

04-1750-CD  
JAMES E. CONER vs. DR. JAMES DESANTIS

Date: 05/19/2005

Clearfield County Court of Common Pleas

User: CROWLES

Time: 02:34 PM

ROA Report

Page 1 of 2

Case: 2004-01750-CD

Current Judge: Fredric Joseph Ammerman

James E. Comer vs. James Desantis, Dr.

Medical Professional Liability Action

Date		Judge
11/03/2004	✓ Filing: IFP Petition Paid by: Comer, James E. (plaintiff) Receipt number: 1889767 Dated: 11/03/2004 Amount: \$.00 (Cash)	No Judge
	✓ ORDER, filed 1 Cert. to Plaintiff NOW, this 3rd day of November, 2004, Petition for IFP is GRANTED. Filing fee WAIVED.	No Judge
11/08/2004	✓ Complaint, Filed by Plaintiff 1 Cert. to Plaintiff.	No Judge
11/23/2004	✓ Praecipe For Entry of Appearance, filed on behalf of Defendant, by s/ Frank J. Hartye, Esquire. No CC	No Judge
11/24/2004	✓ Preliminary Objections to Plaintiff's Complaint, filed by s/ Frank Hartye, Esq. No CC	Fredric Joseph Ammerman
	✓ Praecipe for Argument List, filed by s/ Frank J. Hartye, Esq. No CC	Fredric Joseph Ammerman
11/29/2004	✓ Plaintiff's Response to Defendants Preliminary Objections and Brief, filed by Plaintiff 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
12/16/2004	✓ Sheriff Return, Nov. 10, 2004 served Civil Complaint on James Desantis. So Answers, Chester A. Hawkins, Sheriff, by s/ Marilyn Hamm	Fredric Joseph Ammerman
12/17/2004	✓ Amended Complaint, Filed by s/ James E. Comer, Plaintiff. 1CC to Plaintiff	Fredric Joseph Ammerman
01/07/2005	✓ Notice of Praecipe to Enter Judgment by Default, filed by s/ James E. Comer, Plaintiff, Pro-Se. 1CC Plff.	Fredric Joseph Ammerman
01/12/2005	✓ Answer and New Matter to Plaintiff's Amended Complaint filed by s/ Frank J. Hartye, Esquire. No CC	Fredric Joseph Ammerman
01/13/2005	✓ Petition to Enter Writ of Praecipe, filed by J. Comer 1 cert. to Comer	Fredric Joseph Ammerman
01/18/2005	✓ Plaintiff's Argument Pursuant to: Defendant's Reply to Plaintiff's Petition to Enter Writ of Praecipe, filed by Plaintiff no cert. copies.	Fredric Joseph Ammerman
	Order, NOW, this 17th day of Jan., 2005, the Court being in receipt of the Plaintiff's "Petition to Enter Writ of Praecipe" document; the same clearly not in compliance with the Rules of Civil Procedure, it is the Order of this Court that the said Petition be and is hereby Denied. BY THE COURT, /s/ Fredric J. Ammerman, President Judge. 1CC plff.	Fredric Joseph Ammerman
	✓ Defendant's reply to Plaintiff's Petition to Enter Writ of Praecipe, filed by s/ Frank J. Hartye, Esquire. No CC	Fredric Joseph Ammerman
01/25/2005	✓ Plaintiff's Response To: Defendant's Answer and New Matter to Plaintiff's Amended Complaint, Filed by s/ James E. Comer, Plaintiff. 1CC to Plff.	Fredric Joseph Ammerman
01/26/2005	✓ Motion For Hearing, filed by Plaintiff 1 Cert. to Plaintiff	Fredric Joseph Ammerman
01/27/2005	✓ Praecipe To Supplement Verification, filed by s/ Frank J. Hartye, Esquire. No CC	Fredric Joseph Ammerman
01/28/2005	✓ Order, NOW, this 28th day of Jan., 2005, motion for hearing filed on Jan. 26, 2005 is hereby DISMISSED. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 3CC to Plff.	Fredric Joseph Ammerman
01/31/2005	✓ Notice of Service of Interrogatories Directed to Plaintiff Dated January 28, 2005, filed by s/ Frank J. Hartye, Esq. No CC	Fredric Joseph Ammerman
	✓ Cross Interrogatories Directed to Defendant, Dated Jan. 31, 2005. 1CC to Plff. Served to Dr. James DeSantis. Filed by s/ James E. Comer, Pro-Se. 1CC To Plff.	Fredric Joseph Ammerman
	✓ Notice of Service of Cross Interrogatories Directed To Defendant, 31st of Jan., filed by s/ James E. Comer, Plaintiff, Pro-Se	Fredric Joseph Ammerman

Date: 05/19/2005

Clearfield County Court of Common Pleas

User: CROWLES

Time: 02:34 PM

ROA Report

Page 2 of 2

Case: 2004-01750-CD

Current Judge: Fredric Joseph Ammerman

James E. Comer vs. James Desantis, Dr.

Medical Professional Liability Action

Date		Judge
02/02/2005	✓ Reply to Motion for Hearing, filed by Atty. Hartye no cert.	Fredric Joseph Ammerman
03/07/2005	✓ Motion for Order to Impose Sanctions, filed by Plaintiff 1 cert. to Plaintiff	Fredric Joseph Ammerman
03/10/2005	Order, filed 1 cert. to Plaintiff and 2 cert. to Atty. Hartye. ✓ NOW, this 9th day of March, 2005, Rule Returnable for written response from Defendant due March 29, 2005.	Fredric Joseph Ammerman
03/22/2005	✓ Reply To Plaintiff's Response to Defendant's Answer and New Matter to Plaintiff's Amended Complaint, filed by s/ Frank J. Hartye, Esquire. No CC	Fredric Joseph Ammerman
	Notice of Service of Answers to Cross Interrogatories Directed to ✓ Defendant Dated Jan. 31, 2005. Filed by s/ Frank J. Hartye, Esquire. No CC	Fredric Joseph Ammerman
	✓ Reply To Motion for Order to Impose Sanctions, filed by s/ Frank J. Hartye, Esquire. No CC	Fredric Joseph Ammerman
03/24/2005	✓ Motion For Leave, Plaintiff requests Leave of Court from April 6, 2005 through April 25, 2005 due to surgery. Filed by James E. Comer, Plaintiff. 1CC Plff	Fredric Joseph Ammerman
	✓ Plaintiff's Argument To: Defendant's Reply To Motion For Order To Impose Sanctions, filed by s/ James E. Comer, Plaintiff, Pro-Se. 1CC Plff.	Fredric Joseph Ammerman
	✓ Plaintiff's Argument To: Defendant's Reply To Plaintiff's Response To Defendant's Answer and New Matter To Plaintiff's Amended Complaint, filed by s/ James E. Comer, Plaintiff, Pro-Se. 1CC Plff	Fredric Joseph Ammerman
05/11/2005	✓ Notice of Deposition of James E. Comer, filed by s/ Frank J. Hartye, Esquire. No CC	Fredric Joseph Ammerman
05/13/2005	Motion for Judicial Determination, filed by s/James E. Comer One CC Plaintiff	Fredric Joseph Ammerman

In the Court of Common Pleas of Clearfield County, Pennsylvania

Civil Division

FILED

NOV 03 2004

013-306

William A. Shaw

Prothonotary/Clerk of Courts

W. A. Shaw

JAMES E. COMER

Plaintiff

vs.

DR. JAMES DESANTIS

Defendant

No. 2004-1750-CV C.D.

AFFIDAVIT IN SUPPORT OF PETITION TO PROCEED IN FORMA PAUPERIS

1. I am the Plaintiff/Defendant in the above matter and because of my financial condition I am unable to pay the fees and costs of prosecuting or defending the action or proceeding.
2. I am unable to obtain funds from anyone, including my family, friends and associates, to pay the costs of litigation.
3. I represent that the information below relating to my ability to pay the costs and fees is true and correct.

a. Name

James E. Comer

Address

519 Williams St., Apt 11  
Clearfield, PA 16830

Social Security Number

293 - 44 - 8995

b. Date of last employment

2000

Employer

Self Employed

Address

3360 Speyglass Circle  
Temecula, CA

Salary/Wages

N/A ..... \$60,000.00 yr.

Type of work

Internet Development

Can no longer work because of mental and physical limitations.

c. Other Income:

Business/Profession.....	\$	<u>n/a</u>
Self-employment.....	\$	<u>n/a</u>
Interest.....	\$	<u>n/a</u>
Dividends.....	\$	<u>n/a</u>
Pension.....	\$	<u>n/a</u>
Annuities.....	\$	<u>n/a</u>
Social Security Benefits.....	\$	<u>591.40 SSI</u>
Support Payments.....	\$	<u>n/a</u>
Disability payments.....	\$	<u>n/a</u>
Unemployment Compensation/ Supplements Benefits.....	\$	<u>n/a</u>
Workmen's Compensation.....	\$	<u>n/a</u>
Public Assistance.....	\$	<u>n/a</u>
Food Stamps.....	\$	<u>33.00 month</u>
Other.....	\$	<u>n/a</u>

d. Other contributions to my household support (please circle):

Name of Spouse, Boyfriend/Girlfriend, or Roommate/Housemate

n/a

Employer n/a

Salary/wages per month..... \$ n/a

Type of work n/a

Contributions from my child(ren)... \$ n/a

Contributions from my parent(s),  
family members, or any other

individuals..... \$ n/a

e. Property Owned:

Cash..... \$ 6.40

Checking Account..... \$ n/a

Savings Account..... \$ n/a

Certificates of Deposit..... \$ n/a

Real Estate (including home)..... \$ n/a

Motor Vehicle(s) - Make Chevy Cavalier

Year 1993

Cost..... \$ 600.00

Amount owed..... \$ 0

Stocks, bonds..... \$ N/A  
 Other..... \$ N/A  
 Other..... \$ N/A  
 Other..... \$ N/A

f. I have the following debts:

Utilities: \$ ~~138~~ 86 .00, explain Rent  
 \$ 86 .00, explain Car Insurance  
 \$ 30 .00, explain Electric  
 \$ 8 .00, explain Telephone  
 Groceries: \$ 200 .00  
 Rent/Mortgage: \$ 138 .00, explain I get help with rent from MH/MA  
 Loan(s): \$ N/A . , explain \_\_\_\_\_  
 Auto Expense: \$ 60 .00, explain Gasoline  
 Child Care: \$ N/A . , explain \_\_\_\_\_  
 Miscellaneous: \$ 10 .00, explain Readers Digest (3 more payments)

g. Person(s) dependent upon you for support:

Wife/Husband's name N/A

Children, if any: N/A

Name _____	Age _____
Name _____	Age _____
Name _____	Age _____
Name _____	Age _____
Name _____	Age _____
Name _____	Age _____

Other person(s) dependent upon you: N/A

Name _____	Age _____
Name _____	Age _____
Name _____	Age _____

4. I understand that I have a continuing obligation to inform the Court of improvements in my financial circumstances which would permit me to pay the costs incurred herein.

## VERIFICATION

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to Unsworn Falsification to Authorities.

10/27/04  
Date

James E. Comer  
Petitioner

CONSENT FOR RELEASE OF CONFIDENTIAL INFORMATION

I, James E. Corner, having filed with the Court an Affidavit requesting In Forma Pauperis standing, hereby consent to the release of any information which may be requested by the Judges of the Court of Common Pleas of Clearfield County, or by any employee of the Court Administrator's Office acting on the behalf and at the direction of any said Judge, relating to any employment compensation, Worker's Compensation, Social Security, Department of Public Welfare or Black Lung benefits which I may receive from any county, state or federal agency which administers or handles processing of any of the above described benefits. This consent shall also authorize the release to the said Court or designee of any information as to any compensation I am receiving, or have received in the past twelve (12) months, from any full or part-time employment of any type whatsoever.

This consent shall remain in effect for a period of twelve (12) months herefrom. A copy or FAX of this release shall have the same legal effect as the original.

Social Security Number: 293 - 44 - 8995  
Board of Assistance Number (food stamps, etc.): CR 89978

DATE: 10 / 27 / 04 James E. Corner  
signature



DATE: 10 127 104

NAME: James C. Comer

TELEPHONE NUMBER: (814) 765 - 4998

ADDRESS: 519 Williams St., Apt 11  
Clearfield, PA 16830

OTHER PARTIES INVOLVED: Dr. James Desantis, defendant

REASON FOR FILING THIS PETITION (Write a brief description of your financial problem(s), please be specific. Failure to do so could result in your request being delayed or denied.) (Example: request for filing fee or Mediation Conference fee to be waived due to your inability to submit the required fee because...)

Request waiver for filing fees because I'm trying  
to live on \$591.40 a month. After paying my  
rent and other responsibilities I only have about  
\$60.00 left for the month.

TYPE OF ACTION: (divorce, custody, District Justice appeal, etc. Please specify what type of action you are pursuing through this application.)

Civil Action in the Court of Common Pleas

In the Court of Common Pleas of Clearfield County, Pennsylvania

Civil Division

JAMES E. COMER

Plaintiff

vs.

DR. JAMES DESANTIS

Defendant

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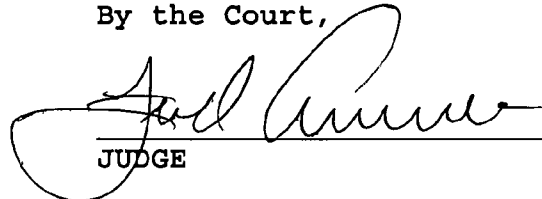
No. 2004-1750-CD C.D.

O R D E R

NOW, this 3<sup>rd</sup> day of November,  
2004, upon consideration of the foregoing Affidavit in Support  
of Petition to Proceed in Forma Pauperis, it is the ORDER of this  
Court that said Petition is GRANTED / ~~DENIED~~.

If the Petition is GRANTED, Filing / ~~Mediation Conference~~  
fee is hereby WAIVED.

By the Court,

  
JUDGE

FILED 

NOV 03 2004  
0/3:30/1m  
William A. Shaw  
Prothonotary/Clerk of Courts  
1 CLERK TO PFC

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,

Plaintiff

vs.

Civil Action # 04-1750

Dr. James Desantis,

Defendant

**FILED**

NOV 08 2004 *EW*

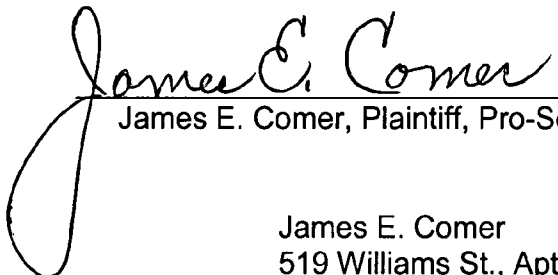
0/11:25/um

William A. Shaw  
Prothonotary  
*1 cent to Clff.*

NOTICE

You have been sued in court. If you wish to defend against the claim(s) 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.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE! IF YOU DO NOT HAVE A LAWYER GO TO THE **YELLOW PAGES** OF YOUR TELEPHONE BOOK WHERE YOU WILL FIND FORTY SEVEN LAWYERS PRACTICING IN THE CITY OF CLEARFIELD, PENNSYLVANIA.

  
James E. Comer, Plaintiff, Pro-Se

James E. Comer  
519 Williams St., Apt 11  
Clearfield, PA. 16830  
(814) 765-4998

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,

Plaintiff

vs.

Civil Action No. 04-1750

Dr. James Desantis,

Defendant

Civil Complaint

IN THIS HONORABLE COURT, your plaintiff, James E. Comer, pro-se, enters into action this complaint, historically styled Civil Complaint, on this 8<sup>th</sup> day of November, 2004, and, pursuant to Rule 1042.2 of the Pennsylvania Rules Of Civil Procedure plaintiff hereby asserts a professional liability claim against defendant who is a licensed professional with an office in Clearfield County, Pennsylvania. Plaintiff offers the following allegations, statements and claims setting forth a cause of action in this case:

I. Parties

1. Plaintiff: James E. Comer  
519 Williams St., Apt 11  
Clearfield, PA. 16830  
(814) 765-4998
2. Defendant: Dr. James Desantis  
809 Turnpike Ave.  
Clearfield, PA. 16830  
(814) 765-5341

## II. Preamble

3. In January, 2004, plaintiff moved to Clearfield, Pennsylvania and immediately informed Clearfield Hospital that he, plaintiff, did not want any type of narcotic drug given to him during admission or, any type of narcotic drug prescribed to him by any physician working at Clearfield Hospital. Plaintiff further states that Pat Kursch, his caseworker from Dubois/Jefferson MH/MR also made a similar call to Clearfield Hospital in January, 2004.
4. In March, 2004, plaintiff was admitted to the Emergency Room, hereafter referred to as ER, at Clearfield Hospital for sciatic pain. The attending physician, Dr. James Desantis, defendant, confronted plaintiff in an aggressive manner and told plaintiff "I know you are here just to get narcotics but you will not get them from me". Plaintiff states that he was shocked to hear that defendant was accusing him of trying to obtain narcotics since defendant had knowledge that plaintiff had informed Clearfield Hospital earlier that he did not want any type of narcotic drug given to him by any physician working at Clearfield Hospital.
5. In April, 2004, plaintiff was again admitted to the Clearfield Hospital ER for sciatic pain. The attending physician, Dr. Desantis, defendant, immediately confronted plaintiff and said " Mr. Comer, I told you before that if you are here to get drugs you will not get them from me". Plaintiff states that, again, he was shocked to hear that defendant was accusing him of trying to obtain narcotics since defendant had prior

knowledge that plaintiff had informed Clearfield Hospital earlier that he did not want any type of narcotic drug given to him by any physician working at Clearfield Hospital. Plaintiff states that he told defendant that if he (defendant) ever again accused him of trying to obtain narcotic drugs from Clearfield Hospital he (plaintiff) would report him to the Office Of Human Resources at Clearfield Hospital.

6. In June, 2004, plaintiff was admitted to the ER at Clearfield Hospital for an accidental overdose of <sup>1</sup>Xanax following a severe panic attack. Plaintiff states that he had been treated at the Clearfield Hospital ER for severe panic attacks three (3) times prior to his accidental overdose in June, 2004.
7. In July, 2004, plaintiff was asked by a woman named <sup>2</sup>Robin to take her to the Clearfield Hospital ER for leg pain. Plaintiff states that, after seeing plaintiff bring Robin into the ER, defendant confronted Robin, who was a stranger to both plaintiff and defendant, and informed her that he had recently treated plaintiff for a drug overdose of Xanax and that he suspected that she came to the emergency room in order to obtaining narcotic drugs for plaintiff. Plaintiff further states that Robin, after returning to plaintiff's apartment building, informed others living in the building that defendant had told her that plaintiff had overdosed on Xanax and that he (defendant) suspected that she was there to obtain narcotic drugs for plaintiff.

WHEREFORE, plaintiff suffered great embarrassment and damage to his character

(3)

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<sup>1</sup> Xanax is used in treating anxiety and panic attacks.

<sup>2</sup> Robin is from Pittsburgh, PA and was visiting plaintiff's apartment building when she asked plaintiff to take her to the ER at Clearfield Hospital.

after others had learned what defendant had told Robin about plaintiff's overdose of Xanax.

### III. Allegations

8. **First Allegation: Breach Of Doctor/Patient Privilege (Confidentiality)**
9. According to item 7 above, plaintiff alleges that Dr. James Desantis, defendant, did indeed, breach Doctor/Patient Confidentiality when he informed an ER patient that he had treated plaintiff for a drug overdose as described in item 7, above.
10. **Second Allegation: Slander**
11. According to item 7 above, plaintiff alleges that, because defendant had breached plaintiff's right to confidentiality by informing one of his patients that plaintiff had overdosed on Xanax, plaintiff suffered great embarrassment and damage to his character.

### IV. Statement In Summary

12. Plaintiff states, in summary, that Robin, described in item 7 above, intends to appear as a witness for plaintiff. Additional witnesses will appear to show that defendant's breach of doctor/patient confidentiality was indeed slanderous.  
  
WHEREFORE, the overwhelming evidence in support of plaintiff's allegations certainly give rise to a prima facie case.

### V. Demand

13. Plaintiff demands that this case be tried by a judge.

## VI. Claim For Relief

14. Pursuant to page 4, items 8, 9 above, plaintiff claims the following:

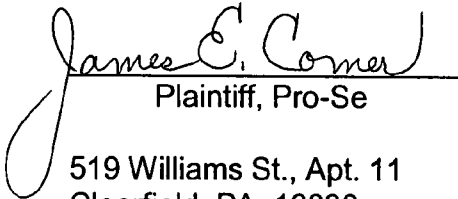
**Count One...** An exemplary consideration (punitive) in the amount of \$100,000.00

15. Pursuant to page 4, items 10, 11, above, plaintiff claims the following:

**Count Two...** Compensatory damages in the amount of \$10,000.00

## VII. Prayer

Your plaintiff in the above matter prays that this Court grants him relief, as claimed above, and awards him any other form of relief deemed just and proper.

  
Plaintiff, Pro-Se

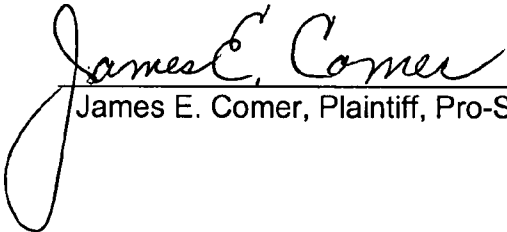
519 Williams St., Apt. 11  
Clearfield, PA. 16830  
(814) 765-4998

Date: 11/8/04



### Verification

The undersigned hereby verifies, subject to the penalty of perjury provided under 18 Pa. C.S.A. Section 4904 that the facts set forth in the foregoing Civil Complaint are true and correct so far as they are based upon personal knowledge, and, so far as they are based upon information obtained from others, are believed in good faith to be reliable, true and correct.

  
James E. Comer, Plaintiff, Pro-Se

## Certificate Of Service

I, the undersigned, do hereby certify that a correct and true copy of the foregoing  
Civil Complaint was sent by first class mail to the following individual on this 8<sup>th</sup> day  
of November, 2004:

Frank J. Hartye, Esquire  
P.O. Box 533  
Hollidaysburg, PA 16648

  
Plaintiff, Pro-Se

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

**ISSUE:**

PRAECIPE FOR APPEARANCE

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:

Frank J. Hartye, Esquire

PA I.D. #25568

McINTYRE, DUGAS, HARTYE &

SCHMITT

P.O. Box 533

Hollidaysburg, PA 16648

(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 22<sup>ND</sup> DAY OF NOVEMBER, 2004.

Attorneys for Named Defendant

FILED

NOV 23 2004

William A. Shaw  
Prothonotary/Clerk of Courts

EBK

NBCC

copy to CIA

Date: November 22, 2004

CA

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750 -CD

**ISSUE:**

PRELIMINARY OBJECTIONS TO  
PLAINTIFF'S COMPLAINT

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:

Frank J. Hartye, Esquire

PA I.D. #25568

McINTYRE, DUGAS, HARTYE &  
SCHMITT

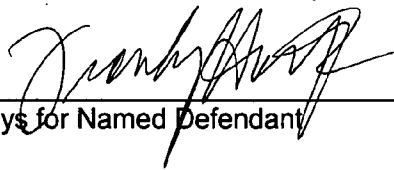
P.O. Box 533

Hollidaysburg, PA 16648

(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 23<sup>rd</sup> DAY OF **NOVEMBER, 2004.**

  
Attorneys for Named Defendant

FILED<sup>NO cc</sup>

m/1:27/11  
NOV 24 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

JAMES E. COMER,	:	No. 04 – 1750
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
DR. JAMES DESANTIS,	:	
	:	
Defendant	:	JURY TRIAL DEMANDED

**PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT**

AND NOW, comes the Defendant, DR. JAMES DESANTIS, by and through his attorneys, McINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Preliminary Objections to plaintiff's Complaint.

1. Plaintiff has filed a Complaint against Defendant alleging breach of doctor/patient privilege and slander. The only facts pled by the plaintiff in support of these claims are found in paragraph 7 of the Complaint. This paragraph does not sufficiently set forth facts in support of a claim for breach of confidentiality or defamation.

2. Plaintiff is required to specifically identify the "third person" to whom the defamatory material was published in order to sustain a cause of action for slander. Further plaintiff must specifically set forth the defamatory statement.

3. Likewise in an action for breach of confidentiality, plaintiff must sufficiently identify the person or persons to whom confidential information was conveyed by the physician.

4. Plaintiff's Complaint merely indicates that Dr. DeSantis disclosed this information to "Robin" and was apparently disclosed by "Robin" to "others".

**MOTION FOR MORE SPECIFIC COMPLAINT**

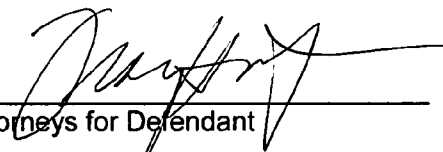
5. Defendant incorporates by reference the previous paragraphs of the within Preliminary Objections as though the same were set forth herein at length.

6. Plaintiff's Complaint does not sufficiently set forth the alleged defamatory statements and the individual or individuals to whom the statements were made or the persons to whom the confidential information was conveyed.

WHEREFORE, the defendant requests this Honorable Court to require the plaintiff to file a more specific Complaint setting forth the specific defamatory statement, the individual or individuals to whom this statement was made and the identity of the individuals to whom Dr. DeSantis allegedly conveyed confidential information.

Respectfully submitted,

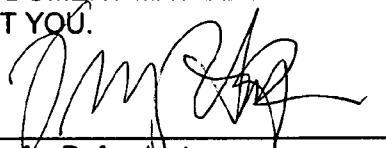
McINTYRE, DUGAS, HARTYE & SCHMITT

By   
Attorneys for Defendant

Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

**TO: PLAINTIFF**

**YOU ARE HEREBY NOTIFIED TO  
FILE A WRITTEN RESPONSE TO  
THE ENCLOSED **PRELIMINARY  
OBJECTIONS** WITHIN TWENTY  
(20) DAYS FROM SERVICE HEREOF  
OR A JUDGMENT MAY BE ENTERED  
AGAINST YOU.**

  
Attorneys for Defendant

CR

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750-CD

**ISSUE:**

PRAECIPE FOR ARGUMENT LIST

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:

Frank J. Hartye, Esquire

PA I.D. #25568

McINTYRE, DUGAS, HARTYE &

SCHMITT

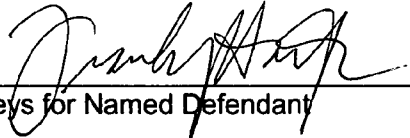
P.O. Box 533

Hollidaysburg, PA 16648

(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 23<sup>rd</sup> DAY OF NOVEMBER, 2004.

  
Attorneys for Named Defendant

FILED No cc  
m/11:27  
NOV 24 2004  
William A. Shaw  
Prothonotary/Clerk of Courts



Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,

Plaintiff

vs.

Civil Action No. 04-1750

Dr. James Desantis,

Defendant

Plaintiff's Response To Defendants Preliminary Objections and Brief

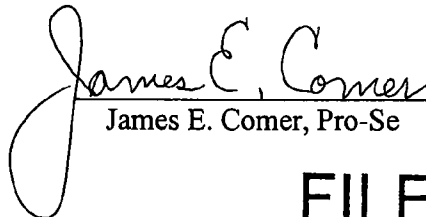
COMES NOW, your plaintiff, pro-se, who enters this Plaintiff's Response To Defendants Preliminary Objections and Brief, as follows:

1. That, according to defendants Preliminary Objections, <sup>1</sup>item 1, plaintiff agrees to Amend his Complaint to include a more specific, detailed and informative statement regarding the defamatory statement made by defendant to a third person.
2. That, according to defendants Preliminary Objections, item 2, plaintiff agrees to Amend his Complaint to include the identity of the third person in question.

WHEREFORE, plaintiff agrees that an Order be issued granting defendants Preliminary Objections and its remedies.

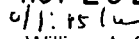
CERTIFICATE OF SERVICE:

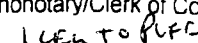
I hereby certify that a true and correct copy of the foregoing was mailed to all counsel of record on November 29, 2004.

  
James E. Comer, Pro-Se

  
**FILED**

**NOV 29 2004**

  
William A. Shaw

Prothonotary/Clerk of Courts  


<sup>1</sup> Defendant has failed to include page numbers, making it difficult for plaintiff to make reference.

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

COMER, JAMES E.

VS.

DESANTIS, DR. JAMES

CIVIL COMPLAINT

Sheriff Docket #

16585

04-1750-CD

**SHERIFF RETURNS**

NOW NOVEMBER 10, 2004 AT 2:40 PM SERVED THE WITHIN CIVIL COMPLAINT ON DR. JAMES DESANTIS, DEFENDANT AT EMPLOYMENT, 809 TURNPIKE AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO DR. JAMES DESANTIS A TRUE AND ATTESTED COPY OF THE ORIGINAL CIVIL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: DEHAVEN

**Return Costs**

Cost	Description
20.37	SHERIFF HAWKINS PAID BY: IFP

Sworn to Before Me This

16 Day Of Dec. 2004



So Answers,

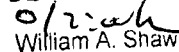


Chester A. Hawkins

Sheriff

**FILED**

DEC 16 2004

  
William A. Shaw

Prothonotary/Clerk of Courts

In The Common Pleas Court Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,

Plaintiff

vs.

Civil Action No. 04-1750

Dr. James Desantis,

Defendant

Civil Complaint/Amended

IN THIS HONORABLE COURT, your plaintiff, James E. Comer, pro-se, enters into action this Civil Complaint, amended, reformed and refiled this 17th day of December, 2004. Plaintiff states that, according to the allegations set-forth in this complaint, those allegations are such that plaintiff is not required to assert a Professional Liability Claim against defendant nor does Rule 1040.2 apply in this case. With that established plaintiff offers the following allegations, statements and claims, as follows:

I. Parties

1. Plaintiff: James E. Comer  
519 Williams St., Apt 11  
Clearfield, PA. 16830  
814-765-4998
2. Defendant: Dr. James Desantis  
809 Turnpike Ave.  
Clearfield, PA 16830  
814-765-5341

FILED

DEC 17 2004 6/1  
0/2:35/1  
William A. Shaw  
Prothonotary/Clerk of Courts  
I came to Plaintiff.

## II. Procedural History

3. November 8, 2004 plaintiff filed a complaint, styled Civil Complaint, against defendant.
4. November 23, 2004 defendant filed Preliminary Objections and Brief.
5. November 29, 2004 plaintiff filed a Response To Defendants Preliminary Objections.

## III. Preamble

6. In June 2004, plaintiff was admitted to the Emergency Room, hereafter referred to as ER, at Clearfield Hospital for an accidental overdose of <sup>1</sup>Xanax following a severe panic attack.
7. In July, 2004, plaintiff was asked by Robin Kovan to take her to the ER at Clearfield Hospital for leg pain. Plaintiff states that, after Robin Kovan was discharged from the ER she informed plaintiff that Dr. Desantis, defendant, made statements to her that she felt was unethical. When plaintiff questioned Robin Kovan regarding defendants statements, plaintiff was told that Dr. Desantis had informed Robin Kovan that plaintiff had previously been admitted to the ER for an overdose of Xanax, and, that defendant accused her of coming to the ER for the purpose of obtaining narcotic drugs for plaintiff. Plaintiff states that he was shocked to hear that defendant had breached Doctor/Patient Privilege by telling Robin Kovan that he had recently overdosed on drugs. Plaintiff states that Robin Kovan began acting indifferent towards plaintiff after hearing that he had overdosed on drugs and demanded that plaintiff return her to her home in Pittsburgh. Plaintiff further states that his relationship with Robin Kovan ended at that time due to what defendant told her regarding plaintiff's overdose of Xanax.

(2)

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<sup>1</sup> Xanax is a strong, narcotic drug used in treating anxiety and panic attacks.

#### IV. Allegations

8. Count 1: Breach of Doctor/Patient Privilege (Confidentiality)

That, Dr. Desantis, defendant, did indeed, breach Doctor/Patient Privilege when he told Robin Kovan, a patient at Clearfield Hospital, that plaintiff had previously been to the Clearfield Hospital ER for an overdose of Xanax.

9. Count Two: Slander

That, Dr. Desantis, defendant, did indeed, slander plaintiff when he (defendant) informed Robin Kovan that plaintiff had overdosed on drugs, causing Robin Kovan to determine that plaintiff was a drug addict. Plaintiff states that, because Robin Kovan believed defendants statement saying that plaintiff had recently overdosed on drugs, his relationship with Robin Kovan ended. Plaintiff further states that defendant's statement to Robin Kovan, did indeed, cause irreparable damage to his relationship with Robin Kovan.

#### V. Statement In Summary

10. Plaintiff states, in summary, that Robin Kovan intends to appear as a witness for plaintiff. Additional witnesses will appear to show that defendant, did indeed, breach Doctor/Patient Privilege. Therefore, the overwhelming evidence in support of plaintiff's allegations certainly give rise to a *prima facie* case, as follows:

- a) That, there was indeed defamatory language on the part of defendant.
- b) That, the defamatory language concerned the plaintiff, i.e., it identified plaintiff to a reasonable listener.

- c) That, the defamatory language was published to a third person.
- d) That, plaintiff's reputation was damaged.

#### VI. Demand

- 11. Plaintiff demands that this case be tried by a judge.

#### VII. Claim For Relief

- 12. According to **Count 1** (page 3, item 8) plaintiff claims that defendant, did indeed, breach Doctor/Patient Privilege (Confidentiality) when he informed Robin Kovan, an ER patient, that plaintiff had overdosed on narcotic drugs.

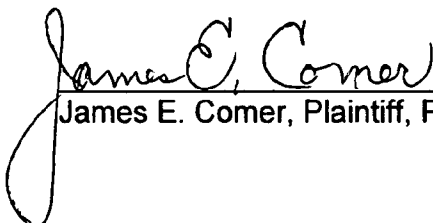
WHEREFORE, plaintiff demands that defendant be legally responsible for his actions and be held liable for punitive damages in the amount of \$100,000.00.

- 13. According to **Count 2** (page 3, item 9) plaintiff claims that the statements made by defendant to Robin Kovan in July, 2004, regarding plaintiff's overdose on drugs, did indeed slander plaintiff, thus causing insult and damage to plaintiff's reputation. Plaintiff further states that defendant's slander caused Robin Kovan to end her relationship with plaintiff.

WHEREFORE, plaintiff demands that defendant be legally responsible for his actions and be held liable for compensatory damages in the amount of \$10,000.00.

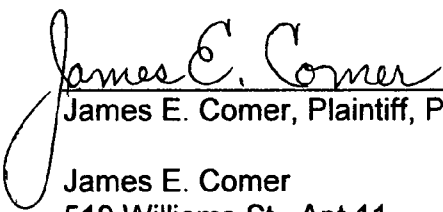
#### VIII. Prayer

Your plaintiff in the above matter prays that this Court grants him relief, as claimed above, and awards him any other form of relief deemed just and proper.

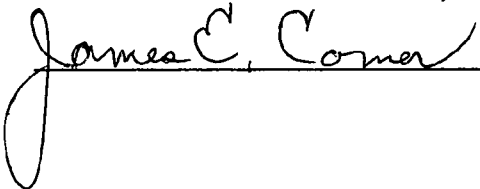
  
James E. Comer, Plaintiff, Pro-Se

Verification

I, the undersigned, hereby verifies, subject to the penalty of perjury that the facts set-forth in the foregoing Civil Complaint/Amended are true and correct so far as they are based upon personal knowledge, and so far as they are based upon information obtained from others, are believed in good faith to be reliable, true and correct.

 Date: 12/17/04  
James E. Comer, Plaintiff, Pro-Se  
  
James E. Comer  
519 Williams St., Apt 11  
Clearfield, PA 16830  
814-765-4998

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 17<sup>TH</sup> DAY OF DECEMBER, 2004.





Frank J. Hartye  
P.O. Box 533  
Hollidaysburg, PA 16648

Re: James E. Comer v. Dr. James Desantis  
Amended Civil Action No. 04-1750  
Clearfield County, Court of Common Pleas

**Notice of Praeipce to Enter Judgment by Default**

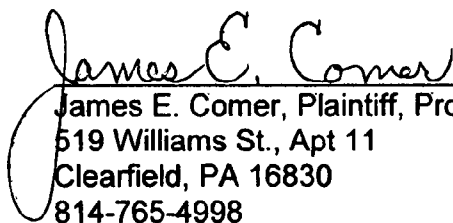
To: Dr. James Desantis, Defendant

Date of Notice: January 7, 2005

**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU IN THE ABOVE CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

Be advised that I intend to file a **Writ of Praeipce** (non pros), pursuant to Rule 1037(a) of the P.R.C.P., if you fail to comply with this Notice in a timely manner.

  
James E. Comer, Plaintiff, Pro-Se  
519 Williams St., Apt 11  
Clearfield, PA 16830  
814-765-4998

cc: Dr. James Desantis

FILED <sup>ICC</sup>  
6\* 01/2:15/01 <sup>Piff</sup>  
JAN 07 2005

William A. Shaw  
Prothonotary/Clerk of Courts

Frank J. Hays  
P.O. Box 533  
Hollidaysburg, PA 16848

Re: James E. Comer v. Dr. James Desantis  
Amended Civil Action No. 04-1750  
Clearfield County, Court of Common Pleas

Notice of Precipice to Enter Judgment by Default

To: Dr. James Desantis, Defendant

Date of Notice: January 7, 2005

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU IN THE ABOVE CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

Be advised that I intend to file a Writ of Precipice (non pros), pursuant to Rule 1037(a) of the P.R.C.P., if you fail to comply with this Notice in a timely manner.

James E. Comer, Plaintiff, Pro-Se  
519 Williams St., Apt 11  
Clearfield, PA 16830  
814-762-4998

cc: Dr. James Desantis

FILED

JAN 07 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

**ISSUE:**

Answer and New Matter to Plaintiff's  
Amended Complaint

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:  
Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 11<sup>th</sup> DAY OF JANUARY,  
2005.

  
Attorneys for Named Defendant

FILED NO  
64 11/18/04 CC  
JAN 12 2005  
William A. Shaw  
Prothonotary/Clerk of Courts

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

JAMES E. COMER,	:	No. 04 – 1750
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
DR. JAMES DESANTIS,	:	
	:	
Defendant	:	JURY TRIAL DEMANDED

**ANSWER AND NEW MATTER TO  
PLAINTIFF'S AMENDED COMPLAINT**

AND NOW, comes the defendant, JAMES DESANTIS, D.O., by and through his attorneys, MCINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Answer and New Matter to plaintiff's Amended Complaint.

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted in part and denied in part. It is admitted that on June 28, 2004 that plaintiff came to the emergency department at Clearfield Hospital. The remaining allegations are denied as stated. To the contrary plaintiff indicated that he was "just trying to get a buzz" as more specifically set forth in the patient's record for that date.
7. After reasonable investigation defendant is without sufficient knowledge or information as to truth of the averments contained in Paragraph No. 7 and therefore all the allegations contained in that paragraph are denied as stated.
8. The allegations contained in Paragraph No. 8 are denied.

9. The allegations contained in Paragraph No. 9 are denied.

10. It is denied that Dr. DeSantis breached any duty imposed upon him as a physician. It is denied that he engaged in any defamatory language relating to the plaintiff and therefore all the allegations contained in Paragraph No. 10 and the subparagraphs thereof are denied.

11. Defendant requests a trial by jury.

12. The allegations contained in Paragraph No. 12 and the paragraphs incorporated therein are denied. It is denied that plaintiff is entitled to any damages.

13. The allegations contained in Paragraph No. 13 and the paragraphs incorporated therein are denied. It is denied that plaintiff is entitled to any damages.

WHEREFORE, defendant, JAMES DESANTIS, D.O., demands judgment in his favor with costs of suit awarded to defendant.

#### **NEW MATTER**

By way of further and more complete answer defendant avers the following New Matter.

14. Plaintiff's Complaint fails to set forth a sufficient basis for a claim of punitive damages and therefore plaintiff's claim for punitive damages as set forth in Paragraph No. 12 should be dismissed.


15. Plaintiff's Complaint fails to set forth a cause of action for slander since plaintiff's Complaint admits that the alleged slanderous statement was in fact true.

16. Defendant hereby affirmatively pleads the truth as to any claim of slander made by plaintiff in this action.

17. Plaintiff's Complaint fails to set forth a cause of action upon which relief can be granted and should be dismissed.

WHEREFORE, defendant, JAMES DESANTIS, D.O., demands judgment in his favor with costs of suit awarded to defendant.

MCINTYRE, DUGAS, HARTYE & SCHMITT

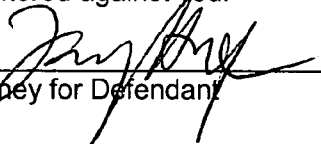
  
\_\_\_\_\_  
Attorney for Defendant

FRANK J. HARTYE, ESQUIRE  
PA. I.D. No. 25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
814/696-3581

**Notice to Plead**

To: Plaintiff

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

  
\_\_\_\_\_  
Attorney for Defendant

**VERIFICATION**

I, **FRANK J. HARTYE, ESQUIRE**, being the attorney of record for **Defendant, James DeSantis, D.O.**, verify that I am authorized to make this verification on behalf of Defendant in the within action, and that the statements made in the foregoing **Answer and New Matter to Plaintiff's Amended Complaint** are true and correct to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
**FRANK J. HARTYE, ESQUIRE**

Date: January 11, 2005

In The Common Pleas Court of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,

Petitioner

vs.

Civil Action No. 04-1750

Dr. James DeSantis,

Respondant

FILED (E)

JAN 13 2005  
01/12/2005  
William A. Shaw  
Prothonotary/Clerk of Courts  
I SENT TO PETITIONER

Petition To Enter Writ Of Praeipce

COMES NOW, your petitioner, James E. Comer, who requests that this Court allow him to enter a Writ Of Praeipce for the following reasons:

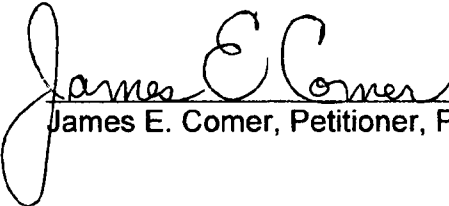
1. On December 17, 2004 plaintiff filed an Amended Complaint to the above action.
2. On January 7, 2005 defendant failed to answer Amended Complaint in the time allowed by P.R.C.P. 1026(a).
3. On January 7, 2005 plaintiff filed and delivered a Notice Of Praeipce To Enter Judgment By Default upon defendant.
4. Defendant failed to answer plaintiff's Notice Of Praeipce.
5. On January 11, 2005 defendant filed a delinquent Answer and New Matter to Plaintiff's Amended Complaint, contrary to the time allowed by P.R.C.P. 1026(a).



6. According to defendant's Answer and New Matter to Plaintiff's Amended Complaint, defendant alleges Demurrer. Plaintiff states that his Amended Complaint, does indeed, show cause of action.

7. According to defendant's Answer and New Matter to Plaintiff's Amended Complaint, defendant's allegations and claims under New Matter are not allowed by Rule 1030.

WHEREFORE, petitioner requests that he be granted permission to move forward with a Writ Of Praecipe To Enter Judgment By Default.

  
James E. Comer, Petitioner, Pro-Se

Date: 11/13/05

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,

Plaintiff

vs.

Mo. 04-1750

Dr. James DeSantis,

Defendant

FILED

JAN 18 2005

0/9:35/2

William A. Shaw  
Prothonotary/Clerk of Courts  
No 2/c.

Plaintiff's Argument Pursuant To:  
Defendant's Reply To Plaintiff's Petition To Enter Writ Of Praecipe

COMES NOW, your plaintiff, James E. Comer, pro-se, who, pursuant to Defendant's Reply To Plaintiff's Petition To Enter Writ Of Praecipe (hereafter referred to as Reply), argues the following:

1. That, according to defendant's Reply (item 1, page 1), defendant claims that plaintiff filed an Amended Complaint on December 17, 2004. Defendant states that plaintiff filed his Amended Complaint beyond the 20 day time limit for voluntary amendment.

**Plaintiff's Argument:**

Plaintiff argues that defendant filed <sup>1</sup>Preliminary Objections and Brief on November 23, 2004, requesting that plaintiff file a more specific Complaint. Plaintiff further argues that he filed a Response To Defendant's Preliminary Objections on November 29, 2004 stating that

(1)

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<sup>1</sup> For the Courts convenience, plaintiff has attached copies of defendant's Preliminary Objections , plaintiff's Response to those Objections and other documents pursuant to this pleading.

he agrees to amend his Complaint to include all amendments requested by defendant.

Plaintiff further argues that he filed his Amended Complaint on December 17, 2004, eighteen (18) days following his agreement to amend.

2. That, according to defendant's Reply (item 1, page 1), defendant claims that plaintiff filed Amended Complaint without Leave of Court.

**Plaintiff's Argument:**

Plaintiff argues that he did not file a Motion For Leave since he agreed to amend Complaint, as requested by defendant. Plaintiff alleges that defendant's claim represents *de minimus non curat lex*.

3. That, according to defendant's Reply (item 1, page 1), defendant claims that plaintiff failed to include a Notice To Plead.

**Plaintiff's Argument:**

Plaintiff argues that he did not include a Notice To Plead simply because defendant was represented by an attorney who should be educated and sophisticated in matters of law. Plaintiff alleges that defendant's claim represents *de minimus non curat lex*.

4. That, according to defendant's Reply (item 4-5, page 1), defendant claims that he filed an Answer to plaintiff's Amended Complaint on January 11, 2005. Defendant further claims that he filed his Answer within the time limit specified by Rule.

**Plaintiff's Argument:**

Plaintiff argues that defendant did file his Answer on January 11, 2005 which, according

to plaintiff's calendar, is **twenty five (25) days** after plaintiff filed his Amended Complaint.

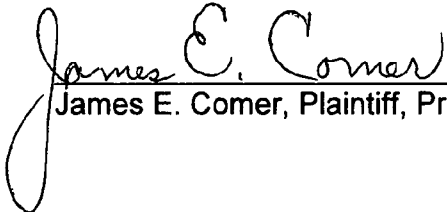
Plaintiff further argues that twenty days is the length of time allowed by P.R.C.P. 1026(a).

5. That, according to defendant's Reply (item 6-7, page 1 and 2), defendant claims that "no pleading need to be filed unless the preceding pleading contains a Notice to Defend or is endorsed with a Notice to Plead.

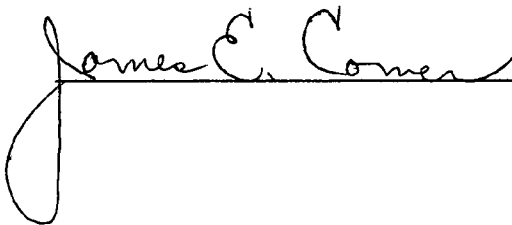
**Plaintiff's Argument:**

Plaintiff argues that his Amended Complaint did not contain a Notice to Defend due to the fact that defendant has been represented by the same attorney since November 8, 2004.

WHEREFORE, plaintiff prays that this Honorable Court finds his Argument's to be meritorious and allows him to move forward with his Petition To Enter Writ Of Praecipe.

  
James E. Comer, Plaintiff, Pro-Se

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
ON THIS 18<sup>th</sup> DAY OF JANUARY, 2005.



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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

**ISSUE:**


PRELIMINARY OBJECTIONS TO  
PLAINTIFF'S COMPLAINT

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:  
Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 23<sup>rd</sup> DAY OF NOVEMBER, 2004.

  
\_\_\_\_\_  
Attorneys for Named Defendant

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

: No. 04 – 1750  
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JURY TRIAL DEMANDED

**PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT**

AND NOW, comes the Defendant, DR. JAMES DESANTIS, by and through his attorneys, McINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Preliminary Objections to plaintiff's Complaint.

1. Plaintiff has filed a Complaint against Defendant alleging breach of doctor/patient privilege and slander. The only facts pled by the plaintiff in support of these claims are found in paragraph 7 of the Complaint. This paragraph does not sufficiently set forth facts in support of a claim for breach of confidentiality or defamation.

2. Plaintiff is required to specifically identify the "third person" to whom the defamatory material was published in order to sustain a cause of action for slander. Further plaintiff must specifically set forth the defamatory statement.

3. Likewise in an action for breach of confidentiality, plaintiff must sufficiently identify the person or persons to whom confidential information was conveyed by the physician.

4. Plaintiff's Complaint merely indicates that Dr. DeSantis disclosed this information to "Robin" and was apparently disclosed by "Robin" to "others".

**MOTION FOR MORE SPECIFIC COMPLAINT**


5. Defendant incorporates by reference the previous paragraphs of the within Preliminary Objections as though the same were set forth herein at length.

6. Plaintiff's Complaint does not sufficiently set forth the alleged defamatory statements and the individual or individuals to whom the statements were made or the persons to whom the confidential information was conveyed.

WHEREFORE, the defendant requests this Honorable Court to require the plaintiff to file a more specific Complaint setting forth the specific defamatory statement, the individual or individuals to whom this statement was made and the identity of the individuals to whom Dr. DeSantis allegedly conveyed confidential information.

Respectfully submitted,


McINTYRE, DUGAS, HARTYE & SCHMITT

By   
Attorneys for Defendant

Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

**TO: PLAINTIFF**

YOU ARE HEREBY NOTIFIED TO  
FILE A WRITTEN RESPONSE TO  
THE ENCLOSED **PRELIMINARY  
OBJECTIONS** WITHIN TWENTY  
(20) DAYS FROM SERVICE HEREOF  
OR A JUDGMENT MAY BE ENTERED  
AGAINST YOU.

  
Attorneys for Defendant

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,

Plaintiff

vs.

Civil Action No. 04-1750

Dr. James Desantis,

Defendant

Plaintiff's Response To Defendants Preliminary Objections and Brief

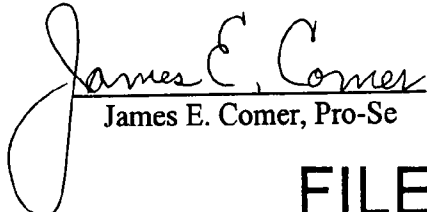
COMES NOW, your plaintiff, pro-se, who enters this Plaintiff's Response To Defendants Preliminary Objections and Brief, as follows:

1. That, according to defendants Preliminary Objections, <sup>1</sup>item 1, plaintiff agrees to Amend his Complaint to include a more specific, detailed and informative statement regarding the defamatory statement made by defendant to a third person.
2. That, according to defendants Preliminary Objections, item 2, plaintiff agrees to Amend his Complaint to include the identity of the third person in question.

WHEREFORE, plaintiff agrees that an Order be issued granting defendants Preliminary Objections and its remedies.

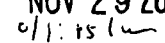
CERTIFICATE OF SERVICE:

I hereby certify that a true and correct copy of the foregoing was mailed to all counsel of record on November 29, 2004.

  
James E. Comer, Pro-Se

  
**FILED**

**NOV 29 2004**

  
William A. Shaw  
Prothonotary/Clerk of Courts  
*10/29/04*

<sup>1</sup> Defendant has failed to include page numbers, making it difficult for plaintiff to make reference.



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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

**ISSUE:**

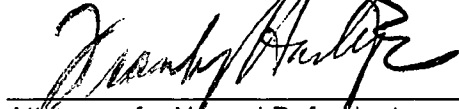
Defendant's Reply to Plaintiff's  
Petition to Enter Writ of Praecipe

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:  
Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 14th DAY OF JANUARY, 2005.



Attorneys for Named Defendant

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

JAMES E. COMER,	:	No. 04 – 1750
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
DR. JAMES DESANTIS,	:	
	:	
Defendant	:	JURY TRIAL DEMANDED

**DEFENDANT'S REPLY TO PLAINTIFF'S PETITION TO ENTER WRIT OF  
PRAECIPE**

AND NOW, comes defendant, DR. JAMES DESANTIS, by and through his attorneys, MCINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Reply to Plaintiff's Petition to Enter Writ of Praecipe.

1. Plaintiff filed a Complaint on November 10, 2004. Defendant filed Preliminary Objections to the Complaint on November 23, 2004 and served a copy by mail that same day upon plaintiff. It is admitted that plaintiff filed an Amended Complaint on December 17, 2004. The Amended Complaint was filed beyond the 20 day time limit for voluntary amendment and was filed without leave of Court. Further the Amended Complaint did not contain a "Notice to Plead."

2.-3. It is admitted that on January 7, 2005 that plaintiff filed a 10 day Notice.

4.-5. Four days later on January 11, 2005 defendant filed an Answer and New Matter to Plaintiff's Amended Complaint within the time limit specified by the Pennsylvania Rules of Civil Procedure.

6.-7. Defendant's Answer and New Matter was filed in a timely fashion. In addition Rule 1026 provides that pleadings subsequent to the Complaint shall be filed within 20 days after service but no pleading need to be filed unless the preceding

pleading contains a Notice to Defend or is endorsed with a Notice to Plead. Plaintiff's Amended Complaint contains neither.

WHEREFORE, defendant, DR. JAMES DESANTIS, requests this Court to deny and dismiss plaintiff's Petition to Enter Writ of Praecipe to enter judgment by default.

MCINTYRE, DUGAS, HARTYE & SCHMITT

A handwritten signature in black ink, appearing to read 'Frank J. Hartye', written over a horizontal line.

Attorney for Defendant

FRANK J. HARTYE, ESQUIRE  
PA. ID. No. 25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
814/696-3581

FILED

JAN 18 2005

William A. Scott  
Prothonotary, Clerk of Courts

CA

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

JAMES E. COMER,  
Plaintiff

vs.

DR. JAMES DeSANTIS,  
Defendant

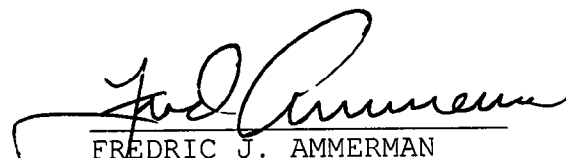
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: NO. 04-1750-CD  
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O R D E R

NOW, this 17th day of January, 2005, the Court being in receipt of the pro se Plaintiff's "Petition to Enter Writ of Praecipe" document; the same clearly not in compliance with the Rules of Civil Procedure, it is the Order of this Court that the said Petition be and is hereby DENIED.

BY THE COURT,

FILED 1cc Diff  
612 01/18/05 519 Williams St.  
JAN 18 2005 Apt. 11  
Clearfield, PA  
William A. Shaw  
Prothonotary Clerk of Courts 16830

  
FREDRIC J. AMMERMAN  
President Judge

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

**ISSUE:**

Defendant's Reply to Plaintiff's  
Petition to Enter Writ of Praecepte

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:  
Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 14th DAY OF JANUARY, 2005.

  
Attorneys for Named Defendant

FILED NO CC  
611 m/12:42 PM  
JAN 18 2005  
William A. Sney  
Prothonotary/Clerk of Courts

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

JAMES E. COMER,	:	No. 04 – 1750
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
DR. JAMES DESANTIS,	:	
	:	
Defendant	:	JURY TRIAL DEMANDED

**DEFENDANT'S REPLY TO PLAINTIFF'S PETITION TO ENTER WRIT OF  
PRAECIPE**

AND NOW, comes defendant, DR. JAMES DESANTIS, by and through his attorneys, MCINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Reply to Plaintiff's Petition to Enter Writ of Praecipe.

1. Plaintiff filed a Complaint on November 10, 2004. Defendant filed Preliminary Objections to the Complaint on November 23, 2004 and served a copy by mail that same day upon plaintiff. It is admitted that plaintiff filed an Amended Complaint on December 17, 2004. The Amended Complaint was filed beyond the 20 day time limit for voluntary amendment and was filed without leave of Court. Further the Amended Complaint did not contain a "Notice to Plead."

2.-3. It is admitted that on January 7, 2005 that plaintiff filed a 10 day Notice.

4.-5. Four days later on January 11, 2005 defendant filed an Answer and New Matter to Plaintiff's Amended Complaint within the time limit specified by the Pennsylvania Rules of Civil Procedure.

6.-7. Defendant's Answer and New Matter was filed in a timely fashion. In addition Rule 1026 provides that pleadings subsequent to the Complaint shall be filed within 20 days after service but no pleading need to be filed unless the preceding

pleading contains a Notice to Defend or is endorsed with a Notice to Plead. Plaintiff's Amended Complaint contains neither.

WHEREFORE, defendant, DR. JAMES DESANTIS, requests this Court to deny and dismiss plaintiff's Petition to Enter Writ of Praeipe to enter judgment by default.

MCINTYRE, DUGAS, HARTYE & SCHMITT

  
\_\_\_\_\_  
Attorney for Defendant

FRANK J. HARTYE, ESQUIRE  
PA. ID. No. 25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
814/696-3581



FILED

JAN 18 2005

WILLIAM A. STANLEY  
PROBATE CLERK OF COURT

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,  
Plaintiff

vs.

Dr. James DeSantis,  
Defendant

**FILED**  
O 2:02 BA 100 to p 46  
JAN 25 2005

Civil Action No. 04-1750 - CD

William A. Shaw  
Prothonotary

Plaintiff's Response To:  
Defendant's Answer and New Matter to Plaintiff's Amended Complaint

IN THIS HONORABLE COURT, your plaintiff, James E. Comer, pro-se, offers the following Arguments, Statements and Claims pursuant to defendant's Answer and New Matter:

I. Argument

1. That, according to defendant's Answer, paragraphs 1, 2, 3, 4, 5, defendant admits all.
2. That, according to defendant's Answer, paragraph 6, defendant states, in part, "To the contrary plaintiff indicated that he was "just trying to get a buzz".

**Plaintiff argues** that he did not make such a statement during his treatment for a <sup>2</sup>panic attack on June 28, 2004. Plaintiff further argues that reference to such a statement is totally

(1)

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<sup>2</sup> Plaintiff had been treated at Clearfield Hospital for panic attacks two times prior to June 28, 2004.

irrelevant to plaintiff's allegation that defendant breached Doctor/Patient Privilege.

3. That, according to defendant's Answer, paragraph 7, defendant states "After reasonable investigation defendant is without sufficient knowledge or information as to the truth of the averments contained in Paragraph 7 and therefore all the allegations contained in that paragraph are denied as stated".

**Plaintiff argues** that such averments, allegations and claims will be addressed during Discovery.

4. That, according to defendant's Answer, paragraph 8, defendant denies Count 1 of Complaint.

**Plaintiff argues** that defendant did, indeed, breach Doctor/Patient Privilege, as alleged.

5. That, according to defendant's Answer, paragraph 9, defendant denies Count 2 of Complaint.

**Plaintiff argues** that defendant did, indeed, commit Slander, as alleged.

6. That, according to defendant's Answer, paragraph 10, defendant denies that he breached any duty as a physician or did he engage in any defamatory language relating to this plaintiff.

**Plaintiff argues** that such denials will be addressed at trial.

7. That, according to defendant's Answer, paragraph 11, defendant requests a trial by jury.

**Plaintiff argues** that he has a right to a trial by Judge.

8. That, according to defendant's Answer, paragraph 12, defendant denies that he should be held legally responsible for breach of Doctor/Patient Privilege or should be held liable for punitive damages.

**Plaintiff argues** that, during trial, witnesses will show that defendant did breach Doctor/Patient Privilege and that defendant will ultimately be held responsible for his actions.

9. That, according to defendant's Answer, paragraph 13, defendant denies that he should be held responsible for Slander or should be held liable for compensatory damages.

**Plaintiff argues** that defendant's breach of Doctor/Patient Privilege resulted in slander when he informed Robin Kovan that plaintiff had overdosed on Xanax. Moreover, defendant's statement to Robin Kovan caused great insult and damage to plaintiff's reputation, as well as irreparable damage to plaintiff's friendship with Robin Kovan.

10. That, according to defendant's New Matter, paragraph 14, defendant states that plaintiff's Complaint fails to set forth a sufficient basis for a claim of punitive damages.

**Plaintiff argues** that defendant attempts to purport demurrer under New Matter. Plaintiff states that, according to the scope of P.R.C.P. 1030, demurrer is not an appropriate pleading under New Matter. Further, demurrer should be plead in Preliminary Objections pursuant to P.R.C.P. 1028 (4).

11. That, according to defendant's New Matter, paragraph 15, defendant purports Demurrer, in that, "Complaint fails to set-forth a cause of action for slander since plaintiff's Complaint admits that the alleged slanderous statement was in fact true".

**Plaintiff argues** that, again, defendant attempts to purport demurrer under New Matter

contrary to Rules 1030 and 1028 (4). Furthermore, plaintiff argues that defendant's statement to Robin Kovan, saying that plaintiff had overdosed on Xanax, was not the complete truth, in that, defendant failed to tell Robin Kovan that plaintiff had been admitted to the ER for an <sup>3</sup>accidental overdose of Xanax that came as a result of a panic attack. This 'incomplete truth' caused Robin Kovan to think that plaintiff was a drug addict. At the same time, defendant also accused Robin Kovan of coming to the ER for the purpose of obtaining drugs for plaintiff, a statement that reinforced Kovan's thoughts that plaintiff was a drug addict. (emphasis by plaintiff)

12. That, according to defendant's New Matter, paragraph 16, defendant admits that defendant committed slander.

Plaintiff does not argue that fact.

13. That, according to defendant's New Matter, paragraph 17, defendant purports Demurrer. **Plaintiff argues** that Demurrer must be plead in Preliminary Objections rather than New Matter. However, plaintiff's Amended Complaint does, indeed, set-forth a cause of action for which relief can be granted. WHEREFORE, defendant's allegations of Demurrer must be dismissed.

## II. Statement In Summary

14. Plaintiff states, in summary, that defendants failure to tell Robin Kovan the complete truth surrounding plaintiff's overdose caused slander, in that, Robin Kovan took at face value the

(4)

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<sup>3</sup> Plaintiff was first prescribed Xanax on June 27, 2004. Plaintiff accidentally overdosed on Xanax on June 28, 2004. Plaintiff had never used Xanax prior to June 28, 2004.

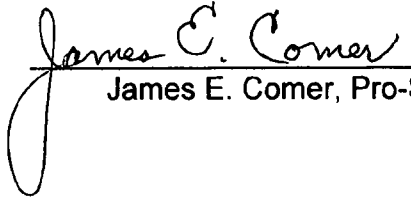
statement made by defendant only saying that plaintiff had overdosed on Xanax and also the statement made by defendant accusing her of coming to the ER for the purpose of obtaining drugs for plaintiff. After hearing such statements, Robin Kovan assumed that plaintiff was a drug addict and ultimately ended her friendship with plaintiff.

### III. Prayer

Your plaintiff in the above matter prays that this honorable Court, after finding that his arguments, statements and claims are meritorious, allows him to move forward with his Amended Complaint.

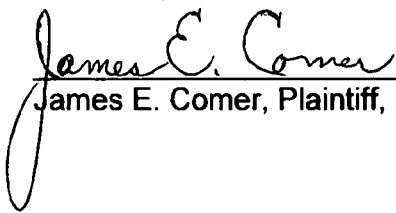
  
James E. Comer, Plaintiff, Pro-Se

I hereby certify that a true and correct copy of the foregoing was mailed to all counsel of record this 25<sup>th</sup> day of January, 2005.

  
James E. Comer, Pro-Se

### Verification

I, the undersigned, hereby verifies, subject to the penalty of perjury that the facts set-forth in the foregoing Plaintiff's Response To: Defendant's Answer and New Matter to Plaintiff's Amended Complaint are true and correct so far as they are based upon personal knowledge, and so far as they are based upon information obtained from others, are believed in good faith to be reliable, true and correct.

  
James E. Comer, Plaintiff, Pro-Se

Date: 1/25/05

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

**ISSUE:**

Praecepte to Supplement Verification

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:

Frank J. Hartye, Esquire

PA I.D. #25568

McINTYRE, DUGAS, HARTYE &

SCHMITT

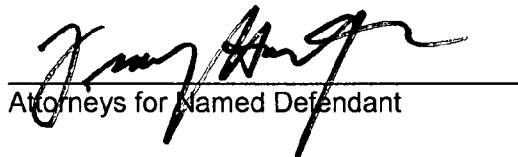
P.O. Box 533

Hollidaysburg, PA 16648

(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 26<sup>th</sup> DAY OF JANUARY, 2005.

  
Attorneys for Named Defendant

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cc



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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

: No. 04 – 1750  
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: JURY TRIAL DEMANDED

**PRAECIPE TO SUPPLEMENT VERIFICATION**

AND NOW, comes defendant, DR. JAMES DESANTIS, by and through his attorneys, MCINTYRE, DUGAS, HARTYE & SCHMITT, and file the following Praecipe to Supplement Verification in support of our Answer and New Matter to Plaintiff's Amended Complaint.

MCINTYRE, DUGAS, HARTYE & SCHMITT

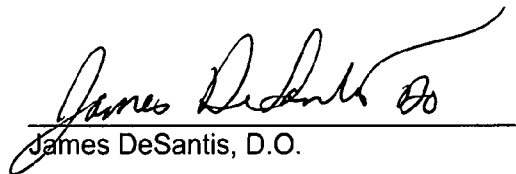
  
\_\_\_\_\_  
Attorney for Defendant

FRANK J. HARTYE, ESQUIRE  
PA. ID. No. 25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
814/696-3581

**VERIFICATION**

I, James DeSantis, D.O., do hereby verify that I have read the foregoing **Answer and New Matter to Plaintiff's Amended Complaint**. The statements therein are correct to the best of my personal knowledge or information and belief.

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

  
James DeSantis, D.O.

Date: 22 Jan 05

**FILED**

**JAN 27 2005**

WILLIAM A. SHAW  
PROTHONOTARY CLERK OF COURTS

CP

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

JAMES E. COMER,  
Plaintiff

vs.

DR. JAMES DESANTIS,  
Defendant

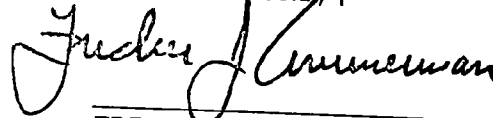
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NO. 04-1750-CD

ORDER

NOW, this 28<sup>th</sup> day of January, 2005, the Court being in receipt of the Motion for Hearing filed on January 26, 2005, by the Plaintiff, pro se; the said Motion for Hearing not being in compliance with the procedures as dictated by the Pennsylvania Rules of Civil Procedure it is the Order of this Court that the said Motion be and is hereby DISMISSED.

BY THE COURT



FREDRIC J. AMMERMAN  
President Judge

**FILED**

0 2:27 PM 3012 JEB

JAN 28 2005

William A. Shaw  
Prothonotary

CA

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,  
Plaintiff

vs.

Civil Action No. 04-1750

Dr. James DeSantis,  
Defendant

Motion For Hearing

COMES NOW, your plaintiff, pro-se, who, pursuant to the above case, moves this Court to schedule a hearing at which time plaintiff will argue the following:

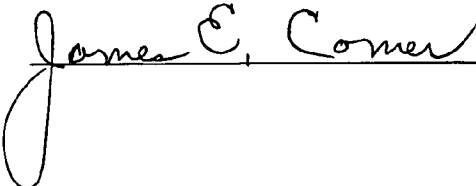
1. That, according to defendant's Answer and New Matter, paragraph 6, defendant states "To the contrary plaintiff indicated that he was "just trying to get a buzz". Plaintiff argues that, although he did not make such a statement, reference to such a statement is totally irrelevant to any allegations set-forth in his Complaint, specifically, Breach of Doctor/Patient Privilege. (emphasis by defendant)

WHEREFORE, plaintiff moves for a hearing in order that he may effectively argue the above matter, and, subsequently move to Strike (paragraph 6) of defendant's Answer and New Matter.

  
James E. Comer, Plaintiff, Pro-Se

FILED  
JAN 26 2005  
01/13/05  
William A. Grist  
Prothonotary/Clerk of Courts  
1 C.F.R. to Plaintiff

I hereby certify that a true and correct copy of this Motion was mailed to all counsel of record this 26<sup>th</sup> day of January, 2005.



NO ORDER ATTACHED

**FILED**

JAN 26 2005

William A. Shaw  
Prothonotary

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

ISSUE:

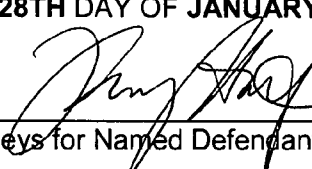
NOTICE OF SERVICE OF  
INTERROGATORIES DIRECTED TO  
PLAINTIFF DATED 1/28/05

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:  
Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 28TH DAY OF JANUARY, 2005.

  
Attorneys for Named Defendant

**FILED**

*M. 12:00 PM NCC*

JAN 31 2005

*WAS*  
William A. Shaw  
Prothonotary

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

JAMES E. COMER,	:	No. 04 – 1750
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
DR. JAMES DESANTIS,	:	
	:	
Defendant	:	JURY TRIAL DEMANDED

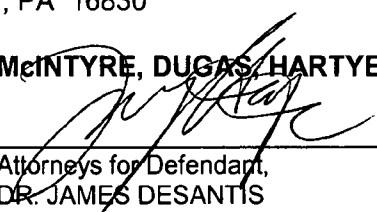
**NOTICE OF SERVICE OF INTERROGATORIES  
DIRECTED TO PLAINTIFF DATED: JANUARY 28, 2005**

TO: PROTHONOTARY

You are hereby notified that on the **28th** day of **JANUARY, 2005**, Defendant,  
**DR. JAMES DESANTIS**, by his counsel, MCINTYRE, DUGAS, HARTYE & SCHMITT  
served Interrogatories Directed to Plaintiff Dated: January 28, 2005 by mailing the  
original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

James E. Comer  
519 Williams Street, Apt. 11  
Clearfield, PA 16830

**McINTYRE, DUGAS, HARTYE & SCHMITT**

  
\_\_\_\_\_  
Attorneys for Defendant,  
DR. JAMES DESANTIS  
**Frank J. Hartye, Esquire**  
**PA I.D. #: 25568**  
P.O. Box 533  
Hollidaysburg, PA 16648  
814/696-3581  
814/696-9399 – Fax



In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,

Plaintiff

vs.

Civil Action No. 04-1750

Dr. James DeSantis,

Defendant

**FILED**

JAN 31 2005 <sup>6H</sup>

012:50 L  
William A. Shaw

Prothonotary/Clerk of Courts

1 CHG TO PLEA

**Cross Interrogatories Directed To Defendant**  
**Dated January 31, 2005**

COMES NOW, your plaintiff, pro-se, and, on this 31<sup>st</sup> day of January, 2005, files and serves upon defendant, Dr. James DeSantis, the following Cross Interrogatories to be answered pursuant to the PA Rules of Civil Procedure:

**Instructions For Use**

- A. All information is to be divulged which is in the possession of the individual or corporate party, their attorneys, investigators, agents, employees or other representatives of the named party or their attorney.
- B. A 'medical practitioner' as used in these Interrogatories is meant to include any medical doctor, osteopathic physician, podiatrist, chiropractor, naturopathic physician or other person who performs any form of the healing art.
- C. Where an individual Interrogatory calls for an answer which involves more than one part, each part of the answer should be clearly set out so that it is understandable.
- D. Where the terms 'you', 'plaintiff' or 'defendant' are used, they are meant to include every individual party and separate answers should be given for each person named as a party, if requested.
- E. Where the term 'accident' or 'incident' are used, they are meant to mean the incident which is the basis of this lawsuit, unless otherwise specified.

In the event that space provided is not sufficient for your answer to any of the questions, please attach a separate sheet of paper with the additional information. These Interrogatories are intended as continuing Interrogatories, requiring you to answer by supplemental answer, setting forth any information within the scope of the Interrogatories as may be required by you, your agents, attorneys or representatives following your original answers.

### **Cross Interrogatories**

1. State your name exactly, including middle initial and any variations you have utilized (first initial, middle name, dropped first name utilizing middle name) and that of your spouse or guardian.

ANSWER:

2. State:

a) your date and place of birth:

b) list your present marital status, and if married, indicate when and where the marriage ceremony was performed:

c) have you ever been divorced. If so, list, for each divorce, the date of the divorce, the place of the divorce, and the number and term of the case in which the divorce was granted:

d) if you have been divorced, indicate the present name and present address of your former spouse:

e) list any civil or criminal complaints filed against you by spouse, former spouse or any other women you have associated with.

f) list any investigations conducted toward you by lawyers, police or any other investigative agency in regard to your relationship with your spouse, former spouse or any other women you have associated with:

ANSWER:

3. State your current residence, and all residence addresses you have occupied for the past five

years. Include APO AE address for New York, NY.

ANSWER:

4. State whether you have ever served in the military service; and if so, state:

a) the branch:

b) your service number:

c) inclusive dates of service:

d) all addresses you occupied while in the military service. Include APO AE address for New York, NY.

e) the type of discharge you received:

f) if you are receiving any veterans administration disability or compensation:

g) if so, indicate your VA claim number, the nature of the injury, percent of disability and date of injury:

h) if you have ever been rejected for service with the Armed Forces of the United States or with the National Guard because of a physical disability kindly state when and where you were so rejected, and give the nature of the physical disability because of which you were rejected.

ANSWER:

5. State including addresses and inclusive dates of attendance:

a) high schools attended:

b) colleges attended:

c) degrees received:

ANSWER:

6. State the names and addresses of each hospital or medical facility where you have practiced as a medical student, resident or physician during the ten (10) year period preceding the date of the alleged occurrence:

ANSWER:

7. State whether you have ever been convicted of a crime, and if so, state:

a) where:

b) when:

c) list all crimes you have ever been convicted of:

ANSWER:

8. State whether any patient, nurse, doctor (or any other medical personal) has ever filed a complaint against you during your years of practice: If so, state:

a) dates of complaints:

b) hospitals or medical facilities where complaints were filed. Include complaints filed with the Pennsylvania Board of Medicine and any other state Board of Medicine where complaints may have been filed against you:

c) whether any such complaint resulted in a written report, and if so, annex hereto a true copy thereof:

d) whether any action, reprimands or sanctions were directed towards you as a result of such complaints:

ANSWER:

9. State whether you have ever received psychiatric treatment, or whether you have ever had a psychiatric examination; and if so, state:

- a) dates of such treatment or examination:
- b) places of treatment or examination:
- c) doctors performing any such treatment or examination:
- d) whether any such treatment or examination resulted in a written report, and if so, annex hereto a true copy thereof, or identify the custodian thereof:
- e) whether any action was taken by you or against you, as a result of such treatment or examination, and if so, please describe such action taken by or against you in detail:

ANSWER:

10. State the names and addresses of any witnesses you intend to call to argue the allegations set forth in Complaint:

ANSWER:

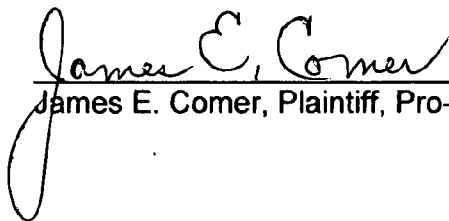
11. Do you expect to call an expert witness at trial? If so:

- a) identify (name, address and name of employer) of each such person whom you expect to call as an expert witness:
- b) state the subject matter on which each expert witness is expected to testify:
- c) state the substance of the facts to which each such expert is expected to testify:

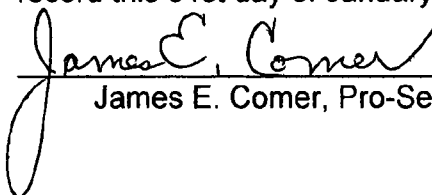
d) state the substance of the opinions to which each such expert is expected to testify:

e) state the grounds for each opinion (indicating specific facts and, where applicable, scientific principles):

ANSWER:

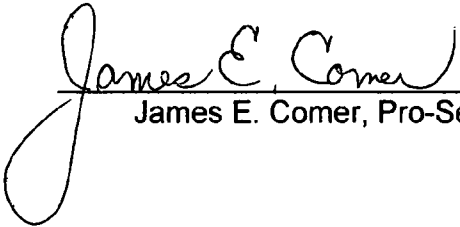
  
James E. Comer, Plaintiff, Pro-Se

I hereby certify that a true and correct copy  
of the foregoing was mailed to all counsel of  
record this 31st day of January, 2005.

  
James E. Comer, Pro-Se

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was mailed to all counsel of record this 31<sup>st</sup> day of January, 2005.

  
James E. Comer, Pro-Se



In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,  
Plaintiff

vs.

Civil Action No. 04-1750

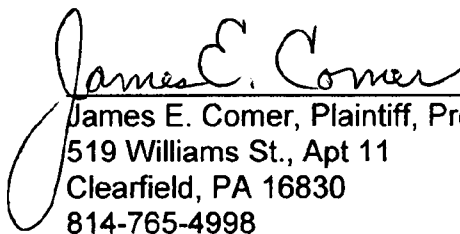
Dr. James DeSantis,  
Defendant

**Notice Of Service of Cross Interrogatories Directed To Defendant**  
**Dated January 31, 2005**

To: Prothonotary

You are hereby notified that on the 31<sup>st</sup> day of January, 2005, plaintiff, James E. Comer, pro-se, served Cross Interrogatories Directed to Defendant Dated: January 31, 2005 by mailing the original of same via First Class Mail, postage prepaid, addressed to the following:

Frank J. Hartye, Esq.  
P.O. Box 533  
Hollidaysburg, PA 16648

  
James E. Comer, Plaintiff, Pro-Se  
519 Williams St., Apt 11  
Clearfield, PA 16830  
814-765-4998

**FILED**

JAN 31 2005 6<sup>4</sup>  
0/2:50/1  
William A. Shaw  
Prothonotary/Clerk of Courts  
1 CEN to Plan

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

JURY TRIAL DEMANDED

**REPLY TO MOTION FOR HEARING**

AND NOW, comes the Defendant, DR. JAMES DESANTIS, by and through his attorneys, MCINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Reply to Motion for Hearing:

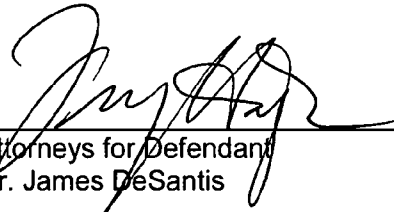
1. It is denied that a hearing is necessary or proper at this time. Admissibility of documents or statements can be determined by the Court after discovery has been concluded. It is denied that Defendant's Answer is irrelevant. The statement is an indication that the Plaintiff was abusing drugs which the Plaintiff apparently denies.

WHEREFORE, Defendant, Dr. James DeSantis maintains that a hearing is unnecessary at this time.

Respectfully submitted,

McINTYRE, DUGAS, HARTYE & SCHMITT

By

  
Attorneys for Defendant  
Dr. James DeSantis

Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

**FILED**  
mjl:42201 No. 04-1750  
FEB 02 2005  
William A. Shaw  
Prothonotary/Clerk of Courts

**VERIFICATION**

I, **FRANK J. HARTYE, ESQUIRE**, being the attorney of record for **Defendant, DR. JAMES DESANTIS**, verify that I am authorized to make this verification on behalf of Defendant in the within action, and that the statements made in the foregoing **REPLY TO MOTION FOR HEARING** are true and correct to the best of my knowledge, information, and belief.

A handwritten signature in black ink, appearing to read 'Frank J. Hartye', is written over a horizontal line.

**FRANK J. HARTYE, ESQUIRE**

Date: February 1, 2005

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

JAMES E. COMER

vs.

DR. JAMES DESANTIS

No. 04-1750-CD

FILED

0/12:43/2005  
MAR 10 2005

William A. Shaw  
Prothonotary/Clerk of Courts

NOW, this 9<sup>th</sup> day of March, 2005, upon consideration of the Plaintiff's Motion for Order to Impose Sanctions, a Rule is hereby on Defendant to Show Cause why the Motion should not be granted. Rule Returnable the 29 day of March, 2005, for filing written response. The Prothonotary is directed to serve a copy of the Motion and Order on Defendant.

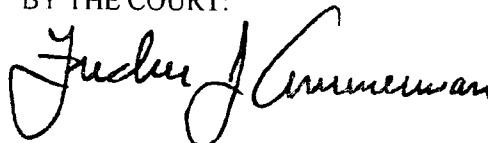
NOTICE

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION OR MOTION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITIONER OR MOVANT. 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  
230 East Market Street, Suite 228  
Clearfield, PA 16830  
(814) 765-2641, Ext. 1300 or 1301

BY THE COURT:



FREDRIC J. AMMERMAN  
President Judge

CA

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,  
Plaintiff

vs.

Civil Action No. 04-1750

Dr. James DeSantis,  
Defendant

Motion For Order To Impose Sanctions

COMES NOW, your plaintiff, pro-se, and moves this Court to issue an Order imposing Sanctions upon defendant pursuant to Rule 4019 (i) of the Pennsylvania Rules of Civil Procedure. Plaintiff offers the following in support of this motion:

1. That, on January 31, 2005, plaintiff served a Cross Interrogatory (Written) upon defendant, including a Notice giving defendant thirty (30) days to answer, pursuant to Rule 4005 of the Pennsylvania Rules of Civil Procedure.
2. That, defendant failed to answer Cross Interrogatory with respect to Rule 4005.

WHEREFORE, plaintiff asks that an Order be issued, as is just and proper, regarding defendant's failure to answer Cross Interrogatory.

I hereby certify that a true and correct copy  
of this Motion was mailed to all counsel of  
record this 7<sup>th</sup> day of March, 2005.

James E. Comer

James E. Comer  
James E. Comer, Plaintiff, Pro-Se

FILED

MAR 07 2005

012151

William A. Shaw

Prothonotary/Clerk of Courts

1 sent to ~~Plaintiff~~ Plaintiff  
3/10/05 ICC to Amy Hartge

**FILED**

**MAR 07 2005**

WALTER A. ...  
Prothonotary Public

no Proposals on file

~~WALTER A. ...~~  
Attacks

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

ISSUE:

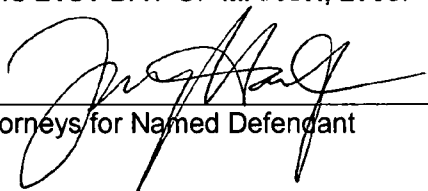
NOTICE OF SERVICE OF ANSWERS  
TO CROSS INTERROGATORIES  
DIRECTED TO DEFENDANT  
DATED JANUARY 31, 2005

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:  
Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 21ST DAY OF MARCH, 2005.

  
Attorneys for Named Defendant

FILED <sup>no cc</sup>  
mjl:2864  
MAR 22 2005 (6K)

William A. Shaw  
Prothonotary/Clerk of Courts

814/696-9399 – Fax



**FILED**

**MAR 22 2005**

William A. Shaw  
Prothonotary/Clerk of Courts

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

**ISSUE:**

Reply to Plaintiff's Response to  
Defendant's Answer and New Matter  
to Plaintiff's Amended Complaint

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:

Frank J. Hartye, Esquire

PA I.D. #25568

McINTYRE, DUGAS, HARTYE &

SCHMITT

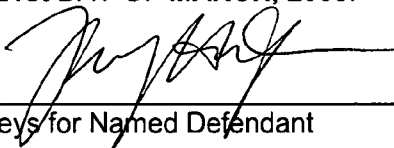
P.O. Box 533

Hollidaysburg, PA 16648

(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 21st DAY OF MARCH, 2005.

  
Attorneys for Named Defendant

FILED

MAR 22 2005

NO  
CC

GK

William A. Shaw  
Prothonotary/Clerk of Courts

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

JAMES E. COMER,	:	No. 04 – 1750
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
DR. JAMES DESANTIS,	:	
	:	
Defendant	:	JURY TRIAL DEMANDED

**REPLY TO PLAINTIFF'S RESPONSE TO DEFENDANT'S  
ANSWER AND NEW MATTER TO PLAINTIFF'S AMENDED COMPLAINT**

AND NOW, comes the Defendant, DR. JAMES DESANTIS, by and through his attorneys, MCINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Reply to Plaintiff's Response to Defendant's Answer and New Matter to Plaintiff's Amended Complaint:

1-14. Any and all additional allegations of fact contained in these paragraphs that are not contained in the Amended Complaint are hereby denied as stated.


**NEW MATTER**

15. Defendant hereby pleads conditional privilege as a defense to the claims set forth in Plaintiff's Complaint and Plaintiff's Response.

WHEREFORE, Defendant, Dr. James DeSantis hereby requests judgment in his favor with costs of suit awarded to Defendant.

Respectfully submitted,

McINTYRE, DUGAS, HARTYE & SCHMITT

By   
Attorneys for Defendant  
Dr. James DeSantis

Frank J. Hartye, Esquire  
PA I.D. #25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

**ISSUE:**

Reply to Motion for Order to  
Impose Sanctions

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:  
Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS **21st** DAY OF **MARCH, 2005**.

  
Attorneys for Named Defendant

**FILED**  
MAR 22 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

JAMES E. COMER,	:	No. 04 – 1750
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
DR. JAMES DESANTIS,	:	
	:	
Defendant	:	JURY TRIAL DEMANDED

**REPLY TO MOTION FOR ORDER TO IMPOSE SANCTIONS**

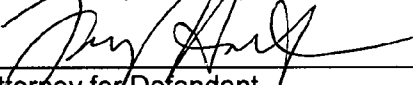
AND NOW, comes defendant, DR. JAMES DESANTIS, by and through his attorneys, MCINTYRE, DUGAS, HARTYE & SCHMITT, and files the following Reply to plaintiff's Motion for Order to Impose Sanctions.

1. It is admitted that plaintiff served Interrogatories upon the defendant on or about January 31, 2005. Defendant served Answers to those Interrogatories with the plaintiff. Defendant has also filed and attached hereto a copy of a Notice of Filing of Responses.

2. Denied. Defendant has responded to the Interrogatories. Because it was necessary to prepare an updated curriculum vitae and make a good faith effort to respond to all Interrogatories, it took in excess of the 30 days provided under the Rules.

WHEREFORE, it is not necessary to enter an Order to require defendant to file responses to Interrogatories in that they have already been filed.

MCINTYRE, DUGAS, HARTYE & SCHMITT

  
\_\_\_\_\_  
Attorney for Defendant  
FRANK J. HARTYE, ESQUIRE  
PA. I.D. No. 25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
814/696-3581

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

ISSUE:

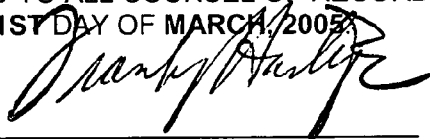
NOTICE OF SERVICE OF ANSWERS  
TO CROSS INTERROGATORIES  
DIRECTED TO DEFENDANT  
DATED JANUARY 31, 2005

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:  
Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 21<sup>ST</sup> DAY OF MARCH, 2005.



Attorneys for Named Defendant

Attorneys for Defendant,  
DR. JAMES DESANTIS  
Frank J. Hartye, Esquire  
PA I.D. #: 25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
814/696-3581  
814/696-9399 – Fax



In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,

Plaintiff

vs.

Civil Action No. 04-1750

Dr. James DeSantis,

Defendant

FILED <sup>ICC</sup>  
0111:2481 Pff  
MAR 24 2005 (K)

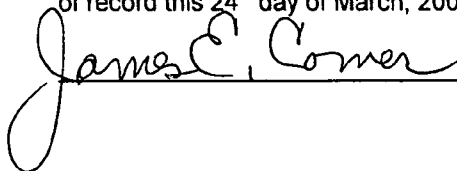
William A. Shaw  
Prothonotary/Clerk of Courts

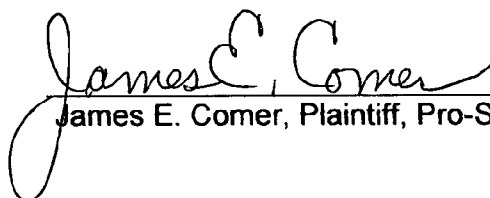
Plaintiff's Argument To:  
Defendant's Reply To Plaintiff's Response To Defendant's Answer and New  
Matter To Plaintiff's Amended Complaint

Comes Now, your plaintiff, James E. Comer, pro-se, who offers the following argument pursuant to the above-captioned pleading:

1. That, the above pleading must be considered Null and Void since Relevant Pleadings are closed and this case is now in Discovery.

I hereby certify that a true and correct copy  
of this Argument was mailed to all counsel  
of record this 24<sup>th</sup> day of March, 2005.

  
James E. Comer

  
James E. Comer, Plaintiff, Pro-Se

CPA

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,  
Plaintiff

vs.

Civil Action No. 04-1750

Dr. James DeSantis,  
Defendant

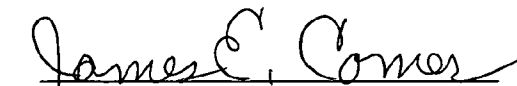
FILED *ice*  
*dl:2401 Dist*  
MAR 24 2005

William A. Shaw  
Prothonotary/Clerk of Courts

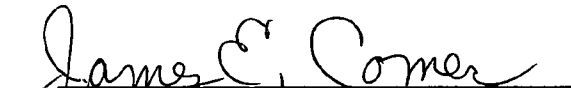
Motion For Leave

Comes Now, your plaintiff, James E. Comer, pro-se, who moves this Court for Leave, as follows:

1. Plaintiff requests Leave Of Court from April 6, 2005 through April 25, 2005 because he is scheduled to undergo major surgery on April 11, 2005.

  
James E. Comer, Plaintiff, Pro-Se

I hereby certify that a true and correct copy of this Motion For Leave was mailed to all counsel of record this 24<sup>th</sup> day of March, 2005.

  
James E. Comer

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,

Plaintiff

vs.

Civil Action No. 04-1750

Dr. James DeSantis,

Defendant

**FILED**  
01/11:24/04  
MAR 24 2005  
William A. Shaw  
Prothonotary/Clerk of Courts  
Ice  
Piff  
OK

Plaintiff's Argument To:  
Defendant's Reply To Motion For Order To Impose Sanctions

COMES NOW, your plaintiff, James E. Comer, pro-se, who argues Defendant's Reply To Motion For Order To Impose Sanctions, as follows:

I. Procedural History

1. On January 31, 2005, plaintiff served a Cross Interrogatory on defendant giving defendant Notice that he has thirty (30) days to Answer.
2. On March 7, 2005, plaintiff filed a Motion For Order To Impose Sanctions.
3. On March 9, 2005, a Judicial Order was issued, allowing defendant until March 29, 2005 to Show Cause why Motion For Order To Impose Sanctions should not be granted.
4. On March 21, 2005, defendant filed a Reply To Motion For Order To Impose Sanctions.

## II. Argument

5. That, according to defendant's Reply To Motion For Order To Impose Sanctions, hereafter referred to as Reply, (paragraph 1) defendant states "Defendant served Answers to those Interrogatories with the plaintiff."

6. **Argument:** Plaintiff admits that defendant did serve answers to Cross Interrogatory, HOWEVER, the length of time that it took defendant to return those answers is at issue here. Case in point... Defendant's answers were returned fifty (50) days following service.

7. That, according to defendant's Reply (paragraph 2), defendant states "Because it was necessary to prepare an updated curriculum vitae and make a good faith effort to respond to all Interrogatories, it took in excess of the 30 days provided under the Rules".

8. **Argument:** Plaintiff argues that he **did not** require defendant to list his Profile, Licensure, Board Certifications, Military Awards (22 awards are listed) or his <sup>1</sup>Hobbies/Interests. It is plaintiff's belief that, had the defendant adhered to the questions and format outlined in the Cross Interrogatory, he may have responded in a timely manner.

## III. Statement In Summary

Plaintiff states, in summary, that, defendants attempt to Show Cause is not practical or logical. Plaintiff states that defendant had sufficient time in which to complete and return answers to Cross Interrogatory within the thirty days allowed by Rule. It is plaintiff's opinion that, had he not filed a Motion For Order To Impose Sanctions, defendant would still be in default. Plaintiff further argues that, had defendant answered **only** the questions put forth in the Interrogatory,

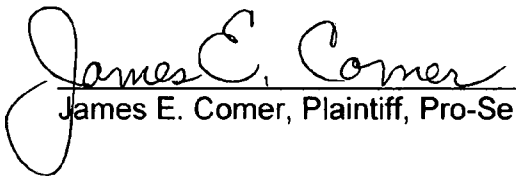
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<sup>1</sup> Plaintiff does not wish to know that defendant enjoys church sponsored activities, music, reading, travel, teaching, walking, hiking, jogging, kayaking, boating or horseback riding. This information is completely irrelevant to the questions put forth in the Cross Interrogatory as is his mention of twenty two military awards, his licensure and his Board Certification.

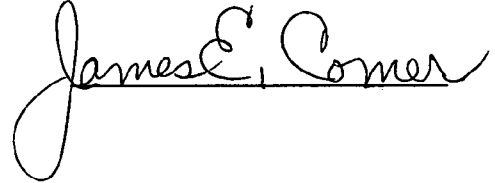
rather than include a large amount of irrelevant information, he may have answered within thirty days. However, considering the fact that defendant, in his CV, did include a large amount of irrelevant information, he certainly should have answered much sooner than **fifty (50) days**.

WHEREFORE, plaintiff moves this Court to find that defendant's Reply To Motion For Order To Impose Sanctions failed to show sufficient cause, and issue an Order imposing sanctions upon defendant, as follows:

Plaintiff states that, since he is not an attorney and cannot receive sanctioned fees, he asks that this Court impose a punitive sanction, as is just and proper, upon defendant.

  
James E. Comer, Plaintiff, Pro-Se

I hereby certify that a true and correct copy of this Plaintiff's Argument To: Defendant's Reply To Motion For Order To Impose Sanctions was mailed to all counsel of record this 24<sup>th</sup> day of March, 2005.



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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

ISSUE:

NOTICE OF DEPOSITION

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:  
Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO PLAINTIFF, PRO SE  
THIS 10TH DAY OF MAY, 2005.

  
Attorneys for Named Defendant

FILED NO  
MAY 11 2005 CC

William A. Shaw  
Prothonotary/Clerk of Courts

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

JAMES E. COMER,	:	No. 04 – 1750
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
DR. JAMES DESANTIS,	:	
	:	
Defendant	:	JURY TRIAL DEMANDED

**NOTICE OF DEPOSITION**

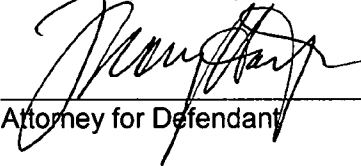
TO: **James E. Comer, Plaintiff**  
**519 Williams Street, Apt. 11**  
**Clearfield, PA 16830**

Please take notice that the Deposition of **James E. Comer**, shall be taken upon oral examination by an official Court Reporter at Sargent's Court Reporting Service located at **106 N. Second Street, Clearfield, PA**, on the **31st** day of **May, 2005**, commencing at **2:30 P.M.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

**McINTYRE, DUGAS, HARTYE & SCHMITT**

  
\_\_\_\_\_  
Attorney for Defendant

**FRANK J. HARTYE, ESQUIRE**  
**PA I.D.#: 25568**  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581

CA

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,  
Plaintiff

vs.

Civil Action No. 04-1750

Dr. James DeSantis,  
Defendant

**FILED** *icc*  
*Pliff*  
*04/11/05*  
MAY 13 2005  
William A. Shaw  
Prothonotary/Clerk of Courts

Motion For Judicial Determination

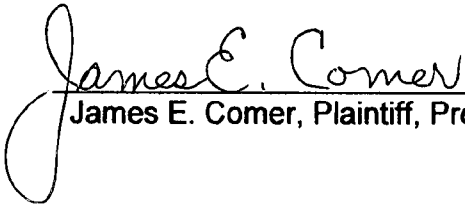
COMES NOW, your plaintiff, James E. Comer, pro-se, who moves this Court for a Judicial Determination concerning Plaintiff's Argument To: Defendant's Reply To Motion For Order To Impose Sanctions, filed in this Court on March 25, 2005.

Procedural History

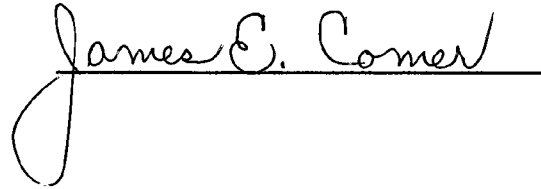
1. On March 7, 2005, plaintiff filed a Motion For Order To Impose Sanctions.
2. On March 9, 2005, this Court issued an Order compelling defendant to Show Cause why plaintiff's Motion should not be granted.
3. On March 21, 2005, defendant filed a Reply To Motion For Order To Impose Sanctions.
4. On March 25, 2005, plaintiff filed an Argument To: Defendant's Reply To Motion For Order To Impose Sanctions.



WHEREFORE, plaintiff prays that this Honorable Court, after reviewing Plaintiff's Argument  
To: Defendant's Reply To Motion For Order To Impose Sanctions, filed March 25, 2005,  
makes a Judicial Determination regarding that matter.

  
James E. Comer, Plaintiff, Pro-Se

I hereby certify that a true and correct copy of this Motion For Judicial Determination was mailed to all counsel of  
record this 13<sup>th</sup> day of May, 2005.



FILED

MAY 13 2005

William A. Shaw  
Prothonotary/Clerk of Courts

CA

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

JAMES E. COMER,  
Plaintiff

vs.

DR. JAMES DESANTIS,  
Defendant

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NO. 04-1750

**ORDER**

NOW, this 18<sup>th</sup> day of May, 2005, the Court being in receipt of the Motion for Judicial Determination filed on behalf of the Plaintiff proceeding pro se; the Court noting that the Plaintiff is attempting to have the Court impose sanctions against the Defendant for failure to file Answers to Interrogatories; that in the Reply to Motion for Order to Impose Sanctions filed March 22, 2005 on behalf of the Defendant it is represented that the Defendant had previously answered the Interrogatories; that Plaintiff's "Argument to Defendant's Reply to Motion for Order to Impose Sanctions" filed on March 24, 2005 indicates that the Defendant did answer the Interrogatories in question; that from the Court's review of the documents it is apparent that no legitimate argument or dispute continues to exist in regard to the Defendant's answering of the Interrogatories, it is therefore the ORDER of this Court that the Plaintiff's Motion for Judicial Determination be and is hereby DISMISSED.

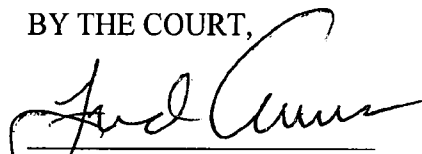
**FILED** ICC Piff-

of 10:32 AM 519 Williams St, Apt. 11  
MAY 20 2005 Clearfield, PA 16830

William A. Shaw ICC Aug Hartge  
Prothonotary/Clerk of Courts

WR

BY THE COURT,

  
FREDRIC J. AMMERMAN  
President Judge

FILED

MAY 20 2005

Wanda A. Shaw  
Prothonotary/Clerk of Courts

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,

Plaintiff

vs.

Civil Action No. 04-1750

Dr. James DeSantis,

Defendant

Notice Of Withdrawal

COMES NOW your plaintiff, James E. Comer, pro-se, who, on this 10<sup>th</sup> day of June, 2005, is withdrawing from this Court the above complaint, docketed as Civil Action No. 04-1750, for the following reason:

1. Plaintiff's witness, F is now demanding money in exchange for her testimony.

Plaintiff states that, be money for her testimony, he no

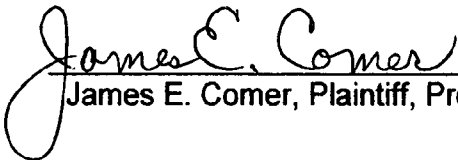
longer has evidence t

WHEREFORE, plair

Action will become null and void.

*Mark Case*  
*status- withdrawn*

, June 10, 2005, the above Civil

  
James E. Comer, Plaintiff, Pro-Se

FILED <sup>icc</sup> <sub>Prff</sub>  
0/11:00/05  
JUN 10 2005 Copy to C/A  
William A. Shaw  
Prothonotary/Clerk of Courts

In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division

James E. Comer,  
Plaintiff

vs.

Civil Action No. 04-1750

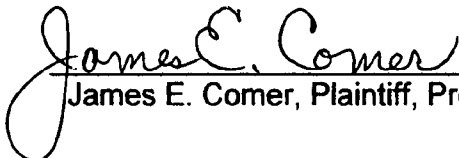
Dr. James DeSantis,  
Defendant

Notice Of Withdrawal

COMES NOW your plaintiff, James E. Comer, pro-se, who, on this 10<sup>th</sup> day of June, 2005, is withdrawing from this Court the above complaint, docketed as Civil Action No. 04-1750, for the following reason:

1. Plaintiff's witness, Robin Kovan, is now demanding money in exchange for her testimony. Plaintiff states that, because he refuses to pay Robin Kovan money for her testimony, he no longer has evidence to support his allegations.

WHEREFORE, plaintiff gives formal Notice that, on this date, June 10, 2005, the above Civil Action will become null and void.

  
James E. Comer, Plaintiff, Pro-Se

Mark Case  
Status - withdrawn

FILED <sup>1cc</sup> Piff  
0/11:02/05  
JUN 10 2005 Copy to C/A  
William A. Shaw  
Prothonotary/Clerk of Courts

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CA

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

No. 04 – 1750

**ISSUE:**

**Motion to Mark Case Ended  
By Voluntary Discontinuance**

Filed on behalf of Defendant,  
DR. JAMES DESANTIS

Counsel of Record for This Party:  
Frank J. Hartye, Esquire  
PA I.D. #25568  
McINTYRE, DUGAS, HARTYE &  
SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO PLAINTIFF, PRO SE  
THIS 20TH DAY OF JUNE, 2005.

  
Attorneys for Named Defendant

FILED NO cc  
3/1/501  
JUN 21 2005 @  
William A. Shaw  
Prothonotary/Clerk of Courts

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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

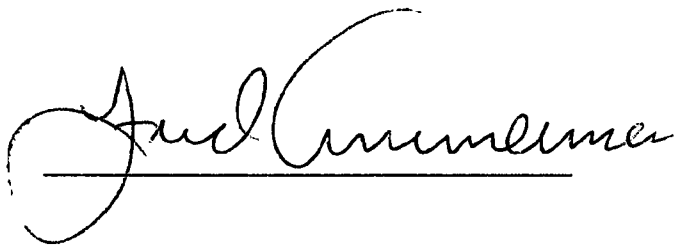
: No. 04 - 1750  
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: JURY TRIAL DEMANDED

ORDER OF COURT

AND NOW, this 22 day of June, 2005, it is hereby ORDERED,  
DIRECTED, and DECREED that plaintiff's cause of action is voluntarily discontinued.

BY THE COURT:



FILED 1cc  
01/11/15/01 Amy Hertz  
JUN 22 2005 @

William A. Shaw  
Prothonotary/Clerk of Courts



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

JAMES E. COMER,

Plaintiff

vs.

DR. JAMES DESANTIS,

Defendant

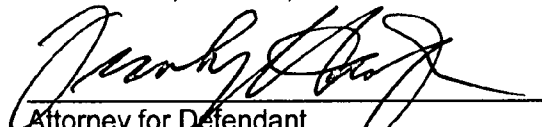
No. 04 – 1750

JURY TRIAL DEMANDED

**MOTION TO MARK CASE ENDED**  
**BY VOLUNTARY DISCONTINUANCE**

1. Plaintiff James Comer filed a Complaint in this action against James DeSantis, M.D.
2. James Comer has been representing himself throughout the pendency of this case.
3. The deposition of Mr. Comer was recently taken on May 31, 2005.
4. Subsequent to the deposition the plaintiff, James Comer, filed a Notice of Withdrawal, a copy of which is attached hereto. The Notice of Withdrawal is, in essence, requesting that this case be voluntarily discontinued.
5. In order that this matter be concluded on the record, defendant requests this Honorable Court to enter an Order indicating that this case is voluntarily discontinued.

MCINTYRE, DUGAS, HARTYE & SCHMITT

  
Attorney for Defendant  
FRANK J. HARTYE, ESQUIRE  
PA. ID. No. 25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
814/696-3581

**In The Court Of Common Pleas Of Clearfield County, Pennsylvania  
Civil Division**

James E. Comer,

Plaintiff

vs.

Civil Action No. 04-1750

Dr. James DeSantis,

Defendant

**Notice Of Withdrawal**

COMES NOW your plaintiff, James E. Comer, pro-se, who, on this 10<sup>th</sup> day of June, 2005, is withdrawing from this Court the above complaint, docketed as Civil Action No. 04-1750, for the following reason:

1. Plaintiff's witness, Robin Kovan, is now demanding money in exchange for her testimony. Plaintiff states that, because he refuses to pay Robin Kovan money for her testimony, he no longer has evidence to support his allegations.

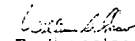
WHEREFORE, plaintiff gives formal Notice that, on this date, June 10, 2005, the above Civil Action will become null and void.

  
James E. Comer, Plaintiff, Pro-Se

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

JUN 10 2005

Attest

  
Prothonotary/  
Clerk of Courts

CERTIFICATE OF SERVICE

I, FRANK J. HARTYE, ESQUIRE, hereby certify that I have served a true and correct copy of the foregoing Motion to Mark Case Ended by Voluntary Discontinuance on behalf of defendant, Dr. James DeSantis, on the following persons by placing the same in the U.S. Mail, postage prepaid, on the 20<sup>th</sup> day of June, 2005:

James E. Comer  
519 Williams Street, Apt. 11  
Clearfield, PA 16830

MCINTYRE, DUGAS, HARTYE  
& SCHMITT



Attorneys for Defendant

FRANK J. HARTYE, ESQUIRE  
PA. ID. No. 25568  
P.O. Box 533  
Hollidaysburg, PA 16648  
814/696-3581