

04-1966-CD
GENE M. STEWART, et al. vs. LYNDA M. HARWOOD, et al.

Gene Stewart et al vs Lynda Harwood
2004-1966-CD

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

GENE M. STEWART and
VIRGINIA STEWART, his wife

Plaintiffs

vs.

LYNDA M. HARWOOD, EXECUTRIX
OF THE ESTATE OF CAROL P. GELARDO,

Defendant

-and-

VIRGINIA DAVIS,

Additional Defendant

CIVIL ACTION - LAW

NO. 04-1966-CD

FILED ^{ELK}
m/10:30 AM
DEC 13 2004 ^{85.00}
William A. Shaw
Prothonotary/Clerk of Courts
3 cc & 2 wnts
to Atty

PRAECIPE FOR WRIT OF SUMMONS

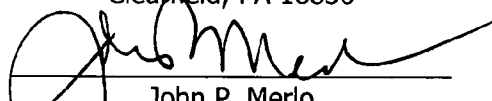
TO: WILLIAM A. SHAW, PROTHONOTARY, CLEARFIELD COUNTY

Please issue a Writ of Summons in Trespass against:

Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo
1701 37th Street, Apt. 1510
Phenix City, AL 36867

Virginia Davis
1 Hummork Court
Wilmington, DE 19803

Timothy E. Durant, Esquire
201 N. Second Street
Clearfield, PA 16830


John P. Merlo
Attorney for Plaintiffs

December 10, 2004

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

COPY

SUMMONS

**Gene M. Stewart and
Virginia Stewart, his wife
Plaintiff**

Vs.

NO.: 2004-01966-CD

**Lynda M. Harwood, Executrix of
the Estate of Carol P. Gelardo
Defendant**

-and-

**Virginia Davis
Additional Defendant**

**TO: LYNDA M. HARWOOD, Executrix of the Estate of CAROL P. GELARDO;
VIRGINIA DAVIS**

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

Date: 12/13/2004

William A. Shaw
Prothonotary

Issuing Attorney:

John P. Merlo
27 North Sixth Street
Indiana, PA 15701

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant

and

VIRGINIA DAVIS,

Additional Defendant

CIVIL DIVISION

No. 04-1966-CD

PRAECIPE FOR APPEARANCE

Filed on Behalf of Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE
PA. I.D. #36933

MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.
Firm No. 198
114 South Main Street
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532

JURY TRIAL DEMANDED

FILED

FEB 09 2005

W/ 2:30h
William A. Shaw

Prothonotary/Clerk of Courts

1 case to Art

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant

and

VIRGINIA DAVIS,

Additional Defendant

CIVIL DIVISION

No. 04-1966-CD

PRAECIPE FOR APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance on behalf of the defendant, Lynda M. Harwood,
Executrix of the Estate of Carol P. Gelardo, in the above-captioned matter.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, PLLC**

By:


John M. Noble, Esquire

Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **PRAECIPE FOR APPEARANCE** has been mailed to all counsel of record by forwarding a copy of same, First Class U.S. Mail, postage prepaid, this 7th day of Feb., 2005.

John P. Merlo, Esquire
27 North Sixth Street
Indiana, PA 15701
(Attorney for Plaintiffs)

Virginia Davis
1 Hummork Court
Wilmington, DE 19803
(Pro se Additional Defendant)



John M. Noble, Esquire

Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

**NOTICE OF SERVICE OF
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS**

Defendant

and

VIRGINIA DAVIS,

Filed on Behalf of Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

Additional Defendant

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE
PA. I.D. #36933

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**
Firm No. 198
114 South Main Street
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532

6K **FILED** NO
m/11:1201 CC
FEB 14 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant

and

VIRGINIA DAVIS,

Additional Defendant

No. 04-1966-CD

**NOTICE OF SERVICE OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS**

TO THE PROTHONOTARY:

Kindly take notice that **INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS** were served upon plaintiffs, by depositing one (1) original in the United States Mail, addressed to John P. Merlo, Esquire, 27 North Sixth Street, Indiana, Pennsylvania 15701 on the 10th day of Feb, 2005.

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, PLLC**

By: 

JOHN M. NOBLE, ESQUIRE

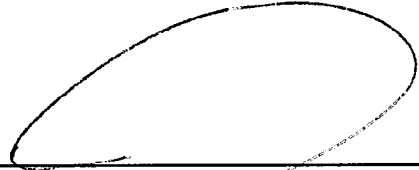
Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **NOTICE OF SERVICE OF INTERROGATORIES ON PLAINTIFF** has been served upon all counsel of record by forwarding a copy of same, First Class U.S. Mail, postage prepaid, this 10th day of Feb, 2005.

John P. Merlo, Esquire
27 North Sixth Street
Indiana, PA 15701
(Attorney for Plaintiffs)

Virginia Davis
1 Hummork Court
Wilmington, DE 19803
(Pro se Additional Defendant)



JOHN M. NOBLE, ESQUIRE
Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant

and

VIRGINIA DAVIS,

Additional Defendant.

CIVIL DIVISION

No. 04-1966-CD

AFFIDAVIT OF SERVICE

Filed on Behalf of Defendant,
Lynda M. Harwood, Executrix of The
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE
PA. I.D. #36933

MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.
Firm No. 198
114 South Main Street
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532

FILED

6/2 FEB 17 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

CIVIL DIVISION

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant

and

VIRGINIA DAVIS,

Additional Defendant.

AFFIDAVIT OF SERVICE

I, John M. Noble, Esquire, do hereby certify, pursuant to PA. R.C.P. 234.2, that I served a Rule to File Complaint on counsel for the Plaintiff, John P. Merlo, Esquire, 27 North Sixth Street, Indiana, PA 15701, via Certified Mail, Receipt No. 7002 3150 0004 2204 3588 on February 15, 2005.

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, PLLC**

By: _____

JOHN M. NOBLE, ESQUIRE

Attorney for Defendant,

Lynda Harwood, Executrix of the Estate
of Carol P. Gelardo

SWORN TO and subscribed
before me this 14th day
February, 2005.

Mary T. Franko
Notary Public
COMMONWEALTH OF PENNSYLVANIA

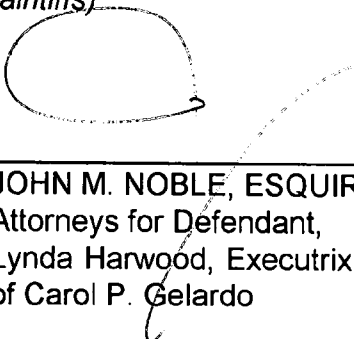
Notarial Seal
Mary T. Franko, Notary Public
City Of Greensburg, Westmoreland County
My Commission Expires Sept. 4, 2008

Member, Pennsylvania Association Of Notaries

CERTIFICATE OF SERVICE

This is to certify that a copy of the within **AFFIDAVIT OF SERVICE** has been delivered by First Class United States mail to all counsel of record this 15th day of February, 2005 as follows:

John P. Merlo, Esquire
27 North Sixth Street
Indiana, PA 15701
(Attorney for Plaintiffs)



JOHN M. NOBLE, ESQUIRE
Attorneys for Defendant,
Lynda Harwood, Executrix of the Estate
of Carol P. Gelardo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS,

Additional Defendant.

CIVIL DIVISION

No. 04-1966-CD

**PRAECIPE FOR WRIT TO JOIN
ADDITIONAL DEFENDANT**

Filed on Behalf of Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE
Pa. I.D. #36933

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**
Firm No. 198
114 South Main Street
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532

FILED

MAR 28 2005

m. l. shaw
William A. Shaw

Prothonotary/Clerk of Courts

*1 cert. 2/3 units
to Att*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

No. 04-1966-CD

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS,

Additional Defendant.

PRAECIPE FOR WRIT TO JOIN ADDITIONAL DEFENDANT

TO THE PROTHONOTARY:

KINDLY ISSUE a Writ joining the Commonwealth of Pennsylvania
Department of Transportation as an Additional Defendant in the above-captioned matter.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By: _____

John M. Noble, Esquire
Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **PRAECIPE FOR WRIT TO JOIN ADDITIONAL DEFENDANT** has been mailed to all parties and counsel of record by forwarding a copy of same by First Class U.S. Mail, postage prepaid, this the 22nd day of March, 2005, addressed as follows:

John P. Merlo, Esquire
27 North Sixth Street
Indiana, PA 15701
*(Attorney for Plaintiffs, Gene M. Stewart
and Virginia Stewart, his wife)*

Virginia Davis
1 Hummork Court
Wilmington, DE 19803
(Pro Se Additional Defendant)

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By: _____

John M. Noble, Esquire
Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WRIT TO JOIN ADDITIONAL DEFENDANT

Gene M. Stewart; Virginia Stewart;
Plaintiff(s)
Vs.

Lynda M. Harwood, Executrix of
the Extate of Carol P. Gelardo
Defendant(s)

04-1966-CD

and
Virginia Davis,
Additional Defendant
and

Commonwealth of Pennsylvania Department of
Transportation
Additional Defendant

To: Commonwealth of Pennsylvania Department of Transportation:

You are notified that John M. Noble, Esq. has joined you as an additional
defendant in this action, which you are required to defend.

Dated: March 28, 2005

Prothonotary

Filing Attorney: John M. Noble, Esq.
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.
114 South Main Street
Greensburg, PA 15601-31-2
724-836-0532

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and
COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendants.

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

Filed on Behalf of Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE
Pa. I.D. #36933

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**
Firm No. 198
114 South Main Street
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532

FILED *NO CC*
m111501
APR 06 2005 *GR*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and
COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendants.

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

TO: ALL COUNSEL AND PARTIES

The Defendant, Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, intends to serve a Subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned counsel an objection to the subpoena. If no objection is made, the subpoena will be served.

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By: _____

JOHN M. NOBLE, ESQUIRE
Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Gene M. Stewart
Virginia Stewart
Plaintiff(s)

Vs.

Lynda M. Harwood
Carol P. Gelardo
Virginia Davis
Defendant(s)

No. 2004-01966-CD

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

TO: Pennsylvania State Police, Clearfield Station
147 Doe Hill Road, Woodland, PA 16881
(Name of Person or Entity)

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

Color copies or reprints of all photographs taken at the scene of an accident occurring on December 18, 2003 on State Route 879, Covington Township, Clearfield County, PA, as reported at Incident No. C03-0766509.

(Address)

Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C., 114 South Main Street, Greensburg, PA 15601

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

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

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

NAME: John M. Noble, Esquire

ADDRESS: 114 South Main Street
Greensburg, PA 15601

TELEPHONE: (724) 836-4840

SUPREME COURT ID # 36933

ATTORNEY FOR: Defendant, Lynda M. Harwood,
Executrix of the Estate of Carol P. Gelardo

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division
DATE: Tuesday, March 22, 2005
Seal of the Court

Deputy

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

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **NOTICE OF INTENT TO SERVE SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21** has been served upon all parties and counsel of record by forwarding a copy of same, First Class U.S. Mail, postage prepaid, this the 4th day of April, 2005.

John P. Merlo, Esquire
27 North Sixth Street
Indiana, PA 15701
(Attorney for Plaintiffs)

Virginia Davis
1 Hummork Court
Wilmington, DE 19803
(Pro se Additional Defendant)

Commonwealth of Pennsylvania
Department of Transportation
Keystone Building
400 North Street
Harrisburg, PA 17120
(Pro Se Additional Defendant)

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By: _____

JOHN M. NOBLE, ESQUIRE

Attorney for Defendant,

Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and
COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendants.

**CERTIFICATE PREREQUISITE TO
SERVICE OF A SUBPOENA TO
PRODUCE DOCUMENTS OR THINGS
FOR DISCOVERY PURSUANT TO
RULE 4009.21**

Filed on Behalf of Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE
PA. I.D. #36933

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**
Firm No. 198
114 South Main Street
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532

FILED ⁶⁴
m 12:32 PM
APR 28 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and
COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendants.

**CERTIFICATE PREREQUISITE TO SERVICE
OF A SUBPOENA TO PRODUCE DOCUMENTS
OR THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

As a prerequisite to service of a Subpoena to Produce Documents and Things for Discovery Pursuant to 4009.21, the defendant, Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, hereby certifies that:

(1) A Notice of Intent to serve subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty (20) days prior to the date on which the subpoena is sought to be served;

(2) A copy of the Notice of Intent, including the proposed subpoena, is attached to this certificate;

(3) No objections to the subpoena have been received; and

(4) The subpoena which will be served is identical to the subpoena which was attached to the Notice of Intent to Serve Subpoena.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By: 

JOHN M. NOBLE, ESQUIRE
Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

DATE: April 26, 2005

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and
COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendants.

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

Filed on Behalf of Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE
Pa. I.D. #36933

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**
Firm No. 198
114 South Main Street
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532

FILED
APR 06 2005
William A. Shaw
Prothonotary Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and
COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendants.

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

TO: ALL COUNSEL AND PARTIES

The Defendant, Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, intends to serve a Subpoena identical to the one that is attached to this notice.

You have twenty (20) days from the date listed below in which to file of record and serve

upon the undersigned counsel an objection to the subpoena. If no objection is made, the
subpoena will be served.

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By:

JOHN M. NOBLE, ESQUIRE

Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Gene M. Stewart
Virginia Stewart
Plaintiff(s)

Vs.

Lynda M. Harwood
Carol P. Gelardo
Virginia Davis
Defendant(s)

No. 2004-01966-CD

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

TO: Pennsylvania State Police, Clearfield Station
147 Doe Hill Road, Woodland, PA 16881
(Name of Person or Entity)

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

Color copies or reprints of all photographs taken at the scene of an accident occurring on December 18, 2003 on State Route 879, Covington Township, Clearfield County, PA, as reported at Incident No. C03-0766509.

(Address)

Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C., 114 South Main Street, Greensburg, PA 15601
You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

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

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

NAME: John M. Noble, Esquire

ADDRESS: 114 South Main Street
Greensburg, PA 15601

TELEPHONE: (724) 836-4840

SUPREME COURT ID # 36933

ATTORNEY FOR: Defendant, Lynda M. Harwood,
Executrix of the Estate of Carol P. Gelardo

BY THE COURT:

DATE: Tuesday, March 22, 2005

Seal of the Court

William A. Shaw, Prothonotary/Clerk, Civil Division

Deputy

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

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **NOTICE OF INTENT TO SERVE SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21** has been served upon all parties and counsel of record by forwarding a copy of same, First Class U.S. Mail, postage prepaid, this the 4th day of April, 2005.

John P. Merlo, Esquire
27 North Sixth Street
Indiana, PA 15701
(Attorney for Plaintiffs)

Virginia Davis
1 Hummork Court
Wilmington, DE 19803
(Pro se Additional Defendant)

Commonwealth of Pennsylvania
Department of Transportation
Keystone Building
400 North Street
Harrisburg, PA 17120
(Pro Se Additional Defendant)

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By:

JOHN M. NOBLE, ESQUIRE
Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

CERTIFICATE OF SERVICE

I do hereby certify that the foregoing **Certificate Prerequisite to Service of a Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.21** has been served upon the following this the 26th day of April, 2005, by First-Class, U.S. Mail, postage prepaid, addressed as follows:

John P. Merlo, Esquire
27 North Sixth Street
Indiana, PA 15701
(Attorney for Plaintiffs)

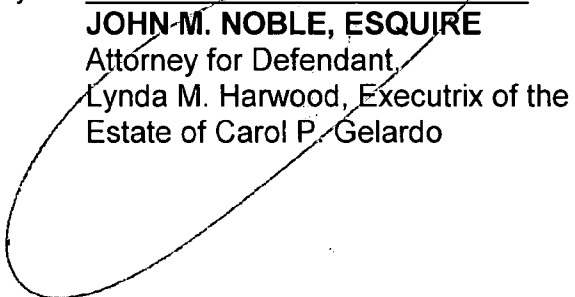
Virginia Davis
1 Hummork Court
Wilmington, DE 19803
(Pro se Additional Defendant)

Commonwealth of Pennsylvania
Department of Transportation
Keystone Building
400 North Street
Harrisburg, PA 17120
(Pro Se Additional Defendant)

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By: 

JOHN M. NOBLE, ESQUIRE
Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo



IN THE COURT OF COMMON PLEAS OF CLEARFIELD
COUNTY, PENNSYLVANIA

GENE M. STEWART, VIRGINIA
STEWART,

Plaintiffs,

v.

LYNDA M. HARWOOD, Executrix of
the Estate of Carol P. Gelardo,

Defendant,

v.

VIRGINIA DAVIS,

Additional
Defendant,

and

COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION,

Additional
Defendant.

CIVIL DIVISION

NO. 04-1966-CD

PRAECIPE FOR APPEARANCE

Filed on behalf of Defendant:

COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION

Counsel of Record for this Party:

Thomas L. Donahoe.
Sr. Deputy Attorney General
PA ID #29342

Office of Attorney General
Torts Litigation Section
564 Forbes Avenue
Manor Complex
Pittsburgh, PA 15219
(412) 565-2572

JURY TRIAL DEMANDED

FILED ^{CP}
m 11:27 AM
MAY 23 2005 ^{no cc}

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
COUNTY, PENNSYLVANIA

GENE M. STEWART, VIRGINIA
STEWART,

Plaintiffs,

v.

LYNDA M. HARWOOD, Executrix of
the Estate of Carol P. Gelardo,

Defendant,

v.

VIRGINIA DAVIS,

Additional
Defendant,

and

COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION,

Additional
Defendant.

CIVIL DIVISION

NO. 04-1966-CD

PRAECIPE FOR APPEARANCE

Filed on behalf of Defendant:

COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION

Counsel of Record for this Party:

Thomas L. Donahoe.
Sr. Deputy Attorney General
PA ID #29342

Office of Attorney General
Torts Litigation Section
564 Forbes Avenue
Manor Complex
Pittsburgh, PA 15219
(412) 565-2572

JURY TRIAL DEMANDED

FILED ^{aw}
m/1:27:01 ^{no}
MAY 23 2005 ^{cc}

William A. Shaw
Prothonotary/Clerk of Courts

PRAECIPE FOR APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my Appearance on behalf of the defendant, Commonwealth of
Pennsylvania, Department of Transportation, in connection with the above-captioned case. A
trial by a jury of twelve is requested.

THOMAS W. CORBETT, JR.
Attorney General

By Thomas L. Donahoe
Thomas L. Donahoe
Sr. Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praecipe for Appearance was served upon the following counsel of record and parties of record by mailing the same via first class mail, postage pre-paid, on May 19, 2005.

John P. Merlo, Esq.
27 North Sixth Street
Indiana, PA 15701

(Counsel for Plaintiffs)

Virginia Davis
1 Hummork Court
Wilmington, DE 19803

(Pro Se Additional Defendant)

John M. Noble, Esq.
Meyer, Darragh, Buckler,
Benenek & Eck, P.L.L.C.
114 South Main Street
Greensburg, PA 15601

**(Counsel for Defendant Lynda M.
Harwood, Executrix of the Estate of
Carol P. Gelardo)**

Respectfully submitted,

THOMAS W. CORBETT, JR.
Attorney General

By Thomas L. Donahoe

Thomas L. Donahoe
Sr. Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS and
COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendants.

CIVIL DIVISION

No. 04-1966-CD

**NOTICE OF SERVICE OF
INTERROGATORIES DIRECTED TO
ADDITIONAL DEFENDANT
COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION**

Filed on Behalf of Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE
PA. I.D. #36933

MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.
Firm No. 198
114 South Main Street
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532

FILED

MAY 31 2005

m/12:05/4 (GW)

William A. Shaw
Prothonotary

1 CERT TO ATT

JOHN M. NOBLE, ESQUIRE
Attorney for Defendant, Lynda M.
Harwood, Executrix of the Estate of
Carol P. Gelardo

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **NOTICE OF SERVICE OF INTERROGATORIES DIRECTED TO ADDITIONAL DEFENDANT** has been served upon Additional Defendant and all counsel of record by forwarding a copy of same, First Class U.S. Mail, postage prepaid, this 26th day of May, 2005.

John P. Merlo, Esquire
27 North Sixth Street
Indiana, PA 15701
(Attorney for Plaintiffs)

Virginia Davis
1 Hummork Court
Wilmington, DE 19803
(Pro se Additional Defendant)

Thomas L. Donahoe,
Sr. Deputy Attorney General
Commonwealth of Pennsylvania
Office of Attorney General
Torts Litigation Unit
564 Forbes Avenue
Manor Complex
Pittsburgh, PA 15219
(Attorney for Additional Defendant PennDot)



JOHN M. NOBLE, ESQUIRE

Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

FILED

MAY 31 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant

and

VIRGINIA DAVIS,

Additional Defendant

CIVIL DIVISION

No. 04-1966-CD

PRAECIPE FOR RULE

Filed on Behalf of Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE
PA. I.D. #36933

MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.
Firm No. 198
114 South Main Street
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532

FILED

FEB 09 2005

W.A. Shaw
William A. Shaw
Prothonotary/Clerk of Courts

1 cent w/ rule to Appy

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant

and

VIRGINIA DAVIS,

Additional Defendant

CIVIL DIVISION

No. 04-1966-CD

PRAECIPE FOR RULE

TO THE PROTHONOTARY:

Please issue a Rule compelling plaintiffs to file a complaint in the above-captioned matter within twenty (20) days or suffer judgment of Non Pros.

Respectfully submitted,

MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, PLLC

By: 

John M. Noble, Esquire

Attorney for Defendant,

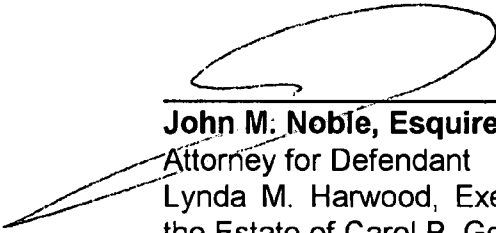
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **PRAECIPE FOR RULE** has been mailed to Additional Defendant and all counsel of record by forwarding a copy of same, First Class U.S. Mail, postage prepaid, this 21st day of Feb., 2005

John P. Merlo, Esquire
27 North Sixth Street
Indiana, PA 15701
(Attorney for Plaintiffs)

Virginia Davis
1 Hummork Court
Wilmington, DE 19803
(Pro se Additional Defendant)



John M. Noble, Esquire
Attorney for Defendant
Lynda M. Harwood, Executrix of
the Estate of Carol P. Gelardo

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

Gene M. Stewart
Virginia Stewart

Vs.

Case No. 2004-01966-CD

Lynda M. Harwood
Carol P. Gelardo
Virginia Davis

RULE TO FILE COMPLAINT

TO: Plaintiffs

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

William A. Shaw, Prothonotary

Dated: February 9, 2005

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100370
NO: 04-1966-CD
SERVICE # 1 OF 2
WRIT TO JOIN ADDITIONAL DEFENDANT

PLAINTIFF: GENE M. STEWART; VIRGINIA STEWART

vs.

DEFENDANT: LYNDIA M. HARWOOD, Executris of Estate of Carol P. Gelardo AND VIRGINIA DAVIS, Addl. Deft. AND
COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, Addl. Deft.
and

SHERIFF RETURN

NOW, April 05, 2005, SHERIFF OF DAUPHIN COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION.

NOW, April 07, 2005 AT 1:50 PM SERVED THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, DEFENDANT. THE RETURN OF DAUPHIN COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

FILED
0110:27511 64
APR 25 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100370
NO: 04-1966-CD
SERVICE # 2 OF 2
WRIT TO JOIN ADDITIONAL DEFENDANT

PLAINTIFF: GENE M. STEWART; VIRGINIA STEWART

vs.

DEFENDANT: LYNDAM. HARWOOD, Executris of Estate of Carol P. Gelardo AND VIRGINIA DAVIS, Addl. Deft. AND
COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, Addl. Deft.
and

SHERIFF RETURN

NOW, April 05, 2005, SHERIFF OF DAUPHIN COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON COMMONWEALTH OF PENNSYLVANIA DEPT OF TRANSPORTATION c/oPa. Office of Attorney General.

NOW, April 07, 2005 AT 2:33 PM SERVED THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON COMMONWEALTH OF PENNSYLVANIA DEPT OF TRANSPORTATION c/oPa. Office of Attorney General, DEFENDANT. THE RETURN OF DAUPHIN COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100370
NO: 04-1966-CD
SERVICES 2
WRIT TO JOIN ADDITIONAL DEFENDANT

PLAINTIFF: GENE M. STEWART; VIRGINIA STEWART

vs.

DEFENDANT: LYNDA M. HARWOOD, Executris of Estate of Carol P. Gelardo AND VIRGINIA DAVIS, Addl. Deft.
AND COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, Addl. Deft.
and

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	MEYER	9157	20.00
SHERIFF HAWKINS	MEYER	9157	36.00
DAUPHIN CO.	MEYER	9158	32.25

Sworn to Before Me This

_____ Day of _____ 2005

So Answers,

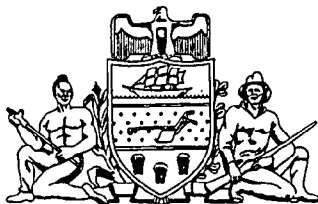


Chester A. Hawkins
Sheriff

Office of the Sheriff

Mary Jane Snyder
Real Estate Deputy

William T. Tully
Solicitor



J. Daniel Basile
Chief Deputy

Michael W. Rinehart
Assistant Chief Deputy

Dauphin County
Harrisburg, Pennsylvania 17101
ph: (717) 255-2660 fax: (717) 255-2889

Jack Lotwick
Sheriff

Commonwealth of Pennsylvania : STEWART GENE M & VIRGINIA
vs
County of Dauphin : ATTORNEY GENERAL

Sheriff's Return

No. 0632-T - - -2005

OTHER COUNTY NO. 04-1966-CD

AND NOW: April 7, 2005 at 1:50PM served the within

WRIT JOIN ADDITIONAL DEFENDANTS upon
DEPT OF TRANSPORTATION by personally handing
to NICOLE STROUP, CELRK/TYPIST 1 true attested copy(ies)
of the original WRIT JOIN ADDITIONAL DEFENDANTS and making known
to him/her the contents thereof at KEYSTONE BUILDING
400 NORTH ST
HARRISBURG, PA 00000-0000

Sworn and subscribed to
before me this 8TH day of APRIL, 2005

Mary Jane Snyder

NOTARIAL SEAL
MARY JANE SNYDER, Notary Public
Highspire, Dauphin County
My Commission Expires Sept. 1, 2006

So Answers,

J R Lotwick

Sheriff of Dauphin County, Pa.

Thomas Wong

By

Deputy Sheriff

Sheriff's Costs: \$32.25 PD 04/07/2005

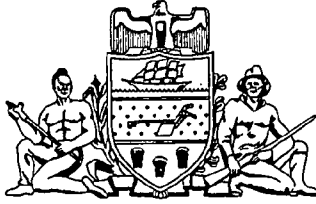
RCPT NO 205628

WONG

Office of the Sheriff

Mary Jane Snyder
Real Estate Deputy

William T. Tully
Solicitor



J. Daniel Basile
Chief Deputy

Michael W. Rinehart
Assistant Chief Deputy

Dauphin County
Harrisburg, Pennsylvania 17101
ph: (717) 255-2660 fax: (717) 255-2889

Jack Lotwick
Sheriff

Commonwealth of Pennsylvania : STEWART GENE M & VIRGINIA
vs
County of Dauphin : ATTORNEY GENERAL

Sheriff's Return

No. 0632-T - - -2005

OTHER COUNTY NO. 04-1966-CD

AND NOW: April 7, 2005 at 2:33PM served the within

WRIT JOIN ADDITIONAL DEFENDANTS upon
ATTORNEY GENERAL by personally handing
to CATHY STEHMAN, RECEPTIONIST 1 true attested copy(ies)
of the original WRIT JOIN ADDITIONAL DEFENDANTS and making known
to him/her the contents thereof at 15TH FLOOR
STRAWBERRY SQ
HARRISBURG, PA 00000-0000

Sworn and subscribed to
before me this 8TH day of APRIL, 2005

NOTARIAL SEAL
MARY JANE SNYDER, Notary Public
Highspire, Dauphin County
My Commission Expires Sept. 1, 2006

So Answers,

Sheriff of Dauphin County, Pa.

By Deputy Sheriff

Sheriff's Costs: \$32.25 PD 04/07/2005

RCPT NO 205628

WONG



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915

ROBERT SNYDER
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 100370

GENE M. STEWART; VIRGINIA STEWART

vs.

LYNDA M. HARWOOD, Executris of Estate of Carol P. Gelardo AND VIRGINIA DAVIS, Addl. Deft. AND COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, Addl. Deft.
and

TERM & NO. 04-1966-CD

WRIT TO JOIN ADDITIONAL DEFENDANT

SERVE BY: 04/27/05

MAKE REFUND PAYABLE TO MEYER DARRAGH BUCKLER BEBENEK & ECK

SERVE: COMMONWEALTH OF PENNSYLVANIA DEPT OF TRANSPORTATION c/o Pa. Office of Attorney General

ADDRESS: STRAWBERRY SQUARE, HARRISBURG, PA 17120

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF DAUPHIN COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, April 05, 2005.

RESPECTFULLY,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915
ROBERT SNYDER
CHIEF DEPUTY
MARILYN HAMM
DEPT. CLERK
CYNTHIA AUGHENBAUGH
OFFICE MANAGER
PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 100370

GENE M. STEWART; VIRGINIA STEWART

vs.

LYNDA M. HARWOOD, Executris of Estate of Carol P. Gelardo AND VIRGINIA DAVIS, Addl. Deft. AND COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, Addl. Deft.
and

TERM & NO. 04-1966-CD

WRIT TO JOIN ADDITIONAL DEFENDANT

SERVE BY: 04/27/05

MAKE REFUND PAYABLE TO MEYER DARRAGH BUCKLER BEBENEK & ECK

SERVE: COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION

ADDRESS: KEYSTONE BLDG., 400 NORTH ST., HARRISBURG, PA 17120

Know all men by these presents, that i, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF DAUPHIN COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, April 05, 2005.

RESPECTFULLY,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WRIT TO JOIN ADDITIONAL DEFENDANT

Gene M. Stewart; Virginia Stewart;
Plaintiff(s)
Vs.

Lynda M. Harwood, Executrix of
the Extate of Carol P. Gelardo
Defendant(s)
and
Virginia Davis,
Additional Defendant
and

Commonwealth of Pennsylvania Department of
Transportation
Additional Defendant

To: Commonwealth of Pennsylvania Department of Transportation:

You are notified that John M. Noble, Esq. has joined you as an additional
defendant in this action, which you are required to defend.

Dated: March 28, 2005

Prothonotary

Filing Attorney: John M. Noble, Esq.
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.
114 South Main Street
Greensburg, PA 15601-31-2
724-836-0532

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WRIT TO JOIN ADDITIONAL DEFENDANT

Gene M. Stewart; Virginia Stewart;
Plaintiff(s)
Vs.

Lynda M. Harwood, Executrix of
the Extate of Carol P. Gelardo
Defendant(s)
and
Virginia Davis,
Additional Defendant
and

Commonwealth of Pennsylvania Department of
Transportation
Additional Defendant

)

To: Commonwealth of Pennsylvania Department of Transportation:

You are notified that John M. Noble, Esq. has joined you as an additional
defendant in this action, which you are required to defend.

Dated: March 28, 2005

Prothonotary

Filing Attorney: John M. Noble, Esq.
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.
114 South Main Street
Greensburg, PA 15601-31-2
724-836-0532

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

GENE M. STEWART and
VIRGINIA STEWART, his wife

Plaintiffs

vs.

LYNDA M. HARWOOD, EXECUTRIX
OF THE ESTATE OF CAROL P. GELARDO,

Defendant

CIVIL ACTION – LAW

NO. 04-1966-CD

TYPE OF CASE:
COMPLAINT

FILED ON BEHALF OF
PLAINTIFFS

COUNSEL OF RECORD
FOR THIS PARTY:

JOHN P. MERLO
ATTORNEY AT LAW
PA I.D. 18144

27 NORTH SIXTH STREET
INDIANA, PA 15701
[724] 463-0241

FILED

m 110.5721
JUN 30 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

GENE M. STEWART and
VIRGINIA STEWART, his wife

Plaintiffs

vs.

LYNDA M. HARWOOD, EXECUTRIX
OF THE ESTATE OF CAROL P. GELARDO,

Defendant

-and-

CIVIL ACTION – LAW

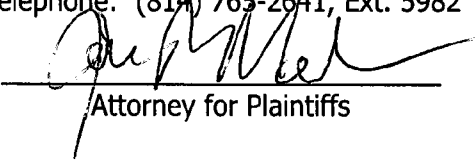
NO. 04-1966-CD

NOTICE TO PLEAD

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

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

Office of the Court Administrator
Clearfield County Courthouse
228 Courthouse, 230 East Market Street
Clearfield, Pennsylvania 16830
Telephone: (814) 765-2641, Ext. 5982


Attorney for Plaintiffs

1. The plaintiff, Gene M. Stewart, is an adult who resides at 288 Stable Road, Indiana, Pennsylvania 15701.
2. The plaintiff, Virginia Stewart, is the wife of Gene M. Stewart, who resides at 288 Stable Road, Indiana, Pennsylvania 15701.
3. The defendant, Lynda M. Harwood, is the Executrix of the Estate of Carol P. Gelardo, deceased, according to the application for Probate filed in the Estate of Carol P. Gelardo, in the Register of Wills Office in Clearfield County, Pennsylvania, on the 23rd day of April, 2004.
4. The defendant, Lynda M. Harwood, is an adult who resides at 1701 37th Street, Apartment 1510, Phenix City, Alabama 36867-2581.

5. The deceased, Carol P. Gelardo, resided in Covington Township prior to her death, and on the 18th day of December, 2003, was the operator of a certain motor vehicle, a 1999 red Toyota Tacoma, VIN #4TAWN74N3X2471457, licensed in the Commonwealth of Pennsylvania, with a plate number of WDA1229.

6. Also on the 18th day of December, 2003, the plaintiff, Gene M. Stewart, was the operator of a certain motor vehicle owned by Force Trucking Company, whose address is 7877 Five Points Road, Creekside, Pennsylvania, and was a Ford F-150 pick up truck with a VIN number of 2FTRX18643C857712, with a Pennsylvania registration plate YMB3678.

7. On December 18, 2003, at approximately 4:40P.M.. in the early evening hours, the deceased was operating her motor vehicle in an easterly direction along State Route 879, at an approximate speed of 55 miles per hour. At or about the same time, heading in a westerly direction in the west bound lane, was the plaintiff.

8. The road conditions on that date and at approximately that time were wet due to snow and it was reported that there were, in places, patches of ice.

9. The vehicle operated by the deceased was going in an up-hill direction while the vehicle of the plaintiff was coming down-hill in a westerly direction, at or near the point of impact.

10. The deceased's passenger side tires ran left the roadway and on to the snow-covered berm and shoulder of the roadway, wherein the rear of the defendant's vehicle began to slide back and forth to where the operator lost control of the vehicle.

11. The deceased's vehicle than began to slide sideways crossing into the west-bound lane of State Route 879, and unable to regain control of the vehicle, the deceased's vehicle struck the plaintiff's vehicle in a near head-on manner, after the plaintiff had attempted to take all steps to move out of the way of the deceased's vehicle.

12. At or near the point of the initial impact the deceased's vehicle rolled on to the its passenger side, and slide several feet before coming to rest in the west-bound lane of State Route 879, facing in a southerly direction.

13. As a result of the force of the impact the plaintiff's vehicle continued to move forward for a short distance before coming to rest in the west-bound lane of State Route 879 facing in a southerly direction.

14. As a result of the negligent operation of the vehicle operated by Carol P. Gelardo, she suffered fatal injuries and the plaintiff, Gene M. Stewart, received severe bodily injuries and trauma which necessitated hospitalization, loss of work, loss of the ability to participate in normal activities.

COUNT 1- NEGLIGENCE

15. The averments contained in paragraphs 1 through 14 are incorporated herein as if specifically restated.

16. At the time aforesaid, the deceased operated her motor vehicle in a negligence and carelessness manner wherein the deceased was driving too fast for the conditions of the roadway; the deceased knowing that the roadway was wet and snowy, was unable to keep control her vehicle; the deceased, at dusk failed to operate and maintain her vehicle on the paved portion of the roadway; that the deceased went off the paved portion of the roadway and in an attempt to re-enter the paved portion of the roadway lost control of her vehicle; the deceased wrongfully crossed the center line of State Route 879 into the plaintiff's lane of travel; the deceased, by her inability to maintain control of her vehicle stuck the plaintiff in a near head-on manner.

17. That the unsafe and improper operation of the deceased's vehicle was the proximate cause of the collision, which resulted in her death; and the serious injuries, pain and suffering that were and are suffered by the plaintiff.

18. The plaintiff has been, and will be in the future, be hindered and prevented from attending his usual and daily duties in the same manner he was able to do one moment prior to the collision caused by the deceased, Carol P. Gelardo.

19. The injuries suffered by the Plaintiff caused him to lose wages and because of the nature of those injuries which will cause his earning capacity to decrease with time.

20. The plaintiff has been obligated to expend large and various sums of money for medicine and medical attendance, in and about endeavoring to cure the injuries which he suffered as a result of the deceased's negligence, the most serious of those injuries was a broken hip, as well as severe trauma to the spinal cord and nervous system.

21. The injuries suffered by the plaintiff will result in the future obligation by the plaintiff to expend large sums of money to treat his injuries, his resulting disabilities and the continued pain and suffering caused by those injuries and impairments.

22. The plaintiff due to his injuries was hospitalized, missed work, suffered extreme pain and is still suffering pain and discomfort doing simple tasks.

23. The plaintiff lost wages in the amount of \$15,000.00, and seeks recovery for his injuries and pain and suffering in excess of \$50,000.00 plus costs, interest and Attorney's fees.

COUNT II- WIFE'S LOSS OF CONSORTIUM

24. The allegations contained in paragraphs 1 through 23 are incorporated herein by reference as if they were more specifically restated herein.

25. The plaintiff, Virginia Stewart claims loss of consortium during that the period of time that the accident occurred and for period of time equal to his being unable to work or perform those activities normally performed by a husband ..

26. The plaintiffs are husband and wife, were husband and wife at the time of the accident on December 18, 2004 and remain husband wife; and as a result of the injuries suffered by the husband, the wife was deprived of his assistance, aid, comfort and society that a husband would be have been expected to or bestow upon her under circumstances had the injuries not occurred by the negligent act or acts of the deceased Carol P. Gelardo

WHEREFORE, it is respectfully request that the Court enter judgment in favor of the plaintiff and against the Estate of the deceased, Carol P. Gelardo, for the loss of consortium and companionship in the amount in excess of \$50,000.00.

Count III- AGAINST THE ESTATE

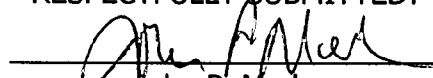
27. That the allegations contained in paragraphs 1 through 26 are incorporated herein as is specifically restated.

28. That Carol P. Gelardo, the deceased, was the operator of the vehicle which through her negligence was the proximate cause of the collision which resulted in fatal injuries to her and the injuries suffered by the plaintiffs.

29. On April 23, 2005, an application for probate was filled naming Linda M. Harwood as the Executrix of the Estate of Carol P. Gelardo, and it is the estate that stands in the place of Carol P. Geraldo and is liable foe any act or acts committed by the deceased which caused her death and the injuries of the plaintiffs

WHEREFORE, it is respectfully submitted that judgment be entered in favor of the Plaintiffs and against the Estate of Carol P. Gelardo, in Counts I, II and, III, in the amount of \$15,000.00 for lost wages and an amount in excess of \$50,000.00 for all three counts, plus interest , costs and attorneys fees.

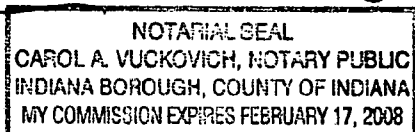
RESPECTFULLY SUBMITTED:


John P. Merlo
Attorney for Plaintiffs

2

1

;



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

GENE M. STEWART and
VIRGINIA STEWART, his wife

Plaintiffs

vs.

LYNDA M. HARWOOD, EXECUTRIX
OF THE ESTATE OF CAROL P. GELARDO,

Defendant

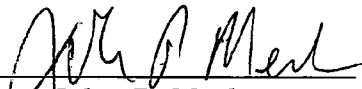
CIVIL ACTION – LAW

NO. 04-1966-CD

CERTIFICATE OF SERVICE

AND NOW, this 28th day of June, 2005, the undersigned hereby certifies that a true and correct copy of the foregoing Complaint was on this date served by regular U.S. mail, postage prepaid, upon the following:

John M. Noble, Esquire
114 South Main Street
Greensburg, PA 15601-3102


John P. Merlo

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PA
CIVIL DIVISION
NO. 04-1966-CD

GENE M. STEWART and
VIRGINIA STEWART, his wife,
Plaintiffs

vs.

LYNDA M. HARWOOD, EXECUTRIX
OF THE ESTATE OF CAROL P.
GELARDO,

Defendant

COMPLAINT

FILED

JUN 30 2005

William A. Snow
Prothonotary/Clerk of Courts

JOHN P. MERLO
Attorney at Law
27 North Sixth Street
Indiana, PA 15701

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS,

Additional Defendant

and

COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendant

TO THE PLAINTIFFS:

You are hereby notified to plead
to the enclosed New Matter within twenty
(20) days from service hereof, or a
default judgment may be entered against
you.

John M. Noble, Esquire
Attorney for Defendant,
Lynda M. Harwood, Executrix of
the Estate of Carol P. Gelardo

CIVIL DIVISION

No. 04-1966-CD

**ANSWER AND NEW MATTER TO
PLAINTIFFS' COMPLAINT**

Filed on Behalf of Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE
Pa. I.D. #36933

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**
Firm No. 198
114 South Main Street
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532

FILED ^{GN}
m/12:30/01
AUG 05 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

No. 04-1966-CD

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS,

Additional Defendant

and

COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendant

ANSWER AND NEW MATTER

AND NOW, comes the Defendant, Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, deceased, by and through her attorneys, Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. and John M. Noble, Esquire, and files the within Answer and New Matter and in support thereof avers as follows:

1-6. Admitted.

7. In reply to paragraph 7 of said Complaint, to the extent that it is inferred and/or otherwise implied, the within answering Defendant denies that any alleged action,

error and/or omission asserted as to decedent Carol P. Gelardo caused, substantially contributed to and/or resulted in the incident complained of and/or resulting alleged injuries and damages to Plaintiff for those reasons set forth more fully herein. It is further denied that decedent's approximate speed was 55 miles per hour as the within answering Defendant is without sufficient information or knowledge so as to form a belief as to the truth of said averments which are therefore denied.

8-9. Admitted.

10-11. In reply to paragraphs 10 and 11 of said Complaint, to the extent that it is inferred and/or otherwise implied, the within answering Defendant denies that any alleged action, error and/or omission asserted as to decedent Carol P. Gelardo caused, substantially contributed to and/or resulted in the incident complained of and/or resulting alleged injuries and damages to Plaintiff for those reasons set forth more fully herein.

12-13. Admitted.

14. In reply to paragraph 14, any and all allegations of negligence are denied for those reasons set forth more fully herein. It is admitted that Carol P. Gelardo suffered fatal injuries. As for the remaining allegations contained in paragraph 14, after reasonable investigation, the within answering Defendant is without sufficient information or knowledge so as to form a belief as to the truth of said averments which are therefore denied. It is further denied that any alleged actions, errors and/or omissions asserted as to decedent Carol P. Gelardo factually caused, substantially contributed to and/or otherwise resulted in the incident complained of and/or resulting alleged injuries and damages.

COUNT I - NEGLIGENCE

15. Paragraph 15 incorporates by reference paragraphs 1 through 14 above as though more fully set forth herein at length.

16-23. In reply to paragraphs 16 through 23, any and all allegations of negligence are denied for those reasons set forth more fully herein. It is admitted that Carol P. Gelardo suffered fatal injuries. As for the remaining allegations contained in paragraphs 16 through 23, after reasonable investigation, the within answering Defendant is without sufficient information or knowledge so as to form a belief as to the truth of said averments which are therefore denied.

COUNT II - WIFE'S LOSS OF CONSORTIUM

24. Paragraph 24 incorporates by reference paragraphs 1 through 23 above as though more fully set forth herein at length.

25-26. Denied.

WHEREFORE, Defendant Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, deceased denies any and all liability to Plaintiffs upon the cause of action alleged and demands judgement in Defendant's favor with costs sustained.

COUNT III - AGAINST THE ESTATE

27. Paragraph 27 incorporates by reference paragraphs 1 through 26 above as though more fully set forth herein at length.

28-29. Denied for those reasons set forth more fully herein.

WHEREFORE, Defendant Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, deceased denies any and all liability to Plaintiffs upon the cause of action alleged and demands judgement in Defendant's favor with costs sustained.

By way of further answer, Defendant asserts the following New Matter.

NEW MATTER

30. In the event that Plaintiff sustained injuries and damages as alleged, which is expressly denied, then it is believed and therefore averred that Plaintiffs' cause of action remains governed, limited and/or otherwise controlled by virtue of the Pennsylvania Motor Vehicle Financial Responsibility Law and any and all provisions and/or defenses contained therein.

31. In the event that Plaintiff sustained injuries and damages as alleged, which is expressly denied, then it is believed and therefore averred that Plaintiffs' cause of action may be wholly and/or partially barred by the virtue of any and all contributory/comparative negligence deemed applicable to Plaintiff Gene M. Stewart at time of trial, if any.

32. In the alternative to the above, Plaintiffs have failed to allege the "full tort" selection of automobile liability insurance and are therefore prohibited from seeking damages for non-economic loss.

33. As a further affirmative defense, it is believed and therefore averred that no negligent action, error and/or omission asserted as to decedent Carol P. Gelardo factually caused, substantially contributed to and/or otherwise resulted in the incident complained of and/or resulting alleged injuries and damages, rather, it is believed and therefore averred that the incident complained of remains the mere happening of an accident for which there can be no liability on the within answering Defendant.

34. In the alternative to the above, the within answering Defendant believes and therefore avers that treacherous roadway conditions created and/or otherwise caused by the negligent actions, errors and/or omissions of third-parties remain the sole and/or

approximate cause of the incident complained of and resulting alleged injuries and damages claimed by Plaintiff more fully set forth in Plaintiffs' Complaint.

WHEREFORE, Defendant Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, deceased denies any and all liability to Plaintiffs upon the cause of action alleged and demands judgement in Defendant's favor with costs sustained.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

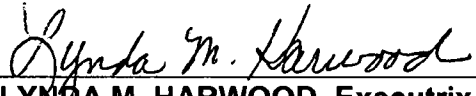
By: _____

John M. Noble, Esquire
Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

VERIFICATION

I, **LYNDA M. HARWOOD, EXECUTRIX OF THE ESTATE OF CAROL P. GELARDO**, hereby verify that the statements set forth in the foregoing **ANSWER AND NEW MATTER** are true and correct to the best of my knowledge, information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.


**LYNDA M. HARWOOD, Executrix
of the Estate of Carol P. Gelardo**

DATE: 7/18/05

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **ANSWER AND NEW MATTER** has been mailed to all parties and counsel of record by forwarding a copy of same by First Class U.S. Mail, postage prepaid, this the 3rd day of August, 2005, addressed as follows:

John P. Merlo, Esquire
27 North Sixth Street
Indiana, PA 15701
*(Attorney for Plaintiffs, Gene M. Stewart
and Virginia Stewart, his wife)*

Virginia Davis
1 Hummork Court
Wilmington, DE 19803
(Pro Se Additional Defendant)

Thomas L. Donahoe,
Sr. Deputy Attorney General
Commonwealth of Pennsylvania
Office of Attorney General
Torts Litigation Unit
564 Forbes Avenue
Manor Complex
Pittsburgh, PA 15219
*(Attorney for Additiaonl Defendant
Commonwealth of PA, Dept. of Trans.)*

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By: 

John M. Noble, Esquire
Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and
COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendants.

**CERTIFICATE PREREQUISITE TO
SERVICE OF A SUBPOENA TO
PRODUCE DOCUMENTS OR THINGS
FOR DISCOVERY PURSUANT TO
RULE 4009.21**

Filed on Behalf of Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE
PA. I.D. #36933

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**
Firm No. 198
114 South Main Street
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532

FILED

AUG 25 2005
m/12:05/w (6X)
William A. Shaw
Prothonotary/Clerk of Courts
1 CEN TO APPL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and
COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendants.

No. 04-1966-CD

**CERTIFICATE PREREQUISITE TO SERVICE
OF A SUBPOENA TO PRODUCE DOCUMENTS
OR THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

As a prerequisite to service of a Subpoena to Produce Documents and Things for Discovery Pursuant to 4009.21, the defendant, Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, hereby certifies that:

(1) A Notice of Intent to serve subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty (20) days prior to the date on which the subpoena is sought to be served;

(2) A copy of the Notice of Intent, including the proposed subpoena, is attached to this certificate;


(3) No objections to the subpoena have been received; and

(4) The subpoena which will be served is identical to the subpoena which was attached to the Notice of Intent to Serve Subpoena.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By:


JOHN M. NOBLE, ESQUIRE
Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

DATE: August 23, 2005

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Gene M. Stewart
Virginia Stewart
Plaintiff(s)

Vs.

Lynda M. Harwood
Carol P. Gelardo
Virginia Davis
Commonwealth of Pennsylvania Department of
Transportation
Defendant(s)

No. 2004-01966-CD

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

TO: Commissioner Jeffrey B. Miller, Penna. State Police, 1800 Elmerton Ave.
(Name of Person or Entity) Harrisburg, PA 17110

Within twenty (20) days after service of this subpoena, you are ordered by the Court to
produce the following documents or things:
Color copies or reprints of all photographs taken at the scene of an accident
occurring on Dec. 18, 2003 on State Route 879, Covington Township, Clearfield
County, Pennsylvania as reported at Incident #C03-0766509.
(Address)

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

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

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

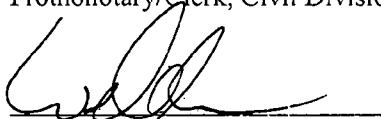
NAME: John M. Noble, Esquire
ADDRESS: 114 S. Main St.
Greensburg, PA 15601
TELEPHONE: 724-853-2296
SUPREME COURT ID # 36933
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

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

DATE: Friday, July 08, 2005
Seal of the Court


Deputy

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Commissioner
Jeffrey B. Miller
PA State Police
1800 Elmerton Ave.
Harrisburg PA 17110

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

JUL 18 2005

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7002 3150 0004 2198 1041

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

CERTIFICATE OF SERVICE

I do hereby certify that the foregoing **Certificate Prerequisite to Service of a Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.21** has been served upon the following this the 23rd day of August, 2005, by First-Class, U.S. Mail, postage prepaid, addressed as follows:

John P. Merlo, Esquire
27 North Sixth Street
Indiana, PA 15701
(Attorney for Plaintiffs)

Virginia Davis
1 Hummork Court
Wilmington, DE 19803
(Pro se Additional Defendant)

Commonwealth of Pennsylvania
Department of Transportation
Keystone Building
400 North Street
Harrisburg, PA 17120
(Pro Se Additional Defendant)

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By: 

JOHN M. NOBLE, ESQUIRE
Attorney for Defendant,
Lynda M. Harwood, Executrix of the
Estate of Carol P. Gelardo

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

GENE M. STEWART and
VIRGINIA STEWART, his wife

Plaintiffs

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant

-and-

VIRGINIA DAVIS,
Additional Defendant

-and-

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,

Additional Defendant

CIVIL ACTION – LAW

NO. 04-1966-CD

FILED

SEP 06 2005

M/S:35 (un) @
William A. Shaw

Prothonotary/Clerk of Courts

1 CEN to Appr

ANSWER TO NEW MATTER

FILED ON BEHALF OF
PLAINTIFFS

COUNSEL OF RECORD
FOR THIS PARTY:

JOHN P. MERLO, ESQUIRE
PA I.D. #18144

27 NORTH SIXTH STREET
INDIANA, PA 15701
TELEPHONE: (724) 463-0241
FAX (724) 463-6312

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

GENE M. STEWART and)	CIVIL ACTION – LAW
VIRGINIA STEWART, his wife)	
)	
Plaintiffs)	
)	
vs.)	NO. 04-1966-CD
)	
LYNDA M. HARWOOD, EXECUTRIX OF)	
THE ESTATE OF CAROL P. GELARDO,)	
)	
Defendant)	
)	
-and-)	
)	
VIRGINIA DAVIS,)	
Additional Defendant)	
)	
-and-)	
)	
COMMONWEALTH OF PENNSYLVANIA,)	
DEPARTMENT OF TRANSPORTATION,)	
)	
Additional Defendant)	

ANSWER TO NEW MATTER

AND NOW, comes John P. Merlo on behalf of Gene M. Stewart and Virginia Stewart, who files this Answer to New Matter by averring and stating the following:

30. Admitted in that the Pennsylvania Motor Vehicle Financial Responsibility Act, and any and all other provisions of the laws of the Commonwealth of Pennsylvania apply.

31. Any allegation of negligence on the part of the Plaintiff, whether in whole or in part, is denied.


32. The allegation as contained in this paragraph is a conclusion that the Plaintiff, through his employer, has Full tort coverage,

33. The allegation contained in paragraph 33 is specifically denied in that the allegations contained in the complaint as are more fully set forth within the complaint describe with particularity the negligence and actions of the said Carol P. Gelardo and those allegations are incorporated herein as if they were more specifically restated herein.

34. The Plaintiffs, have no information to form a belief as to whether or not the statements contained in paragraph 34 are true or not. It is believed, however, irrespective of the road conditions, the actions of the decedent were the approximate cause of the accident.

WHEREFORE, it is respectfully requested that this Honorable Court dismiss the allegations of any affirmative defense and the contributory negligence as pled and grant the relief sought by the plaintiff in the original complaint as filed.

RESPECTFULLY SUBMITTED:


John P. Merlo
Attorney for Plaintiffs

John P. Merlo

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 04-1966-CD

GENE M. STEWART and
VIRGINIA STEWART, his wife,
Plaintiffs

vs.
LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,
Defendant

-and-
VIRGINIA DAVIS,
Additional Defendant
-and-

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,

Additional Defendant

ANSWER TO NEW MATTER

JOHN P. MERLO
Attorney at Law
27 North Sixth Street
Indiana, PA 15701

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS and
COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendants.

CIVIL DIVISION

No. 04-1966-CD

**NOTICE OF DEPOSITION BY ORAL
EXAMINATION PURSUANT TO
Pa.R.C.P. 4007.1**

Filed on Behalf of Defendant,
Lynda M. Harwood, Executrix of
the Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE
PA. I.D. #36933

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

Firm No. 198
114 South Main Street
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840
Fax No.: (724) 836-0532

FILED *no cc*
m 11:37 AM
JAN 17 2006 *(5)*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and
VIRGINIA STEWART, his wife,

CIVIL DIVISION

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS and
COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Additional Defendants.

NOTICE OF DEPOSITION BY ORAL EXAMINATION
PURSUANT TO Pa.R.C.P. 4007.1

TO: ALL PARTIES

You are hereby given notice that the deposition of the plaintiff, **Gene M. Stewart**, will be taken by oral examination and in accordance with Pennsylvania Rule of Civil Procedure 4007.1 at the offices of John Merlo, Esquire located at 27 North Sixth Street, Indiana, Pennsylvania on **Friday, February 17, 2006 at 10:00 a.m.**, and at any and all adjournments thereof.

The purpose of this deposition is for the discovery of the identity and whereabouts of witnesses, as well as to examine the deponent concerning other matters, not privileged, which are relevant to the subject matter involved in this action.

Respectfully Submitted,

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By: _____

JOHN M. NOBLE, ESQUIRE

Attorney for Defendant,

Lynda M. Harwood, Executrix of
the Estate of Carol P. Gelardo

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **NOTICE OF DEPOSITION BY ORAL EXAMINATION PURSUANT TO Pa.R.C.P. 4007.1** has been served upon all counsel of record by forwarding a copy of same by First Class U.S. Mail, postage prepaid, this the 16th day of January, 2006, addressed as follows:

John P. Merlo, Esquire
27 North Sixth Street
Indiana, PA 15701
(Attorney for Plaintiffs)

Virginia Davis
1 Hummork Court
Wilmington, DE 19803
(Pro se Additional Defendant)

Thomas L. Donahoe, Sr. Deputy Attorney General
Commonwealth of Pennsylvania
Office of Attorney General
Torts Litigation Unit
564 Forbes Avenue
Manor Complex
Pittsburgh, PA 15219
*(Attorney for Commonwealth of Pennsylvania
Department of Transportation, Additional Defendant)*

**MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.**

By: _____

JOHN M. NOBLE, ESQUIRE

Attorney for Defendant;

Lynda M. Harwood, Executrix of
the Estate of Carol P. Gelardo

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

GENE STEWART and
VIRGINIA STEWART, his wife,

Plaintiffs,

Vs

LYNDA HARWOOD, Executrix
Of the estate of Carol P.
Gelardo,

Defendant,

Vs.

VIRGINIA DAVIS,

Additional Defendant.

Civil Division

No. 04-1966-CD

Praecipe to Settle and
Discontinue

Filed on behalf of
Plaintiffs, Gene and Virginia
Stewart

Counsel of Record for this
Party:

John P. Merlo, Esquire
PA ID No. 18144

P.O. Box 257
Blairsville, PA 15717

FILED No CC + no cert
m/8:40am issued.
DEC 10 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
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Defendant,

Vs.

VIRGINIA DAVIS,

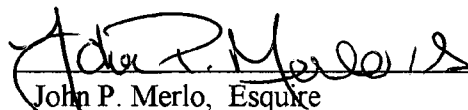
Additional Defendant.

PRAECIPE

TO THE PROTHONOTARY:

Please mark the above captioned matter settled, discontinued, and ended as to all parties of record.

By:


John P. Merlo, Esquire
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

GENE STEWART and
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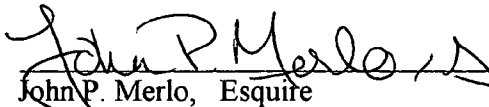
VIRGINIA DAVIS,

Additional Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the within Praeceptum to Settle and Discontinue was served as listed below by fax and first class, United States mail, postage prepaid, on this 6th day of November, 2007.

John Noble, Esquire
Meyer Darragh Buckler Bebenek & Eck
40 North Pennsylvania Ave
Greensburg, PA 15601
Fax 724-836-0532


John P. Merlo, Esquire
Attorney for Plaintiffs