pennsylvania 15848.

2. The Defendant, William E. Brady, is a sui juris adult who resides at RD #4, Box 634, DuBois, Clearfield County, Pennsylvania 15801.

3. The Defendant, Karen S. Brady, is a sui juris adult who resides at RD #4, 634, DuBois, Clearfield County, Pennsylvania 15801.

4. That at all times material to the within Complaint, the Defendants, William E. Brady and Karen S. Brady, were husband and wife.

5. That at all times material to the within Complaint the Defendants were the owners of a 1998 Ford pickup truck bearing Pennsylvania Title No. 1FTYR10C6WPA56081 and Pennsylvania License Plate No. YLG4326, being operated by Defendant, William E. Brady. Hereinafter said vehicle will be referred to as the Brady vehicle.

6. That on September 15, 2002, Defendant, William E. Brady, was operating the Brady vehicle in a northerly direction on Sate Route No. 255 in Sandy Township, Clearfield County, Pennsylvania.

7. That at all times material to the within Complaint Plaintiff, Jason W. Witherite, was the operator of a 1985 GMC pickup truck towing a race car on a trailer. Said pickup truck bears Pennsylvania Title No. 1GTGC33J9FS510047 and Pennsylvania License Plate No. YGH7490. Hereinafter said vehicle will be referred to as the Witherite vehicle.

8. That at all times material to the within Complaint, the Witherite vehicle was disabled, blocking both lanes of traffic

on State Route 255 and Plaintiff was outside the Witherite vehicle working on it to clear the traffic lanes.

9. That on September 15, 2002, the Defendant, while operating the Brady vehicle in a northerly direction on State Route 255, failed to bring his vehicle to a stop, colliding with the Witherite vehicle/trailer, pushing the trailer unit of the Witherite vehicle into Plaintiff, Jason W. Witherite.

10. The foregoing collision involving the Brady vehicle and the Witherite vehicle/trailer and all of the injuries and damages set forth herein sustained by the Plaintiff, were the direct and proximate result of carelessness, recklessness, and negligence of the Defendant, William E. Brady.

11. The Witherite vehicle/trailer was violently impacted in the collision with the Brady vehicle.

12. As a direct and proximate result of the collision, the Plaintiff, Jason W. Witherite, suffered various injuries including, but not limited to: concussion, contusion, abrasions, compound fracture of his right leg.

13. As a direct and proximate result of his injuries, the Plaintiff, Jason W. Witherite, has suffered emotional and physical suffering, inconvenience and agony and will continue to suffer the same indefinitely into the future.

14. As a direct and proximate result of said injuries, the Plaintiff, Jason W. Witherite, has incurred and in the future

will incur various expenses and bills for necessary and reasonable medical services and treatment in an effort to care for and alleviate his injuries.

15. Because of said injuries, Plaintiff, Jason W. Witherite, was prevented from attending to his usual duties and vocation, all to his great damage and loss.

16. Because of said injuries, the Plaintiff's general health, strength and vitality has been impaired and diminished and will continue to be so indefinitely into the future and his ability to enjoy and live a full and beneficial life has been impaired and diminished and will continue to be so indefinitely into the future.

17. As a result of the injuries he suffered and as the result of a need to seek medical care and treatment for the injuries he suffered which were caused by the Defendant, William E. Brady; Plaintiff, Jason W. Witherite, has suffered a loss of earnings.

18. As a result of the collision, Plaintiff, Jason W. Witherite, has incurred various miscellaneous expenses.

19. Because of said injuries, the Plaintiff, Jason W. Witherite, has suffered permanent bodily injuries resulting in permanent physical limitations.

COUNT I.
JASON W. WITHERITE VS. WILLIAM E. BRADY, DEFENDANT, NEGLIGENCE

20. Paragraphs 1 through 19 are incorporated herein by reference and made a part hereof.

23. The collision was solely, jointly and severally the result of the recklessness, carelessness and negligence, of the Defendant, William E. Brady, in that he:

- a) operated his vehicle in an inattentive manner;
- b) failed to pay proper attention to the operation of his vehicle and disregard the safety and position to others;
- c) operated his vehicle in disregard to the position and safety to others;
- d) operated his motor vehicle in a careless, reckless and negligent manner;
- e) failed to have his vehicle under control so as to be able to stop within the assured clear distance ahead;
- f) operated his vehicle at a speed greater than was reasonable under the circumstances;
- g) failed to operate his vehicle with due regard to the highway, weather and traffic conditions which existed or which he was aware of or should have been aware of;
- h) failed to have his vehicle under proper and adequate control so as to prevent his vehicle from striking the Witherite vehicle;

i) failed to apply brakes in time to avoid the collision;

j) improperly applied his brakes;

k) permitted or allowed his vehicle to strike and collide with the side of the Witherite vehicle/trailer;

l) failed to keep a reasonable lookout for other vehicles lawfully on the road;

m) failing to use due care under the circumstances;

n) failing to notice the Witherite vehicle was stopped in the lane of travel;

o) failing to take evasive action to avoid impacting with the Witherite vehicle.

WHEREFORE, the Plaintiff, Jason W. Witherite, prays for a judgment against Defendant, William E. Brady, in an amount exceeding \$25,000.00 and such other relief as Your Honorable Court deems appropriate.

COUNT II.
JASON W. WITHERITE VS. KAREN S. BRADY, DEFENDANT
NEGLIGENCE IMPUTED

22. Paragraphs 1 through 21 are incorporated herein by reference and made a part hereof.

23. On the date and time the collision occurred, the Defendant, Karen S. Brady, was the co-owner of the Brady vehicle being operated by the Defendant, William E. Brady.

24. That on the date and at the time the subject collision occurred the Defendants, William E. Brady and Karen S. Brady, were engaged in a common enterprise.

25. That on the date and at the time the subject collision occurred although the Defendant, William E. Brady, was operating the Brady vehicle, the Defendant, Karen S. Brady, had the right to share in the control of the Brady vehicle.

26. In the alternative, the Brady vehicle was being maintained by Defendants for the benefit of the family unit, including themselves.

27. That on the date and time the subject collision occurred, the Brady vehicle was being operated by the Defendant, William E. Brady, for the benefit of the family unit, including themselves.

28. That on the date and time the subject collision occurred, the Brady vehicle was being operated by the Defendant, William E. Brady, for a family purpose benefiting both himself and the Defendant, Karen S. Brady.

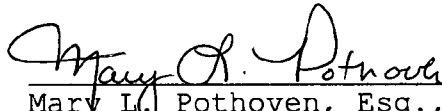
29. That in the alternative at the time the subject collision occurred, Defendant, William E. Brady's, operation of the Brady vehicle as heretofore indicated was as an agent, servant, workman or employee of Defendant, Karen S. Brady, engaged in her business.

30. That the recklessness, negligence and carelessness of the Defendant, William E. Brady, is therefore imputed to the Defendant, Karen S. Brady, with her being liable for the damages herein being requested.

WHEREFORE, Plaintiff, Jason W. Witherite, prays for judgment against Defendant, Karen S. Brady, in an amount exceeding \$25,000.00 and requests such other relief as Your Honorable Court deems appropriate.

Respectfully submitted:

Date: 12/14/04



Mary L. Pothoven, Esq.,
Attorney for Plaintiff

VERIFICATION

I, Jason W. Witherite, verify the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief and I understand that false statements herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.

Date: 12-14-04



Jason W. Witherite

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

Jason W. Witherite, an
individual
Plaintiff
VS .
William E. Brady an, individual,
and Karen S. Brady, an
individual, and William E.
Brady and Karen S. Brady,
husband and wife,
Defendant

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: CIVIL DIVISION
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: No. 2004-01404 C. D.
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: Type of Pleading: CERTIFICATE
: OF SERVICE OF COMPLAINT
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: Filed on Behalf of:
: Plaintiff
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: Counsel of Record for
: Plaintiff
: Mary L. Pothoven, Esquire
: Supreme Court I.D. No. 72164
: 600 East Main Street
: P.O. Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

FILED acc
DEC 29 2004
W.A. Shaw
Prothonotary/Clerk of Courts

Jason W. Witherite, an individual
Plaintiff
CIVIL DIVISION
No. 2004-01404 C. D.
vs .
William E. Brady an, individual,
and Karen S. Brady, an individual, and William E. Brady and Karen S. Brady,
husband and wife,
Defendant

Mary L. Pothoven
Mary L. Pothoven, Esq.,

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD
:
: TYPE OF PLEADING:
: **CERTIFICATE PREREQUISITE**
:
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: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**
:
:
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

FILED
m 11:00 AM
DEC 29 2004
cc

William A. Shaw
Prothonotary/Clerk of Courts

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

CERTIFICATE
PREREQUISITE TO SERVICE OF SUBPOENAS
PURSUANT TO RULE 4009.22

As a prerequisite to service of subpoenas for documents and things pursuant to Rule 4009.22, Defendants certify that:

- 1) a notice of intent to serve the subpoenas with a copy of the subpoenas attached thereto were mailed or delivered to the party at least twenty days prior to the date on which the subpoenas are sought to be served,
- 2) a copy of the notice of intent, including the proposed subpoenas, are attached to this certificate,
- 3) no objection to the subpoena has been received; and
- 4) the subpoenas which will be served are identical to the subpoenas which are attached to the notice of intent to serve the subpoenas.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC

By: 

Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Dated: December 28, 2004

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

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

Defendants intend to serve a subpoena identical to that attached to this notice to Du-San Ambulance Service. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoena. If no objection is made, the subpoena may be served.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendants

Dated: December 3, 2004

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

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

TO: *Du-San Ambulance Service*
Records Custodian
115 N. Stockdale Street
DuBois, PA 15801

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *See attached.*

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

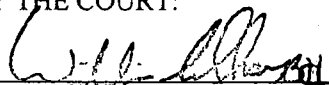
You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things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

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

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

NAME: *Katherine V. Oliver, Esquire*
ADDRESS: *811 University Drive, State College, PA 16801*
TELEPHONE: *(814) 238-4926*
SUPREME CT ID# *77069*
ATTORNEY FOR: *Defendants*

BY THE COURT:


William Shaw, Prothonotary/Clerk
Civil Division
[Seal of the Court]

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

Dated: *December 6, 2004*

Jason W. Witherite v. William E. Brady & Karen S. Brady

DOCUMENTS TO BE PRODUCED

Any and all records for as long as you retain same and regardless of treating physician on Jason W. Witherite, (DOB: 1/25/1973), including but not limited to, treatment invoices and/or payment ledgers, treatment notes, reports, history/physical examination, progress notes, laboratory reports, x-ray/CT scan/MRI reports, consultation reports, physical/occupational/rehabilitation therapy progress notes (inpatient and outpatient), prognosis for future care and treatment, prescription records, any and all correspondence pertaining to Jason W. Witherite's health status (regardless of source), etc.

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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No. 2004-01404-CD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Certificate Prerequisite to Service of Subpoena Directed to Du-San Ambulance Service, in the above-captioned matter was mailed by U.S. 1st Class Mail, postage prepaid, on this 28th day of December, 2004, to the attorney of record:

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD
:
: TYPE OF PLEADING:
: **ANSWER WITH NEW MATTER TO**
: **PLAINTIFF'S COMPLAINT**
:
:
: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**
:
:
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

FILED *Necc*
6k m/11:4081
JAN 11 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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No. 2004-01404-CD

ANSWER WITH NEW MATTER TO PLAINTIFF'S COMPLAINT

AND NOW, come Defendants William E. Brady and Karen S. Brady, by and through their counsel, McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc., and file the following Answer with New Matter to Plaintiff's Complaint.

1. Denied. After reasonable investigation, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 1. The same are therefore denied and strict proof thereof demanded.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted, with the exception that 1FTYR10C6WPA56081 refers to the Vehicle Identification No., and not the Pennsylvania Title No.

6. Admitted.

7. Admitted on information and belief, with the exception that 1GTGC33J9FS510047 refers to the Vehicle Identification No. on Plaintiff's truck, and not the Pennsylvania Title No.

8. Admitted in part and denied in part. Defendants admit only that at the time Defendant William Brady first encountered the Witherite vehicle, the vehicle and trailer being towed by Plaintiff were blocking both travel lanes of State Route 255 in their entirety, thus creating a sudden hazard for oncoming traffic such as Defendant William Brady, and that Plaintiff was outside the Witherite vehicle at that time. Defendants deny that the Witherite vehicle was disabled at all times material to this action. To the contrary, on information and belief, Defendants aver that before the Witherite vehicle and trailer were stopped in the road completely obstructing travel on State Route 255, Plaintiff had been driving the vehicle in an easterly direction on Route 420, and that Plaintiff skidded through the posted stop sign on Route 420 and crashed into the guardrail on State Route 255, causing his vehicle and attached trailer to become attached to the guardrail and completely block travel on State Route 255.

9. Admitted in part and denied in part. It is admitted only that, upon seeing the Witherite vehicle and trailer in the road, Defendant William Brady could not stop in time to avoid a collision with the 29 foot long trailer, which, together with Plaintiff's truck, was completely blocking Defendant's path on State Route 255. On information and belief, it is further admitted that upon the collision, the trailer unit of the Witherite vehicle was pushed into Plaintiff. Any implication that Defendant William Brady could have stopped his vehicle in time to avoid collision with the obstruction created by Plaintiff's vehicle and trailer in the roadway is denied. To the contrary, due to road conditions and the hazard created by Plaintiff, Defendant William Brady was unable to stop in time to avoid the collision, despite the exercise of due care.

By way of further response, a vehicle belonging to a third party, not named as a party in this action by Plaintiff, was parked along State Route 255 facing oncoming northbound traffic with the headlights on. The headlights from this vehicle, which was parked between the complete roadway obstruction Plaintiff had created and oncoming northbound traffic, created a blinding hazard, interfering with the ability of northbound drivers, such as Defendant William Brady, to perceive the hazardous condition Plaintiff had created on State Route 255. On information and belief, Defendant avers that Plaintiff acted in concert with the third party owner of this vehicle in creating the blinding hazard, thereby exacerbating the hazardous condition Plaintiff had already created and preventing Defendant William Brady from perceiving the hazardous condition in sufficient time to stop his vehicle to avoid it.

10. Denied. All allegations of negligence are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e). Additionally, after reasonable investigation, Defendants are without sufficient knowledge or information to form a belief as to the truth of the averments regarding Plaintiff's injuries and damages. The same are therefore denied and strict proof thereof demanded.

11. Admitted in part and denied in part. It is admitted that there was significant impact between the Brady vehicle and the trailer being hauled by the Witherite vehicle. It is denied that there was any impact between the Witherite vehicle and the Brady vehicle. Any violent impact to the Witherite vehicle occurred when Plaintiff skidded through the stop sign on State Route 420 and collided with the guide rail on State Route 255 with sufficient force to attach his vehicle to the guiderail.

12. - 16. Denied. After reasonable investigation, Defendants are without sufficient knowledge or information to form a belief as to the truth of the averments of paragraphs 12

through 16 pertaining to Plaintiff's allegations of injuries and damages. The same are therefore denied and strict proof thereof demanded.

17. Denied. After reasonable investigation, Defendants are without sufficient knowledge or information to form a belief as to the truth of the averments in paragraph 17 regarding Plaintiff's alleged injuries and damages. The same are therefore denied and strict proof thereof demanded. Plaintiff's allegation that Defendant William Brady was the cause of any injuries allegedly suffered by Plaintiff is denied. To the contrary, any such injuries were caused by the negligence, carelessness and/or recklessness of Plaintiff and/or third persons.

18. - 19. Denied. After reasonable investigation, Defendants are without sufficient knowledge or information to form a belief as to the truth of the averments of paragraphs 18 and 19 regarding Plaintiff's alleged injuries and damages. The same are therefore denied and strict proof thereof demanded.

COUNT I
JASON W. WITHERITE vs. WILLIAM E. BRADY, DEFENDANT, NEGLIGENCE

20. Defendants incorporate by reference paragraphs 1 - 19, above, as though set forth in full.

23. a - o. Denied. All allegations of recklessness, carelessness and negligence on the part of Defendant William E. Brady are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e). Defendant William E. Brady denies any recklessness, carelessness, and/or negligence in the operation of his vehicle. The collision between the Brady vehicle and the Witherite trailer was solely the result of the negligence, recklessness, and/or carelessness of Plaintiff and/or third parties not in the control of Defendants. By way of further response, please see paragraphs 1 - 19, above, and Defendants' New Matter, set forth below.

WHEREFORE, Defendants William E. Brady and Karen S. Brady respectfully request that Plaintiff's Complaint be dismissed, with prejudice and costs of suit.

COUNT II
JASON W. WITHERITE vs. KAREN S. BRADY, DEFENDANT
NEGLIGENCE IMPUTED

22. Defendants incorporate by reference paragraphs 1 - 21, above, as though set forth in full.

23. Admitted.

24. Denied. By way of further response, Defendant William Brady was traveling to work at the time of the accident. Defendant Karen Brady was not present in the vehicle.

25. Admitted in part and denied in part. Defendants do not know what is intended by the phrase "had the right to share in the control of the Brady vehicle." All allegations regarding the same are therefore denied and strict proof thereof demanded. Karen Brady was not in the vehicle at the time of the accident. It is admitted only that Defendant William E. Brady was operating the Brady vehicle on the date and time of the collision at issue.

26. Denied. Defendants do not know what is intended by the phrase "maintained by Defendants for the benefit of the family unit." The allegations regarding the same are therefore denied and strict proof thereof demanded to the extent such allegations are relevant, which is denied.

27. Denied. Please see response to paragraph 26 above. Any implication that Defendant Brady was acting as an agent, servant, and/or employee on behalf of Defendant Karen Brady at the time of the collision is denied.

28. Denied. Please see response to paragraph 26 above. Any implication that Defendant Brady was acting as an agent, servant, and/or employee on behalf of Defendant Karen Brady at the time of the collision is denied.

29. Denied.

30. Denied. It is denied that Defendant William Brady was reckless, careless, and/or negligent. The balance of the allegations in paragraph 30 constitutes a legal conclusion to which no response is required. To the extent that a response is deemed required, the allegations are denied and strict proof thereof demanded. It is denied that any basis exists for imputing negligence to Defendant Karen Brady.

NEW MATTER

31. Defendants incorporate by reference paragraphs 1 - 30, above, as though set forth in full.

32. Defendants hereby raise and assert all those defenses and/or limitations on damages available to them by reason of the terms and provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, as amended.

33. To the extent Plaintiff was insured under a policy of insurance bearing the limited tort option, Plaintiff's claims are barred or reduced accordingly.

34. To the extent Plaintiff's medical expenses and wage loss, if any, have been paid or are payable under a policy of insurance, the same may not be plead, proven or recovered in the instant action.

35. Defendants hereby raise the sudden emergency doctrine.

36. Defendants hereby raise and assert the defenses of contributory negligence, comparative negligence and/or assumption of the risk by Plaintiff.

37. On information and belief, Defendants aver that Plaintiff was negligent, careless and/or reckless in the operation of his vehicle and trailer, which carelessness, recklessness and/or negligence resulted in the complete obstruction of both travel lanes of State Route 255 and created a hazard for oncoming traffic, such as Defendant William Brady.

38. Plaintiff was further negligent in failing to take any steps to warn oncoming vehicles of the total obstruction in the roadway created by reason of his negligence, carelessness, and/or recklessness or to otherwise take reasonable precautions for the safety of himself and others, and also in failing to properly equip the trailer he was hauling so as to enhance its visibility to other traffic.

39. On information and belief, Defendants aver that Plaintiff was negligent in operating his vehicle and attached trailer while intoxicated at the time of the events at issue in this matter.

40. Plaintiff's cause of action and alleged damages claimed were caused in whole or in part by a third party who is not a party to this action.

41. On information and belief, Defendants aver that after Plaintiff's initial negligent acts resulting in the complete obstruction of State Route 255, a third party, not named as a party to this action, parked a vehicle on the side of State Route 255, with its headlights on and facing oncoming northbound traffic on State Route 255, thereby creating a blinding hazard to oncoming traffic and interfering with the ability of oncoming vehicles to perceive the hazardous condition on State Route 255 caused by Plaintiff's vehicle and trailer, and preventing oncoming traffic from avoiding a collision with the same.


42. On information and belief, Defendants aver that Plaintiff was acting in concert with the third party referenced in paragraph 41, above.

43. Plaintiff was negligent and/or assumed the risk by voluntarily placing himself on State Route 255 under the conditions and circumstances then and there existing and in the vicinity of the dangerous condition he had created in the roadway.

WHEREFORE, Defendants William E. Brady and Karen S. Brady respectfully request that Plaintiff's Complaint against them be dismissed, with prejudice and costs of suit.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

Dated: January 10, 2005

By: 

Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I.D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendants

VERIFICATION

The undersigned verifies that he is authorized to make this Verification on his own behalf, and that the statements made in the foregoing Answer with New Matter to Plaintiff's Complaint are true and correct to the best of his knowledge, information and belief. The undersigned understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. § 4904, related to unsworn falsification to authority.

William E. Brady
William E. Brady

Dated: 1-4-05

VERIFICATION

The undersigned verifies that she is authorized to make this Verification on her own behalf, and that the statements made in the foregoing Answer with New Matter to Plaintiff's Complaint are true and correct to the best of her knowledge, information and belief. The undersigned understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. § 4904, related to unsworn falsification to authority.

Karen S. Brady
Karen S. Brady

Dated: 1-4-05

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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: No. 2004-01404-CD
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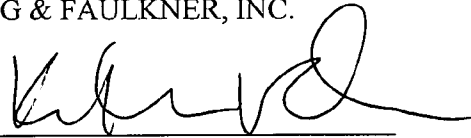
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of our Answer with New Matter to Plaintiff's Complaint, in the above-captioned matter was mailed by U.S. 1st Class Mail, postage prepaid, on this 10th day of January, 2005, to the attorney of record:

Mary L. Pathoven, Esquire
600 East Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Katherine V. Oliver, Esquire
I.D. No. 77069
James M. Horne, Esquire
I. D. No. 26908
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendants

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

Jason W. Witherite, an :
individual :
Plaintiff : CIVIL DIVISION
:
: No. 2004-01404 C. D.
:
: Type of Pleading:
: **CERTIFICATE OF SERVICE**
:
vs . :
: Filed on Behalf of:
William E. Brady, an individual, : Plaintiff
and Karen S. Brady, an :
individual, and William E. :
Brady and Karen S. Brady, :
husband and wife, :
Defendant :
:
: Counsel of Record for
: Plaintiff
: Mary L. Pothoven, Esquire
: Supreme Court I.D. No. 72164
: 600 East Main Street
: P.O. Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

FILED^{NO} CC
6K M/12:4201
JAN 19 2005

William L. Shaw
Prothonotary, Clerk of Courts

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


Jason W. Witherite, an :
individual :
Plaintiff : CIVIL DIVISION
:
: No. 2004-01404 C. D.
VS . :
:
William E. Brady an, individual, :
and Karen S. Brady, an :
individual, and William E. :
Brady and Karen S. Brady, :
husband and wife, :
Defendant :

CERTIFICATE OF SERVICE

I, Mary L. Pothoven, Esquire, hereby attest a true copy of Plaintiff's First Set of Interrogatories Directed to Defendants, William E. Brady and Karen S. Brady and Request for Production of Documents; was served on William E. Brady and Karen S. Brady by mailing a copy to their attorney, Katherine V. Oliver, at her address of McQuaide, Blasko, Schwartz, Fleming & Faulkner, Inc. 811 University Drive, State College, PA 16801, on January 17, 2005, by regular mail, postage prepaid.

Respectfully submitted:

Date: January 18, 2005


Mary L. Pothoven, Esq.,
Attorney for Plaintiff

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD
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: TYPE OF PLEADING:
: **CERTIFICATE OF SERVICE**
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: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**
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:
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

FILED

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JAN 31 2005

William A. Shaw
Prothonotary

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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No. 2004-01404-CD

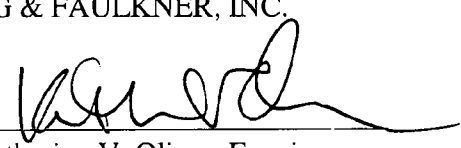
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendants' Notice of Intent to Serve Subpoenas for Production of Documents and Things Directed to Keystone Rehabilitation Systems and Dr. John J. Bellomo, D.O. in the above-referenced matter was mailed by U.S. First Class Mail, postage paid, this 27th day of January, 2005, to the attorneys/parties of record:

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____


Katherine V. Oliver, Esquire
I.D. No. 77069
James M. Horne, Esquire
I. D. No. 26908
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD

:
: TYPE OF PLEADING:
: **CERTIFICATE PREREQUISITE**

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: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**

:
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

FILED ^{NO} ^{CC}
614 m/11:24/01
FEB 22 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

CERTIFICATE
PREREQUISITE TO SERVICE OF SUBPOENAS
PURSUANT TO RULE 4009.22

As a prerequisite to service of subpoenas for documents and things pursuant to Rule 4009.22, Defendants certify that:

- 1) a notice of intent to serve the subpoenas with a copy of the subpoenas attached thereto were mailed or delivered to the party at least twenty days prior to the date on which the subpoenas are sought to be served,
- 2) a copy of the notice of intent, including the proposed subpoenas, are attached to this certificate,
- 3) no objection to the subpoenas has been received; and
- 4) the subpoenas which will be served are identical to the subpoenas which are attached to the notice of intent to serve the subpoenas.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Dated: February 18, 2005

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

**NOTICE OF INTENT TO SERVE SUBPOENAS TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Defendants intend to serve subpoenas identical to those attached to this notice to
Keystone Rehabilitation Systems and Dr. John J. Bellomo, D.O. You have twenty (20) days
from the date listed below in which to file of record and serve upon the undersigned any
objection to the subpoenas. If no objection is made, the subpoenas may be served.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendants

Dated: January 27, 2005

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

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

TO: *Dr. John J. Bellomo, D.O.*
Medical Records Custodian
910 Beaver Drive
DuBois, PA 15801

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *See attached.*

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

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

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

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

NAME: *Katherine V. Oliver, Esquire*
ADDRESS: *811 University Drive, State College. PA 16801*
TELEPHONE: *(814) 238-4926*
SUPREME CT ID# *77069*
ATTORNEY FOR: *Defendants*

BY THE COURT:



William Shaw, Prothonotary/Clerk
Civil Division
[Seal of the Court]

Dated: *January 31 2005*

Jason W. Witherite v. William E. Brady & Karen S. Brady

DOCUMENTS TO BE PRODUCED

Any and all records for as long as you retain same and regardless of treating physician on Jason W. Witherite, (DOB: 1/25/1973), including but not limited to, treatment invoices and/or payment ledgers, treatment notes, reports, history/physical examination, progress notes, laboratory reports, x-ray/CT scan/MRI reports, consultation reports, physical/occupational/rehabilitation therapy progress notes (inpatient and outpatient), prognosis for future care and treatment, prescription records, any and all correspondence pertaining to Jason W. Witherite's health status (regardless of source), etc.

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

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

TO: *Keystone Rehabilitation Systems*
Medical Records Custodian
470 Jeffers Street
DuBois, PA 15801

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *See attached.*

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

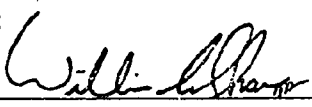
You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things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

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

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

NAME: *Katherine V. Oliver, Esquire*
ADDRESS: *811 University Drive, State College, PA 16801*
TELEPHONE: *(814) 238-4926*
SUPREME CT ID#: *77069*
ATTORNEY FOR: *Defendants*

BY THE COURT:


William Shaw, Prothonotary/Clerk
Civil Division
[Seal of the Court]

Dated: *January 31, 2005*

Jason W. Witherite v. William E. Brady & Karen S. Brady

DOCUMENTS TO BE PRODUCED

Any and all records for as long as you retain same and regardless of treating physician on Jason W. Witherite, (DOB: 1/25/1973), including but not limited to, treatment invoices and/or payment ledgers, treatment notes, reports, history/physical examination, progress notes, laboratory reports, x-ray/CT scan/MRI reports, consultation reports, physical/occupational/rehabilitation therapy progress notes (inpatient and outpatient), prognosis for future care and treatment, prescription records, any and all correspondence pertaining to Jason W. Witherite's health status (regardless of source), etc.

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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No. 2004-01404-CD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Certificate Prerequisite to Service of Subpoenas Directed to Keystone Rehabilitation Systems and Dr. John J. Bellomo, D.O., in the above-captioned matter was mailed by U.S. 1st Class Mail, postage prepaid, on this 18th day of February, 2005, to the attorney of record:

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD
:
: TYPE OF PLEADING:
: **CERTIFICATE OF SERVICE**
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: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**
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: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

FILED *mc*
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FEB 22 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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No. 2004-01404-CD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of our Defendants' Answers and Objections to Plaintiff's Interrogatories and Request for Production of Documents, in the above-captioned matter was mailed by U.S. 1st Class Mail, postage prepaid, on this 18th day of February, 2005, to the attorney of record:

Mary L. Pathoven, Esquire
600 East Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Katherine V. Oliver, Esquire
I.D. No. 77069
James M. Horne, Esquire
I. D. No. 26908
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendants

CA

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD
:
: TYPE OF PLEADING:
: **MOTION TO COMPEL**
:

: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**
:

: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: FREDERICK R. BATTAGLIA, ESQ.
: I.D. NO. 91624
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, FLEMING
: & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

FILED NO
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JUN 23 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

FILED

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JUN 24 2005

William A. Shaw
Prothonotary/Clerk of Courts
i cc Amy Battaglia

ORDER

AND NOW, this 24th day of June, 2005, upon consideration of the foregoing Motion to Compel, it is hereby ORDERED that:

1. a rule is issued upon the Plaintiff to show cause why the Defendants are not entitled to the relief requested;
2. the Plaintiff shall file an answer to the Motion within twenty (20) days of service upon the Defendants;
3. the Motion shall be decided under Pa.R.C.P. 206.7; and
4. notice of the entry of this Order shall be provided to all parties by the Defendants.

NOTICE

A MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE MATTER SET FORTH IN THE FOLLOWING MOTION, YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE AN ANSWER IN WRITING WITH THE PROTHONOTARY SETTING FORTH YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU AND SERVE A COPY ON THE ATTORNEY OR PERSON FILING THE MOTION. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR THE RELIEF REQUESTED BY THE DEFENDANTS. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

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

COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 50-51

BY THE COURT:

A handwritten signature in cursive script, reading "Frederick J. Crumman". The signature is written in dark ink and is positioned above a horizontal line.

J.

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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: No. 2004-01404-CD
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**DEFENDANTS WILLIAM E. BRADY AND KAREN S. BRADY'S MOTION
TO COMPEL PLAINTIFF'S ANSWERS TO INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS**

1. The Plaintiff instituted this automobile negligence action via Writ of Summons issued on September 10, 2004. On December 14, 2004, a Complaint was filed.
2. Defendants filed an Answer with New Matter in response to Plaintiff's Complaint on January 10, 2005.
3. Plaintiff Jason Witherite seeks damages in excess of \$25,000.00 for injuries he allegedly sustained in a motor vehicle accident that occurred on September 15, 2002 at the intersection of State Routes 420 and 255 in Clearfield County, Pennsylvania.
4. On November 19, 2004, Defendants served Interrogatories and Request for Production of Documents Directed to Plaintiff (Set One). (See Interrogatories and Request for Production (Set One) attached hereto as Exhibit "A").
5. As per Pennsylvania Rule of Civil Procedure 4006(b), the Interrogatories and Request for Production (Set One) requested Plaintiff to respond to said discovery requests within thirty (30) days of service of the same. (See Exhibit "A").

6. On December 23, 2004 Plaintiff's counsel requested a thirty (30) day extension within which time to answer said discovery requests. (See correspondence dated December 23, 2004 attached hereto as Exhibit "B").

7. Defendants agreed to Plaintiff's request for an extension via correspondence dated December 28, 2004, which set forth the new discovery deadline of January 18, 2005. (See correspondence dated December 28, 2004 attached hereto as Exhibit "C").

8. As no responses were received by the above deadline, Defendants contacted Plaintiff's counsel indicating that Plaintiff had not answered the Interrogatories or Request for Production of Documents. (See correspondence dated January 27, 2005 attached hereto as Exhibit "D").

9. Plaintiff served his first set of Interrogatories and Request for Production directed to Defendants on January 17, 2005. Defendants filed timely responses to said requests on February 18, 2005.

10. On March 31, 2005 Plaintiff's counsel was again requested to provide full and complete responses to the Interrogatories and Request for Production and informed that Defendants would have no alternative but to file a Motion to Compel in the event that Plaintiff's responses were not forthcoming. (See correspondence dated March 31, 2005 attached hereto as Exhibit "E"). Throughout this time period, Plaintiff's counsel was also contacted via telephone regarding this issue. Plaintiff's counsel repeatedly promised that said discovery responses would be forthcoming and yet failed to provide the same.

11. Most recently, Plaintiff's counsel indicated that Plaintiff would provide full and complete responses to the Interrogatories and Request for Production "by and not later than June 10." (See correspondence dated May 27, 2005 attached hereto as Exhibit "F"). After Plaintiff

failed to meet the June 10, 2005 deadline, Plaintiff's counsel was granted one more week in order to comply by correspondence of June 14, 2005. (See correspondence dated June 14, 2005 attached hereto as Exhibit "G").

12. As of the date of this Motion, over six (6) months have expired and the Plaintiff has failed to provide responses to the Interrogatories or Request for Production of Documents.

13. Plaintiff has not filed any objections to the outstanding discovery requests which are the subject of the instant Motion.

14. Defendants in this matter have produced discovery responses and documents, and Plaintiff has had the benefit of the same.

15. Plaintiff is delaying this case by his continual failure to provide responses to Defendants' discovery requests.

16. Defendants are prejudiced in the preparation of a defense to Plaintiff's claims. The requested information that has not been provided would assist Defendants in accurately assessing the case, conducting the necessary investigation inquiries, conducting expert review and preparing for depositions of the parties and completing further discovery in preparing a defense to this action.

17. Pursuant to Local Rule 208.2(e), counsel for the Defendants has repeatedly conferred with counsel for the Plaintiffs in an effort to resolve this matter without Court action.

18. Defendants have met their obligations under Local Rule 208.2(d) by repeatedly requesting that Plaintiff comply with his discovery obligations without forcing Defendants to file a Motion to Compel.

WHEREFORE, Defendants respectfully request this Honorable Court to grant the Motion to Compel answers to Defendants' Interrogatories and Request for Production within ten (10) days or suffer appropriate sanctions, which would include the imposition of attorney's fees and costs.

McQUAIDE, BLASKO, FLEMING &
FAULKNER, INC.

Dated: June 22, 2005

By: 

Frederick R. Battaglia, Esquire

I.D. No. 91624

Katherine V. Oliver, Esquire

I.D. No. 77069

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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No. 2004-01404-CD

ORDER

AND NOW, this ____ day of _____, 2005, upon consideration of the
Defendants' Motion to Compel filed in this matter, said Motion is GRANTED and it is hereby
ORDERED as follows:

1. The Plaintiff shall file full and complete answers to Defendants' Interrogatories
and Request for Production of Documents (Set One) within ten (10) days of the date of this
Order.

2. If Plaintiff fails to respond to said discovery requests fully and completely, the
Court, upon Motion, shall issue an appropriate Order imposing sanctions upon Plaintiff, which
may include the imposition of attorney's fees and costs.

BY THE COURT:

J.

EXHIBIT “A”

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

**DEFENDANTS' INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF
(SET ONE)**

TO: Jason W. Witherite
c/o Mary L. Pothoven, Esquire

Please take notice that you are hereby required pursuant to the Pennsylvania Rules of Civil Procedure, to serve upon the undersigned, within thirty (30) days from service hereof, your Answers to the Interrogatories provided by Defendant, in writing and under oath.

These shall be deemed to be continuing Interrogatories. If, between the time of your Answers and the time of trial of this case, you or anyone acting on your behalf learn of any further information not contained in your Answers, you shall promptly furnish said information to the undersigned by Supplemental Answers.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Dated: November 19, 2004

Attorneys for Defendants

DEFINITIONS

A. "You" and/or "your" means Plaintiff, her agents and employees and others acting on her behalf with regard to asserting the cause of action to be set forth in Plaintiff's Complaint in the above-captioned case.

B. "Document" shall mean any writing (whether handwritten, typed, printed or otherwise made), drawing, graph, chart, photograph, phonograph record, videotape, or electronic or mechanical matter (including microfilm of any kind or nature, tape or recording), or other data compilations from which information can be obtained (translated, if necessary, by Defendant, through detection devices into reasonably usable form), and shall include, without limiting the generality of the foregoing, all records, correspondence, telegrams, teletypes, agreements, studies, reports, drafts, memoranda, and computer print outs.

C. As used herein "identify", when used in reference to an individual, means her full name and present or last known residence and business address, her present or last known position or title and business affiliation, and his position at the time in question.

D. "Health care provider" means a person, corporation, facility, institution or other entity licensed or approved by the Commonwealth to provide health care or professional services as a physician, including a medical doctor and a doctor of osteopathy and a doctor of podiatry; hospital; nursing home; health maintenance organization; or an officer, employee or agent of any of them acting in the course and scope of his employment.

Where the Interrogatories request that documents be identified, an identification of it should include at least the following: author, addressee, type of document, date, subject matter, and the name and address of the person or party presently having custody of the document and any known copies of it.

INSTRUCTIONS FOR ANSWERING INTERROGATORIES

A. In accordance with Pa. R.C.P. Rule 4005, the original of these written Interrogatories have been served upon you to be answered by the party served of, if the party served is a public or private corporation or similar entity or a partnership or association, by any officer or agent, who shall furnish such information as is available to the party.

B. In accordance with Pa. R.C.P. Rule 4006, written answers shall be inserted in the spaces provided in the Interrogatories. If there is not sufficient space to answer an Interrogatory, the remainder of the answer shall follow on a supplemental sheet.

C. In accordance with Pa. R.C.P. Rule 4006(b), a sufficient answer to such an Interrogatory shall be to specify the records from which the answer may be derived or ascertained.

D. Please serve the answers to Interrogatories in accordance with the Rules of Civil Procedure.

INTERROGATORIES

1. State your full name, date of birth, place of birth, and Social Security number.

ANSWER:

2. State your present residence address, the period during which you have resided at said address, and telephone number.

ANSWER:

3. State your residence address at the time of the accident referred to in your Complaint.

- (a) Please name all individuals with whom you resided at the time of the accident, and identify the nature of your relationship to each such individual.

ANSWER:

4. Are you married at the present time?

ANSWER:

5. If so, state:

- (a) Your spouse's full name;
- (b) If female, her maiden name;
- (c) His or her address;
- (d) The date and place of your marriage;
- (e) State whether or not your spouse is now living with you;
- (f) If not, when the separation occurred;
- (g) Your spouse's present address.

ANSWER:

6. State your business or occupation at the time of the accident referred to in your

Complaint and if you are still engaged in such a business or occupation.

ANSWER:

7. If not still engaged in the business or occupation identified in response to Interrogatory number 6, please state:

- (a) When you ceased working in such business or occupation;
- (b) Your present business or occupation, the date you entered it and your present income from such business;
- (c) Any other business occupations prior to your present one and after the date set out in answer to paragraph (a) above.

ANSWER:

8. Have you lost any time from your business or occupation since the accident referred to in your Complaint? If so, state:

- (a) The cause of such loss of time;
- (b) The number of days lost and the dates;
- (c) The amount of any income or wages lost.

ANSWER:

9. If employed at the time of the accident referred to in your Complaint, state;

- (a) The name and address of the employer;
- (b) The position held and the nature of the work performed;
- (c) Average weekly wages for the preceding year.

ANSWER:

10. If employed since the accident referred to in the Complaint, state:

- (a) Name and address of present employer;
- (b) Position held and nature of work being performed;
- (c) Hours worked per week;
- (d) Present weekly wages, earnings, income or profit;
- (e) Name your immediate boss, foreman or the superior to whom you are responsible;
- (f) Whether a physical examination was required and if so, state the date, place and person giving the examination;
- (g) For each employer, whether or not you made any representations in writing or answered in writing any questions concerning your physical condition.

ANSWER:

11. Are you now receiving or have you ever received any disability pension, income or insurance or any workers' compensation from any agency, company, person, corporation, state or government?

ANSWER:

12. If so, state:

- (a) The nature of any such payment;
- (b) Dates you received such income;
- (c) For what injuries or disability you received it, and how such injury occurred or disability arose;
- (d) By whom paid;
- (e) Whether you now have any present disability as a result of such injuries or disability;
- (f) If so, the nature and extent of such disability;
- (g) Whether you had any disability at the time of the accident referred to in the Complaint;
- (h) If so, the nature and extent of such disability.

ANSWER:

13. Have you made claim for any benefits under any medical pay coverage or policy of insurance relating to injuries arising out of the accident alleged in your Complaint?

ANSWER:

14. If so, state:

- (a) The name of the insurance company or organization to whom said claim was made;
- (b) The date of the Claim or application;
- (c) The claim number or policy number.

ANSWER:

15. Have you ever made claim for any benefits under any insurance policy, or against any person, firm or corporation for personal injuries or physical condition which you have not heretofore listed in your answers to these interrogatories?

ANSWER:

16. If so, state:

- (a) The injury or condition for which such claim was made;
- (b) The name and address of the person, firm or corporation to whom or against whom it was made;
- (c) The date it was made;
- (d) The nature and amount of any payment received therefor.

ANSWER:

17. State in detail the manner in which you assert that the accident referred to in the Complaint occurred, specifying the speed, position, direction, and location of each vehicle and person involved during its approach to, at the time of and immediately after the collision.

ANSWER:

18. Did you consume any alcoholic beverages of any type, or any sedative, tranquilizer or other drug, medicine or pill during the 48 hours immediately preceding the accident referred to in the Complaint?

ANSWER:

19. If so, state:

- (a) The nature, amount, and type of item consumed;
- (b) The amount of time over which consumed;
- (c) The names and addresses of any and all persons who have any knowledge as to the consumption of these items.

ANSWER:

20. State whether you made any statement or statements in any form to any person regarding any of the events or happenings referred to in your Complaint.

ANSWER:

21. If so, state:

- (a) The names and addresses of the person or persons to whom such statements were made;
- (b) The date such statements were made;

- (c) The form of the statement, whether written, oral, by recording device or to a stenographer;
- (d) Whether such statements, if written, were signed;
- (e) The names and addresses of the persons presently having custody of such statements.

ANSWER:

22. State the full name and last known address, giving the street, street number, city and state of every witness known to you or to your attorneys who has any knowledge regarding the facts and circumstances surrounding the happening of the accident referred to in the Complaint or your alleged injuries, including, but not limited to, eye witnesses to such event, as well as medical witnesses and other persons having any knowledge thereof.

ANSWER:

23. If any of the witnesses listed in Interrogatory number 22 or whom you propose to use at trial are related to you or to each other, please state the nature of such relationship.

ANSWER:

24. State the full name and last known address, giving the street, street number, city and state, of every witness known to you or your attorneys who claims to have seen or heard the defendant make any statement or statements pertaining to any of the events or happenings alleged in your Complaint.

ANSWER:

25. Supply the following information with respect to each individual whose name you have given in the answer to Interrogatory No. 24:

- (a) The location or locations where the Defendant made any such statement or statements;
- (b) The name and address of the person or persons in whose presence the Defendant made any such statement or statements;

- (c) The time and date upon which the Defendant made any such statement or statements;
- (d) The full name and address of any other person who was present at the time and place the Defendant made such statement or statements;
- (e) Whether you or anyone acting on your behalf obtained statements in any form from any persons who claim to be able to testify to the statement or statements made by the Defendant:---

ANSWER:

26. If the answer to Paragraph (e) of the foregoing interrogatory is in the affirmative, then state:

- (a) The names and addresses of the persons from whom any such statements were taken.
- (b) The date upon which said statements were taken;
- (c) The names and addresses of the employers of the persons who took such statements;
- (d) The names and addresses of the persons having custody of such statements;

- (e) Whether such statements were written, oral, by recording device or by court reporter or stenographer.

ANSWER:

27. State whether you, your attorney, your insurance carrier or anyone acting on your or their behalf obtained statements in any form from any persons regarding any of the events or happenings that occurred at the scene of the accident referred to in the Complaint immediately before, at the time of, or immediately after said accident.

ANSWER:

28. If so, state:

- (a) The name and address of the person from whom any such statements were taken;
- (b) The dates on which such statements were taken;
- (c) The names and addresses of the persons and employers of such persons who took such statements;
- (d) The names and addresses of the persons having custody of such statements;

- (e) Whether such statements were written, by recording device, by court reporter or stenographer.

ANSWER:

29. For each expert witness you intend to call at the trial of this case, please list:

- (a) Name, business address, and home address;
- (b) Date of birth, technical schools attended, dates of attendance, date of graduation and degree attained;
- (c) The specialties in which the witness has received certification by and board or professional organization, the date of such certification, and the identity of the board issuing such certification;
- (d) All professional societies, academies, associations or other organized professional groups of which this expert is a member;
- (e) All states in which the witness has ever been licensed and the states in which the witness is currently licensed;
- (f) Whether any state board of licensure has ever revoked or suspended the witness's license and if so, the date of such revocation or suspension and the name of the state board of licensure imposing such revocation or suspension;
- (g) Whether any professional or governmental agency or body has ever had occasion to investigate the witness pursuant to any complaint calling into question the professional conduct or professional ethics of the witness and if so, the name of such investigative body, the date of investigation, and the outcome or disposition of such investigation;

- (h) All lawsuits in which this expert has ever testified as an expert witness, and for each, whether he testified on behalf of the Plaintiff or Defendant, the Court term and number of each action, and the area of expertise to which this expert testified in each case;
- (i) All textbooks, treatises, papers, articles, or other writings which this witness has ever authored, and for each, the name of the article, publication, citation of the publication and date of publication;
- (j) If the witness is not self-employed, state each address where the witness is employed.

ANSWER:

30. For each such expert witness you intend to call at the trial of this case, state the subject matter on which the expert is expected to testify.

ANSWER:

31. For each such expert witness, state the substance of each and every fact which each expert is expected to utilize during his/her testimony.

ANSWER:

32. For each such expert witness, state the substance of each and every opinion to which the expert is expected to testify and for each opinion give a complete statement of the ground for such opinion.

ANSWER:

33. If you received any treatment with respect to the injuries allegedly suffered state:

- (a) The name and address of each hospital at which you were treated or admitted;
- (b) The dates on which said treatment was rendered, including the dates of entry into and discharge from said hospital or hospitals;
- (c) Itemize the charges rendered by each of the hospitals listed above;
- (d) State the name and address of each doctor or medical practitioner of any type whatsoever who has examined or treated Plaintiff or conferred with you with respect to the injuries alleged;
- (e) Itemize the cost and expenses of such examinations or treatments by the doctors listed above.

ANSWER:

34. Since the date of the accident referred to in your Complaint, have you been treated by or examined by or have you conferred with or consulted with any other doctor or medical practitioner of any type whatsoever whose name you have not heretofore supplied?

ANSWER:

35. If so, state:

- (a) The name and address of each doctor or medical practitioner of any type whatsoever who has examined, treated, conferred, or consulted with you and the date of same.
- (b) The condition for which said care or treatment or attention was rendered.

ANSWER:

36. If you have incurred any medical bills in connection with the alleged injuries not heretofore listed, state:

- (a) The total amount of each such bill;
- (b) The person to whom such amount was paid;
- (c) The service or thing for which the bill was rendered.

ANSWER

37. If you are still receiving medical services or treatment of any nature whatsoever,
state:

- (a) The name or names of the person or persons attending you;
- (b) The approximate frequency of said treatment of service;
- (c) The date you last received said treatment or service.

ANSWER:

38. State the dates during which you were confined following your discharge from the
hospital.

- (a) To your bed;
- (b) To your home.

ANSWER:

39. Were you an insured or beneficiary under any policy of insurance under which
you received benefits or reimbursement for medical expenses resulting from the injuries received
in the accident?

ANSWER:

40. If so, state:

- (a) The name and address of the company paying the benefits;
- (b) Whether the company required you to assign to it any rights of recovery you may have against others.

ANSWER:

41. At the time of the accident referred to in your Complaint, was there in effect an insurance policy which provided you benefits and/or coverage pursuant to the Pennsylvania No-Fault Motor Vehicle Insurance Act or the Motor Vehicle Financial Responsibility Law?

ANSWER:

42. If so, as to each such policy state:

- (a) Name, principal place of business and telephone number of insurer;
- (b) Name, address and telephone number of named insured;

- (c) Policy Number; and
- (d) Claim number designated to your policy.
- (e) The tort option under the policy, specifying whether the limited tort option or full tort option was in effect.

ANSWER:

43. Have you been paid any benefits under said policy for medical expenses as a result of the accident referred to in your Complaint?

ANSWER:

44. If so, state the total amount of benefits you have received for medical expenses from the date of the accident to the present.

ANSWER:

45. Have you been paid any benefits under said policy for lost wages as a result of the accident referred to in your Complaint?

ANSWER:

46. If so, state the total amount of benefits you have received for lost wages from the date of the accident to the present.

ANSWER:

47. In the years prior to the accident referenced in this matter, had you ever been involved in any other vehicular accidents?

ANSWER:

48. If so, as to each, state:

- (a) The date, time, and location of accident;
- (b) The names and addresses of people involved;
- (c) If legal proceedings were commenced;
- (d) The names of parties and the status they occupied in any action;
- (e) The result of any judgment rendered in any action;
- (f) The result of any settlement in absence of legal proceedings;
- (g) The nature and extent of any injuries you sustained.

ANSWER:

49. Have you been involved in any vehicular accidents since the date of the accident referenced in this matter?

ANSWER:

50. If so, as to each, state:

- (a) The date, time, and location of accident;
- (b) The names and addresses of people involved;
- (c) If legal proceedings were commenced;
- (d) The names of parties and the status they occupied in any action;
- (e) The result of any judgment rendered in any action;
- (f) The result of any settlement in absence of legal proceedings;
- (g) The nature and extent of any injuries you sustained.

ANSWER:

51. Do you have any difficulty in judging distance? If so, describe such difficulty.

ANSWER:

52. Identify fully and completely each and every document which you intend to introduce into evidence at the trial of this case.

ANSWER:

53. Identify each and every demonstrative exhibit, picture, object, model, movie, tape or other document which you intend to refer to during any witnesses' testimony at the trial of this case, and for each, identify the witness(es) whom you intend to question concerning said exhibit.

ANSWER:

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Dated: November 19, 2004

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

REQUEST FOR PRODUCTION OF DOCUMENTS
(SET ONE)

Defendant, pursuant to Rule 4009 of the Pennsylvania Rules of Civil Procedure, hereby requests that Plaintiff produce for inspection and copying, all documents identified in the answers to the foregoing Interrogatories and all documents reviewed by Plaintiff or anyone acting on behalf of Plaintiff in the preparation of answers to the foregoing Interrogatories.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire

I.D. No. 77069

James M. Horne, Esquire

I. D. No. 26908

811 University Drive

State College, PA 16801

(814) 238-4926

Dated: November 19, 2004

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

No. 2004-01404-CD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendants' Interrogatories and Request for Production of Documents Directed to Plaintiff (Set One) in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 19th day of November, 2004 to the attorney(s) of record:

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire
I.D. No. 77069
James M. Horne, Esquire
I. D. No. 26908
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: November 19, 2004

Attorneys for Defendants

EXHIBIT “B”

LAW OFFICES

Querino R. Torretti

ATTORNEY AT LAW
600 E. MAIN STREET
P. O. Box 218
REYNOLDSVILLE, PENNSYLVANIA 15851

TELEPHONE
814-653-2243

FAX
814-653-8319

Mary L Pothoven
Associate

December 23, 2004

Katherine V. Oliver, Esquire
811 University Drive
State College, PA 16801

RE: Witherite v. Brady, et al.
No. 2004-01404 C.D.

Dear Ms. Oliver:

At this time I respectfully request a thirty day extension of time within which to answer your Interrogatories and Request for Production of documents due to the extreme press of business and as I am awaiting various information from my client.

Thank you for your courtesy and attention to this matter. Please advise whether or not this request is granted at your earliest opportunity.

Also, I am providing you with a copy of the Complaint I filed with the Court and an Acceptance of Service under separate cover.

Cordially yours,

Mary L Pothoven
Mary L Pothoven, Esq.

Encl.

LMB/lmb

VIA FAX 234-5620

fax didn't work

EXHIBIT “C”

MCQUAIDE BLASKO

ATTORNEYS AT LAW

811 University Drive, State College, Pennsylvania 16801-6699
Additional offices in Hershey and Hollidaysburg

(814) 238-4926 FAX (814) 234-5620
www.mcquaideblasko.com

December 28, 2004

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

Re: Jason W. Witherite v. William E. Brady & Karen S. Brady
No. 2004-01404-CD

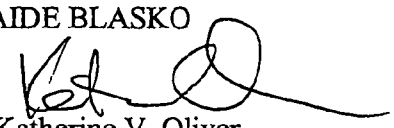
Dear Ms. Pothoven:

I am in receipt of your correspondence of December 23, 2004 requesting a 30 day extension for responding to Defendants' Interrogatories and Request for Production of Documents. I have no objection to the extension, and will look forward to receiving your client's responses by January 18, 2005.

Very truly yours,

MCQUAIDE BLASKO

By:


Katherine V. Oliver

KVO/nlc

cc: Sheila Walters (Claim # 38-K020-841)

MCQUAIDE, BLASKO, SCHWARTZ, FLEMING & FAULKNER, INC.

State College Office: John W. Blasko Thomas E. Schwartz R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Simak Mark Righter Daniel E. Bright
Paul J. Tomczuk Janine C. Gismondi John A. Snyder April C. Simpson Allen P. Neely Pamela A. Ruest Katherine V. Oliver Katherine M. Allen Wayne L. Mowery, Jr.
Chen L. Glenn-Hart Livinia N. Jones Cristin R. Long Matthew T. Rogers Frederick R. Battaglia Anthony A. Simon Russell A. Ventura

Hershey Office: Grant H. Fleming Maureen A. Gallagher Michael J. Mohr Jonathan B. Stepanian Britt D. Russell

Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

EXHIBIT “D”

McQUAIDE BLASKO

ATTORNEYS AT LAW

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Additional offices in Hershey and Hollidaysburg

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January 27, 2005

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

Re: Jason W. Witherite v. William E. Brady & Karen S. Brady
No. 2004-01404-CD

Dear Ms. Pothoven:

I forwarded an authorization for Mr. Witherite's signature to permit me to obtain records from Altoona Hospital on December 10, 2004. Would you please forward the fully executed authorization to me as soon as possible so that I can proceed with obtaining the records?

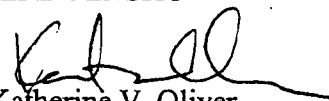
In addition, your client's discovery responses were due by extension on January 18, 2005. I assume that I will be receiving the responses within the next few days. If this assumption is incorrect, please contact me to discuss the same.

Thank you for your time and attention to this matter.

Very truly yours,

McQUAIDE BLASKO

By:


Katherine V. Oliver

KVO/nlc

cc: Sheila Walters (Claim # 38-K020-841)

McQUAIDE, BLASKO, SCHWARTZ, FLEMING & FAULKNER, INC.

State College Office: John W. Blasko Thomas E. Schwartz R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slimak Mark Righter Daniel E. Bright
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Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

EXHIBIT “E”

McQUAIDE BLASKO

ATTORNEYS AT LAW

811 University Drive, State College, Pennsylvania 16801-6699
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www.mcquaideblasko.com

March 31, 2005

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

Re: Jason W. Witherite v. William E. Brady & Karen S. Brady
No. 2004-01404-CD

Dear Ms. Pothoven:

When we last spoke on February 16, 2005 I inquired into the availability of the truck driven by your client at the time of the accident and the trailer that he was hauling for inspection. I tried to reach you yesterday regarding this issue, but you were unavailable. Please contact me upon your receipt of this letter to advise as to the status of the truck and trailer. It is important that I receive this information as soon as possible.


On a related note, I still have not received Plaintiff's responses to discovery. If I do not receive full and complete responses within 10 days of the date of this letter, I will assume that a motion to compel will be necessary and will proceed accordingly.

Thank you for your anticipated courtesy and cooperation.

Very truly yours,

McQUAIDE BLASKO

By:


Katherine V. Oliver

KVO/nlc

cc: Sheila Walters (Claim # 38-K020-841)

McQUAIDE, BLASKO, SCHWARTZ, FLEMING & FAULKNER, INC.

State College Office: John W. Blasko Thomas E. Schwartz R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slimak Mark Righter Daniel E. Bright
Paul J. Tomczuk Janine C. Gismondi John A. Snyder April C. Simpson Allen P. Neely Pamela A. Ruest Katherine V. Oliver Katherine M. Allen Wayne L. Mowery, Jr.
Chena L. Glean-Hart Livinia N. Jones Cristin R. Long Matthew T. Rogers Frederick R. Battaglia Anthony A. Simon Russell A. Ventura

Hershey Office: Grant H. Fleming Maureen A. Gallagher Michael J. Mohr Jonathan B. Stepanian Britt D. Russell

Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

EXHIBIT “F”

LAW OFFICES

Querino R. Torretti

Mary L Pothoven
Associate

ATTORNEY AT LAW
600 E. MAIN STREET
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REYNOLDSVILLE, PENNSYLVANIA 15851

TELEPHONE
814-653-2243

FAX
814-653-8319

May 27, 2005

Katherine V. Oliver, Esq.
McQuaide, Blasko, Schwartz
Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801

RE: Witherite v. Brady
No. 2004-01202-CD

Dear Ms. Oliver:

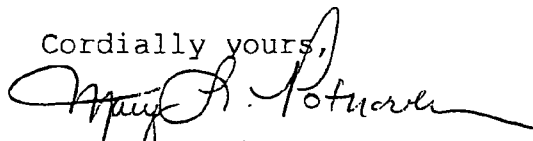
Please be advised I had an opportunity to speak with my client relative to your inquiries whether the truck and trailer are still available. Please be advised both the truck and trailer are still available for any inspection you would like to make. Kindly advise when you would like to make arrangements for the same and we will do our best to accommodate you.

Also, regarding our reply to your document request and reply to Interrogatories, I have sent for information I deem necessary in order to adequately answer those questions appropriately. I have not yet received that information despite requesting it back in January of this year. However, I had recent discussions with the medical provider and I believe I will be receiving the documents I require to appropriately answer the Interrogatories within the next two weeks. Accordingly, I am hopeful I will finally be able to send you the Answer to Interrogatories and answer to your discovery requests by and not later than June 10th.

I apologize for the undue delay, however, I must have the information I sent for to accurately answer your discovery request and interrogatories.

Thank you for your courtesy and attention to this matter. Should you have any questions, please advise.

Cordially yours,


Mary L. Pothoven

MLP/lmb

VIA FAX! 234-5620

EXHIBIT “G”

McQUAIDE BLASKO

ATTORNEYS AT LAW

811 University Drive, State College, Pennsylvania 16801-6699
Additional offices in Hershey and Hollidaysburg

(814) 238-4926

FAX (814) 234-5620
www.mqblaw.com

June 14, 2005

Via Facsimile & Regular Mail

Mary L. Pothoven, Esquire
600 E. Main Street
Reynoldsville, PA 15851

Re: Jason W. Witherite v. William E. Brady & Karen S. Brady
No. 2004-01404-CD


Dear Ms. Pothoven:

June 10th has now come and gone, and I still do not have any discovery information from you. Please provide me with this information by the end of the week. If I have not received it by Friday, I will proceed with filing a Motion to Compel.

Very truly yours,

McQUAIDE BLASKO

By:


Katherine V. Oliver

KVO/nlc

cc: Sheila Walters (Claim # 38-K020-841)

McQUAIDE, BLASKO, FLEMING & FAULKNER, INC.

State College Office: John W. Blasko R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slimak Mark Righter Daniel E. Bright
Paul J. Tomczak Janine C. Gismondi John A. Snyder April C. Simpson Allen P. Neely Pamela A. Ruest Katherine V. Oliver Katherine M. Allen Wayne L. Mowery, Jr.
Chana L. Glenn-Hart Livinia N. Jones Cristin R. Long Matthew T. Rogers Frederick R. Battaglia Anthony A. Simon Russell A. Ventura

Hershey Office: Grant H. Fleming Maureen A. Gallagher Michael J. Mohr Jonathan B. Stepanian Britt D. Russell

Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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No. 2004-01404-CD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendants William E. Brady and Karen S. Brady's Motion to Compel Plaintiff's Answers to Interrogatories and Request For Production of Documents, in the above-captioned matter was mailed by U.S. 1st Class Mail, postage prepaid, on this 22nd day of June, 2005, to the attorney of record:

Mary L. Pathoven, Esquire
600 East Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, FLEMING &
FAULKNER, INC.

By: 

Frederick R. Battaglia, Esquire

I.D. No. 91624

Katherine V. Oliver, Esquire

I.D. No. 77069

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendants

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD
:
: TYPE OF PLEADING:
: AFFIDAVIT OF SERVICE
:
:
:
: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**
:
:
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: FREDERICK R. BATTAGLIA, ESQ.
: I.D. NO. 91624
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, FLEMING
: & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

ck FILED No cc
m/1:34
JUL 18 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

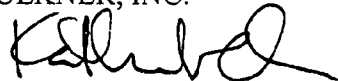
No. 2004-01404-CD

AFFIDAVIT OF SERVICE

Before me, the undersigned authority, personally appeared Katherine V. Oliver, Esquire, who, being duly sworn, deposes and says that a true and correct copy of the Court Order dated June 24, 2005, in the above-captioned case was served upon counsel of record by First Class Mail to: Mary L. Pothoven, Esquire, 600 E. Main Street, Reynoldsville, PA 15851 on June 30, 2005.

McQUAIDE, BLASKO, FLEMING
& FAULKNER, INC.


BY

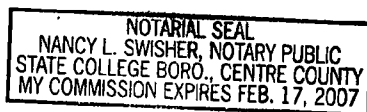


KATHERINE V. OLIVER
Counsel for Defendants

Sworn to and subscribed before me

this 15th day of July, 2005.


Notary Public



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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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: No. 2004-01404-CD
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ORDER

AND NOW, this 24th day of June, 2005, upon consideration of the foregoing Motion to Compel, it is hereby ORDERED that:

1. a rule is issued upon the Plaintiff to show cause why the Defendants are not entitled to the relief requested;
2. the Plaintiff shall file an answer to the Motion within twenty (20) days of service upon the Defendants;
3. the Motion shall be decided under Pa.R.C.P. 206.7; and
4. notice of the entry of this Order shall be provided to all parties by the Defendants.

NOTICE

A MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE MATTER SET FORTH IN THE FOLLOWING MOTION, YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE AN ANSWER IN WRITING WITH THE PROTHONOTARY SETTING FORTH YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU AND SERVE A COPY ON THE ATTORNEY OR PERSON FILING THE MOTION. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR THE RELIEF REQUESTED BY THE DEFENDANTS. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

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

COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 50-51

BY THE COURT:

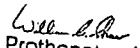


J.

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

JUN 24 2005

Attest.


Prothonotary/
Clerk of Courts

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

Jason W. Witherite, an
individual
Plaintiff
vs .
William E. Brady, an individual,
and Karen S. Brady, an
individual, and William E.
Brady and Karen S. Brady,
husband and wife,
Defendant

:
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: CIVIL DIVISION
:
: No. 2004-01404 C. D.
:
: Type of Pleading:
: PRAECIPE TO SETTLE AND
: DISCONTINUE
:
: Filed on Behalf of:
: Plaintiff
:
:
:
:
: Counsel of Record for
: Plaintiff
: Mary L. Pothoven, Esquire
: Supreme Court I.D. No. 72164
: 600 East Main Street
: P.O. Box 218
: Reynoldsville, PA 15851
: (814) 653-2243

FILED[®]
m/3:05/201 of Disc. to Atty
JUL 28 2005
William A. Shaw
Prothonotary/Clerk of Courts
Copy to CIA

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


Jason W. Witherite, an	:	
individual	:	
Plaintiff	:	CIVIL DIVISION
	:	
	:	No. 2004-01404 C. D.
vs .	:	
	:	
William E. Brady an, individual,	:	
and Karen S. Brady, an	:	
individual, and William E.	:	
Brady and Karen S. Brady,	:	
husband and wife,	:	
Defendant	:	

PRAECIPE TO SETTLE AND DISCONTINUE

TO THE PROTHONOTARY:

Kindly settle and discontinue the above-captioned matter
upon the records of this Court.

Dated: July 26, 2005


Mary L. Pothoven, Esq.
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

 COPY

CIVIL DIVISION

Jason W. Witherite

Vs.

No. 2004-01404-CD

William E. Brady

Karen S. Brady

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 July 28, 2005, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by Mary L. Pothoven, Esq.

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

William A. Shaw, Prothonotary

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

JASON W. WITHERITE,

Plaintiff,

v.

WILLIAM E. BRADY and KAREN S.
BRADY, his wife

Defendants.

: No. 2004-01404-CD

:

: TYPE OF PLEADING:
: **PRAECIPE FOR RULE TO**
: **FILE COMPLAINT**

:

:

: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: **DEFENDANTS**

:

:

: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

FILED ^{EOK}

M J: 134/BA NoCC

NOV 15 2004

William A. Shaw
Prothonotary

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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: No. 2004-01404-CD
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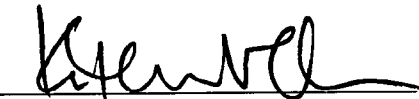
PRAECIPE FOR RULE TO FILE COMPLAINT

TO THE PROTHONOTARY:

Please issue a Rule on Plaintiff to file his Complaint within twenty (20) days from service thereof or suffer a judgment of non pros against him.

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Katherine V. Oliver, Esquire
I.D. No. 77069

James M. Horne, Esquire
I.D. No. 26908

811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendants

Dated: November 12, 2004

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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No. 2004-01404-CD

RULE

To: Jason W. Witherite
c/o Mary L. Pathoven, Esquire
600 East Main Street
Reynoldsville, PA 15851

YOU ARE HEREBY RULED to file a Complaint in the above captioned matter within
twenty (20) days from service hereof, or a judgment of non pros may be entered against you.

William Shaw, Prothonotary
[SEAL]

Dated: _____

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

JASON W. WITHERITE,

Plaintiff,

vs.

WILLIAM E. BRADY and
KAREN S. BRADY, his wife,

Defendants.

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No. 2004-01404-CD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Praecipe for Rule to File Complaint on behalf of Defendant in the above-captioned matter was mailed by U.S. 1st Class Mail, postage prepaid, on this 12th day of November, 2004, to the attorney of record:

Mary L. Pathoven, Esquire
600 East Main Street
Reynoldsville, PA 15851

McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.

By: _____



Katherine V. Oliver, Esquire
I.D. No. 77069
James M. Horne, Esquire
I.D. No. 26908
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendants