

05-78-CD

R. Reed et al vs. R. Edmiston et al

EDMISTON, et al.

Richard Reed et al v. Robert Edmiston et al  
2005-078-CD

Eisenhower

## Civil Other

Date		Judge
1/17/2005	✓ X New Case Filed.	No Judge
	✓ X Filing: Writ of Summons Paid by: Richard Milgrub, Esq. Receipt number: 1893921 Dated: 01/17/2005 Amount: \$85.00 (Check)	No Judge
3/1/2005	✓ X Filing: Reissue Writ of Summons Paid by: Milgrub, Richard Receipt number: 1896627 Dated: 03/01/2005 Amount: \$7.00 (Cash) 1 Cert. and Reissued Writ to Sheriff.	No Judge
3/4/2005	✓ X Sheriff Return, filed X Summons returned "NOT SERVED"	No Judge
3/23/2005	✓ X Sheriff Return, NOW, March 18, 2005, returned Summons "Not Found" as to Robert Edmiston and Robin Learish, Defendants. So Answers, Chester A. Hawkins, by s/ Marilyn Hamm	No Judge
	✓ X Affidavit of Service filed. (see original for list of efforts made to locate Defendants). Despite my efforts, only address where I can locate Defendants is Post Office Box 1051, DuBois, PA 15801. I believe Defs. are trying to conceal their whereabouts to avoid service of process. Filed by s/ Richard H. Milgrub, Esquire. 1CC Atty Milgrub	No Judge
3/29/2005	✓ X Petition for Alternate Service, filed by s/Richard H. Milgrub, Esq. Four CC Attorney Milgrub	No Judge
3/31/2005	✓ X Order, AND NOW, this 31 day of March, 2005, it is Order of the Court that the Petition for Service of Process pursuant to Pa. R.C.P. 430 (a) is Granted permitting service by: Publication, regular mail and certified mail. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty Milgrub	Fredric Joseph Ammerman
4/11/2005	✓ X Filing: Praecipe to Reissue Writ of Summons Paid by: Cohen, Samuel (attorney for Reed, Richard Niven) Receipt number: 1899238 Dated: 04/11/2005 Amount: \$7.00 (Check) 4CC & 4 Writs to Atty.	Fredric Joseph Ammerman
4/14/2005	✓ X Notice to Robert Edmiston and Robin Learish, filed by s/ Samuel Cohen, Esquire. 2CC Atty	Fredric Joseph Ammerman
	✓ X Certificate of Service, Summons served upon Robert Edmiston and Robin Learish on April 13, 2005. Filed by s/ Richard H. Milgrub, Esquire. No CC	Fredric Joseph Ammerman
5/2/2005	✓ X Praecipe For Entry of Appearance, filed on behalf of Defendant Robert Edmiston, filed by s/ Matthew B. Taladay, Esquire. No CC	Fredric Joseph Ammerman
	✓ X Praecipe For Rule to File Complaint, filed by s/ Matthew B. Taladay, Esquire. No CC, Rule to Atty Taladay	Fredric Joseph Ammerman
5/9/2005	✓ X Certificate of Service, Rule to File Complaint served upon Samuel Cohen, Esq. Filed by Matthew B. Taladay, Atty. No CC.	Fredric Joseph Ammerman
5/31/2005	✓ X Affidavit of Service filed. Attempts to serve Defendants by mail were unsuccessful. On April 29, 2005 a copy of the Notice of Commencement of Civil Action was published in the Clfd. Co. Legal Journal. By s/ Samuel Cohen, Esquire. No CC	Fredric Joseph Ammerman
8/12/2005	✓ X Praecipe For Entry of Appearance, on behalf of Defendant Robin Learish, filed by s/ Matthew B. Taladay, Esquire. No CC	Fredric Joseph Ammerman
9/15/2005	✓ X Civil Action Complaint filed by s/ Samuel Cohen Esq and s/ Richard H. Milgrub Esq. 1CC atty Cohen	Fredric Joseph Ammerman
10/4/2005	✓ X Notice of Service, filed. That I propounded on Plaintiffs, via United States Mila on this 3rd day of October, 2005. Defendants' FIRST SET OF DISCOVERY MATERIALS to Samuel Cohen Esq., filed by s/ Matthew B. Taladay Esq. No CC.	Fredric Joseph Ammerman

Date: 1/25/2007

Clearfield County Court of Common Pleas

User: LMILLER

Time: 12:13 PM

ROA Report

Page 2 of 2

Case: 2005-00078-CD

Current Judge: Fredric Joseph Ammerman

Richard Niven Reed, Debra Alice Reed vs. Robert Edmiston, Robin Learish

Civil Other

Date		Judge
10/4/2005	✓/X Answer and New Matter, filed by s/ Matthew B. Taladay Esq. No CC.	Fredric Joseph Ammerman
11/23/2005	✓/X Plaintiffs' Reply to New Matter, filed by s/ Samuel Cohen, Esquire. 1CC to Atty	Fredric Joseph Ammerman
1/6/2006	✓/X Certificate of Service, filed. That on the 5th day of January, 2006, two original Notices of Deposition, copies of which are attached hereto, were sent to Samuel Cohen Esq., filed by s/ Matthew B. Taladay Esq. No CC.	Fredric Joseph Ammerman
1/17/2006	✓/X Certificate of Service, filed. That a true and correct copy of the within Notices of Oral Deposition of Defendants Robert Edmiston and Robin Learish on January 12, 2006, filed by s/ Samuel Cohen Esq. No CC.	Fredric Joseph Ammerman
1/30/2006	✓/X Certificate of Service, filed. That a true and correct copy of the within Amended Notices of Oral Deposition of Defendants Robert Edmiston and Robin Learish were forwarded to Matthew B. Taladay Esq., on January 27, 2006 filed by s/ Samuel Cohen Esq. 1CC Atty.	Fredric Joseph Ammerman
6/21/2006	✓/X Certificate of Service, filed. That a true and correct copy of the within Plaintiffs' Answers to Interrogatories was forwarded to Matthew B. Taladay Esq., filed by s/ Samuel Cohen Esq. NO CC.	Fredric Joseph Ammerman
8/2/2006	✓/X Certificate of Service, filed. That on the 1st day of August 2006, two original Notices of Deposition, copies of which are attached hereto, were sent to Samuel Cohen Esq., filed by s/ Matthew B. Taladay Esq. No CC.	Fredric Joseph Ammerman
8/4/2006	✓/X Certificate of Service, filed. That a true and correct copy of the within Plaintiff's Notice of Oral Deposition, of Defendant Robert Edmiston was forwarded on August 2, 2006 to Matthew B. Taladay Esq and James W. Harvey Esq., filed by s/ Samuel Cohen Esq. 1CC Atty Cohen.	Fredric Joseph Ammerman
	✓/X Certificate of Service, filed. That a true and correct copy of the within Plaintiff's Notice of Oral Deposition of Robert Learish was forwarded on August 2, 2006 to Matthew B. Taladay Esq and James W. Harvey Esq., filed by s/ Samuel Cohen Esq. 1CC Atty Cohen.	Fredric Joseph Ammerman
12/5/2006	✓/X Motion For Summary Judgment, filed by s/ Matthew B. Taladay, Esq. No CC	Fredric Joseph Ammerman
12/13/2006	✓/X Order of Court, AND NOW, this 13th day of December, 2006, upon consideration of Motion for Summary Judgment filed by Defendants, Ordered that: 1) Rule issued upon Respondent 2) Respondent shall file a response and brief to the motion within 20 days 3) Motion shall be decided under Pa.R.C.P. 206.7 4) Argument on Motion scheduled January 29, 2007, at 11:30 a.m. 5) Notice of the entry of this Order shall be provided to all parties by the moving party. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attorney Taladay	Fredric Joseph Ammerman
12/19/2006	✓/X Certificate of Service, filed. That on the 18th day of December 2006, a Court certified copy of Order of Court dated December 13, 2006 was sent to Samuel Cohen Esq., filed by s/ Matthew B. Taladay Esq. NO CC.	Fredric Joseph Ammerman
12/29/2006	✓/X Plaintiffs' Answer to Motion for Summary Judgment and New Matter (Brief attached and received by C/A) 1 Cert. to Atty.	Fredric Joseph Ammerman
1/23/2007	✓/X Motion For Continuance, filed by s/ Richard H. Milgrub, Esquire. 1CC Atty. Milgrub	Fredric Joseph Ammerman

01-25-07 ✓ Order, dated 1-25-2007

01-26-07 ✓ Certificate of Service

William A. Shaw  
Prothonotary/Clerk of Courts

By Sam Cohen  
Samuel Cohen, Esquire  
Attorney for Plaintiffs

By Richard H. Milgrub  
Richard H. Milgrub, Esquire  
Attorney for Defendant

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

**SUMMONS**

**Richard Niven Reed  
Debra Alice Reed**

**Vs.**

**NO.: 2005-00078-CD**

**Robert Edmiston  
Robin Learish**

**TO: ROBERT EDMISTON  
ROBIN LEARISH**

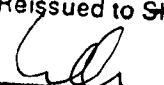
To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 01/17/2005

\_\_\_\_\_  
William A. Shaw  
Prothonotary

Issuing Attorney:

Samuel Cohen  
Suite 2010  
Philadelphia, PA 19103-5020

**March 1, 2005** Document  
~~Reinstated~~/Reissued to Sheriff/Attorney  
for service.  
  
\_\_\_\_\_  
Deputy Prothonotary

MAR 01 2005  
01/11/10  
William A. Shaw  
Prothonotary/Clerk of Courts  
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Reussner wait to  
Bucc

Samuel Cohen  
Samuel Cohen, Esquire  
Attorney for Plaintiffs



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

Service # 1 of 2 Services

Sheriff Docket # **100146**

RICHARD NIVEN REED and DEBRA ALICE REED

Case #

05-78-CD

vs.

ROERT EDMISTON and ROBIN LEARISH

**SHERIFF RETURNS**

NOW March 01, 2005 RETURNED THE WITHIN SUMMONS "NOT SERVED, TIME EXPIRED" AS TO ROBERT EDMISTON, DEFENDANT. SEVERAL ATTEMPTS, NOT HOME

SERVED BY: /

**FILED** (13)  
019-00001  
MAR 03 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

Service # 1 of 2 Services

Sheriff Docket #

**100146**

RICHARD NIVEN REED and DEBRA ALICE REED

Case #

05-78-CD

vs.

ROERT EDMISTON and ROBIN LEARISH

## SHERIFF RETURNS

### Return Costs

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	RICHARD MILGRUB	23744	20.00
SHERIFF HAWKINS	RICHARD MILGRUB	23744	19.37

Sworn to Before me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2005

\_\_\_\_\_

So Answers,

  
Chester A. Hawkins  
Sheriff

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

**SUMMONS**

**Richard Niven Reed  
Debra Alice Reed**

**Vs.**


**NO.: 2005-00078-CD**

**Robert Edmiston  
Robin Learish**

**TO: ROBERT EDMISTON**

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: 01/17/2005

  
\_\_\_\_\_  
William A. Shaw  
Prothonotary

Issuing Attorney:

Samuel Cohen.  
117 South 17th Street  
Suite 2010  
Philadelphia, PA 19103-5020

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

**SUMMONS**

**Richard Niven Reed  
Debra Alice Reed**

**Vs.**

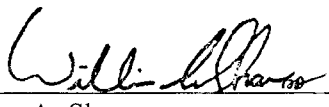
**NO.: 2005-00078-CD**

**Robert Edmiston  
Robin Learish**

TO: Robin Learish

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: 01/17/2005

  
\_\_\_\_\_  
William A. Shaw  
Prothonotary

Issuing Attorney:

Samuel Cohen.  
117 South 17th Street  
Suite 2010  
Philadelphia, PA 19103-5020

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

Service # 1 of 2 Services

Sheriff Docket # **100260**

RICHARD NIVEN REED and DEBRA ALICE REED

Case # 05-78-CD

vs.

ROBERT EDMISTON and ROBIN LEARISH

**SHERIFF RETURNS**

NOW March 18, 2005 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURNED THE WITHIN SUMMONS "NOT FOUND" AS TO ROBERT EDMISTON, DEFENDANT. ONLY KNOWN ADDRESS, PO BOX 1051 DUBOIS, PA..

SERVED BY: /

**FILED**  
019:04/BL  
MAR 23 2005 GK

William A. Shaw  
Prothonotary/Clerk of Courts

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

Service # 2 of 2 Services

Sheriff Docket # **100260**

RICHARD NIVEN REED and DEBRA ALICE REED

Case # 05-78-CD

vs.

ROBERT EDMISTON and ROBIN LEARISH

**SHERIFF RETURNS**

NOW March 18, 2005 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURNED THE WITHIN SUMMONS "NOT FOUND" AS TO ROBIN LEARISH, DEFENDANT. SEVERAL ATTEMPTS, ADDRESS UNKNOWN.

SERVED BY: /

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

Service # 1 of 2 Services

Sheriff Docket # **100260**

RICHARD NIVEN REED and DEBRA ALICE REED

Case # 05-78-CD

vs.

ROBERT EDMISTON and ROBIN LEARISH

## SHERIFF RETURNS

### Return Costs


PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	MILGRUB	23844	20.00
SHERIFF HAWKINS	MILGRUB	23844	80.00
SHERIFF HAWKINS	"	23902	7.32

Sworn to Before me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2005

\_\_\_\_\_

So Answers,

  
Chester A. Hawkins  
Sheriff

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

**SUMMONS**

**Richard Niven Reed  
Debra Alice Reed**

**Vs.**

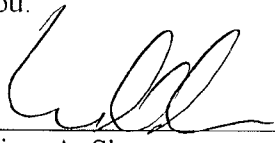
**NO.: 2005-00078-CD**

**Robert Edmiston  
Robin Learish**

**TO: ROBERT EDMISTON  
ROBIN LEARISH**


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: 01/17/2005

  
\_\_\_\_\_  
William A. Shaw  
Prothonotary

Issuing Attorney:

Samuel Cohen  
Suite 2010  
Philadelphia, PA 19103-5020

MARCH 1, 2005 Document  
~~Reinstated~~/Reissued to Sheriff/Attorney  
for service.  
  
\_\_\_\_\_  
Deputy Prothonotary



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

**SUMMONS**

**Richard Niven Reed  
Debra Alice Reed**

**Vs.**


**NO.: 2005-00078-CD**

**Robert Edmiston  
Robin Learish**

**TO: ROBERT EDMISTON  
ROBIN LEARISH**


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: 01/17/2005

  
\_\_\_\_\_  
William A. Shaw  
Prothonotary

Issuing Attorney:

Samuel Cohen  
Suite 2010  
Philadelphia, PA 19103-5020

MARCH 1, 2005 Document  
Reinstated/Reissued to Sheriff/Attorney  
for service.  
  
\_\_\_\_\_  
Deputy Prothonotary

William A. Shaw  
Prothonotary/Clerk of Courts

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF CLEARFIELD

I, Richard H. Milgrub, Esquire, being duly sworn according to law, deposes and says:

1. I am an attorney licensed to practice law in the Commonwealth of Pennsylvania and has an office for the practice of law located at 211 North Second Street, Clearfield, Pennsylvania 16830, Clearfield County, Pennsylvania.

2. In an effort to locate Defendants I searched the telephone directories of Clearfield, Jefferson and Elk Counties.

3. In a further effort to locate Defendants I checked the tax role of Clearfield, Jefferson and Elk Counties.

4. In a further attempt to locate Defendants, I checked the voter registration roles of Clearfield, Jefferson and Elk Counties.

5. I have also attempted to locate Defendants using various "people finder" programs on the Internet.

6. In a further effort to locate Defendants, I instructed the Sheriff of Clearfield County to search for Defendants and the result of their findings are as set forth in the records marked Exhibit "1", true and correct copies of which are attached hereto and made part hereof.

7. Despite my efforts, the only address where I can locate Defendants is the Post Office Box 1051, DuBois, Pennsylvania.

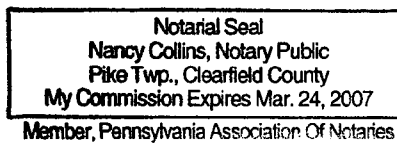
8. Because of my efforts, I believe, and therefore  
aver that Defendants are trying to conceal their whereabouts to  
avoid service of process.

Further Deponent sayeth not

  
Richard H. Milgrub, Esquire

Sworn to and Subscribed:  
Before me this 23<sup>rd</sup> day:  
2005:

  
Notary Public



THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

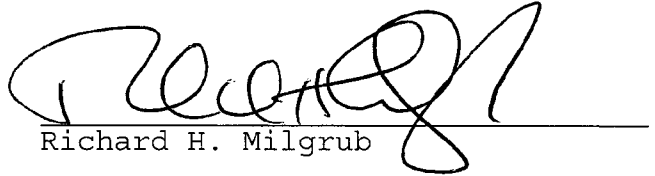
109 NORTH BRADY STREET  
DUBOIS, PA 15801

VERIFICATION

I, Richard H. Milgrub, have read the foregoing Motion. The statements therein are correct to the best of my personal knowledge or information and belief.

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

I am authorized to make this verification on behalf of the Defendant because of my position as counsel of record.

  
Richard H. Milgrub

Dated: 3-23-05

THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

—  
109 NORTH BRADY STREET  
DUBOIS, PA 15801

**Clearfield County  
Office of the Sheriff****1 North Second Street, Suite 116 Clearfield, PA 16830****Chester A. Hawkins  
Sheriff**

Fax

**BILL FOR COSTS****SAMUEL COHEN****117 SOUTH 17TH ST.,****PHILADELPHIA, PA. 19103-6020**

Plaintiff

**RICHARD NIVEN REED and DEBRA ALICE REED**

Defendant

**ROBERT EDMISTON and ROBIN LEARISH**

March 18, 2005

Sheriff # 100260Docket # 05-78-CD**Docket & Return****Service Fees**

Mileage 76.95

**Added Fees**

State Fee 20.00

Mailing Costs 0.37

**Deputation**

NF/NS 10.00

**Total Fees \$107.32**

Total Deposit on Case 100.00

**Balance of Costs Due on Case \$7.32**

**THIS BILL IS FOR ADDITIONAL COSTS INCURRED WITH THIS CASE. PLEASE REMIT THE  
BALANCE DUE TO THE CLEARFIELD COUNTY SHERIFF'S OFFICE AS SOON AS POSSIBLE.  
RETURN WILL BE FILED UPON RECEIPT OF COSTS.**

03/21/2005 11:36 8147654410

RICHARD MILGRUB ESQ

PAGE 03

**DEPUTY SHERIFF'S EDUCATION AND TRAINING ACCT.**CASE NO. 100260COURT NO. 05-78-CD

DATE	CHECK #	VENDOR	
March 01, 2006	23844	MILGRUB	<b>\$20.00</b>

RICHARD NIVEN REED and DEBRA ALICE REED

VS

ROBERT EDMISTON and ROBIN LEARISHFIRM SAMUEL COHENCHESTER A. HAWKINS, SHERIFF  
CLEARFIELD COUNTY, PENNSYLVANIA

03/21/2005 11:36 8147654410

RICHARD MILGRUB ESQ

PAGE 04

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

Service # 1 of 2 Services

Sheriff Docket # **100260**

RICHARD NIVEN REED and DEBRA ALICE REED

Case # 05-78-CD

vs.

ROBERT EDMISTON and ROBIN LEARISH

**COPY**

**SHERIFF RETURNS**

NOW March 18, 2005 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURNED THE WITHIN SUMMONS "NOT FOUND" AS TO ROBERT EDMISTON, DEFENDANT. ONLY KNOWN ADDRESS, PO BOX 1051 DUBOIS, PA..

SERVED BY: /



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

Service # 2 of 2 Services

Sheriff Docket # **100260**

RICHARD NIVEN REED and DEBRA ALICE REED

Case # 05-78-CD

vs.

ROBERT EDMISTON and ROBIN LEARISH

**SHERIFF RETURNS**

NOW March 18, 2006 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURNED THE WITHIN SUMMONS "NOT FOUND" AS TO ROBIN LEARISH, DEFENDANT. SEVERAL ATTEMPTS, ADDRESS UNKNOWN.

SERVED BY: /

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

Service # 1 of 2 Services

Sheriff Docket # **100260**

RICHARD NIVEN REED and DEBRA ALICE REED

Case # 05-78-CD

vs.

ROBERT EDMISTON and ROBIN LEARISH

## SHERIFF RETURNS

### Return Costs

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	MILGRUB	23844	20.00
SHERIFF HAWKINS	MILGRUB	23844	80.00
SHERIFF HAWKINS			7.32

Sworn to Before me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2005

So Answers,



Chester A. Hawkins  
Sheriff

109 NORTH BRADY STREET  
DUBOIS, PA 15801

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

And

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851

H/W

-vs-

No. 05-0078-CD

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801  
and

ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

PETITION FOR ALTERNATE SERVICE

I, Richard H. Milgrub, Esquire do hereby certify:

1. I, Richard H. Milgrub, Esquire, am co counsel with Samuel Cohen for the Plaintiffs, Richard Niven Reed and Debra Alice Reed in the above matter and I am fully familiar with the facts recited herein.

2. On January 17, 2005, suit was instituted in the above captioned matter by the filing of a writ of summons.

3. On January 17, 2005, the Clearfield County Sheriff's Office received the aforesaid documents for service of process of Defendants at 514 South Main Street, DuBois, Pennsylvania

4. That the Clearfield County Sheriff's Office attempted to serve Defendants at the aforesaid address but where unable to do so. Said address was a rental property owned by the Defendants and not their residence.

5. In an effort to locate Defendants, searches were made of the telephone directories of Clearfield and the adjacent counties of Jefferson and Elk Counties, without success.

6. In a further effort to locate Defendants, the tax rolls of Clearfield, Jefferson, and Elk Counties were reviewed and a mailing address of PO Box 1051, DuBois, Pennsylvania was found.

7. In a further attempt to locate Defendants, the voter registration rolls of Clearfield County were reviewed and the same address PO Box 1051, DuBois, Pennsylvania was found.

8. Attempts to locate Defendants were also made using various "people finder programs" on the internet, without success.

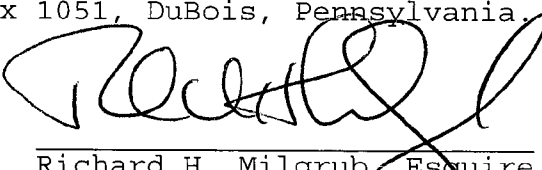
9. The Clearfield County Sheriff's Office attempts to make service were unsuccessful. Attached hereto and marked Exhibits "A" and "B" are copies of the Sheriff Returns.

10. Counsel for Plaintiff believes and therefore avers that Defendants are willfully concealing themselves to avoid being served with process in this matter and accordingly request that the Court permit service by mail.

WHEREFORE, Plaintiffs Respectfully request that the Court enter an Order permitting service of the Summons of the above captioned matter to be accomplished by forwarding a copy of the summons by regular and certified mail to the last known address of Defendants, PO Box 1051, DuBois, Pennsylvania.

THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

109 NORTH BRADY STREET  
DUBOIS, PA 15801



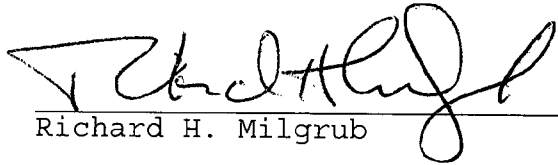
Richard H. Milgrub Esquire

VERIFICATION

I, Richard H. Milgrub, have read the foregoing Petition. The statements therein are correct to the best of my personal knowledge or information and belief.

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

I am authorized to make this verification on behalf of the Defendant because of my position as counsel of record.

  
Richard H. Milgrub

Dated: 3/28/05

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

And

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
H/W

-vs-

No. 05-0078-CD

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801  
and

ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

CERTIFICATE OF SERVICE

I, Richard H. Milgrub, Esquire, certify that a true and correct copy of the within Petition for Service of Process was forwarded via certified and regular mail through the United States Postal Service to:

ROBERT EDMISTON  
PO Box 1051  
DuBois, PA 15801

ROBIN LEARISH  
PO Box 1051  
DuBois, PA 15801

THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

109 NORTH BRADY STREET  
DUBOIS, PA 15801

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

Service # 1 of 2 Services

Sheriff Docket # **100260**

RICHARD NIVEN REED and DEBRA ALICE REED

Case # 05-78-CD

vs.

ROBERT EDMISTON and ROBIN LEARISH

**COPY**

**SHERIFF RETURNS**

NOW March 18, 2005 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURNED THE WITHIN SUMMONS "NOT FOUND" AS TO ROBERT EDMISTON, DEFENDANT. ONLY KNOWN ADDRESS, PO BOX 1051 DUBOIS, PA..

SERVED BY: /

EXHIBIT "A"



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

Service # 2 of 2 Services

Sheriff Docket # **100260**

RICHARD NIVEN REED and DEBRA ALICE REED

Case # 05-78-CD

vs.

ROBERT EDMISTON and ROBIN LEARISH

**SHERIFF RETURNS**

NOW March 18, 2006 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURNED THE WITHIN SUMMONS "NOT FOUND" AS TO ROBIN LEARISH, DEFENDANT. SEVERAL ATTEMPTS, ADDRESS UNKNOWN.

SERVED BY: /

EXHIBIT "B"

GA.

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
And  
DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
H/W

FILED 4cc  
014:0034 Amy  
MAR 31 2005 Milgrub  
William A. Shaw  
Prothonotary/Clerk of Courts

-vs-

No. 05-0078-CD

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801  
and  
ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

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ORDER

AND NOW, this 31 day of March, 2005, it  
is ORDERED the Petition for Service of Process pursuant to Pa.

R.C.P. 430(a) is Granted <sup>FJA</sup> ~~Denied~~ permitting service by:

X Publication  
\_\_\_\_ Posting Premises  
X Regular Mail  
X Certified Mail  
\_\_\_\_ Other \_\_\_\_\_

THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
—  
109 NORTH BRADY STREET  
DUBOIS, PA 15801

BY THE COURT:

Judgment  
Judge

FILED  
03/01/04  
APR 11 2005  
William A. Shaw  
Notary/Clerk of Courts

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

And

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
H/W

-vs-

No. 05-0078-CD

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801  
and

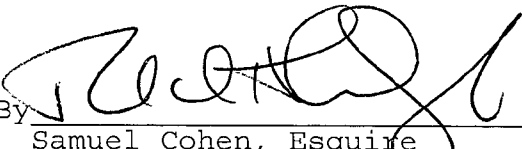
ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

PRAECIPE TO REISSUE WRIT OF SUMMONS

TO THE PROTHONOTARY:

Please reissue the Writ of Summons in the above-captioned matter.

Dated: 4/11/05

By   
Samuel Cohen, Esquire  
Attorney for Plaintiffs

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

COPY

SUMMONS

Richard Niven Reed  
Debra Alice Reed

Vs.

NO.: 2005-00078-CD

Robert Edmiston  
Robin Learish

TO: ROBERT EDMISTON  
ROBIN LEARISH

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: 01/17/2005

\_\_\_\_\_  
William A. Shaw  
Prothonotary

Issuing Attorney:

Samuel Cohen  
Suite 2010  
Philadelphia, PA 19103-5020

April 11, 2005 Document  
~~Reinstated/Reissued to Sheriff/Attorney~~  
for service. *Attorney*

March 1, 2005 Document  
~~Reinstated/Reissued to Sheriff/Attorney~~  
for service. *Attorney*

~~Deputy Prothonotary~~

~~Deputy Prothonotary~~

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
And  
DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
H/W

-vs-

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801  
and  
ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

FILED *2cc*  
*pl 2:45 PM Aug*  
APR 14 2005

William A. Shaw  
Prothonotary/Clerk of Courts

No. 05-0078-CD

Type of Action:  
Civil

Type of Pleading:  
Notice to Robert Edmiston and  
Robin Learish

Filed on Behalf of:  
Plaintiffs

Counsel of Record for this  
Party:

Samuel Cohen, Esquire  
Supreme Ct. I.D. 27544

Katz, Cohen & Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103  
(215) 636-0400

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

And

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
H/W

-vs-

No. 05-0078-CD

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801  
and

ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

NOTICE TO ROBERT EDMISTON AND ROBIN LEARISH

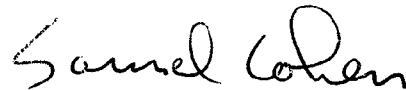
You have been named as Defendants in a civil action instituted by Plaintiff's Richard Niven Reed and Debra Alice Reed against you in this Court. Plaintiff, Richard Niven Reed, alleges in the Complaint in this action that Plaintiff, Richard Niven Reed, was injured, on February 9, 2003 when he fell down on property owned by you at 514 South Main Street, DuBois, Pennsylvania 15801. Plaintiff further alleges that you maintained the property in such a negligent and careless matter so as to cause Plaintiff, Richard Niven Reed, to suffer injuries and other damages in a value in excess of \$20,000. Plaintiff, Debra Alice Reed, claims that a result of Plaintiff, Richard Niven Reed's injuries, that she has a separate claim for loss of consortium. Plaintiffs claim you are responsible for and should have to pay these damages.

You are hereby notified to plead to the Complaint in this case, of which the above is a brief summary, within twenty days (20) from \_\_\_\_\_ date of Publication.

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the Court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE 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  
Clearfield, PA 16830  
(814) 765-2641



Samuel Cohen, Esquire  
Katz, Cohen & Price, P.C.  
117 South 17<sup>th</sup> Street  
Suite 2010  
Philadelphia, PA 19103

THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

109 NORTH BRADY STREET  
DUBOIS, PA 15801



FILED  
APR 14 2005  
William A. Shaw  
Prothonotary/Clerk of Courts

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

And

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
H/W

-vs-

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801

and

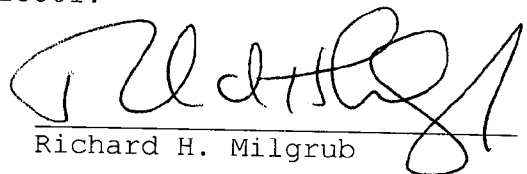
ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

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No. 05-0078-CD

CERTIFICATE OF SERVICE

I, Richard H. Milgrub, attorney for the Plaintiffs, being duly sworn according to law, depose and state that the Summons were served upon Robert Edmiston and Robin Learish by regular on April 13, 2005, at 514 South Main Street, DuBois, Pennsylvania 15801 and PO Box 1051, DuBois, Pennsylvania 15801.

  
Richard H. Milgrub

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

Type of Case: Civil Action

No. 05 - 78 - C.D.

Type of Pleading:  
Praecipe for Entry of  
Appearance

Filed on Behalf of:  
Defendant Edmiston

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

FILED  
m/11:006d  
MAY 02 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

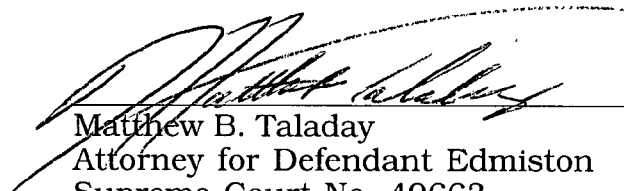
No. 05 - 78 - C.D.

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance for Defendant Robert  
Edmiston in the above captioned matter.

Dated: 04/29/05



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

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

No. 05 - 78 - C.D.

**CERTIFICATE OF SERVICE**

I certify that on the 29th day of April, 2005, a true and correct copy of Defendant Edmiston's Praecipe for Entry of Appearance was sent via first class mail, postage prepaid, to the following:

Samuel Cohen, Esq.  
Attorney for Plaintiffs  
Katz, Cohen & Price  
Suite 2010  
117 South 17th Street  
Philadelphia, PA 19103

  
Matthew B. Taladay  
Attorney for Defendant Edmiston

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

Type of Case: Civil Action

No. 05 - 78 - C.D.

Type of Pleading:  
Praecipe for Rule to  
File Complaint

Filed on Behalf of:  
Defendant Edmiston

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

FILED

MAY 11 2005

William A. Shaw  
Prothonotary/Clerk of Courts

McC  
Rule to  
Att Taladay

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

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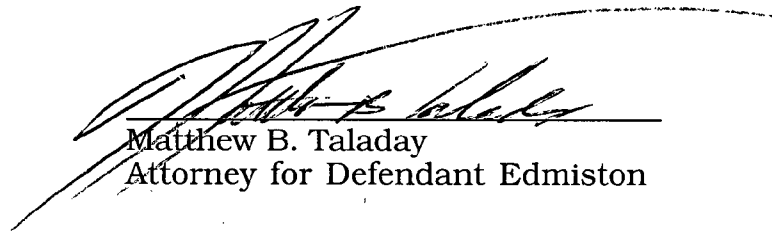
No. 05 - 78 - C.D.

**PRAECIPE FOR RULE TO FILE COMPLAINT**

TO THE PROTHONOTARY:

Please enter a rule upon Plaintiffs to file a Complaint  
within twenty (20) days of service thereof or suffer the entry of a  
judgment of non pros.

4-29-05  
Date

  
Matthew B. Taladay  
Attorney for Defendant Edmiston

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

copy

Richard Niven Reed  
Debra Alice Reed

Vs.  
Robert Edmiston  
Robin Learish

Case No. 2005-00078-CD

RULE TO FILE COMPLAINT

TO: Richard Niven Reed and Debra Alice Reed

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: May 2, 2005



IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

Type of Case: Civil Action

No. 05 - 78 - C.D.

Type of Pleading:  
Certificate of  
Service

Filed on Behalf of:  
Defendant Edmiston

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

FILED  
MAY 09 2005  
cc

William A. Shaw  
Prothonotary/Clerk of Courts

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

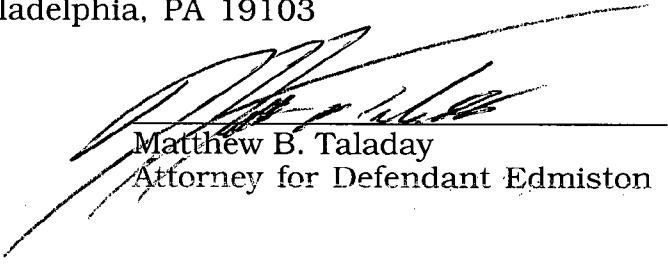
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No. 05 - 78 - C.D.

**CERTIFICATE OF SERVICE**

I certify that on the 6th day of May, 2005, an original Rule  
to File Complaint was sent via first class mail, postage prepaid, to the  
following:

Samuel Cohen, Esq.  
Attorney for Plaintiffs  
Katz, Cohen & Price  
Suite 2010  
117 South 17th Street  
Philadelphia, PA 19103



Matthew B. Taladay  
Attorney for Defendant Edmiston

FILED <sup>NO</sup> CC  
MAY 10 5 59 AM  
MAY 31 2005 @GR

William A. Shaw  
Prothonotary/Clerk of Courts

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

RICHARD NIVEN REED :

1054 Jackson Street :

Reynoldsville, PA 15851 :

and :

DEBRA ALICE REED :

1054 Jackson Street :

Reynoldsville, PA 15851 :

H/W :

-vs- :

No. 05-0078-CD

ROBERT EDMINSTON :

514 S. Main Street :

DuBois, PA 15801 :

and :

ROBIN LEARISH :

514 S. Main Street :

Du Bois, PA 15801 :

**AFFIDAVIT OF SERVICE**

COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF CLEARFIELD :

The undersigned, being duly sworn according to law, deposes and says:

1. On March 31, 2005, the Court of Common Pleas of Carbon County Granted an Order Permitting Service of Process by Publication, Regular Mail and Certified Mail. A copy of the Order for Service with supporting documentation is attached hereto, made part hereof

and marked Exhibit "A".

2. Attempts to serve Defendant Robert Edminston by Regular and Certified mail were unsuccessful. A copy of the regular and certified mail envelopes indicating "UNABLE TO FORWARD" is attached hereto, made part hereof and marked Exhibit "B".

3. Attempts to serve Defendant Robin Learish by Regular and Certified mail were unsuccessful. A copy of the regular and certified mail envelopes indicating "UNABLE TO FORWARD" is attached hereto, made part hereof and marked Exhibit "C".

4. On April 29, 2005, a copy of the Notice of Commencement of Civil Action was published in the Clearfield County Legal Journal of the Courts of Clearfield County. A copy of the said notice is attached hereto made part hereof and Marked Exhibit "D".

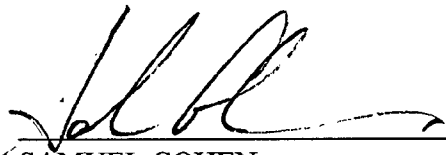
5. On May 10, 2005, Gary A. Knaresboro, Esquire, editor of the Clearfield County Legal Journal of the Courts of Clearfield County executed a notarized Proof of Publication. A copy of the said notice is attached hereto made part hereof and marked Exhibit "E".

The facts set forth herein are true and correct to the best of my knowledge,

information and belief.

KATZ, COHEN & PRICE, P.C.

By:

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

SAMUEL COHEN

# EXHIBIT "A"

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
And  
DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
H/W

-vs-

No. 05-0078-CD

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801  
and  
ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

## ORDER

AND NOW, this 31 day of March, 2005, it  
is ORDERED the Petition for Service of Process pursuant to Pa.

R.C.P. 430(a) is Granted ~~Refused~~ <sup>FJA/BN</sup> permitting service by:

☒ Publication

☐ Posting Premises

☒ Regular Mail

☒ Certified Mail

☐ Other \_\_\_\_\_

BY THE COURT:

/s/ Fredric J. Ammerman

Judge

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

MAR 31 2005

Attest.

*William D. R.*  
Prothonotary/  
Clerk of Courts

# EXHIBIT "A"

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
and  
DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
H/W

-VS-

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801  
and  
ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

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No. 75-0078-CD

Type of Action:  
Civil

Type of Pleading:  
Praecipe to Reissue  
Writ of Summons

Filed on Behalf of:  
Plaintiffs

Counsel of Record for this  
Party:

Samuel Cohen, Esquire  
Supreme Ct. I.D. 27544

Katz, Cohen & Price, P.C.  
117 South 17th Street  
Suite 2010  
Philadelphia, PA 19103  
(215) 636-0400

**EXHIBIT "A"**

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
and  
DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
H/W

-vs-

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801  
and  
ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

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No. 05-0078-CD

PRAECIPE TO REISSUE WRIT OF SUMMONS

TO THE PROTHONOTARY:

Please reissue the Writ of Summons in the above-captioned matter.

Date: 3/1/05

By

*Samuel Cohen*  
Samuel Cohen, Esquire  
Attorney for Plaintiffs

RICHARD H. MILGRUB  
ATTORNEY AT LAW  
211 N. SECOND STREET  
CLEARFIELD, PA 16830

DATE	ITEM	AMOUNT

23844

60-629/313

PAY

*One Hundred*

%

DOLLARS

CHECK NO.	TO THE ORDER OF	DATE	GROSS AMOUNT	DISCOUNT	CHECK AMOUNT
	<i>Chester Hawkins, Sheriff</i>	<i>3/1/05</i>			<i>100</i> %

CLEARFIELD BANK & TRUST COMPANY  
CLEARFIELD, P.A. 16830

RICHARD H. MILGRUB ESQUIRE



**EXHIBIT "A"**

04/07/2005 10:22

8147654

RICHARD MILGRUB ESQ

PAGE 05

Date: 03/01/2005

Clearfield County Court of Common Pleas

NO. 1896627

Time: 11:30 AM

Receipt

Page 1 of 1

Received of: Milgrub, Richard \$ 7.00

Seven and 00/100 Dollars

Case: 2005-00078-CD	Plaintiff: Richard Niven Reed, etal. vs. Robert Edmiston, etal.	Amount
Reissue Writ/Complaint		7.00
Total:		7.00

Payment Method: Cash

William A. Shaw, Prothonotary/Clerk of Courts

Amount Tendered: 7.00

By: \_\_\_\_\_  
Deputy Clerk

Clerk: BILLSHAW

**EXHIBIT "A"**

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

**SUMMONS**

**Richard Niven Reed  
Debra Alice Reed**

**Vs.**

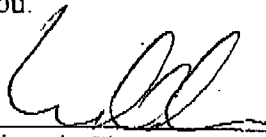
**NO.: 2005-00078-CD**

**Robert Edmiston  
Robin Learish**

**TO: ROBERT EDMISTON  
ROBIN LEARISH**

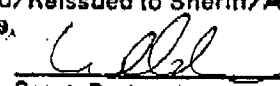
To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 01/17/2005

  
William A. Shaw  
Prothonotary

Issuing Attorney:

Samuel Cohen  
Suite 2010  
Philadelphia, PA 19103-5020

MARCH 1, 2005 Document  
Reinstated/Reissued to Sheriff/Attorney  
for service  
  
Deputy Prothonotary

**EXHIBIT "A"****Clearfield County  
Office of the Sheriff****1 North Second Street, Suite 116 Clearfield, PA 16830****Chester A. Hawkins  
Sheriff**

Fax

**REFUND STATEMENT**SAMUEL COHEN  
117 SOUTH 17TH ST.,  
PHILADELPHIA, PA. 19103-5020

March 01, 2005

Sheriff # 100146

Docket # 05-78-CD

Plaintiff  
RICHARD NIVEN REED and DEBRA ALICE REEDDefendant  
ROERT EDMISTON and ROBIN LEARISH

Docket & Return	9.00
Service Fees	
Mileage	
Added Fees	
State Fee	20.00
Mailing Costs	0.37
Deputation	
NF/NS	10.00
<b>Total Fees</b>	<b>\$39.37</b>
<b>Total Deposit on Case</b>	<b>100.00</b>

**Refund on Case Costs 60.63****ATTACHED CHECK REPRESENTS THE ABOVE REFUND AMOUNT.**

**EXHIBIT 'A'**

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

Service # 1 of 2 Services

Sheriff Docket # **100146**

RICHARD NIVEN REED and DEBRA ALICE REED

Case #

vs.

ROERT EDMISTON and ROBIN LEARISH

**COPY**

**SHERIFF RETURNS**

NOW March 01, 2005 RETURNED THE WITHIN SUMMONS "NOT SERVED, TIME EXPIRED" AS TO ROBERT EDMISTON, DEFENDANT. SEVERAL ATTEMPTS, NOT HOME

SERVED BY: /

**EXHIBIT "A"**

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

Service # 2 of 2 Services

Sheriff Docket # **100146**

RICHARD NIVEN REED and DEBRA ALICE REED

Case #

vs.

ROERT EDMISTON and ROBIN LEARISH

**SHERIFF RETURNS**

NOW March 01, 2005 RETURNED THE WITHIN SUMMONS "NOT SERVED, TIME EXPIRED AS TO ROBIN LEARISH, DEFENDANT. SEVERAL ATTEMPTS, NOT HOME

SERVED BY: /

**EXHIBIT "A"****In The Court of Common Pleas of Clearfield County, Pennsylvania**

Service # 1 of 2 Services

Sheriff Docket # **100146**

RICHARD NIVEN REED and DEBRA ALICE REED

Case # 05-78-CD

vs.

ROERT EDMISTON and ROBIN LEARISH

**SHERIFF RETURNS****Return Costs**

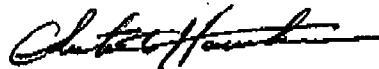
PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	RICHARD MILGRUB	23744	20.00
SHERIFF HAWKINS	RICHARD MILGRUB	23744	19.37

Sworn to Before me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2005

\_\_\_\_\_

So Answers,

Chester A. Hawkins  
Sheriff

# Exhibit "B"

RICHARD H. MILGRUB  
*Attorney & Counselor at Law*  
 211 NORTH SECOND STREET  
 CLEARFIELD, PENNSYLVANIA 16830

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 16830  
 CLEARFIELD PA

CT

Robert Edmiston  
 514 South Main Street  
 DuBois, PA 16801

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

**RTS**  
 RETURN TO SENDER

**CERTIFIED MAIL™**

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16801 16820/6534

RICHARD H. MILGRUB  
*Attorney & Counselor at Law*  
 211 NORTH SECOND STREET  
 CLEARFIELD, PENNSYLVANIA 16830

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Robert Edmiston  
 514 South Main Street  
 DuBois, PA 16801

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☐ UNABLE TO FORWARD  
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**RTS**  
 RETURN TO SENDER

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# EXHIBIT "C"

RICHARD H. MILGRUB

*Attorney & Counselor at Law*

211 NORTH SECOND STREET  
CLEARFIELD, PENNSYLVANIA 16830

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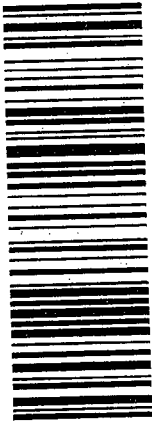
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Robin Learish  
514 South Main Street  
Dubois, PA 15804

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☐ OTHER

RTS  
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CERTIFIED MAIL™



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UNITED STATES POSTAGE  
PB8734644

RICHARD H. MILGRUB

*Attorney & Counselor at Law*

211 NORTH SECOND STREET  
CLEARFIELD, PENNSYLVANIA 16830

Robin Learish  
514 South Main Street  
Dubois, PA 15804

☐ A ☐ INSUFFICIENT ADDRESS  
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RTS  
RETURN TO SENDER



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

RICHARD NIVEN REED, 1054 Jackson Street, Reynoldsville, PA 15851 And DEBRA ALICE REED, 1054 Jackson Street, Reynoldsville, PA 15851, H/W vs. ROBERT EDMISTON, 514 S. Main Street, DuBois, PA 15801, and ROBIN LEARISH 514 S. Main Street, DuBois, PA 15801.

NOTICE TO ROBERT EDMISTON AND ROBIN LEARISH

You have been named Defendants in a civil action instituted by Plaintiff's Richard Niven Reed and Debra Alice Reed against you in this Court. Plaintiff, Richard Niven Reed, alleges in the Complaint in this action that Plaintiff, Richard Niven Reed, was injured, on February 9, 2003 when he fell down on property owned by you at 514 South Main Street, DuBois, Pennsylvania 15801. Plaintiff further alleges that you maintained the property in such a negligent and careless matter so as to cause Plaintiff, Richard Niven Reed, to suffer injuries and other damages in a value in excess of \$20,000. Plaintiff, Debra Alice Reed, claims that a result of Plaintiff, Richard Niven Reed's Injuries, that she has a separate claim for loss of consortium. Plaintiffs claim you are responsible for and should have to pay these damages.

You are hereby notified to plead to the Complaint in this case, of which the above is a brief summary, within twenty days (20) from April 29, 2005, date of publication.

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the Court. 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 the relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE 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, Clearfield, PA 16830 (814) 765-2641.

Samuel Cohen, Esquire, Katz, Cohen & Price, P.C., 117 South 17th Street, Suite 2010, Philadelphia, PA 19103.

Richard H. Milgrub, 211 North Second Street, Clearfield, PA 16830.

EXHIBIT "D"

# EXHIBIT "E"

## PROOF OF PUBLICATION

STATE OF PENNSYLVANIA :

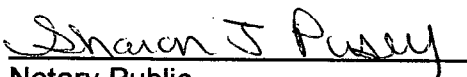
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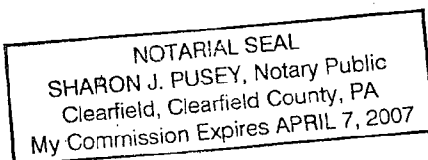
COUNTY OF CLEARFIELD :

On this 10<sup>th</sup> day of May AD 2005, before me, the subscriber, a Notary Public in and for said County and State, personally appeared Gary A. Knaresboro editor of the Clearfield County Legal Journal of the Courts of Clearfield County, and that the annexed is a true copy of the notice or advertisement published in said publication in the regular issues of Week of April 29, 2005. Vol. 17, No. 17. And that all of the allegations of this statement as to the time, place, and character of the publication are true.

  
\_\_\_\_\_  
Gary A. Knaresboro, Esquire  
Editor

Sworn and subscribed to before me the day and year aforesaid.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires



Richard H. Milgrub  
211 North Second Street  
Clearfield PA 16830

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

and

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851

H/W

-vs-

**No. 05-0078-CD**

ROBERT EDMINSTON  
514 S. Main Street  
DuBois, PA 15801

and

ROBIN LEARISH  
514 S. Main Street  
Du Bois, PA 15801

**CERTIFICATION OF SERVICE**

I, Samuel Cohen, certify that a true and correct copy of the within Plaintiff's Affidavit of Service was forwarded via regular mail through the United States Postal Service on May 27, 2005 to :

Matthew B. Talady, Esquire (**Pro Robert Edminston**)  
Hanak, Guido and Talady  
498 Jeffers Street  
P. O. Box 487  
DuBois, PS 15801

KATZ, COHEN & PRICE

BY 

SAMUEL COHEN

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

and

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851

H/W

-vs-

No. 05-0078-CD

ROBERT EDMINSTON  
514 S. Main Street  
DuBois, PA 15801

and

ROBIN LEARISH  
514 S. Main Street  
Du Bois, PA 15801

**CERTIFICATION OF SERVICE**

I, Samuel Cohen, certify that a true and correct copy of the within Plaintiff's Affidavit  
of Service was forwarded by Certified and Regular Mail State through the United States  
Postal Service on May 27, 2005 to

ROBIN LEARISH (Pro Se)

514 S. Main Street

Du Bois, PA 15801

Certified Mail Receipt # 7004 0750 0001 6929 3483

Return Receipt Requested

cc: Regular Mail

KATZ, COHEN & PRICE

BY: 

SAMUEL COHEN

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

Type of Case: Civil Action

No. 05 - 78 - C.D.

Type of Pleading:  
Praecipe for Entry of  
Appearance

Filed on Behalf of:  
Defendant Learish

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

Dated: August 11, 2005

FILED

AUG 12 2005

William A. Shaw  
Prothonotary/Clerk of Courts

no c/c

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

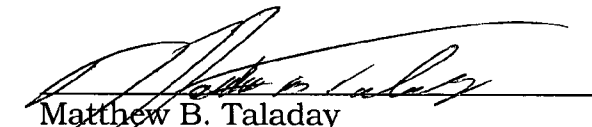
No. 05 - 78 - C.D.

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance for Defendant Robin Learish  
in the above captioned matter.

Dated: 08/11/05

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



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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

No. 05 - 78 - C.D.

**CERTIFICATE OF SERVICE**

I certify that on the 11 day of August, 2005, a true and correct copy of Defendant Learish's Praecipe for Entry of Appearance was sent via first class mail, postage prepaid, to the following:

Samuel Cohen, Esq.  
Attorney for Plaintiffs  
Katz, Cohen & Price  
Suite 2010  
117 South 17th Street  
Philadelphia, PA 19103

  
Matthew B. Taladay  
Attorney for Defendant Learish

KATZ, COHEN & PRICE, P.C.  
By: SAMUEL COHEN  
ATTORNEY I.D. NO.: 27544  
117 SOUTH 17th STREET  
SUITE 2010  
PHILADELPHIA, PA 19103  
(215) 636-0400

RICHARD NIVEN REED

AND  
DEBRA ALICE REED

H/W

Plaintiffs

VS

ROBERT EDMISTON

AND

ROBIN LEARISH

Defendants

#### NOTICE

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

*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.*

LAWYER REFERRAL SERVICE  
Pennsylvania Bar Association  
P. O. Box 186  
Harrisburg, Pennsylvania 17108  
(800) 692 7375

#### JURY TRIAL DEMANDED

#### ATTORNEY FOR PLAINTIFFS

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

No. 05-78-CD

FILED  
M 11:21 AM  
SEP 15 2005  
William A. Shaw  
Prothonotary/Clerk of Courts

#### AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perer dinero o sus propiedades u otros derechos importantes para usted.

*Lleva esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.*

## 1

**ATTORNEY FOR PLAINTIFFS**

: COURT OF COMMON PLEAS

: CLEARFIELD COUNTY

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: No. 05-78-CD

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COME NOW Plaintiffs Richard N. Reed and Deborah Alice Reed, husband and wife,  
by their counsel, Richard H. Milgrub, Esquire and Katz, Cohen & Price, P.C. by Samuel  
Cohen, Esquire and desiring to recover compensation for injuries, losses and damages

sustained by them as a result of the negligence, carelessness and recklessness of Defendants  
aver in support thereof the following:

1. Plaintiffs Richard N. Reed and Debra A. Reed are an adult individuals who are husband and wife and are citizens and residents of the Commonwealth of Pennsylvania residing therein at 1054 Jackson Street, Reynoldsville, Clearfield County.

2. Defendants Robert Edmiston and Robin Learish are adult individuals who are citizens and residents of the Commonwealth of Pennsylvania who, upon information and belief, reside at 514 S. Main Street, Dubois, Clearfield County.

3. At all times material hereto, Defendants acted individually and by and through their authorized agents, servants, workmen and/or employees acting within the course and scope of their agency and/or employment with said Defendants.

4. At all times material hereto, Defendants exclusively owned, operated, maintained, possessed and controlled certain premises known as 514 S. Main Street in Dubois, Clearfield County.

5. On or about November 9, 2003, at or about 8:00a.m, Plaintiff Richard N. Reed was a pedestrian lawfully on foot on the sidewalk area of 514 S. Main Street, Dubois, Clearfield County (herein referred to as "the premises").

6. On or about the aforementioned date, at or about the aforementioned time, and for a long time prior thereto, there existed upon "the premises" a dangerous and defective condition, to wit, an accumulation of snow and ice which included hills and ridges

(herein hereinafter referred to as "the dangerous and defective condition") which condition had existed for a long time prior to February 9, 2003.

7. As Plaintiff walked upon "the premises" he was caused to slip and fall as a result of "the dangerous and defective condition" which condition constituted a substantial impediment to pedestrian travel.

8. The "the dangerous and defective condition" located upon "the premises" was caused as a result of the negligence, carelessness and recklessness of Defendants.

9. As a result of the negligence, carelessness and recklessness of Defendants, Plaintiff sustained serious and painful injuries, losses and damages as more particularly set forth hereafter.

10. The injuries, losses and damages sustained by Plaintiffs were caused as a result of the conduct of Defendants and no act or failure to act on the parts of Plaintiffs caused or contributed to the happening of the incident or to the nature and/or extent of their injuries, losses and damages.

11. At the time of the incident described herein, Plaintiffs were business invitees lawfully upon the premises.

12. The negligence, carelessness and recklessness of Defendants on the date and time set forth herein consisted of some or all of the following:

a. Allowing "the dangerous and defective condition" to exist

upon the premises;

b. Failing to discover the dangerous and defective condition of their premises;

c. Failing to clear the "the dangerous and defective condition" from their premises;

d. Inadequately clearing the dangerous and defective condition from "the premises";

e. Failing to warn Plaintiffs and others similarly situated of "the dangerous and defective condition" of "the premises";

f. Failing to properly inspect the premises to ascertain the existence of "the dangerous and defective condition";

g. Failing to take proper and adequate steps to remove the dangerous and defective condition from "the premises";

h. Failing to warn Plaintiffs of the dangerous and defective condition of "the premises";

i. Allowing a dangerous and defective condition to exist on "the premises" which dangerous and defective condition constituted a menace, snare, hazard and/or trap for pedestrians lawfully walking upon the premises;

j. Violation of applicable statutes of the Commonwealth of Pennsylvania

and ordinances of the city of DuBois and the county of Clearfield;

k. Negligence, carelessness and recklessness as a matter of law;

and

l. Being otherwise negligent, careless and reckless under the circumstances .

**COUNT I -**

13. Plaintiffs, Richard Niven Reed and Debra Alice Reed, incorporate herein by reference each and every averment contained in paragraphs 1 through 12 as though same were fully set forth herein at length.

14. By reason of the said wrongful acts of defendants, the Plaintiff' has suffered various injuries, including, but not limited to, fracture of the left distal fibula with disruption of the left deltoid requiring open reduction and internal fixation, together with a severe shock to his nerves and nervous system, an aggravation and activation of preexisting and dormant conditions and he was otherwise injured some or all of which injuries are or may be serious and permanent in nature.

15. As a further result of the aforementioned negligence, carelessness and recklessness of Defendant, the Plaintiff has sustained great physical pain, mental suffering and humiliation and will continue to endure said pain, suffering mental anguish and humiliation for an indefinite time in the future.

16. As a further result of the aforementioned negligence, carelessness and

recklessness of Defendants, the Plaintiff has been obliged and will in the future be obliged to expend various sums of money for medicine and medical expenses in and above endeavoring to treat and cure his injuries much to her financial damage and loss.

17. As a further result of the aforementioned negligence, carelessness and recklessness of Defendant, the Plaintiff has been unable to follow his usual occupation and will be unable to follow same for an indefinite time in the future, has lost the emoluments which would have come to him through his employment and has suffered an impairment of his earning capacity and power, all of which losses are or may be serious and permanent in nature.

18. As a further result of the aforementioned negligence, carelessness and recklessness of Defendant, the Plaintiff has suffered a loss of the enjoyment of his usual duties, life's pleasures and activities, all to his great detriment and loss and will continue to do so for an indefinite time in the future.

19. As a further result of the aforementioned negligence, carelessness and recklessness of Defendant, the Plaintiff has or may hereinafter incur various other expenses or losses and may continue to incur same for an indefinite time in the future.

WHEREFORE, Plaintiff demands judgement in his favor and against Defendant for a sum in excess of \$20,000.00



**COUNT II- DEBRA ALICE REED VS DEFENDANTS**

20. Plaintiff, Debra Alice Reed, incorporates herein by reference each and every averment contained in paragraphs 1 through 19 as though same were fully set forth herein at length.

21. As a result of the aforesaid occurrence, Plaintiff, Debra Alice Reed has been deprived of the aid, society, care and consortium of her husband, Richard Niven Reed much to her great detriment and loss.

22. As a result of the aforesaid occurrence, the Plaintiff has been obliged and will in the future be obliged to expend various sums of money for medicine and medical expenses in and above endeavoring to treat and cure the injuries to her husband, Richard Niven Reed much to her financial damage and loss.

23. As a further result of the aforesaid occurrence, Plaintiff, Debra Alice Reed, has or may incur various other damages and incur other expenses or losses for her husband and may continue to incur same for an indefinite time in the future much to her great financial damage and loss.

WHEREFORE, Plaintiff demands judgement in her favor and against Defendants for

a sum in excess of \$20,000.00.

KATZ, COHEN & PRICE

BY:   
SAMUEL COHEN

RICHARD H. MILGRUB, ESQUIRE

BY:   
RICHARD H. MILGRUB, ESQUIRE

**CERTIFICATION OF SERVICE**

I, Samuel Cohen, and I, Richard H. Milgrub, Esquire certify that a true and correct copy of the within Plaintiff's Civil Action Complaint was forwarded via First Class Mail on September 13, 2005 to:

Matthew B. Taladay, Esquire  
Hanak, Guido and Taladay  
498 Jeffers Street  
P. O. Box 487  
DuBois, PA 15801

KATZ, COHEN & PRICE, P.C.

  
By: SAMUEL COHEN

RICHARD H. MILGRUB, ESQUIRE

BY:   
RICHARD H. MILGRUB, ESQUIRE

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

Type of Case: Civil Action

No. 05 - 78 - C.D.

Type of Pleading:  
Notice of  
Service

Filed on Behalf of:  
Defendant Edmiston

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

October 3, 2005

FILED *NO CC*  
*m/10:42*  
OCT 04 2005 *um*

William A. Shaw  
Prothonotary/Clerk of Courts

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

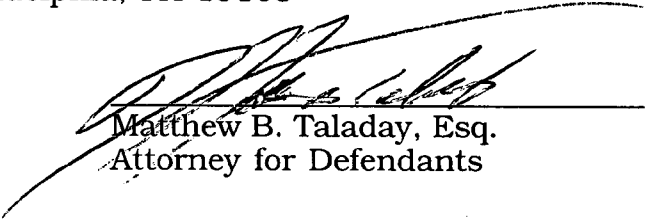
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No. 05 - 78 - C.D.

**NOTICE OF SERVICE**

I, Matthew B. Taladay, of Hanak, Guido and Taladay, being counsel of record for Defendants, do hereby certify that I propounded on Plaintiffs, via United States mail, first class, postage pre-paid, this 3rd day of October, 2005, Defendants' FIRST SET OF DISCOVERY MATERIALS to the below indicated person, at said address, being counsel of record for the Plaintiffs:

Samuel Cohen, Esq.  
Attorney for Plaintiffs  
Katz, Cohen & Price  
Suite 2010  
117 South 17th Street  
Philadelphia, PA 19103



Matthew B. Taladay, Esq.  
Attorney for Defendants

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

Type of Case: Civil Action

No. 05 - 78 - C.D.

Type of Pleading:  
Answer and New  
Matter

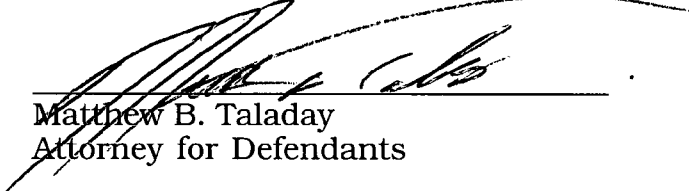
Filed on Behalf of:  
Defendants

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

October 3, 2005

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

  
Matthew B. Taladay  
Attorney for Defendants

FILED NO  
m/10/420/ cc  
OCT 04 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

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No. 05 - 78 - C.D.

**ANSWER**

AND NOW, come the Defendants, Robert Edmiston and Robin Learish, by their attorneys, Hanak, Guido and Taladay, and hereby respond to Plaintiffs' Complaint as follows:

1. Admitted.
2. Admitted in part and denied in part. It is admitted that Robert Edmiston and Robin Learish are adult individuals and citizens of the Commonwealth of Pennsylvania. It is denied that these individuals reside at 514 South Main Street, DuBois, Clearfield County, Pennsylvania.
3. Denied as set forth more fully in New Matter hereto.
4. Admitted in part and denied in part. It is admitted that during a time period relevant to this case, Defendants owned premises known as 514 South Main Street in DuBois, Clearfield County, Pennsylvania. It is denied that Defendants maintained, possessed or controlled the premises as set forth more fully in New Matter hereto.

5. After reasonable investigation, the Defendants are without information sufficient to form a belief as to the truth of the allegations of paragraph 5 of Plaintiffs' Complaint, therefore the allegations are denied and strict proof thereof is demanded at trial.

6. After reasonable investigation, the Defendants are without information sufficient to form a belief as to the truth of the allegations of paragraph 6 of Plaintiffs' Complaint, therefore the allegations are denied and strict proof thereof is demanded at trial.

7. After reasonable investigation, the Defendants are without information sufficient to form a belief as to the truth of the allegations of paragraph 7 of Plaintiffs' Complaint, therefore the allegations are denied and strict proof thereof is demanded at trial.

8. Denied.

9. Defendants deny all allegations of negligence, carelessness or recklessness. With regard to the remaining averments of paragraph 9, Defendants are, after reasonable investigation, without information sufficient to form a belief as to the truth of the allegations of paragraph 9 of Plaintiffs' Complaint, therefore the allegations are denied and strict proof thereof is demanded at trial.

10. Denied.

11. This allegation sets forth a conclusion of law to which no response is required. To the extent that a response may be required, it is believed and therefore averred that Plaintiffs, if upon the premises on the date in question, were merely licensees.

12. (a) - (l) Defendants deny all allegations of negligence in accordance with Pa.R.C.P. Rule 1029(e).



### **COUNT I**

13. Defendants incorporate by reference paragraphs 1 through 12 of their answers set forth above.

14. Defendants deny all allegations of wrongful acts. With regard to the remaining averments of paragraph 14, the Defendants are, after reasonable investigation, without information sufficient to form a belief as to the truth of the allegations of paragraph 14 of Plaintiffs' Complaint, therefore the allegations are denied and strict proof thereof is demanded at trial.

15. - 19. Defendants deny all allegations of negligence. With regard to the remaining averments set forth in paragraphs 15 through 19 of Plaintiffs' Complaint, the Defendants are, after reasonable investigation, without information sufficient to form a belief as to the truth of the allegations of paragraph 15 - 19 of Plaintiffs' Complaint, therefore the allegations are denied and strict proof thereof is demanded at trial.

### **COUNT II - DEBRA ALICE REED vs. DEFENDANTS**

20. Defendants incorporate their response to paragraphs 1 through 19 as if set forth in full.

21. After reasonable investigation, the Defendants are without information sufficient to form a belief as to the truth of the allegations of paragraph 21 of Plaintiffs' Complaint, therefore the allegations are denied and strict proof thereof is demanded at trial.

22. After reasonable investigation, the Defendants are without information sufficient to form a belief as to the truth of the

allegations of paragraph 22 of Plaintiffs' Complaint, therefore the allegations are denied and strict proof thereof is demanded at trial.

23. After reasonable investigation, the Defendants are without information sufficient to form a belief as to the truth of the allegations of paragraph 23 of Plaintiffs' Complaint, therefore the allegations are denied and strict proof thereof is demanded at trial.

WHEREFORE, Defendants demand judgment in their favor.

### **NEW MATTER**

24. Defendants incorporate paragraphs 1 through 23 by reference as if set forth in full.

25. Plaintiff's injuries, if any, were the direct and proximate result of Husband Plaintiff's own negligence which is as follows:

- (a) Failure to keep a look out for adverse footing conditions;
- (b) Failure to wear proper footwear during adverse weather and/or travel conditions;
- (c) Failure to exercise reasonable care for his own safety when walking upon snow or ice covered surfaces.

26. At all times relevant hereto, the premises in question was leased by the Defendants to Mary Ward under a Rental Agreement dated August 3, 1999, and attached hereto as Exhibit "A".

27. The Rental Agreement provides that the tenant is responsible for all snow removal activity on the premises.

28. As landlords out of possession, the Defendants have no responsibility for snow and ice removal upon the premises and have no liability to the Plaintiffs.

29. The Plaintiffs' claims are barred or limited by application of the Doctrine of Assumption of the Risk.

30. The Plaintiffs' claims are barred or limited by the applicable Statute of Limitations.

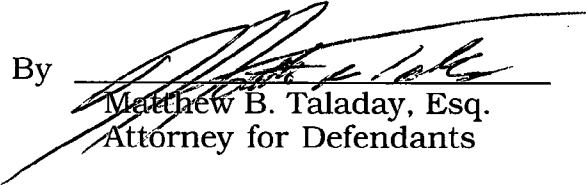
31. The Plaintiffs' claims are barred or limited by application of the Doctrine of Comparative Negligence.

WHEREFORE, Defendants demand judgment in their favor.

Respectfully submitted,

HANAK, GUIDO and TALADAY

By

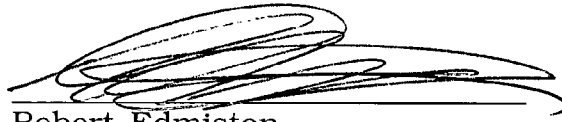
  
Matthew B. Taladay, Esq.  
Attorney for Defendants

**VERIFICATION**

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

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

Date: 9-30-08

  
Robert Edmiston

**VERIFICATION**

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

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

Date: 9-30-05

Robin Learish  
Robin Learish

## Rental Agreement

This agreement, dated 8/3/99, is by and between **ROBERT EDMISTON**, "owner" and 7100 W. 11th Ave, "tenants", for rental of the dwelling located at 814 B. Main St. Denver under the following conditions:

12 month **FIXED TERM AGREEMENT (LEASE)**- Tenants agree to lease this dwelling for a fixed term of 12 months, beginning 8/3/99 and ending on 7/3/00. Upon expiration, this Agreement shall become an automatic renewal for **1 YEAR**, unless either party notifies the other at least 30 days in writing prior to the expiration of this lease.

**RENT**-Tenants agree to rent this dwelling for the sum of \$ 4165.00 payable in monthly payments of \$ 350.00. The first month's rent is \$ 315.00.

**RETURNED CHECKS**-If, for any reason, a check used by Tenants to pay Owners is returned without having been paid, Tenants will pay a returned check charge of \$20.00 AND take whatever consequence there might be in making a late payment. After the second time that a Tenant's check is returned, Tenants must thereafter secure a cashier's check or money order for payment of rent.

**RENT DUE DATE; RENT LATE DATE**-The due date for the rent owing under this Agreement is the 5<sup>th</sup> Day of every calendar month. If rent is paid after the 10<sup>th</sup> a \$10.00 late charge is added and an eviction notice is issued. If rent is still not paid after the 20<sup>th</sup> of the month, a \$20.00 late charge is added.

**Deposits**-Tenants agrees to deposit with the Owners the sum of \$100.00, payable before they occupy the premises. Owners may withhold from these deposits only what is reasonable necessary to cover the following tenants defaults: 1) damages to the dwelling; 2) certain cleanings costs following Tenant's departure.

**UTILITIES/SERVICES**-Tenants agrees to pay all utilities and services with the exception of the following which the Owner agrees to pay: NONE

**OCCUPANTS**-The number of occupants is limited to 5. Only the following persons may live in this dwelling (include ages of minors):

Children's ages 17, 12, 2, 1

**NO ONE ELSE MAY LIVE THERE, EVEN TEMPORARILY, WITHOUT OWNERS PRIOR WRITTEN PERMISSION.**

**GUESTS**-Tenants may house any single guest for a maximum period of 14 days every six months or for what ever other period of time the law allows, provided that they maintain a separate residence, nurses or maids required to care for Tenants during an illness are excepted from these provision.

**SUBLETTING AND ASSIGNMENT**-Tenants shall not sublet the entire premises or any part of the premises, no shall they assign this Agreement to anyone else without first obtaining the Owner's written permission.

**PETS**-Tenants may house no pet of any kind on the premises, even temporarily, without first obtaining Owner's written permission. "Pets" includes, but is not limited to, both warm and cold-blooded animals, such as dogs, cats, fish, hamsters, rats, birds, snakes, lizards, and insects. "Pets" does not include animals trained to serve the handicapped.

**VEHICLES**-Tenants agrees to keep a maximum of 2 vehicles on the premises. These vehicles must be both operable and currently licensed. Tenants agree to park their vehicles in assigned spaces and to keep those spaces clean of oil dripping. Tenants agree to advise their visitors about parking and to take responsibility for where their visitors park. Only those motorcycles which have

Exhaust muffling comparable to that of a passenger car, is allowed. Tenants agree not to park boats, recreational trailers, utility trailers, and the like on the premises without first obtaining Owners' written permission. Tenants agree not to repair their vehicles on the premises if such repairs will take longer than a single day.

**DRAIN STOPPAGES**-As of the date of this Agreement, Owners warrant that the dwelling's sewage drains are in good working order and that they will accept the normal household waste for which they were designed. They will not accept things such as paper diapers, sanitary napkins, tampons, children's toys, wads of toilet paper, balls of hair, grease, oil, table scraps, clothing, sand, dirty, rocks or newspaper. Tenants agree to pay for clearing the drains of any and all stoppages except those which maintenance is called to clear the stoppage will attest in writing were caused by defective plumbing, tree roots or Acts of God.

**TRASH**-Tenants agree to dispose of their ordinary household trash by placing it into a receptacle for periodic collection. They agree to dispose of their extraordinary household trash, such as: Christmas Trees, damaged furniture, broken appliances and the like by compacting it so it will fit inside their trash receptacle or by hauling it away.

**LOCKS** -Tenants agree they will not change the locks on any door or mailbox without first obtaining owners' permission. After obtaining permission they agree to change the locks themselves and providing the owners' with one duplicate key per lock.

**LANDSCAPING**-Tenants agree to keep up with the grass, weed eating, mowing, and snow removal.

**PEACE AND QUIET**-Tenants are entitled to the quiet enjoyment of their dwelling; neighbors are entitled to the same. Tenants agree that they will refrain from making loud noises and disturbances, that they will keep down the volume of the music and broadcast programs at all times.

**TELEPHONE**-If and when Tenants install a phone service they will provide the number to the Landlord with 5 days. If unlisted, owners' agree to take precautions from falling into the hands of 3rd parties.

**PROLONGED ABSENCES**-Tenants agree that they will notify owners when they will be absent from the dwelling for more than 10 days.

**LAWFUL USES**-Tenants agree that they will not themselves engage in any illegal activities on the premises nor will they allow others to engage in any. Insofar as they have the power to stop such activities.

**NOTICE OF INTENT TO VACATE**-When tenant decides to leave when lease is up for renewal they will give the owners' written notice of their intent 30 days in advance.

**HOLDING OVER**-If Tenants remain on the premises following the date of their termination or tenancy, they are holding over. They then become liable for rental damages equaling 1/30<sup>th</sup> the amount of their then current monthly rent per every day they hold over.

**POSSESSION**-Owner shall endeavor to deliver possession to Tenants by the commencement date of this agreement. Should owners be unable to do so, they should not be held liable for any damages Tenants suffer as a consequence, nor shall this agreement be considered void unless owners' are unable to deliver possession within 2 days of commencement date. Tenants responsibility to pay rent shall begin when they receive possession.

**ENTIRE AGREEMENT**-As written this agreement constitutes the entire agreement between the Tenants and the Owners'. They have not made further promises of any kind to one another, nor have they reached any other understanding either in written or verbal agreement.

**CONSEQUENCES** -Violation of any part of this agreement or non-payment of rent when due shall be cause for evictions under appropriate sections of the applicable code.

H.U.D. - If Tenant is on H.U.D. the Landlord will make the unit to H.U.D. specifications. If it is impossible for the unit to become H.U.D. approved the tenant will not be bound to this lease.

Kolin Leauth  
(Landlord)

X Mary A. Ward  
(Tenant)

\_\_\_\_\_  
(Tenant)

Money collected at signing of lease:

First month's rent: \$ 315.00 →  
Last month's rent: \$ 0.00  
Security deposit: \$ 100.00 <sup>cash</sup> 1211 8/3/99  
415.00 TOTAL

ANY BALANCES DUE WILL BE PAID BY Oct 31, 1999

IN MONTHLY, WEEKLY INSTALLMENTS OF \$ monthly of \$ 100.00  
Aug 4, 1999 \$ 100.00 on first month's rent ✓ p'd 1212 8/6/99  
Sept. 10, 1999 \$ 100.00 on first month's rent  
Oct. 10, 1999 \$ 115.00 on first month's rent

Gas Meter# \_\_\_\_\_

Reading \_\_\_\_\_

Electric Meter# \_\_\_\_\_

Reading \_\_\_\_\_



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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

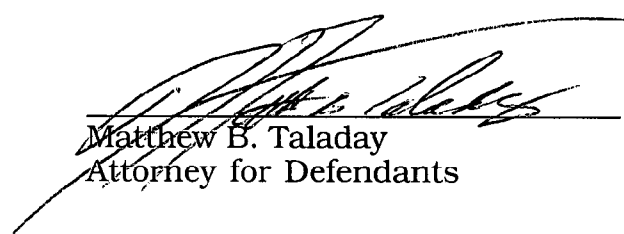
ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

No. 05 - 78 - C.D.

**CERTIFICATE OF SERVICE**

I certify that on the 3rd day of October, 2005, a true and correct copy of the foregoing Answer and New Matter was sent via first class mail, postage prepaid, to the following:

Samuel Cohen, Esq.  
Attorney for Plaintiffs  
Katz, Cohen & Price  
Suite 2010  
117 South 17th Street  
Philadelphia, PA 19103

  
Matthew B. Taladay  
Attorney for Defendants

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

and

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851

H/W

-vs-

No. 05-0078-CD

ROBERT EDMINSTON  
514 S. Main Street  
DuBois, PA 15801  
and

ROBIN LEARISH  
514 S. Main Street  
Du Bois, PA 15801

**PLAINTIFFS' REPLY TO NEW MATTER**

24. Plaintiff incorporates by reference herein each and every averment contained in paragraphs 1 through 23 inclusive of their Complaint as fully as if the same were set forth at length.

25. Denied. It is denied that husband Plaintiff was in any respect negligent. To the contrary, at all times material hereto, husband Plaintiff acted

**FILED**

NOV 23 2005  
11:30 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
1 copy to Att

29.-31. Denied. The averments contained in these paragraphs constitute conclusions of law for which no response is required under and pursuant to the Pennsylvania Rules of Civil Procedure.

WHEREFORE, Plaintiffs PRAY this Honorable Court enter judgment in their favor and against Defendants.

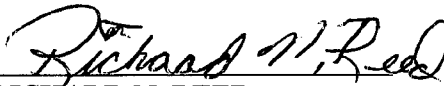
KATZ, COHEN & PRICE, P.C.

  
BY: SAMUEL COHEN

DATED: 11/21/05

**VERIFICATION**

I, Richard N. Reed , verify that I am the Plaintiff in this matter and that the averments of fact set forth in the foregoing **Reply to New Matter** are true and correct to the best of my personal knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

  
RICHARD N. REED

Dated: 11-14-05

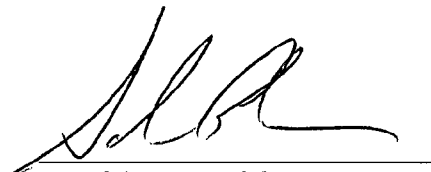
**CERTIFICATION OF SERVICE**

I, Samuel Cohen, certify that a true and correct copy of the within Plaintiff's Reply  
to New Matter was forwarded via regular mail through the United States Postal

Service on November 21, 2005 to:

Matthew B. Taladay, Esquire  
Hanak, Guido and Taladay  
498 Jeffers Street  
P. O. Box 487  
DuBois, PA 15801

KATZ, COHEN & PRICE, P.C.

  
By: SAMUEL COHEN

Dated: 11/21/05

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

Type of Case: Civil Action

No. 05 - 78 - C.D.

Type of Pleading:  
Certificate of  
Service

Filed on Behalf of:  
Defendants

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

Dated: January 5, 2006

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*m 112 21301*  
JAN 06 2006 *LM*

William A. Shaw  
Prothonotary/Clerk of Courts

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

No. 05 - 78 - C.D.

**CERTIFICATE OF SERVICE**

I certify that on the 5th day of January, 2006, two original  
Notices of Deposition, copies of which are attached hereto, were sent  
via first class mail, postage prepaid, to the following:

Samuel Cohen, Esq.  
Attorney for Plaintiffs  
Katz, Cohen & Price  
Suite 2010  
117 South 17th Street  
Philadelphia, PA 19103



Matthew B. Taladay, Esq.  
Attorney for Defendants

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

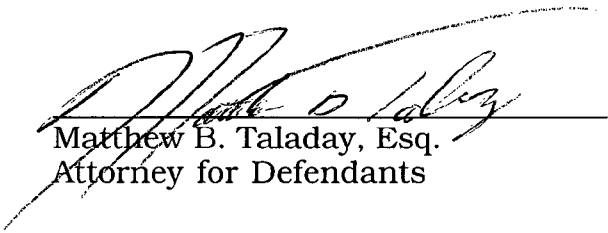
ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

No. 05 - 78 - C.D.

**NOTICE OF DEPOSITION**

TO: DEBRA ALICE REED  
c/o Samuel Cohen, Esq.

TAKE NOTICE that your deposition by oral examination will be taken on **Wednesday, February 22, 2006 at 9:30 a.m.** at the law office of Hanak, Guido and Taladay, 498 Jeffers Street, DuBois, Pennsylvania. This deposition is being taken for the purpose of discovery and for use at trial, pursuant to the Pennsylvania Rules of Civil Procedure regarding Discovery.

  
Matthew B. Taladay, Esq.  
Attorney for Defendants

cc: Schreiber Reporting Service



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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

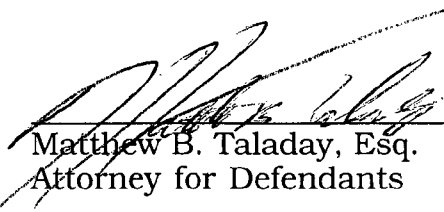
ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

No. 05 - 78 - C.D.

**NOTICE OF DEPOSITION**

TO: RICHARD NIVEN REED  
c/o Samuel Cohen, Esq.

TAKE NOTICE that your deposition by oral examination will be taken on **Wednesday, February 22, 2006 at 9:30 a.m.** at the law office of Hanak, Guido and Taladay, 498 Jeffers Street, DuBois, Pennsylvania. This deposition is being taken for the purpose of discovery and for use at trial, pursuant to the Pennsylvania Rules of Civil Procedure regarding Discovery.



Matthew B. Taladay, Esq.  
Attorney for Defendants

cc: Schreiber Reporting Service

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

and

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851

H/W

-vs-

**No. 05-0078-CD**

ROBERT EDMINSTON  
514 S. Main Street  
DuBois, PA 15801

and

ROBIN LEARISH  
514 S. Main Street  
Du Bois, PA 15801

**CERTIFICATION OF SERVICE**

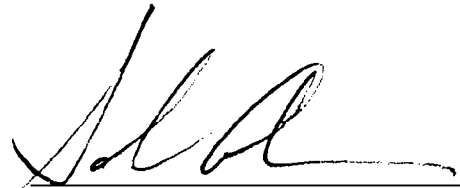
I, Samuel Cohen, certify that a true and correct copy of the within Notices of Oral  
Deposition of Defendants Robert Edminston and Robin Learish was forwarded via regular

**FILED** NO cc  
JAN 17 2006

William A. Shaw  
Prothonotary/Clerk of Courts

mail through the United States Postal Service on January 12, 2006 to:

Matthew B. Taladay, Esquire  
Hanak, Guido and Taladay  
498 Jeffers Street  
P. O. Box 487  
DuBois, PA 15801

  
\_\_\_\_\_  
SAMUEL COHEN

DATED: 1/12/06

FILED  
JAN 30 2006  
11:30 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
Sent to Ann

and

H/W

**No. 05-0078-CD**

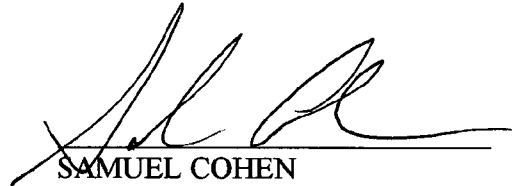
and

## CERTIFICATION OF SERVICE

I, Samuel Cohen, certify that a true and correct copy of the within *Amended*  
*Notices of Oral Deposition of Defendants Robert Edminston and Robin Learish* were

forwarded via regular mail through the United States Postal Service on January 27, 2006 to:

Matthew B. Taladay, Esquire  
Hanak, Guido and Taladay  
498 Jeffers Street  
P. O. Box 487  
DuBois, PA 15801



SAMUEL COHEN

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

and

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851

H/W

-vs-

**No. 05-0078-CD**

ROBERT EDMINSTON  
514 S. Main Street  
DuBois, PA 15801

and

ROBIN LEARISH  
514 S. Main Street  
Du Bois, PA 15801

**CERTIFICATION OF SERVICE**

I, Samuel Cohen, certify that a true and correct copy of the within Plaintiffs' Answers to Interrogatories was forwarded via regular mail through the United States Postal Service on June 19, 2006 to:

Matthew B. Talady, Esq,  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801

**FILED** <sup>NO CC</sup>  
JUN 21 2006  
m 11:18 AM  
LN

William A. Shaw  
Prothonotary/Clerk of Courts

James W. Harvey, Esquire  
Rosslyn Commons Building  
333 Baldwin Road 5<sup>th</sup> Floor  
Pittsburgh, PA 15205

KATZ, COHEN & PRICE

BY:

  
\_\_\_\_\_  
SAMUEL COHEN

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

Type of Case: Civil Action

No. 05 - 78 - C.D.

Type of Pleading:  
Certificate of  
Service

Filed on Behalf of:  
Defendants

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

Dated: August 1, 2006

**FILED** *NO CC*  
AUG 02 2006  
10:31 AM

William A. Shaw  
Prothonotary/Clerk of Courts



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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

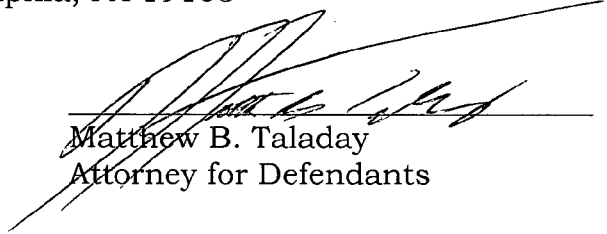
ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

No. 05 - 78 - C.D.

**CERTIFICATE OF SERVICE**

I certify that on the 1st day of August, 2006, two original  
Notices of Deposition, copies of which are attached hereto, were sent via  
first class mail, postage prepaid, to the following:

Samuel Cohen, Esq.  
Attorney for Plaintiffs  
Katz, Cohen & Price  
Suite 2010  
117 South 17th Street  
Philadelphia, PA 19103

  
Matthew B. Taladay  
Attorney for Defendants

cc: Schreiber Reporting Service  
P.O. Box 997  
St. Marys, PA 15857



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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

and

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851

H/W

-vs-

**No. 05-0078-CD**

ROBERT EDMINSTON  
514 S. Main Street  
DuBois, PA 15801

and

ROBIN LEARISH  
514 S. Main Street  
Du Bois, PA 15801

**CERTIFICATION OF SERVICE**

I, Samuel Cohen, certify that a true and correct copy of the within Plaintiff's Notice

**FILED**

m/11:55am

TCC Atty Cohen

AUG - 4 2008

William A. Shaw  
Prothonotary

of Oral Deposition, of Defendant Robert Edminston was forwarded on August 2, 2006 via

First Class United States Mail to:

Matthew B. Taladay, Esquire  
Hanak, Guido and Taladay  
498 Jeffers Street  
P. O. Box 487  
DuBois, PA 15801

**CC:**

James W. Harvey, Esquire  
Rosslyn Commons Building  
333 Baldwin Road 5<sup>th</sup> Floor  
Pittsburgh, PA 15205

KATZ, COHEN & PRICE, P.C.



SAMUEL COHEN

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

**RICHARD NIVEN REED**

1054 Jackson Street  
Reynoldsville, PA 15851

and

**DEBRA ALICE REED**

1054 Jackson Street  
Reynoldsville, PA 15851

H/W

-vs-

**No. 05-0078-CD**

**ROBERT EDMINSTON**

514 S. Main Street  
DuBois, PA 15801

and

**ROBIN LEARISH**

514 S. Main Street  
Du Bois, PA 15801

**CERTIFICATION OF SERVICE**

I, Samuel Cohen, certify that a true and correct copy of the within Plaintiff's Notice

**FILED**  
m/j:55cm  
AUG - 4 2006  
ICC Atty Cohen

William A. Shaw  
Prothonotary

of Oral Deposition of Defendant, Robert Learish was forwarded on August 2, 2006 via

First Class United States Mail to:

Matthew B. Taladay, Esquire  
Hanak, Guido and Taladay  
498 Jeffers Street  
P. O. Box 487  
DuBois, PA 15801

CC:

James W. Harvey, Esquire  
Rosslyn Commons Building  
333 Baldwin Road 5<sup>th</sup> Floor  
Pittsburgh, PA 15205

KATZ, COHEN & PRICE, P.C.

  
SAMUEL COHEN

LAW OFFICES

**KATZ, COHEN & PRICE, P.C.**

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SAMUEL COHEN  
MICHAEL G. PRICE\*  
\*PA AND NJ BAR

SAMUEL C. KATZ  
OF COUNSEL

PLEASE RESPOND TO PHILA OFFICE

August 2, 2006.

Mr. William A. Shaw, Jr.  
Prothonotary  
Clearfield County Courthouse  
Clearfield, PA 16830

**RE: Richard Niven Reed and Debra Alice Reed H/W**

**-vs-**

**Robert Edminston and Robin Learish**

**Clearfield County No.: 2005-0078-CD**

**AND**

**RE: Richard Niven Reed and Debra Alice Reed H/W**

**-vs-**

**Mary Ward**

**CCP Clearfield County NO.: 2005-1658-CD**

Dear Mr. Shaw:

Enclosed in the captioned matters are an Original and 1 copy each of the Certifications of Service relative to the Notice of Oral Deposition as follows:

**Case NO.: 2005-0078-CD**

**Robert Edminston and Robin Learish (Defendants)**

**Case NO.: 2005-1658-CD**

**Mary Ward (Defendant)**

After filing the originals of record kindly return a time-stamped filed copy of the Certifications of Service to this office in the self-addressed stamped envelope which is enclosed for your convenience.



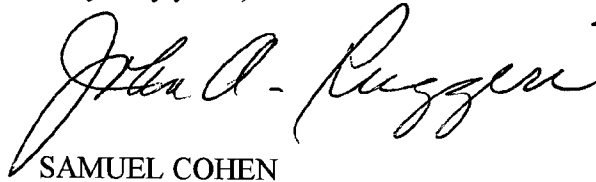
Mr. William A. Shaw, Jr.

August 2, 2006

p.2

Should you have any questions, please feel free to contact this office

Very truly yours,



SAMUEL COHEN

SC/jar

Enclosures

Dictated but not read

cc:

Matthew B. Talady, Esquire

James W. Harvey, Esquire

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

Type of Case: Civil Action

No. 05 - 78 - C.D.

Type of Pleading:  
Motion for  
Summary Judgment

Filed on Behalf of:  
Defendants

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

Dated: December 4, 2006

**FILED** NO CC  
DEC 05 2006 (640)

William A. Shaw  
Prothonotary/Clerk of Courts

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

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No. 05 - 78 - C.D.

**MOTION FOR SUMMARY JUDGMENT**

AND NOW, come the Defendants, Robert Edmiston and Robin Learish, and hereby bring the within Motion for Summary Judgment, averring as follows:

1. Plaintiffs seek damages for personal injuries sustained when Richard Niven Reed allegedly fell on a snow covered sidewalk adjacent to 514 South Main Street, DuBois, Pennsylvania, on February 9, 2003.
2. The pleadings are now closed and discovery has been completed.
3. The Defendants bring the within Motion for Summary Judgment pursuant to Pa.R.C.P. Rule 1035.2 based on the Plaintiffs' lack of evidence regarding two crucial elements of the case.

## **Count I**

AS PROPERTY OWNERS OUT OF POSSESSION OF THE PREMISES, THE DEFENDANTS CANNOT BE HELD RESPONSIBLE FOR PLAINTIFF'S INJURIES.

4. At the time of Plaintiff's alleged fall, 514 South Main Street, DuBois, Pennsylvania, was jointly owned by Robin Learish and Robert Edmiston.

5. At the time of Plaintiff's alleged fall, 514 South Main Street was in the exclusive possession and control of the Defendant's tenant, Mary Ward, who had originally leased the property under a Rental Agreement dated August 3, 1999, a copy of which is attached hereto as Exhibit "A".

6. The Rental Agreement between the parties specifically provided that the tenant would be responsible for all lawn mowing and snow removal.

7. At the time of Plaintiff's accident an additional Tenant Lease Agreement had been signed between Robert Edmiston and Mary A. Ward and dated August 3, 2001. A copy of this Agreement is attached as Exhibit "B".

8. Paragraph 5(d) of the Agreement provides as follows:

(1) Tenant shall keep the dwelling in a clean and sanitary condition and shall otherwise comply with all state and local laws requiring tenant to maintain rented premises.

...

9. In her deposition of September 8, 2006, Mary Ward testified that during the time that she occupied 514 South Main Street, she was responsible for shoveling her sidewalks. Exhibit "C", page 12, 25, 26.

10. Robin Learish in her deposition testimony confirmed that the Rental Agreements with Mary Ward at all times provided that the tenant was responsible for maintenance of the sidewalks. Exhibit "D", pages 11, 15.

11. Under the controlling law of Pennsylvania, there is no basis to impose liability on an owner out of possession where the tenant is in exclusive control of the premises and contractually responsible for its maintenance. *Knickerbocker vs. City of Scranton*, 344 Pa. 317, 25 A.2d 152 (Pa. 1942).

12. Plaintiff is without evidence to show that the Defendants Edmiston and Learish were in any way in custody or control of the premises at the time of Plaintiff's fall.

13. Defendants are entitled to judgment as a matter of law.

WHEREFORE it is respectfully requested that this Motion for Summary Judgment be granted.

## **Count II**

PLAINTIFFS CLAIMS ARE BARRED BY APPLICATION OF THE "HILLS AND RIDGES DOCTRINE".

14. Plaintiff's fall allegedly occurred at approximately 8:00 a.m. while he was delivering the Sunday newspaper.

15. On the date of Plaintiff's fall, generally snowy and icy conditions prevailed in the area. (See deposition of Debra Reed, Exhibit "E", page 4-5 and deposition of Richard Reed, Exhibit "F", page 18 - 19.)

16. Plaintiff's fall occurred immediately after he had stepped from the surface of South Main Street onto the allegedly snow covered sidewalk in front of 514 South Main Street. (Richard Reed deposition, pages 21; Debra Reed deposition, page 5)

17. The snow accumulation onto which Richard Reed stepped was of a consistent depth and uniform thickness. (Richard Reed, page 23; Debra Reed, page 6)

18. Richard Reed fell when his left foot became stuck in the indentation that his foot had made when he stepped into the accumulation of snow. (Richard Reed, page 23)

19. Under the controlling law of Pennsylvania, the owner/occupier of land cannot be held liable for conditions resulting from ice and snow unless: (a) the snow and ice had accumulated in ridges or elevations of such size and character as to unreasonably obstruct travel; (b) the property owner had actual or construct notice;

and (c) the dangerous accumulations of snow and ice caused plaintiff to fall.

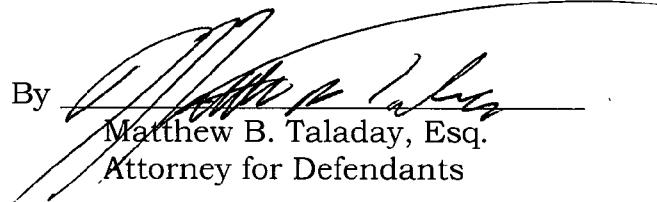
20. Presently, upon completion of discovery, the Plaintiff has failed to produce any evidence of facts which would support liability against the owner or occupier of 514 South Main Street under application of the "hills and ridges doctrine".

WHEREFORE, Defendants respectfully request that summary judgment be granted.

Respectfully submitted,

HANAK, GUIDO and TALADAY

By

A handwritten signature in black ink, appearing to read 'Matthew B. Taladay', is written over a horizontal line. The signature is stylized and cursive.

Matthew B. Taladay, Esq.  
Attorney for Defendants

# Rental Agreement

This agreement, dated 12.1.1992, is by and between **ROBERT EDMISTON**, "owner" and 12.1.1992, "tenants", for rental of the dwelling located at 12.1.1992 under the following conditions:

month **FIXED TERM AGREEMENT (LEASE)**- Tenants agree to lease this dwelling for a fixed term of 12 months, beginning 6/1/2018 and ending on 7/1/2019. Upon expiration, this Agreement shall become an automatic renewal for **1 YEAR**, unless either party notifies the other at least 30 days in writing prior to the expiration of this lease.

RENT-Tenants agree to rent this dwelling for the sum of \$ 8465.00 payable in monthly payments of \$ 350.00. The first month's rent is \$ 315.00.

**RETURNED CHECKS-**If, for any reason, a check used by Tenants to pay Owners is returned without having been paid, Tenants will pay a returned check charge of \$20.00 AND take whatever consequence there might be in making a late payment. After the second time that a Tenant's check is returned, Tenants must thereafter secure a cashier's check or money order for payment of rent.

**RENT DUE DATE; RENT LATE DATE**-The due date for the rent owing under this Agreement is the 5<sup>th</sup> Day of every **calendar month**. If rent is paid after the 10<sup>th</sup> a \$10.00 late charge is added and an eviction notice is issued. If rent is still not paid after the 20<sup>th</sup> of the month, a \$20.00 late charge is added.

Deposits-Tenants agrees to deposit with the Owners the sum of \$100.00, payable before they occupy the premises. Owners may withhold from these deposits only what is reasonable necessary to cover the following tenants defaults: 1) damages to the dwelling; 2) certain cleanings costs following Tenant's departure.

UTILITIES/SERVICES-Tenants agrees to pay all utilities and services with the exception of the following which the Owner agrees to pay: None

**OCCUPANTS**-The number of occupants is limited to 5. Only the following persons may live in this dwelling (include ages of minors):

NO ONE ELSE MAY LIVE THERE, EVEN TEMPORARILY, WITHOUT OWNERS PRIOR WRITTEN PERMISSION.

**GUESTS-**Tenants may house any single guest for a maximum period of 14 days every six months or for what ever other period of time the law allows, provided that they maintain a separate residence, nurses or maids required to care for Tenants during an illness are excepted from these provision.

**SUBLETTING AND ASSIGNMENT-**Tenants shall not sublet the entire premises or any part of the premises, no shall they assign this Agreement to anyone else without first obtaining the Owner's written permission.

PETS-Tenants may house no pet of any kind on the premises, even temporarily, without first obtaining Owner's written permission. "Pets" includes, but is not limited to, both warm and cold-blooded animals, such as dogs, cats, fish, hamsters, rats, birds, snakes, lizards, and insects. "Pets" does not include animals trained to serve the handicapped.

VEHICLES-Tenants agrees to keep a maximum of \_\_\_\_\_ vehicles on the premises. These vehicles must be both operable and currently licensed. Tenants agree to park their vehicles in assigned spaces and to keep those spaces clean of oil dripping. Tenants agree to advise their visitors about parking and to take responsibility for where their visitors park. Only those motorcycles which have



Exhaust muffling comparable to that of a passenger car, is allowed. Tenants agree not to park boats, recreational trailers, utility trailers, and the like on the premises without first obtaining Owners' written permission. Tenants agree not to repair their vehicles on the premises if such repairs will take longer than a single day.

**DRAIN STOPPAGES**-As of the date of this Agreement, Owners warrant that the dwelling's sewage drains are in good working order and that they will accept the normal household waste for which they were designed. They will not accept things such as paper diapers, sanitary napkins, tampons, children's toys, wads of toilet paper, balls of hair, grease, oil, table scraps, clothing, sand, dirty, rocks or newspaper. Tenants agree to pay for clearing the drains of any and all stoppages except those which maintenance is called to clear the stoppage will attest in writing were caused by defective plumbing, tree roots or Acts of God.

**TRASH**-Tenants agree to dispose of their ordinary household trash by placing it into a receptacle for periodic collection. They agree to dispose of their extraordinary household trash, such as: Christmas Trees, damaged furniture, broken appliances and the like by compacting it so it will fit inside their trash receptacle or by hauling it away.

**LOCKS** -Tenants agree they will not change the locks on any door or mailbox without first obtaining owners' permission. After obtaining permission they agree to change the locks themselves and providing the owners' with one duplicate key per lock.

**LANDSCAPING**-Tenants agree to keep up with the grass, weed eating, mowing, and snow removal.

**PEACE AND QUIET**-Tenants are entitled to the quiet enjoyment of their dwelling; neighbors are entitled to the same. Tenants agree that they will refrain from making loud noises and disturbances, that they will keep down the volume of the music and broadcast programs at all times.

**TELEPHONE**-If and when Tenants install a phone service they will provide the number to the Landlord with 5 days. If unlisted, owners' agree to take precautions from falling into the hands of 3rd parties.

**PROLONGED ABSENCES**-Tenants agree that they will notify owners when they will be absent from the dwelling for more than 10 days.

**LAWFUL USES**-Tenants agree that they will not themselves engage in any illegal activities on the premises nor will they allow others to engage in any. Insofar as they have the power to stop such activities.

**NOTICE OF INTENT TO VACATE**-When tenant decides to leave when lease is up for renewal they will give the owners' written notice of their intent 30 days in advance.

**HOLDING OVER**-If Tenants remain on the premises following the date of their termination or tenancy, they are holding over. They then become liable for rental damages equaling 1/30<sup>th</sup> the amount of their then current monthly rent per every day they hold over.

**POSSESSION**-Owner shall endeavor to deliver possession to Tenants by the commencement date of this agreement. Should owners be unable to do so, they should not be held liable for any damages Tenants suffer as a consequence, nor shall this agreement be considered void unless owners' are unable to deliver possession within 2 days of commencement date. Tenants responsibility to pay rent shall begin when they receive possession.

**ENTIRE AGREEMENT**-As written this agreement constitutes the entire agreement between the Tenants and the Owners'. They have not made further promises of any kind to one another, nor have they reached any other understanding either in written or verbal agreement.

**CONSEQUENCES** -Violation of any part of this agreement or non-payment of rent when due shall be cause for evictions under appropriate sections of the applicable code.

H.U.D. - If Tenant is on H.U.D. the Landlord will make the unit to H.U.D. specifications. If it is impossible for the unit to become H.U.D. approved the tenant will not be bound to this lease.

Kalvin Levent

(Landlord)

Mary A. Ward

(Tenant)

(Tenant)

Money collected at signing of lease:

First month's rent: \$ 315.00 →

Last month's rent: \$ 211

Security deposit: \$ 100.00 initial 1211 8/3/99

415.00 TOTAL

ANY BALANCES DUE WILL BE PAID BY Oct 31, 1999

IN MONTHLY, WEEKLY INSTALLMENTS OF \$ monthly of \$ 100.00

Aug 4, 1999 \$ 100.00 on first month's rent ✓ p 1212 8/6/99

Sept. 10, 1999 \$ 100.00 on first month's rent

Oct. 10, 1999 \$ 115.00 on first month's rent

Gas Meter# \_\_\_\_\_

Reading \_\_\_\_\_

Electric Meter# \_\_\_\_\_

Reading \_\_\_\_\_

# TENANT LEASE AGREEMENT HOUSING CHOICE VOUCHER PROGRAM

(HUD-52641-A Tenancy addendum should be attached to this lease)

Contract No. Jeff-8 7

No. of Bedrooms 3 BDR

THIS LEASE AGREEMENT made and entered into this 3rd day of August 2001, by and between Robert Edmiston (Owner) and Mary A. Ward (Tenant) and whose household consists of the following members:

(1) <u>Kristen O'Connor</u>	(2) <u>Misty Gelnett</u>	(3) _____
(4) _____	(5) _____	(6) _____
(7) _____	(8) _____	(9) _____

(The family must promptly inform the PHA of the birth, adoption, or court-awarded custody of a child. No other person may reside in the unit without written approval by the Owner or PHA.)

The Contract unit is located at 514 South Main Street  
City: DuBois State PA Zip 15801 The total initial monthly rent is \$ 350.00 per month. Of this amount \$ 226.00 shall be payable by the Public Housing Agency (PHA) as housing assistance payments on behalf of the tenant, and \$ 124.00 shall be payable by the Tenant ("Tenant Rent") directly to the Owner. The rent is due on the 1st day of the month beginning on September 1, 2001. The Tenant has deposited \$ 100.00 with the owner as a security deposit. The amount of the rent to the Owner is subject to change during the lease term in accordance with this lease.

## 1. PURPOSE

This agreement is a lease between the Tenant and the Owner. The Owner is leasing the contract unit to the Tenant for occupancy by the Tenant's family with assistance for a tenancy under the Section 8 Housing Choice Voucher Program of the United States Department of Housing and Urban Development. (HUD).

The Owner will enter into a housing assistance payments contract (HAP Contract) with the DuBois Housing Authority (PHA), under the Housing Choice Voucher Program. Under the HAP Contract, the PHA will make housing assistance payments to the Owner to assist the Tenant in leasing the unit from the Owner.

## 2. TERM OF LEASE

Initial term of this lease must be for a lease one year unless a shorter term has been approved by the PHA. The initial term begins on: September 1, 2001. The initial term ends on: August 31, 2002. Following the initial term, the lease will be renewed automatically on a x Month-to-month, Annual, Indefinite basis until: (1) a termination of the lease by the Owner in accordance with paragraph 10 (2) a termination of the lease by the Tenant in accordance with the lease or by mutual agreement during the term of the lease, (3) a termination of the Housing Assistance Payments contract by the PHA, Or (4) the PHA terminates assistance for the family. The lease for the contract unit has been approved by the PHA. The lease may not be revised unless any lease revision has been approved in writing by the PHA.

### 3. Utilities and Appliances

The Owner shall provide for or pay for the utilities and appliances as indicated below by an "O" without any additional charge to the Tenant. The Tenant shall provide or pay for the utilities and appliances as indicated below by a "T".

Item	Provided by	Paid by	Item	Provided by	Paid by
Heating-Natural Gas	_____	T	Water Heating-Natural Gas	_____	T
Bottle Gas	_____	_____	Bottle Gas	_____	_____
Oil/Electric	_____	_____	Oil/Electric	_____	_____
Coal/Other	_____	_____	Coal/Other	_____	_____
Cooking-Natural Gas	_____	_____	Water	_____	T
Bottle Gas	_____	_____	Sewer	_____	T
Oil/Electric	_____	T	Trash Collection	_____	T
Other Electric	_____	T	Range/Microwave	O	_____
Air Conditioning	_____	N/A	Refrigerator	O	_____
			Other	_____	_____

#### Use and Occupancy of Contract Unit.

- The family must use the contract unit for residence by the family. The unit must be the family's only residence. (Tenant may provide reasonable accommodations to guests or visitors whose stay is less than thirty (30) days.)
- The composition of the family residing in the contract unit must be approved by the PHA.
- The family must not sublease or let the unit.
- The family must not assign the lease or transfer the unit.
- During the lease term, the family will reside in the unit with assistance under the program.
- Members of the household may engage in legal profit-making activities incidental to primary use of the unit for residence by members of the family.

#### 5. Maintenance and Utilities: Owner and Family Responsibility

- The Owner must maintain the Contract unit and premises in accordance with HQS. (Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the Owner.)
  - The Owner or his agent may enter the dwelling unit only for the following purposes: (a) to inspect to see if Tenant is complying with this agreement, (b) to make repairs, and (c) to exhibit the unit to prospective purchasers, mortgages, Tenants and workmen. Tenant shall not unreasonably withhold consent to the Owner to enter for such purposes. However, Owner shall, except in an emergency such as fire, give the Tenant at least twenty-four hours notice of his intent to enter and may then enter only at a reasonable time. If an emergency occurs, the Owner shall, within two days thereafter, notify Tenant in writing of the date, time, purpose and results of such entry.
  - The PHA shall be free to inspect the premises covered by the lease periodically, but not less often than annually, to assure that the physical condition thereof continues to meet PHA standards of decent, safe and sanitary housing and to determine whether the services required to be provided hereunder are being provided to the premises. In the event the PHA reasonably determines that either (a) the physical condition of the premises does not meet PHA standards for decent, safe and sanitary housing, other than as a result of actions by the Tenant, or (b) one or more of the services specified herein are not being provided to the premises, or (c) that the Owner is in breach of any of the conditions of this lease, the PHA may give written notice to the Owner to correct deficiencies within (30)

days. Upon the Owner's failure to do so, the PHA shall have the right, in addition to its other rights and remedies under the HAP contract to terminate or reduce housing assistance payments or to terminate the HAP contract.

- (3) The Owner must provide all utilities needed to comply with HQS.
- (4) The Owner is not responsible for damages beyond normal wear and tear caused by any member of the household or guest.

b. The Owner is not responsible for a breach of the HQS that is caused by the following:

- (1) The family fails to pay for any utilities that the Owner is not required to pay for under the lease, but which are to be paid by the Tenant.
- (2) The family fails to provide and maintain any appliances that the Owner is not required to provide under the lease, but which are to be provided by the Tenant.

c. The Family must pay for any utilities and provide any appliances that the Owner is not required to pay for or provide under the lease.

d. Tenant's Obligation

(1) Tenant shall keep the dwelling in a clean and sanitary condition and shall otherwise comply with all state and local laws requiring Tenant to maintain rented premises. If damage to the dwelling unit (other than normal wear and tear) is caused by acts of or neglect by Tenant or others occupying with his permission, Tenant, upon prior agreement with Owner, may repair such damage at his own expense. If (a) Tenant fails to make agreed upon repairs, or (b) Owner agrees to make repairs. Owner may cause such repairs to be made and Tenant shall be liable to Owner for any reasonable expense thereby incurred by Owner.

e. Pets: Tenant may \_\_\_\_\_ or may not ✓ keep a pet on the premises.

f. Noise: Tenant agrees not to allow on his premises any excessive noise or other activity, which materially disturbs the peace and quiet of other Tenants in the building. Owner agrees to prevent other Tenants and other person in the building or common areas from similarly disturbing Tenant's peace and quiet.

6. Term of Lease

a. When lease terminates.

The term of the lease terminates if any of the following occurs:

- (1) The lease terminates (as in paragraph B);
- (2) The HAP contract terminates; or
- (3) The PHA terminates program assistance for the family.

b. Termination of lease.

The lease terminates if:

- (1) The Owner terminates the tenancy;
- (2) The Tenant terminates the lease with a 30 calendar day notice; or
- (3) The Owner and the Tenant agree to terminate the lease.

c. Termination of assistance.

The PHA may terminate program assistance for the family for any grounds authorized in accordance with HUD requirements. If the PHA terminates program assistance for the family, The HAP contract terminates automatically.

**7. Rent to Owner**

- a. The Owner may not demand or accept any payment from the Tenant for rent of the unit in excess of the rent to the Owner as provided in the PHA-approved lease in accordance with HUD requirements. The Owner must immediately return any excess rent payment by the Tenant. (The initial rent to Owner may not exceed the amount approved by the PHA in accordance with HUD requirement.).
- b. The rent to Owner must be reasonable in comparison with rents charged for comparable units in the private unassisted market.
- c. The Owner may not charge or accept, from the family or from any other source, any payment for rent of the unit in addition to the rent to Owner. Rent to Owner includes all maintenance, utilities and appliances to be provided and paid by the Owner in accordance with the lease.
- d. The Owner must immediately return any excess rent payment to the Tenant.
- e. Owner must provide the PHA with at least a 60 calendar notice of any rent increase. Upon approval by PHA of rent increase, the PHA will provide written notice to Owner and family of new rent amount along with effective date. The PHA shall have to right to review any rent increase during the term of the lease to determine whether the rent increase is reasonable. If the increase is not reasonable, the PHA will disapprove such increase. (Changes in rent to Owner shall be determined by the provisions of the lease. However, the Owner may not raise the rent during the initial term of the lease.)

**8. Housing Assistance Payment**

- a. Each month the PHA will make a housing assistance payment to the Owner on behalf of the Tenant family in accordance with the HAP contract. The amount of the housing assistance payment will be determined by the PHA in accordance with HUD requirements.
- b. The monthly housing assistance payment by the PHA shall be credited toward the monthly rent to Owner under this lease. The balance of the monthly rent shall be paid by the tenant.
- c. The Tenant is not responsible for payment of the portion of rent to Owner covered by the Housing Assistance payment under the HAP Contract between the Owner and the PHA. The Owner may not terminate the tenancy of the family for nonpayment of the PHA housing assistance payment.

**9. Other Fees and Charges.**

- a. Rent to Owner does not include cost of any meals or supportive services which may be provided by the Owner.
- b. This lease does not require the Tenant or family members to pay charges for any meals or supportive services or furniture which may be provided by the Owner. Nonpayment of any such charges is not grounds for termination of tenancy.
- c. The Owner may not charge the Tenant extra amounts for items customarily included in rent to Owner in the Locality, or provided at no additional cost to unsubsidized tenants in the premises.

**10. Termination of Tenancy by Owner.****a. Grounds**

- i. During the term of the lease, the Owner may only terminate the tenancy on the following grounds: (in accordance with lease and HUD requirements)
  - (1) Serious or repeated violation of the terms and conditions of the lease.
  - (2) Violation of Federal, State or local law that imposes obligations on the Tenant in connection with the occupancy or use of the contract unit and premises;
  - (3) Criminal activity (as provided in paragraph b); or
  - (4) Other good cause (as provided in paragraph c).
- ii. The requirement to terminate tenancy for such grounds:
  - (1) Only applies during the term of the lease, including the initial term and any extension term; and

- (2) Does not apply if the Owner terminates the tenancy at the end of the initial term, or at the end of any successive definite term.

**b. Criminal Activity.**

Any of the following types of criminal activity by the Tenant, any member of the household, a guest or another person under the Tenant's control shall be cause for termination of tenancy.

- (1) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises);
- (2) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises;
- (3) Any violent criminal activity on or near the premises; or
- (4) Any drug-related criminal activity on or near the premises.

The Owner may terminate the tenancy for criminal activity by a household member in accordance with this section if the member has been arrested or convicted for such activity.

- (1) Illegal use of a controlled substance; or
- (2) Abuse of alcohol that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.

The Owner may terminate the tenancy if any member of the household is:

- (1) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- (2) Violating a condition of probation or parole under Federal or State Law.

**c. Other Good Cause for Termination of Tenancy.**

- (1) During the First year of the initial lease term, other good cause for termination of tenancy must be something the family did or failed to do.
- (2) During the initial term of the lease or during any extension term, other good cause includes:
  - (a) Disturbance of neighbors,
  - (b) Destruction of property, or
  - (c) Living or housekeeping habits that cause damage to the unit or premises.
- (3) After the first year of the lease, such good cause includes:
  - (a) The Tenant's failure to accept the Owner's offer of a new lease or revision.
  - (b) The Owner's desire to use the unit for personal or family use or for a purpose other than use as a residential rental unit; or
  - (c) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, the Owner's desire to rent the unit for a higher rent).

**d. Nonpayment by PHA: Not grounds for termination of tenancy.**

- (1) The Tenant is not responsible for payment of the portion of contract rent covered by the Housing Assistance Payment under the HAP contract between the Owner and PHA.
- (2) A PHA failure to pay the housing assistance payment to the Owner is not a violation of the lease.

During the term of the lease, the Owner may not terminate the tenancy of the family for nonpayment of the PHA housing assistance payment.

**e. Eviction by Court Action.**

The Owner may only evict the Tenant from the contract unit by instituting a court action.

**11. Owner Termination Notice****a. Notice of grounds.**

- (1) The Owner must give the Tenant a notice that specifies the grounds for termination of tenancy. The notice of grounds must be given at or before commencement of the eviction action.
- (2) The notice of grounds may be included in, or may be combined with, any Owner eviction notice to the Tenant.

**b. State or local eviction notice.**

- (1) Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under State or local law to commence an eviction action.
- (2) The Owner must give the PHA a copy of any Owner eviction notice to the Tenant at the same time that the Owner gives notice to the Tenant.

**12. Offer of New Lease**

The Owner may offer the family a new lease, for a term beginning at any time after the initial term. The Owner must give the Tenant written notice of the offer, with a copy to the PHA, at least 60 calendar days before the proposed beginning date of the new lease term. The offer must specify a reasonable time limit for acceptance by the family.

**13. Lease Termination or Move Out by Family**

- a. The Tenant may terminate the lease without cause at any time after the first year. The lease may not require the Tenant to give more than a 30 calendar day notice of such termination to the Owner.
- b. The Tenant must notify the PHA and the Owner before the family moves out of the unit.

**14. Execution of HAP Contract**

- a. This lease has been signed by the parties on the expectation that the PHA will promptly execute a HAP contract with the Owner. This lease shall not become effective unless the PHA has executed a HAP contract with the Owner effective the first day of the term of the lease.
- b. The HAP contract must be executed no later than 60 calendar days from the beginning of the lease term. Unless the HAP contract has been executed by the end of this period, the lease shall be void.

**15. Prohibited Lease Provisions**

The following types of lease provisions are prohibited by HUD. If there is any prohibited provision in this lease, the provision shall be void.

**a. Agreement to be sued.**

Agreement by the Tenant to be sued, to admit guilt, or to a judgment in favor of the Owner, in a lawsuit brought in connection with the lease.

**b. Treatment of personal property.**

- i. Agreement by the Tenant that the Owner may take, hold, or sell personal property of household members without notice to the Tenant, or a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the Tenant concerning disposition of personal property left in the contract unit after the Tenant has moved out. The Owner may dispose of this personal property in accordance with State and local law.

**c. Excluding Owner from responsibility**

Agreement by the Tenant not to hold the Owner or Owner's agent legally for any action or failure to act, whether intentional or negligent.



**d. Waiver or notice.**

Agreement by the Tenant that the Owner may institute a lawsuit against the Tenant without notice to Tenant.

**e. Waiver of legal proceedings.**

Agreement by the Tenant that the Owner may evict the Tenant or household members, (1) without instituting a civil court proceeding in which the Tenant has the opportunity to present a defense, or (2) before a court decision on the rights of the parties.

**f. Waiver of jury trial.**

Agreement by the Tenant to waive any right to trial by jury.

**g. Waiver of right to appeal court decision.**

Agreement by the Tenant to waive any right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.

**h. Tenant chargeable with cost of legal actions regardless of outcome.**

Agreement by the Tenant to pay the Owner's attorney fees or other legal costs even if the Tenant wins in a court proceeding by the Owner against the Tenant. However, the Tenant may be obligated to pay costs if the Tenant loses.

**16. Security Deposit**

- a. The Owner may collect a security deposit from the Tenant. (However, the PHA may prohibit the Owner from collecting a security deposit in excess of private market practice, or in excess of amounts charged by the Owner to unassisted tenants. Any such PHA-required restriction must be specified in the HAP Contract.)
- b. When the family moves out of the contract unit, the Owner, subject to State and Local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid Tenant rent, damages to the unit or other amounts that the Tenant owes under the Lease.
- c. The Owner must give the Tenant a list of all items charged against the security deposit, and the amount of each item. After deducting the amount, if any, used to reimburse the Owner, the Owner must promptly refund the full amount of the unused balance to the Tenant.
- d. If the Security deposit is not sufficient to cover the amounts the Tenant owes under the lease, the Owner may collect the balance from the Tenant.

**17. Prohibition of Discrimination**

In accordance with applicable equal opportunity statutes, executive orders, and regulations, the Owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status or disability in connection with the lease.

**18. Conflict of Other Provisions of Lease**

- a. The terms of the tenancy addendum as prescribed by HUD in accordance with Federal law and regulations, as condition for Federal assistance to the Tenant and Tenant's family under the Section 8 Choice Voucher Program.
- b. In case of any conflict between the provisions of the tenancy addendum as required by HUD, and any other provisions of the lease or any other agreement between the Owner and the Tenant, the requirements of the HUD-required tenancy addendum shall control.

**19. Written Notices.**

When this lease requires any notice by the Tenant or the Owner, the notice must be in writing.

**20. Definitions**

**Contract Unit.** The housing unit rented by the Tenant with assistance under the Program.

**Family.** The persons who may reside in the unit with assistance under the program.

**HAP contract.** The housing assistance payments contract between the PHA and the Owner. The PHA pays housing assistance payments to the Owner in accordance with the HAP Contract.

**Household.** The persons who may reside in the contract unit. The Household consists of the family and any PHA-approved live-in aide. (live-in aide is a person who resides in the unit to provide necessary supportive services for a member of the family who is a person with disabilities.)

**Housing Choice Voucher Program.** The Section 8 Housing Choice Voucher Program. Under this program, HUD provides funds to a PHA for rent subsidy on behalf of eligible family. The tenancy under this lease will be assisted with rent subsidy for a tenancy under the Voucher Program.

**Housing quality standards (HQS).** The HUD minimum quality standards for housing assisted under the Section Tenant-based programs.

**HUD.** The U.S. Department of Housing and Urban Development.

**HUD requirements.** HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters, as regulations, Federal Register notices or other binding program directives.

**Lease Agreement.** The written agreement between the Owner and the Tenant for the lease of the contract unit to the Tenant. The lease includes the tenancy addendum as prescribed by HUD.

**PHA.** Public Housing Agency.

**Premises.** The building or complex in which the contract unit is located, including common area and grounds.

**Rent to Owner.** The total monthly rent payable to Owner under the lease for the contract unit. Rent to Owner is the sum of the portion of rent payable by the Tenant plus the PHA housing assistance payment to the Owner.

**Section 8.** Section 8 of the United States Housing Act of 1937. (42 United States Code 1734f).

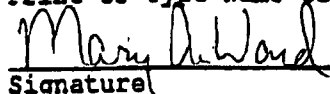
**Tenancy addendum.** The lease language required by HUD

**Tenant.** The family member (or members) who leases the contract unit from the Owner.

**Signatures:**

1. **Tenant**

Mary A. Ward  
Print or Type Name of Tenant

  
Signature

09-06-01  
Date

**Owner**

Robert Edmiston  
Print or Type Name of Owner

  
Signature

Date

## Section 8 Tenant-Based Assistance Housing Choice Voucher Program

Office of Public and Indian Housing

(Attached to Tenant Lease)

### Section 8 Voucher Program

- a. The owner is leasing the contract unit to the tenant for occupancy by the tenant's family with assistance for a tenancy under the Section 8 housing choice voucher program (voucher program) of the United States Department of Housing and Urban Development (HUD).
- b. The owner has entered into a Housing Assistance Payments Contract (HAP contract) with the PHA under the voucher program. Under the HAP contract, the PHA will make housing assistance payments to the owner to assist the tenant in leasing the unit from the owner.

### 2. Lease

- a. The owner has given the PHA a copy of the lease, including any revisions agreed by the owner and the tenant. The owner certifies that the terms of the lease are in accordance with all provisions of the HAP contract and that the lease includes the tenancy addendum.
- b. The tenant shall have the right to enforce the tenancy addendum against the owner. If there is any conflict between the tenancy addendum and any other provisions of the lease, the language of the tenancy addendum shall control.

### 3. Use of Contract Unit

- a. During the lease term, the family will reside in the contract unit with assistance under the voucher program.
- b. The composition of the household must be approved by the PHA. The family must promptly inform the PHA of the birth, adoption or court-awarded custody of a child. Other persons may not be added to the household without prior written approval of the owner and the PHA.
- c. The contract unit may only be used for residence by the PHA-approved household members. The unit must be the family's only residence. Members of the household may engage in legal profitmaking activities incidental to primary use of the unit for residence by members of the family.
- d. The tenant may not sublease or let the unit.
- e. The tenant may not assign the lease or transfer the unit.

### 4. Rent to Owner

- a. The initial rent to owner may not exceed the amount approved by the PHA in accordance with HUD requirements.
- b. Changes in the rent to owner shall be determined by the provisions of the lease. However, the owner may not raise the rent during the initial term of the lease.
- c. During the term of the lease (including the initial term of the lease and any extension term), the rent to owner may at no time exceed:
  - (1) The reasonable rent for the unit as most recently determined or redetermined by the PHA in accordance with HUD requirements, or
  - (2) Rent charged by the owner for comparable unassisted units in the premises.

### 5. Family Payment to Owner

- a. The family is responsible for paying the owner any portion of the rent to owner that is not covered by the PHA housing assistance payment.
- b. Each month, the PHA will make a housing assistance payment to the owner on behalf of the family in accordance with the HAP contract. The amount of the monthly housing assistance payment will be determined by the PHA in accordance with HUD requirements for a tenancy under the Section 8 voucher program.
- c. The monthly housing assistance payment shall be credited against the monthly rent to owner for the contract unit.
- d. The tenant is not responsible for paying the portion of rent to owner covered by the PHA housing assistance payment under the HAP contract between the owner and the PHA. A PHA failure to pay the housing assistance payment to the owner is not a violation of the lease. The owner may not terminate the tenancy for nonpayment of the PHA housing assistance payment.
- e. The owner may not charge or accept, from the family or from any other source, any payment for rent of the unit in addition to the rent to owner. Rent to owner includes all housing services, maintenance, utilities and appliances to be provided and paid by the owner in accordance with the lease.
- f. The owner must immediately return any excess rent payment to the tenant.

### 6. Other Fees and Charges

- a. Rent to owner does not include cost of any meals or supportive services or furniture which may be provided by the owner.
- b. The owner may not require the tenant or family members to pay charges for any meals or supportive services or furniture which may be provided by the owner. Nonpayment of any such charges is not grounds for termination of tenancy.
- c. The owner may not charge the tenant extra amounts for items customarily included in rent to owner in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

### 7. Maintenance, Utilities, and Other Services

#### a. Maintenance

- (1) The owner must maintain the unit and premises in accordance with the HQS.
- (2) Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the owner.

#### b. Utilities and appliances

- (1) The owner must provide all utilities needed to comply with the HQS.
- (2) The owner is not responsible for a breach of the HQS caused by the tenant's failure to:

- (a) Pay for any utilities that are to be paid by the tenant.
- (b) Provide and maintain any appliances that are to be provided by the tenant.
- c. Family damage. The owner is not responsible for a breach of the HQS because of damages beyond normal wear and tear caused by any member of the household or by a guest.
- d. Housing services. The owner must provide all housing services as agreed to in the lease.
- 8. Termination of Tenancy by Owner
  - a. Requirements. The owner may only terminate the tenancy in accordance with the lease and HUD requirements.
  - b. Grounds. During the term of the lease (the initial term of the lease or any extension term), the owner may only terminate the tenancy because of:
    - (1) Serious or repeated violation of the lease;
    - (2) Violation of Federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises;
    - (3) Criminal activity or alcohol abuse (as provided in paragraph c); or
    - (4) Other good cause (as provided in paragraph d).
  - c. Criminal activity or alcohol abuse.
    - (1) The owner may terminate the tenancy during the term of the lease if any member of the household, a guest or another person under a resident's control commits any of the following types of criminal activity:
      - (a) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
      - (b) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
      - (c) Any violent criminal activity on or near the premises; or
      - (d) Any drug-related criminal activity on or near the premises.
    - (2) The owner may terminate the tenancy during the term of the lease if any member of the household is:
      - (a) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
      - (b) Violating a condition of probation or parole under Federal or State law.
    - (3) The owner may terminate the tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

- (4) The owner may terminate the tenancy if any member of the household has engaged in the abuse of alcohol that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.
- d. Other good cause for termination of tenancy
  - (1) During the initial lease term, other good cause for termination of tenancy must be something the family did or failed to do.
  - (2) During the initial lease term or during any extension term, other good cause includes:
    - (a) Disturbance of neighbors.
    - (b) Destruction of property, or
    - (c) Living or housekeeping habits that cause damage to the unit or premises.
  - (3) After the initial lease term, such good cause includes:
    - (a) The tenant's failure to accept the owner's offer of a new lease or revision;
    - (b) The owner's desire to use the unit for personal family use or for a purpose other than use as residential rental unit; or
    - (c) A business or economic reason for terminating the tenancy (such as sale of the property, renovation of the unit, the owner's desire to rent the unit for a higher rent).
- e. Eviction by court action. The owner may only evict a tenant by a court action.
- f. Owner notice of grounds
  - (1) At or before the beginning of a court action to evict a tenant, the owner must give the tenant a notice that specifies the grounds for termination of tenancy. This notice may be included in or combined with any other eviction notice.
  - (2) The owner must give the PHA a copy of any other eviction notice at the same time the owner notifies the tenant.
  - (3) Eviction notice means a notice to vacate, or a complaint or other initial pleading used to begin an eviction action under State or local law.
- 9. Lease: Relation to HAP Contract
 

If the HAP contract terminates for any reason, the lease terminates automatically.
- 10. PHA Termination of Assistance
 

The PHA may terminate program assistance for the family on any grounds authorized in accordance with HUD requirements. If the PHA terminates program assistance for the family, the lease terminates automatically.
- 11. Family Move Out
 

The tenant must notify the PHA and the owner before the family moves out of the unit.
- 12. Security Deposit
  - a. The owner may collect a security deposit from the tenant. (However, the PHA may prohibit the owner from collecting a security deposit in excess of private market practice, or in excess of amounts charged by the owner to other tenants. Any such PHA-required restriction must be included in the HAP contract.)

When the family moves out of the contract unit, the owner, subject to State and local law, must return the security deposit, including any interest on the deposit, as reimbursement for any unpaid rent payable by the tenant, any damages to the unit or any other amounts that the tenant owes under the lease.

- c. The owner must give the tenant a list of all items charged against the security deposit, and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must promptly refund the full amount of the unused balance to the tenant.
- d. If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may collect the balance from the tenant.

### 13. Prohibition of Discrimination

In accordance with applicable equal opportunity statutes, Executive Orders, and regulations, the owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status or disability in connection with the lease.

### Conflict with Other Provisions of Lease

- a. The terms of the tenancy addendum are prescribed by HUD in accordance with Federal law and regulation, as a condition for Federal assistance to the tenant and tenant's family under the Section 8 voucher program.
- b. In case of any conflict between the provisions of the tenancy addendum as required by HUD, and any other provisions of the lease or any other agreement between the owner and the tenant, the requirements of the HUD-required tenancy addendum shall control.

### 15. Changes in Lease or Rent

- a. The tenant and the owner may not make any change in the tenancy addendum. However, if the tenant and the owner agree to any other changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must be in accordance with the requirements of the tenancy addendum.
- b. In the following cases, tenant-based assistance shall not be continued unless the PHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner:
  - (1) If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
  - (2) If there are any changes in lease provisions governing the term of the lease;
  - (3) If the family moves to a new unit, even if the unit is in the same building or complex.
- c. PHA approval of the tenancy, and execution of a new HAP contract, are not required for agreed changes in the lease other than as specified in paragraph b.
- d. The owner must notify the PHA of any changes in the amount of the rent to owner at least sixty days before any such changes go into effect, and the amount of the rent to owner following any such agreed change may not exceed the reasonable rent for the unit as most recently determined or redetermined by the PHA in accordance with HUD requirements.

### 16. Notices

Any notice for the lease by the tenant to the owner or by the owner to the tenant must be in writing.

### 17. Definitions

**Contract unit.** The housing unit rented by the tenant with assistance under the program.

**Family.** The persons who may reside in the unit with assistance under the program.

**HAP contract.** The housing assistance payments contract between the PHA and the owner. The PHA pays housing assistance payments to the owner in accordance with the HAP contract.

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**Housing quality standards (HQS).** The HUD minimum quality standards for housing assisted under the Section 8 tenant-based programs.

**HUD.** The U.S. Department of Housing and Urban Development.

**HUD requirements.** HUD requirements for the Section 8 program. HUD requirements are issued by HUD headquarters, as regulations, Federal Register notices or other binding program directives.

**Lease.** The written agreement between the owner and the tenant for the lease of the contract unit to the tenant. The lease includes the tenancy addendum prescribed by HUD.

**PHA.** Public Housing Agency.

**Premises.** The building or complex in which the contract unit is located, including common areas and grounds.

**Program.** The Section 8 housing choice voucher program.

**Rent to owner.** The total monthly rent payable to the owner for the contract unit. The rent to owner is the sum of the portion of rent payable by the tenant plus the PHA housing assistance payment to the owner.

**Section 8.** Section 8 of the United States Housing Act of 1937 (42 United States Code 1437f).

**Tenant.** The family member (or members) who leases the unit from the owner.

**Voucher program.** The Section 8 housing choice voucher program. Under this program, HUD provides funds to an PHA for rent subsidy on behalf of eligible families. The tenancy under the lease will be assisted with rent subsidy for a tenancy under the voucher program.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

vs.

ROBERT EDMISTON and ROBIN  
LEARISH,  
Defendants

CIVIL ACTION

NO. 2005 - 78 - C.D.

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COPY

Deposition of : MARY ANN WARD  
Date : Friday; September 8, 2006  
11:30 a.m.  
Place : Law Offices of  
HANAK GUIDO & TALADAY  
3 South Brady Street; Suite 238  
DuBois, PA 15801  
Reported By : Jan M. Merritt  
Court Reporter&Notary Public

APPEARANCES:

SAMUEL COHEN, Esquire  
appeared on behalf of Plaintiffs

MATTHEW TALADAY, Esquire  
appeared on behalf of Defendants

TERRANCE HENNE, Esquire  
Appeared on behalf of Mary Ward

SCHREIBER REPORTING SERVICES  
P.O. BOX 997  
St. Marys PA 15857  
(814) 834-5337

**INDEX OF WITNESS, MARY ANN WARD**

Direct	Cross	Redirect	Recross
3 (Cohen)	25 (Taladay) 26 (Henne)	26 (Cohen) 27 (Cohen)	

**INDEX OF EXHIBITS****Description****Marked**

1 MARY ANN WARD, called as a witness,  
2 was sworn and examined, testified on her oath as follows:

3 DIRECT EXAMINATION

4 BY MR. COHEN:

5 Q. Good morning.

6 A. Good morning.

7 Q. Would you please tell us your full name and your  
8 residence address?

9 A. Mary Ann Ward. 7 Rumbarger Avenue; DuBois,  
10 Pennsylvania 15801.

11 Q. Okay. Is Mary Ann one word or two?

12 A. Two words.

13 Q. E at the end of Ann?

14 A. Just A-N-N.

15 Q. Okay. Would you prefer Miss, Mrs., Ms., or some  
16 other name?

17 A. Mary is fine.

18 Q. Mary, my name is Sam Cohen and I represent Richard  
19 and Debra Reed in a claim for personal injuries arising out of  
20 an accident that occurred on February 9, 2003. We are going  
21 to be asking you some questions here today.

22 A. Okay.

23 Q. If at any point you can't hear me, just tell me and  
24 I'll speak more loudly. This is usually the tone and the  
25 level of which I ask questions. Is that okay for you to hear

1 me?

2 A. Uh-huh, that's fine.

3 Q. Good. If I ask you a question you don't understand  
4 in some way or another because of a word that I use or the  
5 whole question is discombobulated or stupid, just say I'm  
6 sorry, I didn't understand that question, and I will be glad  
7 to rephrase it or restate it or change a word around or  
8 whatever I can do to help you understand. All right?

9 A. Okay.

10 Q. If you answer a question, I'll assume you heard it  
11 and you understood it and the answer you're giving us today is  
12 the best of your knowledge, understanding, and belief under  
13 oath. All right?

14 A. Okay.

15 MR. HENNE: Sam, before you start, I just want to  
16 put something on the record. You are taking the deposition of  
17 Mary Ward here today pursuant to a Notice of Oral Deposition  
18 that you filed; is that correct?

19 MR. COHEN: Yes, that's correct.

20 MR. HENNE: For the record, you filed that Notice of  
21 Oral Deposition at No. 2005 dash 1658 CD, which is the civil  
22 division, of Clearfield County. And you list in the caption  
23 Richard Niven Reed versus Mary Ward.

24 MR. COHEN: Right.

25 MR. HENNE: You filed the lawsuit against my client

1 at No. 2005 dash 1658. That's the Reply in New Matter where  
2 you also include Mary Ward, but the original complaint is  
3 filed at -- hold on here. Off the record.

4 (Off-the-record discussion.)

5 MR. HENNE: On the record, the original filed  
6 lawsuit that you had filed for Richard Niven Reed and Debra  
7 Alice Reed against Robert Edmiston and Robin Learish was  
8 located at Clearfield County Common Pleas at No. 05 dash 78  
9 dash CD.

10 MR. COHEN: Right.

11 MR. HENNE: I just wanted to make that clear.

12 MR. COHEN: Okay. We will take the deposition under  
13 that number and that way everyone will be fine. Off the  
14 record.

15 MR. HENNE: Thank you.

16 MR. COHEN: And while we're -- off the record.

17 (Off-the-record discussion.)

18 BY MR. COHEN:

19 Q. Now we'll go back on the record. Mary, how long  
20 have you lived at the Rumbarger address?

21 A. Two years and five months.

22 Q. Okay.

23 A. Towards the end of April I believe is when I moved  
24 in. Sometime in April.

25 Q. April of '03?

1 A. Yes.

2 Q. Before that where did you live?

3 A. 514 South Main; DuBois, Pennsylvania 15801.

4 Q. Okay. When did you move to that address?

5 A. It was in 1990 something.

6 Q. That's fine. And you had lived there continuously  
7 until April of 2003?

8 A. Yes.

9 Q. Okay. With whom or who else lived at the 514 South  
10 Main Street address during the time that you lived there?

11 A. My three daughters.

12 Q. Okay. What are their names?

13 A. Jeana, Misty, and Kristen.

14 Q. And are all their last names Ward?

15 A. No.

16 Q. What are their last names?

17 A. Jeana is Ward, or was Ward at the time. Misty is  
18 Gelnett, and Kristen is O'Connor.

19 Q. What's Jeana's date of birth?

20 A. 2-8-82.

21 Q. Misty?

22 A. 7-26-87.

23 Q. And Kristen?

24 A. 9-29 of '92.

25 Q. All right. During the time you lived at 514 South



1 Main Street, did anyone else reside at that address?  
 2 A. No.  
 3 Q. Okay. Did you have any people who regularly stayed  
 4 overnight at that address?  
 5 A. No.  
 6 Q. Other than the children?  
 7 A. No.  
 8 Q. What is your present marital status?  
 9 A. I'm divorced.  
 10 Q. When did you get divorced?  
 11 A. In '87.  
 12 Q. Have you lived with anyone besides your daughters  
 13 since 1987?  
 14 A. When I lived at 514 South Main Street, no.  
 15 Q. How about at any time?  
 16 A. Yes.  
 17 Q. When was that?  
 18 A. My fiancée and I moved into our house on 7 Rumbarger  
 19 Avenue.  
 20 Q. Okay. Was that in April of '03?  
 21 A. Pardon me?  
 22 Q. Was that in April of 2003 you moved into that  
 23 address?  
 24 A. Yes.  
 25 Q. Did your fiancée ever reside with you at the 514

1 Main Street address?  
 2 A. No.  
 3 Q. How many bedrooms are there at the 514 South Main  
 4 Street address?  
 5 A. Three.  
 6 Q. How many entryways are there?  
 7 A. Two.  
 8 Q. Now it's my understanding that you had a lease for  
 9 that address.  
 10 A. Yes.  
 11 Q. Okay. How many leases did you sign for that  
 12 address, the 514 South Main?  
 13 A. There was one through Robin. And I was on the  
 14 Section VIII program, so then I had a lease with Robin for  
 15 like the month and then Section VIII took over and -- well,  
 16 until I moved.  
 17 Q. When Section VIII took over, did you get a new  
 18 lease?  
 19 A. Through the housing authority.  
 20 Q. Through the housing authority?  
 21 A. Yes.  
 22 Q. Was it a formal housing authority lease?  
 23 A. Yes.  
 24 Q. How long was that lease, how many pages?  
 25 A. Oh, I don't know.

1 South Main Street address?  
 2 A. No.  
 3 Q. Did he ever spend nights at the 514 South Main  
 4 Street address?  
 5 A. Yes.  
 6 Q. How many nights during the course of a month would  
 7 you estimate he stayed with you at the 514 South Main Street  
 8 address during the year 2003?  
 9 A. He worked nights, so, on his days off.  
 10 Q. Okay, how many days?  
 11 A. Two, two a week, which would be his days off.  
 12 Q. Okay. And what is your fiancée's name?  
 13 A. Robert Vinton.  
 14 Q. Not related to the singer?  
 15 A. No.  
 16 Q. When did Jeana get married?  
 17 A. Oh, my gosh. December 15th.  
 18 Q. Of what year?  
 19 A. Holy cow. I don't remember.  
 20 Q. Did she get married before or after you left the 514  
 21 South Main Street address?  
 22 A. Before.  
 23 Q. What's Jeana's husband's name?  
 24 A. Joseph Porrin.  
 25 Q. Did Joseph ever spend any nights at the 514 South

1 Q. When was the first lease signed?  
 2 A. I don't remember.  
 3 Q. Okay, when was the second lease signed?  
 4 A. About a month or so after the first one.  
 5 Q. Did you pay your rent to Robin directly?  
 6 A. For the first month, yeah.  
 7 Q. After that?  
 8 A. Well, the housing authority would pay so much on the  
 9 Section VIII program, then I would pay the rest.  
 10 Q. To whom would you pay the rest?  
 11 A. To Robert Edmiston.  
 12 Q. Did you ever read the lease, the second lease, that  
 13 was given to you?  
 14 A. I glanced through it.  
 15 Q. Ms. Ward, I'm going to show you a rental agreement  
 16 that was provided to me by Mr. Taladay who is the attorney for  
 17 Mr. Edmiston and Miss Learish.  
 18 (Documents passed to counsel and witness for review.)  
 19 MR. HENNE: Would you want to mark it for the  
 20 record?  
 21 BY MR. COHEN:  
 22 Q. It's attached as Exhibit A to the Answer in New  
 23 Matter filed by Attorney Taladay on behalf of his clients,  
 24 Mr. Edmiston and Miss Learish. Is that rental agreement the  
 25 first or the second agreement that you signed?

1 A. I don't know.  
 2 (Documents reviewed by witness.)  
 3 Q. Would the date up there help you?  
 4 A. No. The first page, if it was the second one, the  
 5 first page would have like a housing authority thing.  
 6 Q. Which this does not have?  
 7 A. No.  
 8 Q. Okay. So this is a rental agreement dated 8-3 of or  
 9 6-3 of '99. Let me see if I can find that.  
 10 (Documents reviewed by counsel.)  
 11 Q. It's difficult to read the date there, but it has  
 12 children ages 17, 12, and -- I'm not sure if that's a 21 or  
 13 not. So if we are dealing with someone who was 17, it would  
 14 have been --  
 15 A. That would have been my oldest daughter.  
 16 Q. Right. So looks like either 8-3 or 6-3 of '99. And  
 17 the beginning date is 8-3 of '99. And you are saying this is  
 18 the first lease that you signed?  
 19 A. Yes.  
 20 Q. Then there was a second lease that was signed  
 21 subsequently; correct?  
 22 A. It was so that I could get financial assistance for  
 23 the rent through the housing authority.  
 24 Q. Right. Okay. Was that a lease in and of itself or  
 25 was that something different?

1 Q. You can't ask Miss Learish for help. The problem  
 2 here is it's like a test; if you don't remember, just tell me  
 3 you don't remember. If you don't know, tell me you don't  
 4 know. They are both perfectly fine. I'm not suggesting any  
 5 answers here, okay? You were saying something about mowing  
 6 the lawn. Do you remember ever having a conversation about  
 7 mowing the lawn with Robin?  
 8 A. Yes.  
 9 Q. Was there any discussion in that conversation about  
 10 snow or ice removal?  
 11 A. It is possible. Probably, yes.  
 12 Q. When you say probably, why do you say probably?  
 13 A. Because I don't remember.  
 14 Q. Then if you don't really remember -- you are under  
 15 oath here to tell us the truth, ma'am. If you don't really  
 16 remember, say I don't remember. I don't want you guessing at  
 17 anything. I don't want you to hypothesize on anything. All I  
 18 want you to do is tell us the truth as best you remember it.  
 19 That's all we ask of you. Okay? Don't guess at anything.  
 20 A. Okay.  
 21 Q. Did anyone ever render any criticism to you as to  
 22 how the snow and ice was removed from your sidewalk --  
 23 A. No.  
 24 Q. -- during the time at 514 South Main Street?  
 25 A. No.

1 A. I think -- I'm not sure.  
 2 Q. Did the lease that you were given, either of them,  
 3 did they have any prohibitions with regard to ice or snow  
 4 removal?  
 5 A. I shoveled my sidewalks and mowed my grass. So --  
 6 Q. Was that included as part of the lease or was that  
 7 something you voluntarily did?  
 8 A. If I didn't do it, nobody would, so I did it.  
 9 Q. Do you have any knowledge as to whether there was  
 10 any provision about snow removal in the lease itself, in  
 11 either lease that you signed?  
 12 A. I don't remember.  
 13 Q. Okay. Did anyone ever speak to you about removing  
 14 ice and snow from the 514 South Main Street address?  
 15 A. I don't understand.  
 16 Q. Did Mr. Edmiston or Miss Learish or anyone else ever  
 17 say it's your responsibility to remove snow and ice from your  
 18 sidewalk at 514 South Main Street?  
 19 A. It's possible. Probably.  
 20 Q. Okay. Who was that?  
 21 A. That would have been Robin because I don't think I  
 22 have ever talked to --  
 23 Q. When did that conversation occur?  
 24 A. I know you had said something about mowing the grass  
 25 when you were showing me the house.

1 Q. To your knowledge did anyone come and inspect the  
 2 sidewalk at 514 South Main Street after a snow or ice event to  
 3 check whether the sidewalk had been cleared?  
 4 A. Not that I know of.  
 5 Q. Okay. Did anyone ever remind you of any obligations  
 6 under the lease in terms of mowing the lawn or snow or ice  
 7 removal?  
 8 A. No.  
 9 Q. When was it your understanding you were supposed to  
 10 remove ice and snow from your sidewalk?  
 11 A. First time it snowed.  
 12 Q. Okay. Do you have any knowledge of DuBois rules,  
 13 regulations, ordinances, or anything else, about snow or ice  
 14 removal?  
 15 A. Yes.  
 16 Q. What does that provide?  
 17 A. You have to have your sidewalk shoveled after it  
 18 snows.  
 19 Q. Did it give you a time period?  
 20 A. I don't know.  
 21 Q. How long after the snow or ice would you shovel your  
 22 sidewalk?  
 23 A. Usually after I got home from work.  
 24 Q. What time would that be?  
 25 A. Between -- around 4:00, give or take a few. 5:00 if

1 I had to work over.

2 Q. Okay. Would there ever be a time when you would not  
3 -- was there ever a time back in 2003 when you did not shovel  
4 your snow and ice from your sidewalk the day it snowed or  
5 iced?

6 A. It's quite possible. If the kids had to go  
7 someplace right when I got off work and I didn't have time,  
8 yes.

9 Q. And what was the longest it would go after it snowed  
10 or iced before you would remove ice or snow?

11 A. Whenever. If I had to take the girls to the  
12 doctor's or something and I would come home, I would do it as  
13 soon as I -- because I lived on -- we parked on the hill and I  
14 had to walk down the sidewalk. So -- and the neighbors never  
15 shoveled the sidewalk, so I did theirs too.

16 Q. Did you ever miss shoveling your sidewalk for a day  
17 or two after it snowed?

18 A. It's quite possible.

19 Q. Three days after it snowed?

20 A. No.

21 Q. Never three days?

22 A. No.

23 Q. Mary, have you ever had a conversation with me?

24 A. No.

25 Q. Have I ever called you on the telephone?

1 house --

2 A. Uh-huh.

3 Q. -- did you do that in a conversation or did you  
4 leave her a note?

5 A. No, I talked to her.

6 Q. Was it a face to face conversation?

7 A. On the phone. She gave me her phone number.

8 Q. Did she identify herself to you?

9 A. I assumed it was her home phone.

10 Q. Did she say who she was?

11 A. In the letter?

12 Q. In the note or during the telephone conversation.

13 A. Yes. Well, I had asked for her. I think her  
14 daughter or somebody answered the phone.

15 Q. Who did you ask for?

16 A. For Lisa. I think that's her name.

17 Q. Did you ever have any conversation with anyone named  
18 Reed?

19 A. That's her name, Lisa Reed.

20 Q. Okay. Is that the person who you spoke with, Lisa  
21 Reed?

22 A. I'm sorry, yes.

23 Q. Did you ever tell her that you leased the house?

24 A. I told her that I rented, yes. I told her I didn't  
25 own the house, I just rented it.

1 A. I don't think so.

2 Q. Have you ever had a conversation with anyone other  
3 than your own lawyer here about what your address was and  
4 getting service of some legal papers?

5 A. I don't think so.

6 Q. Okay. Have you ever denied to anyone that you  
7 resided at 514 South Main Street in DuBois?

8 A. No.

9 Q. To the best of your knowledge, has Mr. Vinton ever  
10 had a conversation with me?

11 A. Not that I know of.

12 Q. To your knowledge has Mr. Vinton ever denied that  
13 you resided at 514 South Main Street?

14 A. No.

15 Q. We are here today about an accident that occurred on  
16 February 9th of 2003. When did you first become aware, if  
17 ever, of that accident?

18 A. I don't remember the date. But the paper lady had  
19 left a note in my mail box, wanting my homeowner's insurance  
20 policy numbers and stuff. And that's when I told her I didn't  
21 own the house.

22 Q. Okay. And you told her you didn't have insurance?

23 A. I didn't say I had -- she just asked for my  
24 homeowner's policy numbers.

25 Q. Okay. And when you told her that you didn't own the

1 Q. What else was said during that conversation? As  
2 much of it as you can remember.

3 A. She had said that her husband had fell and hurt his  
4 ankle and that she needed my homeowner's, whatever it's  
5 called. And that's when I told her that I didn't own the  
6 house, I just rented it.

7 Q. Did you ever tell her anything about having any kind  
8 of renter's insurance?

9 A. No. I didn't think renter's insurance covered stuff  
10 like that.

11 Q. What else did she tell you and what did you tell  
12 her? I want to know as much of that conversation as you can  
13 possibly tell me.

14 A. I don't know. That's all I remember.

15 Q. Okay. Did you ask her why she wanted to know that  
16 information?

17 A. She had told me her husband slipped and fell.

18 Q. Did she tell you what his injuries were?

19 A. That he hurt his leg, but I don't know anything  
20 else.

21 Q. Did you apologize to her or say anything like that?

22 A. Oh, yes. I felt terrible.

23 Q. Did she ask you about why the sidewalk had not been  
24 shoveled?

25 A. I don't think so.

1 Q. Did you ask her wasn't the sidewalk shoveled or  
2 something like that?

3 A. No.

4 Q. Did she tell you he had fallen because of snow or  
5 ice?

6 A. I really can't -- I don't know.

7 Q. Was there any conversation about what caused him to  
8 fall?

9 A. No.

10 Q. Did she say that she thought you were responsible?

11 A. I assumed she did because she wanted my homeowner's  
12 policy number. We didn't talk for very long.

13 Q. Did you tell her that you were a renter? Or did you  
14 say I don't own this place, I only live here?

15 A. No, I told her I didn't own it, I rented it.

16 Q. Did you ever speak with Mr. Reed?

17 A. I don't think so.

18 Q. Was there ever a time when you would go out and the  
19 ice was so thick that you couldn't shovel?

20 A. I don't think so. Well, we did have bad ice storms.  
21 It would take a while to get through it, but --

22 Q. How long would a while be?

23 A. Oh gosh, probably all day.

24 Q. A full day?

25 A. Yeah.

1 Q. Was there ever a time when you would throw something  
2 like sand or salt on the top of the ice?

3 A. Yes, usually. I usually had regular salt for  
4 sidewalks.

5 Q. Would you throw that directly on top of the ice or  
6 would you shovel first, then put it down?

7 A. I shoveled snow first, then I put it down.

8 Q. Would you put it down on top of ice or on top of the  
9 sidewalk itself?

10 A. If there was ice on top of the snow. If not, I put  
11 it on the sidewalk so ice wouldn't -- so it wouldn't freeze.

12 Q. The sidewalk in front of 514 South Main Street, is  
13 there any space between the sidewalk and the curb?

14 A. No. No, it's like five feet of sidewalk.

15 Q. There is no grass strip or anything like that  
16 between the sidewalk and the curb?

17 A. No.

18 Q. That's correct?

19 A. Yes.

20 Q. Was there -- what's your date of birth, please?

21 A. 4-21 of 1962.

22 Q. And during what period of your life did you live in  
23 DuBois?

24 A. When I moved into the 514.

25 Q. Where did you spend your childhood?

1 A. In Falls Creek.

2 Q. Have you always lived in this general area of  
3 Pennsylvania?

4 A. Yes.

5 Q. Other than that one telephone call before you --  
6 strike that. Other than that one telephone call, did you ever  
7 have any other discussions with anyone concerning this  
8 incident other than your attorney and me today?

9 A. Huh-uh.

10 Q. No?

11 A. No.

12 Q. Did you ever discuss it with Robin or Mr. Edmiston?

13 A. No.

14 Q. Did you ever receive any citations from the DuBois  
15 police about your sidewalk?

16 A. One time. When he fell, they had somebody come out  
17 and look, and everybody in the area got one.

18 Q. Got one what?

19 A. A reminder that their sidewalks are supposed to be  
20 shoveled after snow falls.

21 Q. And you got one of those?

22 A. Everybody did, yeah.

23 Q. What did it say?

24 A. That you are supposed to, you know -- okay, that  
25 would have had a time on it. You are supposed to have so much

1 time to shovel sidewalks after it snows. I don't know the  
2 time though.

3 Q. Okay. Did you get that notice before or after you  
4 had the conversation about the homeowners' insurance?

5 A. Probably after.

6 Q. Did you ever talk to your insurance company about  
7 this matter?

8 A. Not until I got the letter in the mail saying they  
9 were going to sue me.

10 Q. Do you know anything about what the condition of  
11 your sidewalk was on February 9, 2003?

12 A. No.

13 Q. How about on February 8, 2003?

14 A. That was my daughter's birthday, so --

15 Q. What was the condition of your sidewalk on  
16 February 8, 2003?

17 A. Well, if it had snowed, I would have shoveled it for  
18 the party, for everybody to come. So -- I don't know if it  
19 was --

20 Q. Did you have a party at your home on February 8,  
21 2003?

22 A. Yes.

23 Q. That was a while back.

24 A. Yes.

25 Q. But who came to the party?

1 A. My mother would have.  
 2 Q. What's her name?  
 3 A. Shirley Louise Smith.  
 4 Q. Where does she live?  
 5 A. She lives in Falls Creek.  
 6 Q. What's Mrs. Smith's phone number?  
 7 A. 371-4270.  
 8 Q. Who else?  
 9 A. My other two daughters would have been there.  
 10 Q. Okay.  
 11 A. I don't know if any of my brothers came or not. I  
 12 don't know.  
 13 Q. How about school friends of the girls?  
 14 A. Oh, man. I don't know.  
 15 Q. How about cousins of the girls?  
 16 A. No. They live in Pittsburgh.  
 17 Q. Did your mother ever complain about the condition of  
 18 your sidewalk?  
 19 A. No.  
 20 Q. Never, ever?  
 21 A. My mother is an invalid. I have to have the  
 22 sidewalks cleared for her to go down the sidewalk.  
 23 Q. She use a wheelchair?  
 24 A. Yes. Now she does, yes.  
 25 Q. How about back then?

1 A. No.  
 2 Q. What did she use for assistance?  
 3 A. She used a walker.  
 4 Q. Is there any way of getting into the house other  
 5 than from the street, Main Street?  
 6 A. The back sidewalk. Well, we would drop Mom off at  
 7 the front because the hill is too steep for her to walk down.  
 8 So she would come from Main Street up to the house.  
 9 Q. Who would -- would she drive herself?  
 10 A. No.  
 11 Q. Who would bring her?  
 12 A. I would.  
 13 Q. And did you bring her the day before?  
 14 A. Most likely, yes. My mother doesn't have a license.  
 15 Q. Before February 9, 2003, to your knowledge had  
 16 anyone previously fallen on your sidewalk?  
 17 A. Not that I know of.  
 18 Q. After February 9, 2003, to your knowledge did anyone  
 19 other than Mr. Reed fall on your sidewalk?  
 20 A. No one that -- not that I know of.  
 21 Q. On February 9, 2003, to your knowledge did anyone  
 22 other than Mr. Reed fall on your sidewalk?  
 23 A. Not that I know of.  
 24 Q. That's all the questions I have at this time. Thank  
 25 you.

1 CROSS EXAMINATION  
 2 BY MR. TALADAY:  
 3 Q. Mary, am I correct in my understanding that during  
 4 the time, the entire time you lived at 514 South Main Street  
 5 it was your belief you were responsible for removing snow and  
 6 ice from the sidewalks?  
 7 A. I shoveled it, yes.  
 8 Q. At any time did either Mr. Edmiston or Miss Learish  
 9 indicate that they had any responsibility for snow and ice  
 10 removal?  
 11 A. I don't think so.  
 12 Q. At any time while you resided at 514 South Main  
 13 Street in fact did anybody other than you remove snow and ice?  
 14 A. You could probably count it on one hand, but no.  
 15 Q. Those times you could count on one hand, who would  
 16 have done that?  
 17 A. Well, if I could have got one of the kids to go out,  
 18 but it was me.  
 19 Q. I guess my question is during that time period did  
 20 either Mr. Edmiston, Miss Learish, or someone they hired,  
 21 shovel your sidewalks?  
 22 A. No.  
 23 Q. And did I hear you correctly when you said you tried  
 24 to conscientiously get to your sidewalks as soon as you could  
 25 after a snow and ice event?

1 A. Yes.  
 2 Q. Did I hear you say it was never more than two days  
 3 after that event that you would have had those sidewalks  
 4 cleared to the best of your ability?  
 5 A. Yes.  
 6 Q. Thanks. That's all the questions I have.  
 7 MR. COHEN: Let me follow up on one thing.  
 8  
 9 REDIRECT EXAMINATION  
 10 BY MR. COHEN:  
 11 Q. Other than you and your kids, did anyone ever clear  
 12 the sidewalks at 514 South Main Street?  
 13 A. No.  
 14 Q. Did anyone come around offering to do it for money?  
 15 A. No. The sidewalk is huge.  
 16 MR. TALADAY: Kids aren't as ambitious as they used  
 17 to be.  
 18 THE WITNESS: No.  
 19 MR. COHEN: That's it.  
 20 MR. HENNE: I have just a couple questions, Mary.  
 21  
 22 CROSS EXAMINATION  
 23 BY MR. HENNE:  
 24 Q. Where did you live prior to 514 South Main?  
 25 A. I lived in Reynoldsville.

1 Q. All right. What street?

2 A. On Grant Street.

3 Q. Then you lived at 514 South Main for approximately  
4 how long?

5 A. Four years.

6 Q. You lived there four years. Where did you move to  
7 after 514?

8 A. 7 Rumbarger.

9 Q. Is that in close proximity to 514 South Main?

10 A. It's one block away, yeah.

11 Q. Did you keep the same phone number and --

12 A. Yes, and kept the same paper. It's a different  
13 paper person but I continued getting the paper.

14 Q. Different paper delivery but the same paper?

15 A. Yes.

16 Q. That's all I have.

17

18 FURTHER REDIRECT EXAMINATION

19 BY MR. COHEN:

20 Q. Mary, did you ever offer any money to the Reeds?

21 A. I tried at Christmas time, but --

22 Q. Regular tips you would pay people?

23 A. Yes.

24 Q. The money you offered to the Reeds, was it a gift  
25 for being your paper boys?

1 A. Yes.

2 Q. It wasn't in any connection with this accident, was  
3 it?

4 A. Oh, no.

5 Q. That's all.

6 MR. HENNE: We won't waive. She is going to read  
7 it.

8 (Deposition concluded at 12:19 p.m.)

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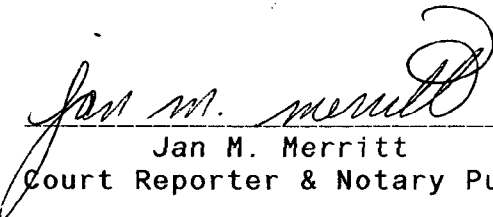
24

25

**CERTIFICATE OF COURT REPORTER**

I, Jan M. Merritt, a notary in and for the Commonwealth of Pennsylvania, do hereby certify that the witness was by me duly sworn to testify the truth, the whole truth, and nothing but the truth; that the foregoing deposition was taken at the time and place stated herein; and that the proceedings are contained fully and accurately to the best of my ability in the notes taken by me on the deposition of the above petition and that it is a correct transcript of the same.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my seal of office this 8th day of **September, 2006**.

  
Jan M. Merritt  
Court Reporter & Notary Public

NOTARIAL SEAL  
JAN M. MERRITT, Notary Public  
Ridgway Boro, Elk County, PA  
My Commission Expires September 5, 2009

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

vs. CIVIL ACTION

ROBERT EDMISTON and ROBIN  
LEARISH,  
Defendants

NO. 2005 - 78 - C.D.

Deposition of : ROBIN L. LEARISH

Date : Friday; September 8, 2006  
12:21 p.m.

Place : Law Offices of  
HANAK GUIDO & TALADAY  
3 South Brady Street  
Suite 238  
DuBois, PA 15801

Reported By : Jan M. Merritt  
Court Reporter & Notary Public

APPEARANCES:

SAMUEL COHEN, Esquire  
appeared on behalf of Plaintiffs

MATTHEW TALADAY, Esquire  
appeared on behalf of Defendants

TERRANCE HENNE, Esquire  
Appeared on behalf of Mary Ward

SCHREIBER REPORTING SERVICES  
P.O. BOX 997  
St. Marys PA 15857  
(814) 834-5337

ROBIN LEARISH, called as a witness,  
was sworn and examined, testified on her oath as follows:

DIRECT EXAMINATION

BY MR. COHEN:

Q. Good afternoon.

A. Good afternoon.

Q. Would you prefer Miss, Mrs., Ms., or something else?

A. Robin.

Q. Okay. Robin, you were here when everyone was  
deposed so far, correct?

A. Correct.

Q. Did you hear the instructions I gave to Mary Ward  
before her deposition?

A. Tell me again.

Q. Okay. I don't -- you know, I talk at this level  
generally, and if you can hear me at this level it is the  
level I'll rather prefer to speak at. Is that okay?

A. Yes.

Q. If you cannot hear me at any time, just tell me that  
and I will be glad to speak more loudly.

A. Okay.

Q. Please don't answer any questions you don't  
understand fully. If I use a word or phrase or ask you a  
question that you don't understand completely, don't try to  
answer it. Just say Sam, I didn't understand that word, that

INDEX OF WITNESS, ROBIN LEARISH

Direct	Cross	Redirect	Recross
3 (Cohen)			

INDEX OF EXHIBITS

Description	Marked
1. Handwritten note, dated 2-1-06	17

COPY

phrase, that question, whatever, and I'll be glad to repeat or  
rephrase it or anything else I can to help you understand.

All right?

A. Yes.

Q. If you don't know the answer or don't remember the  
answer to a question, those are perfectly acceptable answers.

Okay?

A. Okay.

Q. If you answer a question, I'll assume you heard it  
and understood it and the answer you are giving us today is  
the best of your knowledge and belief under oath. All right?

A. Yes.

Q. Good. Are you presently taking any drugs or  
medications that impair your ability to hear my questions,  
answer them, or otherwise communicate?

A. No, I'm not.

Q. If you need to take a break for any reason, for  
personal reasons, or to talk with your counsel, Mr. Taladay,  
feel free to do so.

A. Okay.

Q. What is your full name and address, please?

A. Robin Leslie Learish. 375 Platt Road; DuBois,  
Pennsylvania.

Q. Are you married, single, widowed, divorced?

A. Divorced.



1 Q. Your date of birth?  
 2 A. 8-15, 1961.  
 3 Q. Any kids?  
 4 A. Yes, two.  
 5 Q. And what are their names?  
 6 A. Kendra Learish, Cody Learish.  
 7 Q. And what's Kendra's date of birth?  
 8 A. 12-28-80.  
 9 Q. She still live at home?  
 10 A. Does not.  
 11 Q. Okay. And Cody?  
 12 A. 8-16-88.  
 13 Q. He still at home?  
 14 A. Yes.  
 15 Q. Do you work outside of the home?  
 16 A. On the rentals.  
 17 Q. On the rentals?  
 18 A. Uh-huh.  
 19 Q. How many rentals do you work on?  
 20 A. How should I answer that? 15 houses.  
 21 Q. Do you own, manage, both?  
 22 A. Both.  
 23 Q. Okay. And how many of those properties are you an  
 24 owner?  
 25 A. All of them.

1 A. Explain that in a different way, please.  
 2 Q. Do you maintain, own, operate, possess, control,  
 3 manage or in any other ways have any responsibility for the  
 4 property located at 514 South Main Street in DuBois,  
 5 Pennsylvania?  
 6 A. Yes.  
 7 Q. When did you first have some sort of operational  
 8 relationship with 514 South Main Street?  
 9 A. I believe 1995 or '96.  
 10 Q. Did you buy that property or did you simply manage  
 11 it or other things in 1996?  
 12 A. Buy and manage.  
 13 Q. Okay. It was purchased as a rental property?  
 14 A. Correct.  
 15 Q. Who purchased it in 1996 as a rental property?  
 16 A. My father and myself.  
 17 Q. Your father's name is?  
 18 A. Robert Edmiston.  
 19 Q. All right. He is seated here to your right?  
 20 A. Correct.  
 21 Q. Was this the first property that you owned?  
 22 A. No.  
 23 Q. Okay. Was it the first investment property that you  
 24 owned?  
 25 A. No.

1 Q. Okay. And you manage all of them also?  
 2 A. Yes.  
 3 Q. And are they all in DuBois or are they in other  
 4 places?  
 5 A. They are in DuBois.  
 6 Q. For how long have you owned properties in DuBois?  
 7 A. 1999? '96? I'm not sure.  
 8 Q. Sometime between 1996 and 1999?  
 9 A. Yes.  
 10 Q. Okay. And before that, did you have any training in  
 11 real estate property management?  
 12 A. Before what?  
 13 Q. Before 1996.  
 14 A. No.  
 15 Q. Have you ever gotten any training in real estate  
 16 property management other than on the job?  
 17 A. No.  
 18 Q. How far did you go in school?  
 19 A. I went to one year of college.  
 20 Q. Which one was that?  
 21 A. Penn State.  
 22 Q. Here in DuBois or State College?  
 23 A. DuBois.  
 24 Q. Have you ever had an interest in the property  
 25 located at 514 South Main Street here in DuBois?

1 Q. At the time you acquired 514 South Main Street how  
 2 many rental properties did you own?  
 3 A. I don't remember.  
 4 Q. Was it more or less than five?  
 5 A. I don't know.  
 6 Q. It's my understanding that at some point -- strike  
 7 that. Who was the first tenant that you had at 514 South  
 8 Main?  
 9 A. I don't remember.  
 10 Q. Did Mary Ward ever become a tenant at 514 South Main  
 11 Street?  
 12 A. Yes.  
 13 Q. When did Mary become a tenant?  
 14 A. In the '90s sometime?  
 15 Q. Mr. Taladay provided to us as part of his Answer  
 16 with New Matter a document reflecting a rental date in August  
 17 of 1999.  
 18 A. Uh-huh.  
 19 Q. Would that be in accord with your recollection?  
 20 A. Yes.  
 21 Q. Okay. Miss Ward testified that there were two  
 22 leases signed in short succession to one another. Is that  
 23 consistent with your understanding as well?  
 24 A. I don't remember.  
 25 Q. Okay. I'm going to show you a document attached as

1 Exhibit A, marked Rental Agreement, to the Answer and New  
 2 Matter which Mr. Taladay filed on your behalf.  
 3 (Document passed to counsel and witness for review.)  
 4 Q. Do you recognize that document?  
 5 A. Yes.  
 6 Q. What is that document?  
 7 A. That is a rental agreement.  
 8 Q. Between whom and whom?  
 9 A. Between Mary Ward and Robert Edmiston.  
 10 Q. Back in August of 1999, did you have an interest in  
 11 that property as well?  
 12 A. Yes.  
 13 Q. Were you co-owners with Mr. Edmiston?  
 14 A. Yes.  
 15 Q. Are you familiar with the provisions of Section VIII  
 16 housing from a landlord's?  
 17 A. From a landlord?  
 18 Q. Standpoint. A landlord's standpoint.  
 19 A. A little.  
 20 Q. Is there a form that's used for landlords in Section  
 21 VIII housing?  
 22 A. A form? Meaning what?  
 23 Q. A form between a landlord and tenant in Section VIII  
 24 housing.  
 25 A. Yes.

1 Q. Is this document that's attached as Exhibit A that  
 2 form?  
 3 A. No.  
 4 Q. Was there such a form signed involving 514 South  
 5 Main Street and Mary Ward?  
 6 A. I don't remember.  
 7 Q. I would appreciate it if you would look for that and  
 8 if there is such a document, the same be supplied to us.  
 9 MR. TALADAY: We will do so.  
 10 MR. COHEN: Thank you.  
 11 MR. TALADAY: That is, of course, if it is in our  
 12 possession, custody, and control.  
 13 BY MR. COHEN:  
 14 Q. Are you, as a landlord, mandated by Section VIII to  
 15 maintain copies of agreements between you and tenants under  
 16 Section VIII housing?  
 17 A. Not that I am aware of.  
 18 Q. This agreement has a provision that says if the  
 19 tenant is on HUD, the landlord will make the unit to HUD  
 20 specifications. If it is impossible for the unit to become  
 21 HUD approved, the tenant will not be bound to this lease. Is  
 22 this HUD Section VIII?  
 23 A. Correct.  
 24 Q. Was there anything that had to be done to this  
 25 premises in order to make it HUD compliant?

1 A. I don't remember.  
 2 Q. If there were something that needed to be done,  
 3 would a record have been kept of that?  
 4 A. By whom?  
 5 Q. By you.  
 6 A. No.  
 7 Q. Would you have to do any certifications to HUD to  
 8 show that the premises was HUD compliant?  
 9 A. What do you mean?  
 10 Q. Any kind of a representation made to the Department  
 11 of Housing and Urban Development or any subdivision thereof  
 12 certifying that the premises is compliant with the provisions  
 13 of HUD minimum standards.  
 14 A. No.  
 15 Q. Does HUD have any requirements, to your knowledge,  
 16 relating to ice and snow removal from their premises that are  
 17 leased to tenants by landlords such as yourself?  
 18 A. I don't know.  
 19 Q. To your knowledge did you or Mr. Edmiston have any  
 20 responsibility for ice and snow removal on the sidewalk of the  
 21 premises at 514 South Main Street during the month of February  
 22 2003?  
 23 A. No. That is the tenants' responsibility.  
 24 Q. As a landlord, are you familiar with the provisions  
 25 of DuBois ordinances relating to responsibility for snow

1 removal on premises?  
 2 A. Somewhat.  
 3 Q. Are you familiar with Section 602 specifically of  
 4 the DuBois ordinances regarding responsibility for removal of  
 5 snow and ice from sidewalks?  
 6 A. Would you read it to me, please?  
 7 Q. How about if I just show it to you?  
 8 A. This whole entire thing is 602?  
 9 Q. The one marked 602.  
 10 (Document reviewed by counsel and witness.)  
 11 A. Okay.  
 12 Q. Okay. You have had an opportunity to review Section  
 13 602 now in its entirety?  
 14 A. Uh-huh.  
 15 Q. Is that a yes?  
 16 A. Uh-huh. Sorry, yes.  
 17 Q. It would be helpful if you would keep your answers  
 18 verbal rather than a sound or a nod.  
 19 A. I'm sorry. I'm tired.  
 20 Q. I'm sure you are. Okay. Were you aware of Section  
 21 602 before you just read it?  
 22 A. I believe I have read it before.  
 23 Q. When did you first read it?  
 24 A. I don't remember.  
 25 Q. Did you read it before or after the institution of

1 this lawsuit against you?

2 A. Before.

3 Q. Okay. Were you aware of this provision back in  
4 February of 2003?

5 A. Repeat that please.

6 Q. Were you aware of this provision of the DuBois  
7 ordinances before February of 2003?

8 A. I don't know.

9 Q. Have you ever been cited for a violation of the snow  
10 and ice removal provisions of the City of DuBois?

11 A. No.

12 Q. As the owner of a building, do you maintain some  
13 measure of control over it?

14 A. Meaning? What do you mean?

15 Q. As the owner of a building do you have the ability  
16 to do anything with respect to the building?

17 A. Such as?

18 Q. Such as inspect it.

19 A. Do I retain the right to inspect it?

20 Q. Yes.

21 A. Yes.

22 Q. If you find a provision of your lease being  
23 violated, do you have the ability to demand that it no longer  
24 be violated?

25 A. Yes.

1 premises?

2 A. No.

3 Q. Have you ever gone to any of your tenants' premises  
4 to check whether they were removing ice and snow from the  
5 premises as required under your lease?

6 A. If I was around the unit, I would inspect.

7 Q. How many times have you done that since you started  
8 owning properties in 1996?

9 A. I don't know.

10 Q. Did you ever do it with respect to 514 South Main  
11 Street in DuBois?

12 A. I don't remember.

13 Q. Did you ever make it a policy to check whether your  
14 tenants were complying with the laws and ordinances of DuBois,  
15 Pennsylvania?

16 A. No.

17 Q. Have you ever discovered that your tenants were not,  
18 any of your tenants, were not removing the ice and snow as  
19 your lease provides?

20 A. I have had times with different tenants in the past,  
21 yes.

22 Q. Did that ever happen with Miss Ward?

23 A. Never.

24 Q. Did you ever see a videotape that was produced to  
25 Mr. Taladay by our clients?

1 Q. Do you have the right, do you have the power to  
2 demand that a tenant comply with the provisions of your lease?

3 A. Yes.

4 Q. Okay. Provisions being, do you have the power to  
5 contract away a mandate required of you by law?

6 A. Explain that again please.

7 Q. Do you have the power to say to someone else even  
8 though I have an obligation under the law you have to do that  
9 obligation for me?

10 A. Do I have -- you will have to restate that question.

11 Q. Do you have the power to say you take care of this  
12 for me that I am required to do under the law?

13 A. I don't understand the question.

14 Q. Do you have the power to say to someone even if the  
15 law requires me to remove snow from my property, you have to  
16 do it?

17 A. Do I have the power?

18 Q. To do that.

19 A. With whom?

20 Q. With the tenant. Do you have the power to instruct  
21 your tenant to remove snow and ice from your property if the  
22 law requires that you do it as well?

23 A. Yes.

24 Q. Have you ever had occasion to instruct a tenant  
25 after the signing of the lease to remove snow or ice from the

1 A. No.

2 Q. Have you ever discussed this matter with any  
3 representative of your insurance company?

4 A. I don't remember.

5 Q. Have you ever discussed this matter with anyone  
6 other than Mr. Taladay and with me here today?

7 A. Yes.

8 Q. Who?

9 A. Mary Ward.

10 Q. What did you discuss with Miss Ward?

11 A. I asked Mary if she -- after I found out about the  
12 incident, I believe it was in January or February of this  
13 year, if she took responsibility of removing snow and ice, and  
14 she did. And I asked her to please state that for me in a  
15 letter, which she did.

16 Q. Do you have that letter?

17 A. Yes, Mr. Taladay does.

18 (Documents reviewed by counsel and witness.)

19 A. Yes, that's the one.

20 Q. May I see it, please?

21 MR. TALADAY: Sure.

22 MR. COHEN: Thanks.

23 (Documents reviewed by counsel.)

24 Q. Could we mark this, please?

25 MR. TALADAY: Did you see this?

1 MR. HENNE: I believe I did see this. Wasn't this  
2 in some discovery?

3 (Handwritten note, date 2-1-06, marked for  
4 identification as Learish Deposition Exhibit No. 1.)

5 BY MR. COHEN:

6 Q. Do you have a regular program of inspection for your  
7 premises?

8 A. No.

9 Q. Do you keep any records of times when you have  
10 inspected your places?

11 A. No.

12 Q. Do you keep a log with regard to any of your  
13 premises?

14 A. No.

15 Q. When did you first learn of this incident involving  
16 Mr. Reed?

17 A. I don't remember.

18 Q. Okay. Was it before or after January 1, 2006?

19 A. I would imagine, but I don't remember, it would be  
20 before.

21 Q. Was it before January 1, 2005?

22 A. I don't know.

23 Q. How did you first learn about it?

24 A. I don't remember.

25 Q. Okay. Would it help your recollection if I

1 suggested it was by a letter or a piece of paper that was  
2 served upon you by a sheriff or something like that rather  
3 than a phone call?

4 A. Go ahead and prompt me. I don't remember.

5 Q. I don't know how you learned about it.

6 A. I don't remember.

7 Q. Did you ever get any correspondence with the law  
8 firm called Marcus & Mack relative to this matter?

9 A. I don't remember.

10 Q. Okay. Did you ever get a letter from a lawyer named  
11 Richard Milgrub?

12 A. I don't remember.

13 Q. How about from me, Samuel Cohen, from my law firm,

14 Katz, Cohen, and Price?

15 A. I don't remember.

16 Q. Okay. Do you have any knowledge as to the  
17 conditions of the sidewalk at 514 South Main Street in DuBois  
18 on the date of Mr. Reed's fall other than what you have heard  
19 here today?

20 A. No.

21 Q. Thank you very much.

22 A. Thank you.

23 MR. HENNE: I don't have any questions.

24 (Deposition concluded at 12:48 p.m.)

25

1 CERTIFICATE OF COURT REPORTER

2

3 I, Jan M. Merritt, a notary in and for  
4 the Commonwealth of Pennsylvania, do hereby certify that the  
5 witness was by me duly sworn to testify the truth, the whole  
6 truth, and nothing but the truth; that the foregoing  
7 deposition was taken at the time and place stated herein; and  
8 that the proceedings are contained fully and accurately to the  
9 best of my ability in the notes taken by me on the deposition  
10 of the above petition and that it is a correct transcript of  
11 the same.

12

13 IN WITNESS WHEREOF, I have hereunto set  
14 my hand and affixed my seal of office this 8th day of  
15 September, 2006.

16

17

18

19

20

21

22

23

24

25

Jan M. Merritt  
Court Reporter & Notary Public

COPY

Feb 1, 2006

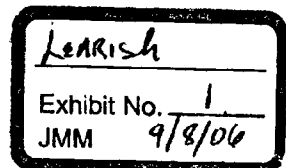
To whom it may concern:

I, Mary Ward mowed my grass,  
shoveled my sidewalks and porches to keep them  
free of snow and ice. At 514 S Main Street  
D<sup>u</sup>Bais PA 15801

I was responsible for grass and snow.

I worked days so i would clear my walks  
after work around 3:00.

Mary Ward



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

2 RICHARD NIVEN REED and  
3 DEBRA ALICE REED,  
4 Plaintiffs  
5 vs. CIVIL ACTION  
6 ROBERT EDMISTON and ROBIN  
LEARISH, Defendants NO. 2005 - 78 - C.D.

7  
8 Deposition of : DEBRA ALICE REED  
9 Date : Friday, September 8, 2006  
10 11:10 a.m.  
11 Place : Law Offices of  
12 HANAK GUIDO & TALADAY  
13 3 South Brady Street;  
Suite 238  
DuBois, PA 15801  
14 Reported By : Jan M. Merritt  
15 Court Reporter & Notary Public

16 APPEARANCES:  
17 SAMUEL COHEN, Esquire  
appeared on behalf of Plaintiffs  
18 MATTHEW TALADAY, Esquire  
19 appeared on behalf of Defendants  
20 TERRANCE HENNE, Esquire  
21 Appeared on behalf of Mary Ward  
22  
23 SCHREIBER REPORTING SERVICES  
24 P.O. BOX 997  
St. Marys PA 15857  
25 (814) 834-5337

2  
1 INDEX OF WITNESS, DEBRA ALICE REED  
2  
3 Direct Cross Redirect Recross  
4 3 (Taladay)  
5  
6  
7  
8  
9  
10  
11 INDEX OF EXHIBITS  
12  
13 Description Marked  
14  
15  
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COPY

3  
1 DEBRA ALICE REED, called as a witness,  
2 was sworn and examined, testified on her oath as follows:  
3 DIRECT EXAMINATION  
4 BY MR. TALADAY:  
5 Q. Are you Debra Alice Reed?  
6 A. Yes.  
7 Q. You are here today with your husband, Richard Niven  
8 Reed?  
9 A. Right.  
10 Q. In fact, you have just sat through the questioning  
11 of your husband.  
12 A. Right.  
13 Q. So you have a pretty good idea what goes on?  
14 A. Right, right.  
15 Q. If I ask you a question you don't understand, please  
16 stop me.  
17 A. Okay.  
18 Q. Mrs. Reed, you had been delivering papers with your  
19 husband for about seven years?  
20 A. Yes.  
21 Q. Was the information that your husband gave about the  
22 paper route fairly accurate?  
23 A. Yes, yes.  
24 Q. I'm pretty much going to confine my questions to  
25 what happened on the day of the accident. You and your

4  
1 husband had split up the bundle of papers that day?  
2 A. But we walked together. I was behind him when it  
3 happened, so --  
4 Q. I know when I had a paper route with my brother, we  
5 used to do that, you know, you take that side of the street  
6 and I'll take this side. But you two stayed together the  
7 whole time?  
8 A. Right.  
9 Q. Did you alternate whose bundle you took the papers  
10 from?  
11 A. What was that?  
12 Q. In other words, as you went on your delivery route,  
13 did you deplete your bundle of papers first so he was carrying  
14 all the weight?  
15 A. No, no. We just --  
16 Q. Would you take turns actually going up to the house  
17 and placing the paper on the porch?  
18 A. One of us did it and the other one would wait and  
19 then go on from there.  
20 Q. Did you have a set order who did which?  
21 A. No.  
22 Q. Your husband testified that during your travels that  
23 day you encountered a lot of snowy conditions on the sidewalk.  
24 A. Snow and ice, yes.  
25 Q. Is that correct?

1 A. That's correct.  
 2 Q. To your recollection, had it snowed that morning or  
 3 night before?  
 4 A. I'm not sure.  
 5 Q. Is it your belief that generally there was snow and  
 6 ice about that morning?  
 7 A. Yes.  
 8 Q. What type of footwear were you wearing that day?  
 9 A. Sneakers.  
 10 Q. Did you have any problems that morning getting  
 11 through the snow and ice with your sneakers?  
 12 A. No, just -- you know, trying to walk carefully.  
 13 Q. Tell me what happened as you approached the spot  
 14 where Mr. Reed says his accident occurred.  
 15 A. Well, he was walking a little bit ahead of me.  
 16 Q. You were both crossing the street?  
 17 A. We crossed the street, walked over, he took a couple  
 18 of steps. He got his left foot caught in the ice pack and  
 19 went down screaming.  
 20 Q. Had you stepped from the street up onto the snow and  
 21 ice accumulation when this had happened?  
 22 A. I was behind him. Yes.  
 23 Q. Were you still on the surface of South Main Street  
 24 at that time?  
 25 A. You mean across the street? Or --

1 A. To the left, on his ankle.  
 2 Q. Did you see either of his feet slide out from under  
 3 him as he fell?  
 4 A. When I heard the scream, yeah.  
 5 Q. Did it appear as though he had tripped over  
 6 anything?  
 7 A. No, no.  
 8 Q. Just so I'm clear on this, you didn't see either of  
 9 his feet slide?  
 10 A. No, he didn't slide. It got caught in that thing,  
 11 and he went down in pain.  
 12 Q. Did it appear as though his feet remained stationary  
 13 as he fell?  
 14 A. I'm not sure. I mean, I seen him go down in pain.  
 15 That's all. I don't know which way it went.  
 16 Q. What did you do when you saw him fall?  
 17 A. Helped him up. Tried to get him across the road and  
 18 to the hospital because he was in pain.  
 19 Q. Your husband said you actually physically assisted  
 20 him.  
 21 A. Right, yes.  
 22 Q. Did you have any difficulty helping him home?  
 23 A. Oh, yes.  
 24 Q. Was that because of the --  
 25 A. Well, trying to hop across the road, then he crawled

1 Q. Yeah. My question is had you completed crossing the  
 2 street.  
 3 A. Yes, we had completely crossed the street.  
 4 Q. Had you stepped from the street up onto the surface  
 5 of the snow and ice?  
 6 A. Yes, uh-huh.  
 7 Q. Your husband said the whole area where he fell was  
 8 covered with an accumulation.  
 9 A. Yes.  
 10 Q. Is that right?  
 11 A. Yes.  
 12 Q. And it was a fairly uniform thickness in that area?  
 13 A. Yes.  
 14 Q. Your husband also said he essentially stepped down  
 15 or made an indentation with his foot into the accumulation.  
 16 A. Yes.  
 17 Q. Did you observe that?  
 18 A. Yes, I did.  
 19 Q. In fact, when you stepped from the street onto the  
 20 accumulation, did your feet make an indentation into that  
 21 accumulation?  
 22 A. I don't know. I'm not sure.  
 23 Q. Tell me what you observed about your husband's fall.  
 24 A. He fell, twisted, and just screamed in pain.  
 25 Q. Can you tell me which direction he twisted?

1 through the alley because he couldn't -- you know?  
 2 Q. Did it make it more difficult to get him home  
 3 because of the snow and ice accumulation?  
 4 A. No. It was just him hobbling.  
 5 Q. Your husband said he had to crawl through some snowy  
 6 and icy conditions. Did you observe that?  
 7 A. Yes.  
 8 Q. Before you crossed the street where the accident  
 9 occurred, did you have to step over snow and ice --  
 10 A. Oh, yeah.  
 11 Q. -- on the far side of the street to get down to  
 12 South Main?  
 13 A. What do you mean? Across the road on the snow and  
 14 ice?  
 15 Q. Yes.  
 16 A. No. It was all over on that one side of the street.  
 17 There was other ones, but people had the ice cleared off too,  
 18 over across the street.  
 19 Q. You are saying some sidewalks were cleared and some  
 20 were not.  
 21 A. Were not, yes. But the alley we had to go through  
 22 wasn't cleared either. It was icy.  
 23 Q. How many papers did you have left to deliver when  
 24 your husband had his injury?  
 25 A. We were about done. I don't think there was any

1 more papers.  
 2 Q. Do you remember what you and he were talking about  
 3 as you crossed South Main Street that day?  
 4 A. It was three years ago.  
 5 Q. I read somewhere where your husband had given a  
 6 statement saying you were laughing and joking about something.  
 7 Do you recall that to be the case?  
 8 A. We did that, but I don't know what it was all about,  
 9 you know.  
 10 Q. Do you know whether or not your husband's attention  
 11 may have been distracted as he was completing his crossing of  
 12 the street when the injury occurred?  
 13 A. No. Distracted? No, he wasn't distracted.  
 14 Q. You continued to keep the paper route during the  
 15 term of your husband's injury?  
 16 A. Yes.  
 17 Q. Tell me about what you had to do to take care of  
 18 Richard at home during his recovery.  
 19 A. Well, he laid on the couch a lot. He had a walker.  
 20 If he had to go, we had like a potty chair downstairs too  
 21 because he couldn't go up and down the steps. And you know,  
 22 just take care of him. Then I worked a job, too. You know,  
 23 that and the paper route plus taking care of him.  
 24 Q. What was your job?  
 25 A. I work at BonTon in DuBois.

1 Q. Is that a full-time job?  
 2 A. No. It's only three hours a day.  
 3 Q. That would have been how it was back in 2003?  
 4 A. Yes.  
 5 Q. Did you have any wage loss because of your husband's  
 6 injury?  
 7 A. No. Because I worked and came home and took care of  
 8 him.  
 9 Q. Did your children assist in caring for your husband?  
 10 A. We have two that live away and I have a 14-year-old.  
 11 But they tried to help, yes.  
 12 Q. Do you know of any out of pocket expenses other than  
 13 medical bills and lost wages that you had because of this  
 14 accident that have not been paid?  
 15 A. Just that his therapy and hospital bill, and that's  
 16 about it.  
 17 Q. Does any therapy remain unpaid, Sam?  
 18 MR. COHEN: Off the record.  
 19 (Off-the-record discussion.)  
 20 BY MR. TALADAY:  
 21 Q. I asked your husband some questions about the  
 22 videotape. Did you have any knowledge about how that  
 23 videotape came to be made?  
 24 A. My daughter's boyfriend took it that day.  
 25 Q. We're talking about the outside shots.

1 A. No, I don't.  
 2 Q. Do you know how your daughter's boyfriend came to  
 3 make that tape?  
 4 A. I don't know, he just went over and did it. No one  
 5 knew he did it. I was up the hospital with him, so --  
 6 Q. Did you or your husband tell him where the accident  
 7 occurred or how the accident occurred?  
 8 A. No, he knew because I called my daughter and told  
 9 her that her dad was in an accident.  
 10 Q. So would it be fair to say your understanding of how  
 11 that videotape got made is that you called and told your  
 12 daughter that her father was in an accident, and then  
 13 presumably your daughter told her boyfriend and then he went  
 14 and made this videotape?  
 15 A. Yes.  
 16 Q. When did you first view the videotape?  
 17 A. Gosh, I don't know.  
 18 Q. Do you know for a fact the videotape was made the  
 19 same date of the accident?  
 20 A. Yes. She told us at the hospital that night, yes.  
 21 Q. Do you know what time of day that videotape was  
 22 made?  
 23 A. It was still daylight.  
 24 Q. Have you reviewed that tape?  
 25 A. I seen it yesterday, after three years.

1 Q. What was your interpretation of what that videotape  
 2 showed?  
 3 A. There was a lot of ice on the sidewalk where he  
 4 fell.  
 5 Q. I guess what I am saying is do you believe that that  
 6 showed the area in front of 514 South Main as it occurred on  
 7 the day of the accident?  
 8 A. Yes.  
 9 Q. How many steps had you taken from the street onto  
 10 the area beyond the curb when your husband fell?  
 11 A. Gee, I don't know. Probably a couple.  
 12 Q. Where were you positioned with regard to your  
 13 husband?  
 14 A. Right behind him.  
 15 Q. Directly behind him?  
 16 A. Yes.  
 17 Q. Had you stepped into the same --  
 18 A. To help him up.  
 19 Q. Excuse me, let me finish my question. Had you  
 20 stepped into the same footprints your husband had made when he  
 21 stepped from the street onto the curb?  
 22 A. Maybe the first one because I had to help him up  
 23 when he fell. But not the second one where he broke his  
 24 ankle, no.  
 25 Q. So you're telling me that you think your husband



1 took two steps from the street when he had fallen?

2 A. Well, after he crossed, yes.

3 Q. Do you know for certain that your husband was  
4 standing on the sidewalk when he fell?

5 A. Where it happened?

6 Q. Yes.

7 A. Yes, where he fell, yeah.

8 Q. In other words, is there any area between the curb  
9 and the sidewalk where he may have been standing when this  
10 happened?

11 A. No.

12 Q. Ma'am, that's all the questions I have for you.

13 Thank you.

14 MR. HENNE: I have no questions.

15 MR. COHEN: I have no questions of this witness at  
16 this time.

17 MR. TALADAY: Very good. Thank you, Mrs. Reed.

18 (Deposition concluded at 11:22 a.m.)  
19  
20  
21  
22  
23  
24  
25

1

2 CERTIFICATE OF COURT REPORTER

3

4

I, Jan M. Merritt, a notary in and for  
the Commonwealth of Pennsylvania, do hereby certify that the  
witness was by me duly sworn to testify the truth, the whole  
truth, and nothing but the truth; that the foregoing  
deposition was taken at the time and place stated herein; and  
that the proceedings are contained fully and accurately to the  
best of my ability in the notes taken by me on the deposition  
of the above petition and that it is a correct transcript of  
the same.

12

13

IN WITNESS WHEREOF, I have hereunto set  
my hand and affixed my seal of office this 8th day of  
September, 2006.

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Jan M. Merritt  
Court Reporter & Notary Public

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

vs. CIVIL ACTION

ROBERT EDMISTON and ROBIN  
LEARISH,  
Defendants

NO. 2005 - 78 - C.D.

Deposition of : RICHARD N. REED

Date : Friday, September 8, 2006  
10:00 a.m.

Place : Law Offices of  
HANAK GUIDO & TALADAY  
3 South Brady Street  
Suite 238  
DuBois, PA 15801

Reported By : Jan M. Merritt  
Court Reporter & Notary Public

APPEARANCES:

SAMUEL COHEN, Esquire  
appeared on behalf of Plaintiffs

MATTHEW TALADAY, Esquire  
appeared on behalf of Defendants

TERRANCE HENNE, Esquire  
Appeared on behalf of Mary Ward

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St. Marys PA 15857  
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INDEX OF WITNESS, RICHARD NIVEN REED

Direct	Cross	Redirect	Recross
3 (Taladay)	37 (Henne)		

INDEX OF EXHIBITS

Description	Marked

COPY

RICHARD NIVEN REED, called as a witness,  
was sworn and examined, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. TALADAY:

Q. Please tell me your full name.

A. Richard Niven Reed.

Q. Mr. Reed, your date of birth?

A. July 20, 1960.

Q. And your current age?

A. 46.

Q. Where do you live?

A. At present I live in 1054 Jackson Street;  
Reynoldsville, Pennsylvania 15851. We've rented it, for a  
little over two years.

Q. Where did you live prior to that?

A. I had a Farmer home for 17 years at 542 Locust  
Street; DuBois, Pennsylvania.

Q. You said a -- what did you say?

A. Rural housing.

Q. Rural housing, okay. I'm going to ask you some  
questions about a claim that you have made for injuries that  
you received in an accident and for which you filed a lawsuit.  
The main thing to remember here is I'm not trying to confuse  
you, so if I ask you a question you don't understand, please  
tell me and I'll try to make it a better question. Okay?

Where did you go to school, Mr. Reed?

A. DuBois Area High School.

Q. What is the highest grade you attained in school?

A. Graduated.

Q. In what year?

A. 1979.

Q. Did you have any further education after high  
school?

A. I went to the military.

Q. What branch of the military?

A. U.S. Air Force.

Q. How long did you remain in the U.S. military?

A. Two years, 'til '81. Honorably discharged in the  
spring of '81.

Q. Did you have any specialty while you were in the  
military?

A. No, not really. I worked as an alert monitor. It  
was like an administrative type job at a SAC base in Grand  
Forks, North Dakota.

Q. That's the Strategic Air Command?

A. Yes.

Q. What did you do after you were discharged from the  
military?

A. I went to stay with my folks in Home Camp in '81.  
Met my wife Debbie that year, later that year.

<p style="text-align: center;">3</p> <p>1 RICHARD NIVEN REED, called as a witness, 2 was sworn and examined, testified on his oath as follows: 3 DIRECT EXAMINATION 4 BY MR. TALADAY: 5 Q. Please tell me your full name. 6 A. Richard Niven Reed. 7 Q. Mr. Reed, your date of birth? 8 A. July 20, 1960. 9 Q. And your current age? 10 A. 46. 11 Q. Where do you live? 12 A. At present I live in 1054 Jackson Street; 13 Reynoldsville, Pennsylvania 15851. We've rented it, for a 14 little over two years. 15 Q. Where did you live prior to that? 16 A. I had a Farmer home for 17 years at 542 Locust 17 Street; DuBois, Pennsylvania. 18 Q. You said a -- what did you say? 19 A. Rural housing. 20 Q. Rural housing, okay. I'm going to ask you some 21 questions about a claim that you have made for injuries that 22 you received in an accident and for which you filed a lawsuit. 23 The main thing to remember here is I'm not trying to confuse 24 you, so if I ask you a question you don't understand, please 25 tell me and I'll try to make it a better question. Okay?</p>	<p style="text-align: center;">4</p> <p>1 Where did you go to school, Mr. Reed? 2 A. DuBois Area High School. 3 Q. What is the highest grade you attained in school? 4 A. Graduated. 5 Q. In what year? 6 A. 1979. 7 Q. Did you have any further education after high 8 school? 9 A. I went to the military. 10 Q. What branch of the military? 11 A. U.S. Air Force. 12 Q. How long did you remain in the U.S. military? 13 A. Two years, 'til '81. Honorably discharged in the 14 spring of '81. 15 Q. Did you have any specialty while you were in the 16 military? 17 A. No, not really. I worked as an alert monitor. It 18 was like an administrative type job at a SAC base in Grand 19 Forks, North Dakota. 20 Q. That's the Strategic Air Command? 21 A. Yes. 22 Q. What did you do after you were discharged from the 23 military? 24 A. I went to stay with my folks in Home Camp in '81. 25 Met my wife Debbie that year, later that year.</p>
<p style="text-align: center;">5</p> <p>1 Q. When were you and Debbie married? 2 A. 1982. 3 Q. Have you had any children? 4 A. Three daughters. 5 Q. What are their current ages? 6 A. Christy, the oldest is 24; Nicole is going to 7 Clarion and she is 21. And we got one over in the middle 8 school in 8th grade, Tiffany Amber Reed, and she is 14. 9 Q. Mr. Reed, can you give me your employment history 10 since you left the military? 11 A. Very good. Ten years with the butter factory, 12 Beaver Meadow Creamery. Then I worked down here with Joe. 13 After that I worked for Joe Palumbo, meat cutting, five years. 14 And I'm currently employed right now, in 1996 or -- yeah, 1996 15 until the present at Utilities and Industries. We repair gas 16 meters. I work the third shift. I just check for leaks on 17 meters. We repair them for companies. 18 Q. Is that a full-time position? 19 A. Yes, it is. 20 Q. Do you have any benefits that go with that position? 21 A. No, not really. Just paid holidays. 22 Q. What is your current rate of pay? 23 A. I got a raise this year from \$9.05 during this time 24 to now I make \$9.42. 25 Q. Going back to your job with Beaver Meadow Creamery,</p>	<p style="text-align: center;">6</p> <p>1 what was your position there? 2 A. Laborer. I made, ten years, butter, the foil 3 package butter. 4 Q. What was your reason for leaving your job with 5 Beaver Meadow? 6 A. I was fired. 7 Q. Were you given a reason why you were fired? 8 A. There was an altercation. I was twenty-nine or 9 thirty at the time. 10 Q. Was the altercation with a fellow employee or 11 supervisor? 12 A. Fellow employee. 13 Q. Was it an actual physical fight? 14 A. Yeah. 15 Q. Were you in any way injured in that fight? 16 A. Yes. 17 Q. What injuries did you sustain? 18 A. Stitches to the head. 19 Q. Who started the fight? 20 A. A young man. I worked on night shift. He come back 21 and he shoved me and I just responded. I also learned from 22 that, too. 23 Q. Did you make any type of Worker's Compensation claim 24 or unemployment claim as a result of that incident? 25 A. No.</p>

1 Q. Did you ever make any type of Workmen's Compensation  
2 claim while you were working for Beaver Meadow?  
3 A. None.  
4 Q. Your next job was as a meat cutter with Palumbo's?  
5 A. Correct.  
6 Q. Did you have any specialized training for that  
7 position?  
8 A. No. Real dirty job. I cleaned up the store and --  
9 Q. What was your reason for leaving that job?  
10 A. For a better situation, for Utility and Industries.  
11 Q. So you went right from Palumbo's to --  
12 A. Yeah, right that week.  
13 Q. Did you ever file any type of Workmen's Compensation  
14 claim while you are working with Palumbo's?  
15 A. Never.  
16 Q. Other than the accident that is at issue in this  
17 lawsuit, have you ever been hospitalized for any reason?  
18 A. Could you repeat that, please?  
19 Q. Yeah. Except for the leg injury that you sustained  
20 in 2003, have you ever been hospitalized for any reason?  
21 A. No.  
22 MR. COHEN: You are talking about visiting an  
23 emergency room or being overnight in the hospital?  
24 BY MR. TALADAY:  
25 Q. Overnight. Kept overnight in the hospital?

1 Q. On a daily basis, how many papers would you deliver?  
2 A. 32.  
3 Q. And 32 on Sundays?  
4 A. It could be. Some people might just get a Sunday  
5 paper, so it could vary. It could be 35 on Sunday because  
6 they may just get the Sunday paper.  
7 Q. You are telling me that you and your wife had done  
8 that for seven years at the time this accident occurred?  
9 A. Yes, seven years.  
10 Q. Had your customer list changed over that seven  
11 years?  
12 A. Yes. Many times.  
13 Q. In 2003, how many customers would you regularly  
14 deliver the Sunday paper to?  
15 A. I'm not going to guess. I don't know that for sure.  
16 Q. Now am I correct in my understanding you and your  
17 wife would share the job?  
18 A. Correct.  
19 Q. So would that mean she would take a portion of the  
20 papers and you would take a portion of the papers, and you  
21 would split up the houses you delivered to?  
22 A. Yes.  
23 Q. Was there a particular path you would regularly  
24 travel to deliver these papers?  
25 A. No.

1 A. How far do we go back? In '65, I swallowed a  
2 quarter.  
3 (Laughter.)  
4 A. I mean, they cut me open.  
5 Q. How much is that worth now with interest?  
6 (Laughter.)  
7 A. No, not really. I haven't had anything major.  
8 Q. And prior to this accident date did you have any  
9 health problems for which you were receiving regular medical  
10 treatment?  
11 A. No.  
12 Q. Did you have any physical limitations or  
13 disabilities at the time of this accident in 2003?  
14 A. No.  
15 Q. Mr. Reed, you had a paper route back in 2003?  
16 A. Yes, my daughter's. My wife and I, we did it for  
17 exercise. Seven years we have had it.  
18 Q. So which daughter initially took the paper route?  
19 A. It's in her name, Nicole Reed. The paper route's  
20 name was in Nicole's name. We couldn't get her to do it, so  
21 we ended up.  
22 Q. Was that a daily route?  
23 A. Yes.  
24 Q. And also had Sunday delivery?  
25 A. 32.

1 Q. In other words, did you have sort of a pre-  
2 established order in which you would deliver the papers?  
3 A. At times. I would do half and she would do  
4 one-half. We had Main Street, Spring, Locust, and -- is it  
5 Daily Street? Daily Street.  
6 Q. How would you obtain the papers for delivery?  
7 A. The Courier would drop off the bundle on my porch.  
8 Q. Your address at that point in time was what?  
9 A. 542 Locust Street.  
10 Q. Where is that in relation to South Main Street?  
11 A. It's right behind there. It's maybe -- not more  
12 than 75 yards from Main Street. But just Locust Street in  
13 general is right off of Main Street.  
14 Q. I would like you to, as best you can recall, walk me  
15 through the usual Sunday delivery route from the time they  
16 were dropped off on your porch until the time you and your  
17 wife completed the route.  
18 A. We had to get up Sunday morning around 7:00, 7:30,  
19 on average. We would both get up and we would carry, you  
20 know, a bundle. They are big.  
21 Q. How would you carry the newspapers?  
22 A. In a sack. We had one of those sacks you carry.  
23 Q. Slung it across your shoulders and you put the  
24 papers in the sack?  
25 A. Right (indicating).

1 Q. I take it both you and your wife would take a sack  
2 with a bundle of papers in it?

3 A. Right.

4 Q. Between the two of you could you carry all 32 or so  
5 of those Sunday papers?

6 A. No.

7 Q. So you would have to make more than one trip from  
8 the residence with the Sunday papers?

9 A. With the both of us, we could get them all.

10 Q. That's what I was asking. Between the two of you  
11 splitting them up, you could carry them all in one trip; is  
12 that right?

13 A. Right.

14 Q. So you would leave from your home each carrying a  
15 bundle of Sunday papers?

16 A. Right.

17 Q. Where was the first stop you regularly made?

18 A. The closest, right across the street from us on  
19 Locust. We'd usually work our way.

20 Q. And approximately how many houses would you deliver  
21 to right adjacent to your house on Locust?

22 A. Maybe a dozen.

23 Q. Where would you go next after you delivered that  
24 dozen or so papers on Locust Street?

25 A. Normally we did Main and then we'd swing around

1 Spring. Like a big circle, you know. We're about like in the  
2 middle.

3 Q. So when you would come off Locust Street and  
4 encounter South Main Street, which direction would you turn in  
5 order to continue your route?

6 A. Pardon me? Repeat that question now.

7 Q. You said you delivered all your papers on Locust  
8 Street and then would usually head down Main Street.

9 A. From the far end, right past the hospital extension,  
10 we had customers. We would work our way down. That would be  
11 near the end of the route. That would be coming towards South  
12 Main Street. That would be --

13 Q. If I am understanding what you're saying, you would  
14 travel down Locust Street. Then at the intersection in the  
15 area where the hospital is, you would essentially turn right  
16 or head north on South Main Street, sort of where Palumbo's  
17 and Unimart would be?

18 A. Right. That's north on --

19 (Off-the-record discussion remarks by spouse.)

20 BY MR. TALADAY:

21 Q. Let me clarify this. What you're telling me is  
22 Locust Street is sort of down near where the hospital is;  
23 isn't it?

24 A. Correct.

25 Q. Then in order to continue your route on South Main

1 and in order to head in the direction where you contend this  
2 accident occurred, you would essentially make a right-hand  
3 turn onto Main Street and proceed toward the downtown area of  
4 DuBois?

5 A. You make a left-hand. Left.

6 Q. Left from Locust and then --

7 A. They were near the end of our route.

8 Q. Was 514 Main Street one of your delivery stops on  
9 your route?

10 A. Yes.

11 Q. How long had 514 South Main Street been a delivery  
12 stop?

13 A. I do not know the answer to that.

14 Q. Did you have any other delivery stops in that  
15 general area back in 2003?

16 A. There was a house beside them out front and one in  
17 the back. So there would be three on that side. There is  
18 normally three on an average. Most of the time there was  
19 three papers delivered to that side of the road.

20 Q. Were they all in the same general area?

21 A. They were back to back, three in a row.

22 Q. Do you recall what those addresses were?

23 A. 514, and the house in the middle would be -- I'm not  
24 a mailman. Is it maybe 518?

25 MR. COHEN: Don't guess. If you know, you know.

1 THE WITNESS: I don't know.

2 BY MR. TALADAY:

3 Q. Do you remember the names of the customers you were  
4 delivering papers to in that area in 2003?

5 A. No.

6 Q. We're talking about, and I'll refer to it as the  
7 cemetery side of the street.

8 A. Okay.

9 Q. You are telling me you had three deliveries in the  
10 same general area on the cemetery side of the street?

11 A. Correct.

12 Q. What about on the opposite side of South Main Street  
13 in that area? How many deliveries did you have over in there?

14 A. About four or five.

15 Q. Once you delivered the two or three papers on the  
16 cemetery side of the street and the four or five on the  
17 opposite side of the street that you just described to me, how  
18 many more, approximately, papers would you have left to  
19 deliver before you finished your route as it existed back in  
20 February of 2003?

21 A. That was the end of the route.

22 Q. So once you completed those deliveries in the  
23 general area of 514 South Main, you were completed with your  
24 route and you would return home?

25 A. Right.

1 Q. Did you always do that route by foot?

2 A. Yes.

3 Q. For the full seven years that you continued to do  
4 the route?

5 A. There were also times in the cold winter when we  
6 would drive, on very cold, cold days.

7 Q. How cold would it usually have to be for you to  
8 decide to drive?

9 A. Oh, I think zero.

10 Q. Mr. Reed, let's talk about the day that your  
11 accident happened. Do you remember anything unusual about  
12 that day before you fell?

13 A. No. Just a normal Sunday.

14 Q. So I take it you would have gotten your papers  
15 dropped off by the publishing company at your home. Correct?

16 A. Correct.

17 Q. Then you and your wife would have split up the  
18 bundles between you?

19 A. Right.

20 Q. Am I correct you would have delivered the papers in  
21 the general area of Locust Street around your home?

22 A. Correct.

23 Q. Then you would have proceeded at some point on South  
24 Main Street, heading towards the area of 514 South Main  
25 Street?

1 have gone back across the street to pick up those three houses  
2 that were on the cemetery side of the street?

3 A. Yes.

4 Q. Where did you cross South Main Street on that date?

5 A. Well, right directly looking at the place. You  
6 know, right across, right straight at it.

7 Q. Looking at what place?

8 A. My first customer would be 514 South Main. Then  
9 there was a house in the middle out front. 514 sits in the  
10 back with a fence, a small wooden fence. Then there is a  
11 customer to the right of the one there. There is those three.  
12 And I normally would cross straight across towards it from  
13 Main Street.

14 Q. Okay. What date did your accident occur?

15 A. February 9, 2003.

16 Q. What were the weather conditions like that day?

17 A. Weather conditions? Cold.

18 Q. Do you have an estimate as to the temperature?

19 A. About 20, about 20. There was no accumulation at  
20 all, meaning there was no snow. It wasn't snowing. It was  
21 cold.

22 Q. Was there generally snow on the ground?

23 A. No, not from any accumulation that morning.

24 Q. No. What I am talking about, as you observed the  
25 general conditions that morning, was there snow in people's

1 A. We did all of Locust and then we would proceed from  
2 the hospital entrance. There is two or three customers beyond  
3 that, you know. Then we worked our way back towards our home.  
4 My home sits right in the middle there.

5 Q. As you are proceeding on South Main Street before  
6 you had finished your route, do you recall whether you were  
7 walking on the cemetery side of the street or on the opposite  
8 side of the street?

9 A. When we come back, we crossed from the hospital  
10 entrance on to -- towards our side of the street, the Locust  
11 Street side. We walked that side of Main Street. Then when  
12 we approached the three customers on South Main Street, then  
13 we crossed.

14 Q. So just so I'm clear on this --

15 A. We never crossed in front of the cemetery. There's  
16 no sidewalks there.

17 Q. So you would have been walking on the sidewalks on  
18 the side of the street opposite the hospital and opposite the  
19 cemetery?

20 A. Correct.

21 Q. And so you would have passed the area of the  
22 cemetery, proceeding generally towards downtown DuBois, on  
23 that far side of the street?

24 A. Correct.

25 Q. And are you telling me that at some point you would

1 yards?

2 A. Yes.

3 Q. Did you observe snow on sidewalks that morning?

4 A. No.

5 Q. Are you telling me you saw no snow on any sidewalks  
6 that morning?

7 A. Probably frozen. More of an icy condition for the  
8 winter we were having. There was no accumulation that  
9 particular --

10 Q. I'm not asking you --

11 MR. COHEN: Let's go off the record for a second, if  
12 you don't mind, please.

13 (Off-the-record discussion.)

14 BY MR. TALADAY:

15 Q. Am I correct in my understanding, Mr. Reed, that you  
16 don't believe it had snowed the previous night or that there  
17 was any accumulation of fresh snow?

18 A. Correct.

19 Q. In your travels that day and before this incident  
20 happened, did you encounter some sidewalks that were either  
21 snow covered or ice covered?

22 A. Correct.

23 Q. Was that generally the condition of most of the  
24 sidewalks you came across that morning? That they were snow  
25 covered or ice covered?

1 A. Repeat that one more time.  
 2 Q. Were most of the sidewalks that you encountered that  
 3 morning snow or ice covered?  
 4 A. Correct.  
 5 Q. You crossed South Main Street, which you believe to  
 6 be directly adjacent to 514 South Main Street; is that right?  
 7 A. Yes.  
 8 Q. Was it usually you personally who delivered to 514  
 9 or did you and your wife take turns?  
 10 A. We both took turns.  
 11 Q. Would you, either she or he, have delivered the  
 12 daily paper to 514 South Main the day previous to this  
 13 incident?  
 14 A. On Friday. We don't deliver Saturday. Yes.  
 15 Q. Just out of curiosity, why don't you deliver  
 16 Saturday?  
 17 A. The publication only comes out Monday to Friday and  
 18 then on Sunday.  
 19 Q. So you would have delivered a paper to 514 and  
 20 probably two or three, or one or two other houses on that side  
 21 of the street on Friday?  
 22 A. Right.  
 23 Q. What happened as you crossed South Main Street,  
 24 intending to go to 514 South Main? Tell me what happened.  
 25 A. Well, near 8:00 that morning, my wife directly

1 behind me, I approached the curb in front of the home. As I  
 2 stepped the right foot on, real thick patchy snow, it's really  
 3 deep. Then as -- I was fine with that. Then my left foot hit  
 4 a crater and it -- it got stuck. And that's when I fell. And  
 5 it collapsed. I did not go down fast. It twisted the left  
 6 foot.  
 7 Q. Now you are telling me you are crossing South Main  
 8 Street and your wife is crossing the street with you?  
 9 A. Directly behind me.  
 10 Q. She did not remain on the opposite side of the  
 11 street?  
 12 A. No.  
 13 Q. I recall reading somewhere that you said at that  
 14 point you were talking and joking with your wife. Do you  
 15 remember that?  
 16 A. No, I don't remember that.  
 17 Q. Today as we speak do you recall what you and your  
 18 wife were doing, what you had been talking about at that time?  
 19 A. No, I don't.  
 20 Q. Now you are telling me that you stepped from the  
 21 street, up over the curb with your right foot?  
 22 A. Correct.  
 23 Q. And you planted your right foot over the curb?  
 24 A. Correct.  
 25 Q. Did you then remove your left foot from the street?

1 A. Yes.  
 2 Q. And did you plant your left foot in the area beyond  
 3 the curb?  
 4 A. Yes.  
 5 Q. Were you then able to take another step beyond that  
 6 point, or did you only get both feet up beyond the curb before  
 7 you fell?  
 8 A. No, not -- I got my right foot first, then my left  
 9 foot, and that was it. And it collapsed.  
 10 Q. And you told me you believe that one of your feet  
 11 became stuck in the snow?  
 12 A. The left foot.  
 13 MR. COHEN: I believe he said in a crater.  
 14 THE WITNESS: Crater.  
 15 BY MR. TALADAY:  
 16 Q. Would that have been the crater or indentation that  
 17 your left foot made by sinking down into the accumulation?  
 18 A. Yes.  
 19 Q. So you would have stomped down into this  
 20 accumulation of snow or icy snow, whatever it was?  
 21 A. Right.  
 22 Q. And you say your left foot became stuck?  
 23 A. Correct.  
 24 Q. Were you attempting to move your right foot when you  
 25 fell down?

1 A. Correct.  
 2 Q. Had you moved your right foot before you fell down?  
 3 A. No.  
 4 Q. What do you believe caused you to lose your balance?  
 5 A. The crater.  
 6 Q. The indentation that your foot made when you stepped  
 7 into that accumulation?  
 8 A. It was deep.  
 9 Q. Do you have any estimation how deep the accumulation  
 10 was?  
 11 A. I don't really know exactly.  
 12 Q. Do you have any estimation how deeply your left foot  
 13 sunk into that accumulation?  
 14 A. Several inches, I know that.  
 15 Q. What type of footwear were you wearing that day?  
 16 A. Sneakers.  
 17 Q. Low tops, high tops?  
 18 A. Low tops.  
 19 Q. Would the accumulation have been above the top of  
 20 your sneakers?  
 21 A. Correct.  
 22 Q. Would it have been beyond your ankle?  
 23 A. I believe so.  
 24 Q. Did that accumulation appear to be a consistent  
 25 depth along the length of that sidewalk area or curb area

1 where you stepped from the street?  
 2 A. Very much so. Very much.  
 3 Q. So you are telling me it was uniformly deep for the  
 4 whole area adjacent to South Main Street and in front of 514  
 5 South Main?  
 6 A. Yes.  
 7 Q. Had your wife made an attempt to step from the  
 8 street over the curb at the time you fell?  
 9 A. I don't know. I was in so much pain, it was over  
 10 for me that day.  
 11 Q. Can you describe for me the manner in which you  
 12 fell?  
 13 A. It's tough to relive that because I did not go down  
 14 quick. It went to the side. You know?  
 15 Q. I need to understand this, so I'm going to ask you a  
 16 few questions to try to get some more detail. Are you telling  
 17 me that your leg slid to the side, or in the alternative, that  
 18 your body fell to the side?  
 19 A. My leg didn't slide at all.  
 20 Q. You're telling me that your leg remained stationary?  
 21 A. My ankle snapped.  
 22 Q. You are talking about your left leg remained  
 23 stationary?  
 24 A. Correct.  
 25 Q. What about your right leg? Did that move in any

1 way?  
 2 A. I didn't -- I don't know the answer to that.  
 3 Q. Which way did your body move when you went down?  
 4 A. I think more or less straight down. More to the  
 5 left side. I'm --  
 6 Q. When you say straight down, do you mean forward,  
 7 backward?  
 8 A. I did not go backwards or -- that's hard to tell. I  
 9 really -- I just went down.  
 10 Q. Did you make any attempt to brace your fall with  
 11 your hand?  
 12 A. Oh, of course.  
 13 Q. Were you able to get your hand on to the ground to  
 14 at least somewhat break your fall?  
 15 A. Yes.  
 16 Q. Describe for me how your hand made contact with the  
 17 ground or surface of the snow.  
 18 A. With the palms straight down (indicating).  
 19 Q. Both palms?  
 20 A. As I recall, yeah.  
 21 Q. The gestures you made lead me to believe you had  
 22 your arms sort of at your sides rather than in front of you.  
 23 A. It's hard to give a correct answer to that, you  
 24 know, when --  
 25 Q. Maybe your wife can give me some more detail on

1 that. What happened when you fell? What sensation did you  
 2 experience?  
 3 A. The most excruciating pain I have ever felt in my  
 4 life.  
 5 Q. Where was that pain centered?  
 6 A. In the left ankle. I was screaming profusely. It  
 7 was -- you know, I thought I was going to wake up the  
 8 neighborhood at that hour early Sunday morning.  
 9 Q. Did you believe that you had broken your ankle at  
 10 that point?  
 11 A. No.  
 12 Q. What did you think happened?  
 13 A. I was only concerned about, you know, I gotta work.  
 14 I worked third shift. I had to go to work, you know.  
 15 Q. You were supposed to go into work that night?  
 16 A. Correct.  
 17 Q. Did your wife come to your assistance?  
 18 A. Immediately.  
 19 Q. What did she do for you?  
 20 A. She helped me. You know, grabbed me by the arm, and  
 21 I managed to hop back across Main Street. Then I got to the  
 22 alley. There is an alley with my home and I crawled some of  
 23 the way. It was --  
 24 Q. About how far was it from where you were injured to  
 25 your home?

1 A. I would say not more than 150 yards. Because it was  
 2 close, very close. It's near the end of the route. It's  
 3 close to home.  
 4 Q. This is neither here nor there, but did you complete  
 5 delivering the papers that day?  
 6 A. Like I say, it was over. I don't much remember  
 7 anything.  
 8 Q. Did you leave your paper carrying pack at the scene  
 9 of your injury, or did you carry that back with you?  
 10 A. Oh, most definitely left it there at the scene.  
 11 Q. You said you crawled part way to home?  
 12 A. As I got to the alley, it was icy; the alleyway,  
 13 too.  
 14 Q. So you were crawling across the ice on the alley to  
 15 get home?  
 16 A. Yes.  
 17 Q. What did you do when you got home?  
 18 A. As I got home, I took off my sock and was looking at  
 19 it, such throbbing unbelievable pain. I had my daughter,  
 20 Nicole, take me up to the emergency room.  
 21 Q. It's my understanding that you were admitted to the  
 22 hospital; is that right?  
 23 A. Yes.  
 24 Q. And you were diagnosed with a fracture of your left  
 25 ankle; is that correct?



1 A. Correct.  
 2 Q. You underwent an operation later that day; is that  
 3 right?  
 4 A. Right.  
 5 Q. And am I correct in my understanding the reason you  
 6 had to wait until later that day is because you had a doughnut  
 7 in the morning and so they wouldn't administer the anesthesia?  
 8 A. I was going to tell you that.  
 9 (Laughter.)  
 10 A. Yes. I had a doughnut that morning.  
 11 Q. So you had to wait until late afternoon?  
 12 A. It was unbelievable because I wanted to get them to  
 13 go and they kept giving me something for pain and -- I was so  
 14 very uncomfortable that day. It was near to evening and they  
 15 put me out. And all I remember is an hour or so later and --  
 16 Q. Did the doctors explain to you that as a part of  
 17 that operation they put a plate and some screws in there to  
 18 hold things together?  
 19 A. Correct.  
 20 Q. What's the first thing you remember when you woke up  
 21 from the anesthetic?  
 22 A. Where am I? Just -- it just, it was like, you know,  
 23 it happened so quick. They put you out and it seemed like a  
 24 minute or five minutes later. I was concerned about work.  
 25 I'm like that because --

1 checkups as you were healing?  
 2 A. Yes.  
 3 Q. Were you put in any type of a cast when you were  
 4 released from the hospital?  
 5 A. Yes.  
 6 Q. What type of a cast was that?  
 7 A. Just a -- full cast. From my -- right down there,  
 8 the tip of my toes and to my cast and --  
 9 Q. It started below your knee; is that right?  
 10 A. Right.  
 11 Q. So you were able to bend your knee at all times?  
 12 A. Yes.  
 13 Q. How long did you remain in that lower leg cast?  
 14 A. Oh, geez, at least two months.  
 15 Q. During that couple of months you certainly couldn't  
 16 go to work; is that right?  
 17 A. No.  
 18 Q. Were you able to do anything around the house?  
 19 A. No.  
 20 Q. After two months when the cast was taken off, what  
 21 happened?  
 22 A. Slowly started beginning therapy, three times a  
 23 week, about eight weeks. Six or eight weeks.  
 24 Q. Where did you go to physical therapy?  
 25 A. Medical Arts Building.

1 Q. How long were you kept in the hospital, Mr. Reed?  
 2 A. Overnight.  
 3 Q. And then you were released to your home?  
 4 A. Yes.  
 5 Q. Were you able to get around with crutches when you  
 6 were released from the hospital?  
 7 A. No, not for -- for a few weeks.  
 8 Q. During the first few weeks how did you get around?  
 9 A. With the help of my dear wife, what she went through  
 10 to help me. You know, just, I was on the couch. I was --  
 11 Q. After the first couple of weeks you were then able  
 12 to use crutches?  
 13 A. Yes.  
 14 Q. Were you given pain medication when you were  
 15 discharged from the hospital?  
 16 A. Very much so.  
 17 Q. Do you remember what kind of pain medication that  
 18 was?  
 19 A. I don't know if it was OxyCotin. I think that's  
 20 what they give me before. Pain killers and Tylenol.  
 21 Q. How long did you continue to take prescription pain  
 22 killers after you were released from the hospital?  
 23 A. I'm not sure. I'm not going to guess at that. I  
 24 couldn't give you a correct answer on that.  
 25 Q. Did you return to your doctor periodically for

1 Q. And what type of things were done for you at  
 2 therapy?  
 3 A. Just stretching the leg and working with machines to  
 4 try to get the strength back.  
 5 Q. Did they also have you work on your balance with  
 6 that leg?  
 7 A. I started therapy on crutches, for the better part  
 8 of the therapy. And I was able to get rid of the crutches in  
 9 the last couple of weeks.  
 10 Q. What was your condition when you were released from  
 11 physical therapy?  
 12 A. Fair.  
 13 Q. What type of things weren't you able to do at that  
 14 point?  
 15 A. My mobility is not the same.  
 16 Q. You are talking about your mobility in the ankle?  
 17 A. Correct.  
 18 Q. When you were released from physical therapy, were  
 19 you given a home exercise program?  
 20 A. Correct.  
 21 Q. Did you perform that home exercise program?  
 22 A. Correct. I used a towel to pump up my foot and  
 23 stretch things.  
 24 Q. For how long did you continue that home exercise?  
 25 A. For several weeks.

1 Q. Were you given doctors' instructions to discontinue  
2 your home exercise program?  
3 A. No.  
4 Q. Did you just decide on your own to discontinue that  
5 program?  
6 A. Yes.  
7 Q. Was that because you had recovered to a point that  
8 was satisfactory to you?  
9 A. Correct.  
10 Q. Mr. Reed, when did you finally go back to work?  
11 A. Near the end of May of 2003.  
12 Q. Did you have any type of disability insurance or  
13 other type of coverage that paid for any of your lost wages?  
14 A. No.  
15 Q. Did you have any sick pay due and payable from work  
16 to pay you while you were off?  
17 A. First, to be honest with you, the first two -- I had  
18 to use my vacation days up the first week that I was out.  
19 But --  
20 Q. How much vacation were you entitled to at that time?  
21 A. Two weeks.  
22 Q. Did you use both weeks of your vacation during your  
23 recovery from this injury?  
24 A. The first two weeks of the injury.  
25 Q. How were your medical bills paid for?

1 A. Well, we got assistance from -- what's that? From  
2 -- I was eligible for welfare, you know.  
3 Q. Through Pennsylvania Medical Assistance?  
4 A. Medical Assistance.  
5 Q. Has Medical Assistance advised you that they are  
6 seeking to recover the money that they paid for your medical  
7 bills from this lawsuit?  
8 A. Right.  
9 Q. Do you have any knowledge how much the Department of  
10 Public Welfare is seeking to recover?  
11 A. I'm not sure of the exact amount.  
12 Q. Sam, off the record.  
13 (Off-the-record discussion.)  
14 BY MR. TALADAY:  
15 Q. Are you aware of any medical bills that you incurred  
16 because of this accident that have not been paid by Medical  
17 Assistance?  
18 A. No, I'm not.  
19 Q. Did you receive any type of cash assistance from the  
20 Department of Public Welfare while you were off work?  
21 A. No.  
22 Q. What about food stamps?  
23 A. Yes.  
24 Q. For how long a period of time did you receive food  
25 stamps?

1 A. Three or four months.  
2 Q. Do you know if the Department is claiming  
3 reimbursement for any of the food stamp assistance that you  
4 received?  
5 A. No.  
6 Q. I don't think they do, but -- Mr. Reed, how were you  
7 feeling when you went back to work in May?  
8 A. I was feeling better.  
9 Q. Did you go back to delivering papers?  
10 A. It was a nightmare year. Now we lost that because  
11 we got behind on my Farmer Home payments and I ended up losing  
12 my home.  
13 Q. So you were purchasing your home through the Farmers  
14 Home Administration; is that right?  
15 A. Yes.  
16 Q. And you became delinquent on your payments and so  
17 your home was foreclosed upon?  
18 A. Lost it in July 2004. I cried.  
19 Q. Is that the reason that you moved from DuBois to  
20 Reynoldsville?  
21 A. I had no choice.  
22 Q. Do you have an estimate as to the amount of lost  
23 wages that you suffered because of this injury?  
24 A. Near \$5,000.00 for that time.  
25 Q. Did you apply to the Farmers Home Administration for

1 a suspension of your payments during the term that you were or  
2 during the time that you were injured?  
3 A. No.  
4 Q. During the term of your injury, did your wife  
5 continue to deliver the papers on the paper route?  
6 A. Correct.  
7 Q. So you didn't lose the paper route simply because of  
8 your injury?  
9 A. Only because of moving, I lost the paper.  
10 Q. Mr. Reed, your attorney supplied us with a videotape  
11 and I wanted to ask you some questions about that. Have you  
12 viewed that videotape?  
13 A. Yes.  
14 Q. To your knowledge when was that videotape taken?  
15 A. That day. That day.  
16 Q. And that would have been what date?  
17 A. February 9, 2003.  
18 MR. COHEN: Let's clarify something about that.  
19 There are certain items on that videotape that are not related  
20 to this incident. Because they were on the videotape and  
21 because your request for production of documents said you  
22 wanted the videotape, I gave you the entire videotape. There  
23 are some pictures that are not related.  
24 MR. TALADAY: And let me qualify, all my questions  
25 about the videotape, I'm only talking about the portion of the

1 videotape that was taken in the great outdoors, apparently  
2 under the bright sunshine, and nothing that occurred indoors.  
3 All right?

4 THE WITNESS: Right.

5 BY MR. TALADAY:

6 Q. How did that videotape come to be made? I'm talking  
7 about the outdoor portion.

8 A. Well, my daughter's boyfriend at the time, Jeremy,  
9 he just graduated from college with a degree in law. He had a  
10 camcorder and he just filmed it.

11 Q. What's Jeremy's last name?

12 A. Weinberg. Jeremy Weinberg.

13 Q. Where does he currently live?

14 A. Hill Street; Reynoldsville.

15 Q. How did Jeremy come to be at your home that day?

16 A. I don't know. I was in the hospital.

17 Q. Did you personally request Jeremy to go take video  
18 of that scene?

19 A. No.

20 Q. Do you know whether or not your wife made that  
21 request?

22 A. I'm not aware.

23 Q. Did you personally review the videotape?

24 A. Yes.

25 Q. Can you tell me your interpretation of what that

1 A. Correct.

2 Q. I think I'm out of questions for now.

4 CROSS EXAMINATION

5 BY MR. HENNE:

6 Q. Mr. Reed, my name is Terrance Henne and I represent  
7 Mary Ward. Do you know on the day of the accident in February  
8 of 2003 if Mary Ward was a customer of yours?

9 A. Yes.

10 Q. Did you know Mary Ward before the accident?

11 A. Not personally.

12 Q. So you only knew her from delivering her paper?

13 A. Just seeing her with the children.

14 Q. Was she a daily and Sunday customer, or one of your  
15 Sunday only customers?

16 A. Daily.

17 Q. So she was a daily and a Sunday? If you recall?

18 A. Pardon me?

19 Q. Was she daily and Sunday?

20 A. Yes.

21 Q. So you delivered a paper then, it's fair to state,  
22 to that property at 514 six days a week?

23 A. Correct.

24 Q. I believe you testified when Mr. Taladay was asking  
25 your questions that you and your wife had that route

1 exterior portion of the videotape shows?

2 A. Some of it was really good, but not really  
3 professionally done; he was shaking all over the place. But  
4 it did show the only way to get to 514 South Main Street was  
5 to cross this patchy area. That's the only route you could  
6 take to get to that home that day.

7 Q. Are you telling me that you believe this videotape  
8 shows the condition --

9 A. Of that sidewalk, yes.

10 MR. COHEN: Let Mr. Taladay finish his question.

11 BY MR. TALADAY:

12 Q. That it shows the condition of the general area near  
13 514 Main Street on the day of your injury?

14 A. If you slow it down and --

15 MR. COHEN: Just answer yes or no.

16 THE WITNESS: Yes.

17 BY MR. TALADAY:

18 Q. Now apparently you have slowed it down?

19 A. Yeah.

20 Q. What do you think it shows when you slow it down?

21 A. He was all over the place with it. It just showed  
22 you that the sidewalks were just covered, just covered with  
23 patchy ice. I'm mean thick (indicating).

24 Q. And you told me those were the conditions you had  
25 encountered on other sidewalks that morning also, correct?

1 approximately seven years prior to the day of the accident.

2 A. Yes.

3 Q. So it's fair to state you were at that house six  
4 days a week for seven years, approximately?

5 MR. COHEN: I object to the form of the question  
6 only to the extent he said he had the route, but he didn't say  
7 he delivered to that house. He said the customer list was  
8 changing constantly.

9 MR. HENNE: That's fair. Thank you.

10 BY MR. HENNE:

11 Q. Do you know how long Mary Ward was a customer of  
12 yours prior to the day of the accident?

13 A. No, I couldn't give you that exactly.

14 Q. When you approached the 514 location to deliver the  
15 paper, I believe you testified that there was only one way in.  
16 Was that always the case?

17 A. Yes.

18 Q. So you always had to cross the street and go, for  
19 lack of a better term, straight at the house?

20 A. Correct, yes.

21 Q. This February 9th accident, was this the only  
22 accident you were involved in while you were delivering  
23 papers?

24 A. Yes.

25 Q. Were you ever involved in an accident in November of

1 1993? On or about November 9, 1993? Or 2003, I'm sorry.

2 A. Involved in a falling accident?

3 Q. Yeah.

4 A. No.

5 Q. Were you on the sidewalk of the area of 514 South  
6 Main Street on or about November 9, 2003, at about 8:00 a.m.?

7 MR. COHEN: The date of that accident is a  
8 typographical error made by my office. We were referring to  
9 the same accident.

10 MR. HENNE: That was my next question.

11 MR. COHEN: It's -- yes, it's all the February  
12 accident. That was my error.

13 BY MR. HENNE:

14 Q. All right. So we are clear, your attorney has just  
15 represented, Mr. Reed, the only accident you were involved in  
16 wherein your ankle was injured at or near the location of 514  
17 South Main Street was in February; specifically February 9th  
18 of 2003. Is that correct?

19 A. Correct.

20 Q. When was the first time you gave or talked to Mary  
21 Ward about this accident? Do you recall that?

22 MR. COHEN: If ever.

23 BY MR. HENNE:

24 Q. If ever, that's correct.

25 A. I don't recall.

1 Q. Do you recall ever having a conversation with her  
2 about the accident?

3 A. No.

4 Q. I don't have any other questions.

5 MR. COHEN: I have no questions of the witness at  
6 this time.

7 MR. TALADAY: I have no other questions. Thank you.  
8 (Deposition concluded at 11:06 a.m.)

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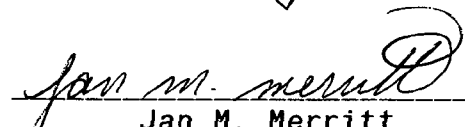
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**CERTIFICATE OF COURT REPORTER**

I, Jan M. Merritt, a notary in and for the Commonwealth of Pennsylvania, do hereby certify that the witness was by me duly sworn to testify the truth, the whole truth, and nothing but the truth; that the foregoing deposition was taken at the time and place stated herein; and that the proceedings are contained fully and accurately to the best of my ability in the notes taken by me on the deposition of the above petition and that it is a correct transcript of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 8th day of September, 2006.

COPY

  
Jan M. Merritt  
Court Reporter & Notary Public

NOTARIAL SEAL  
JAN M. MERRITT, Notary Public  
Ridgway Boro, Elk County, PA  
My Commission Expires September 8, 2009

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

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No. 05 - 78 - C.D.

**CERTIFICATE OF SERVICE**

I certify that on the 4th day of December, 2006, a true and correct copy of the foregoing Motion for Summary Judgment was sent via first class mail, postage prepaid, to the following:

Samuel Cohen, Esq.  
Attorney for Plaintiffs  
Katz, Cohen & Price  
Suite 2010  
117 South 17th Street  
Philadelphia, PA 19103

  
Matthew B. Taladay  
Attorney for Defendants

(A)

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

No. 05 - 78 - C.D.

**FILED** <sup>icc</sup>  
DEC 13 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

**ORDER OF COURT**

AND NOW, this 13<sup>th</sup> day of December, 2006,  
upon consideration of Motion for Summary Judgment filed by  
Defendants,

IT IS HEREBY ORDERED AND DECREED that:

- (1) a Rule is issued upon the Respondent to show cause why the moving party is not entitled to the relief requested;
- (2) the Respondent shall file a response and brief to the motion within 20 days of this date;
- (3) the Motion shall be decided under Pa.R.C.P. 206.7;
- (4) Argument on Motion is scheduled to occur on the 29<sup>th</sup> day of January, 2007, at 11:30 A.m. in Courtroom No. 1 of the Clearfield County Courthouse; and
- (5) Notice of the entry of this Order shall be provided to all parties by the moving party.

BY THE COURT,

Frederick J. Cunningham  
J.

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

Type of Case: Civil Action

No. 05 - 78 - C.D.

Type of Pleading:  
Certificate of  
Service

Filed on Behalf of:  
Defendants

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

Dated: December 18, 2006

FILED <sup>NO</sup> CC  
m 110:2801  
DEC 19 2006

William A. Shaw  
Prothonotary/Clerk of Courts



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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

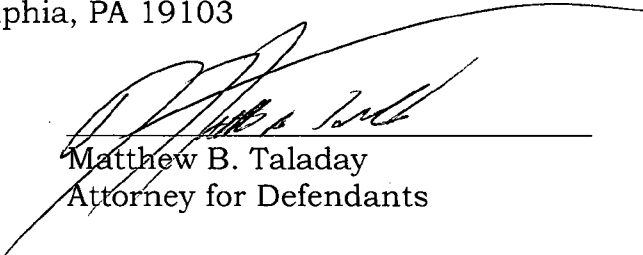
ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

No. 05 - 78 - C.D.

**CERTIFICATE OF SERVICE**

I certify that on the 18th day of December, 2006, a Court  
certified copy of Order of Court dated December 13, 2006 was sent via  
first class mail, postage prepaid, to the following:

Samuel Cohen, Esq.  
Attorney for Plaintiffs  
Katz, Cohen & Price  
Suite 2010  
117 South 17th Street  
Philadelphia, PA 19103



Matthew B. Taladay  
Attorney for Defendants

CA

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED

Plaintiffs

vs.

ROBERT EDMISTON and  
ROBIN LEARISH,

Defendants

Type of Case: Civil Action

NO. 05 - 78 - C.D.

Type of Pleading:

Plaintiffs' Answer to Motion for  
Summary Judgment and New  
Matter Together with Brief

Filed on Behalf of:  
Plaintiffs

Counsel of Record for This Party:

Katz, Cohen & Price, P.C.

By: Samuel Cohen, Esquire

Attorney I.D. No.: 27544

117 South 17th Street

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Philadelphia, Pa 19103

(215) 636-0400

Richard H. Milgrub, Esquire

Attorney I.D. No.

211 North Second Street

Clearfield, PA 16830

(814) 765-1717

Dated: December 20, 2006

William A. Shaw  
Prothonotary/Clerk of Courts

DEC 20 2006

FILED

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD NIVEN REED and  
DEBRA ALICE REED

Plaintiffs

vs.

ROBERT EDMISTON and  
ROBIN LEARISH,

Defendants

NO. 05 - 78 - C.D.

**PLAINTIFF'S ANSWER TO MOTION FOR SUMMARY JUDGMENT**

COME NOW, Plaintiffs, Richard Niven Reed and Debra Alice Reed and desiring to oppose the Motion for Summary Judgment filed on behalf of Defendants, Robert Edmiston and Robin Learish, aver in support thereof the following:

1. - 2. Admitted.

3. Denied. No response is required to the averments contained in this paragraph as same sets forth the basis for Defendant's Motion.

**Count I**

4. Admitted.

5. Denied. The averments contained in this paragraph constitute conclusions of law for which no response is required under and pursuant to the Pennsylvania Rules of Civil Procedure.

6. - 10. Denied. The averments contained in these paragraphs are based upon writings which speak for themselves and strict proof thereof, is demanded if deemed relevant at trial.

11. - 13. Denied. The averments contained in these paragraphs constitute conclusions of law for which no response is required under and pursuant to the Pennsylvania Rules of Civil Procedure.

WHEREFORE, Plaintiffs pray this Honorable Court deny the Motion for Summary Judgment filed on behalf of Defendants and enter judgment in their favor and against Defendants.

**Count II**

14. Admitted.

15. Denied. The averments contained in this paragraph regarding “generally snowy and icy conditions” constitute a factual determination to be made by a jury. Strict proof of this averment is demanded if deemed relevant at trial.

16. - 18. Denied. the averments contained in these paragraphs are based upon writings which speak for themselves and strict proof thereof, is demanded if deemed relevant at trial.

19. - 20. Denied. the averments contained in these paragraphs constitute conclusions of law for which no response is required under and pursuant to the Pennsylvania Rules of Civil Procedure.

WHEREFORE, Plaintiffs pray this Honorable Court deny the Motion for Summary Judgment filed on behalf of Defendants and enter judgment in their favor and against Defendants.

**NEW MATTER**

21. Plaintiffs incorporate herein by reference each and every averment of their Answer to Defendants’ Motion contained in paragraphs 1 through 20 as though same were fully set forth herein at length.

22. The within incident took place within the City of DuBois, Clearfield County, Pennsylvania, a city of the third class.

23. The City of DuBois has enacted a local ordinance which states the following:

Section 602: “Responsibility for Removal from of Snow and Ice from Sidewalks.

1. Every person in charge or control of any building or lot of

land fronting or abutting on a paved sidewalk, whether as owner, tenant, occupant, lessee, or otherwise, shall remove and clear away or cause to be removed or cleared away snow and/or ice from a path of at least thirty (30) inches in width from so much of said sidewalk as is in front of or abuts on said building or lot of land.

2. Except as provided in subsection (3) hereof, snow and ice shall be removed from sidewalks within twelve (12) hours after the cessation of any fall of snow, sleet or freezing rain.

3. In the event snow and/or ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person charged with its removal shall, within the time mentioned in subsection (2) hereof, cause enough sand or other abrasive to be put on the sidewalk to make travel reasonably safe; and shall, as soon thereafter as weather permits, cause to be cleared a path in said sidewalk of at least thirty (30) inches in width."

24. The premises where the incident involved in this matter occurred are governed by the provisions of the afore-quoted statute.

25. Defendants' are governed by the provisions of the aforequoted statute with regard to the premises which they owned at all times relevant hereto located at 514 South Main Street in DuBois.

26. Defendants do not have the power to contract away responsibilities which are placed upon them by local law as the result of the ownership of property in the City of DuBois.

27. The City of DuBois has the power to control health, safety and welfare in the City of DuBois including, but not limited to, removal of snow and ice from the sidewalk.

28. Public policy prohibits a landowner from contracting away responsibility for maintenance of his property required of him by statute.

29. Paragraph 15 of the Tenant Lease Agreement attached as Exhibit "B" to the Motion for Summary Judgment provides, in pertinent part:

“15. Prohibited Lease Provisions

The following types of lease provisions are prohibited by HUD.  
If there is any prohibited provision in this lease, the provision shall be void...

c. Excusing Owner from responsibility

Agreement by the Tenant not to hold the  
Owner or Owner's agent legally for any action or  
failure to act, whether intentional or negligent...”

WHEREFORE, Plaintiffs pray this Honorable Court deny the Motion for Summary  
Judgment filed on behalf of Defendants and enter judgment in their favor and against Defendants.

Respectfully submitted,  
KATZ, COHEN & PRICE, P.C.

By: 

SAMUEL COHEN, ESQUIRE

**VERIFICATION**

I, SAMUEL COHEN, verify that I represent the Plaintiff s named herein, and that the averments of fact set forth in the foregoing Answer to Motion for Summary Judgment are true and correct to the best of my knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
SAMUEL COHEN

Dated 12/20/06

EXHIBIT "2"



**FILED** *ICC*  
*01/23/01* *Any*  
**JAN 23 2001** *m. j. g. n. b.*  
William A. Shaw *(Gk)*

[illegible]

-VS-

No. 05-0078-CD

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✱

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

And

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
H/W

-vs-

No. 05-0078-CD

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801

and

ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

MOTION FOR CONTINUANCE

AND NOW, come Your Movants, Richard and Debra Reed, by  
and through their attorneys, Samuel Cohen and Richard H.  
Milgrub, who file the following Motion for Continuance:

1. That a Motion for Summary Judgment in the above  
captioned case has been scheduled for Monday, January 29, 2007  
at 11:30 a.m.

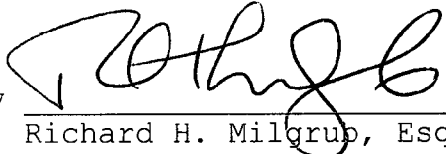
2. That Attorney Sam Cohen is lead counsel in said  
case and his presence is necessary.

THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

109 NORTH BRADY STREET  
DUBOIS, PA 15801

3. That Attorney Cohen is unavailable that day and Attorney Matt Taladay, defense counsel, has no objection to a continuance.

WHEREFORE, Your Movant respectfully requests that the matter be rescheduled to another date.

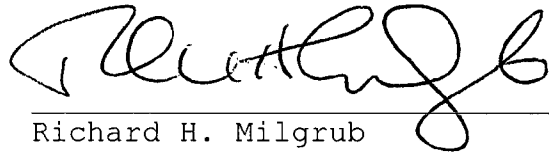
By   
Richard H. Milgrop, Esquire  
Attorney for Movant

VERIFICATION

I, Richard H. Milgrub, have read the foregoing Motion for Continuance. The Statements therein are correct to the best of my personal knowledge or information and belief.

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

I am authorized to make this verification on behalf of the Defendant because of my position as counsel of record.



Richard H. Milgrub

Dated: 1/23/07

THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

109 NORTH BRADY STREET  
DUBOIS, PA 15801

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

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-vs-

No. 05-0078-CD

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801

and

ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

ORDER

AND NOW, this 25 day of Jan, 2007, upon  
consideration of the Movant's Motion for Continuance, it is  
hereby ORDERED and DECREED that said matter scheduled for  
Monday, January 29, 2007 at 11:30 a.m. is hereby continued until  
the 2<sup>nd</sup> day of April, 2007 at 10:00 A.m in Courtroom  
No. 1 of the Clearfield County Courthouse, Clearfield,  
Pennsylvania.

BY THE COURT:

**FILED**

9/12/5234  
JAN 25 2007

William A. Shaw  
Prothonotary/Clerk of Courts

ICC Atty Milgrub

Judge

THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

109 NORTH BRADY STREET  
DUBOIS, PA 15801

**FILED**

**JAN 25 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 1/25/07

☒ You are responsible for serving all appropriate parties.

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

\_\_\_\_\_ Plaintiff(s) \_\_\_\_\_ Plaintiff(s) Attorney \_\_\_\_\_ Other

\_\_\_\_\_ Defendant(s) \_\_\_\_\_ Defendant(s) Attorney

\_\_\_\_\_ Special Instructions:

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

RICHARD NIVEN REED  
1054 Jackson Street  
Reynoldsville, PA 15851

And

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851

H/W

-vs-

ROBERT EDMISTON  
514 S. Main Street  
DuBois, PA 15801

and

ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

No. 05-0078-CD

Type of Action:  
Civil

Type of Pleading:  
Certificate of Service

Filed on Behalf of:  
Plaintiffs

Counsel of Record for this  
Party:

Richard H. Milgrub, Esquire  
Supreme Court I.D. 19865

211 North Second Street  
Clearfield, PA 16830  
(814) 765-1717

**FILED** *NO CC*  
*01/30/07*  
**JAN 26 2007**  
*WV*

William A. Shaw  
Prothonotary/Clerk of Courts

THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

109 NORTH BRADY STREET  
DUBOIS, PA 15801

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

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1054 Jackson Street  
Reynoldsville, PA 15851

And

DEBRA ALICE REED  
1054 Jackson Street  
Reynoldsville, PA 15851  
H/W

-vs-

No. 05-0078-CD

ROBERT EDMISTON  
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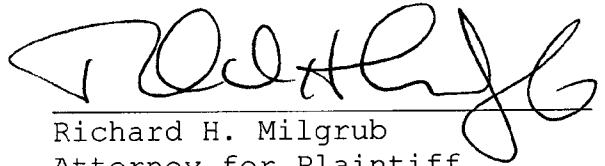
and

ROBIN LEARISH  
514 S. Main Street  
DuBois, PA 15801

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the Motion for Continuance and the Order rescheduling the Hearing from January 29, 2007 at 11:30 a.m. to April 2, 2007 at 10:00 a.m. were served upon Attorney Matthew B. Taladay, at 498 Jeffers Street, DuBois, Pennsylvania 15801 on January 25, 2007. Service was made by regular U.S. Mail.

Date: 1/25/07

  
Richard H. Milgrub  
Attorney for Plaintiff

THE LAW OFFICES OF  
RICHARD H. MILGRUB  
211 NORTH SECOND STREET  
CLEARFIELD, PA 16830

109 NORTH BRADY STREET  
DUBOIS, PA 15801



CA

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

RICHARD NIVEN REED and  
DEBRA ALICE REED,  
Plaintiffs

-vs-

ROBERT EDMISTON and  
ROBIN LEARISH,  
Defendants

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:

No. 05-78-CD

**FILED**  
0/11:55am  
APR 19 2007

200 to Atty's:  
S. Cohen  
Milgrub  
Taladay

copy to Law Lib.

**ORDER**

William A. Shaw  
Prothonotary/Clerk of Courts

(S)

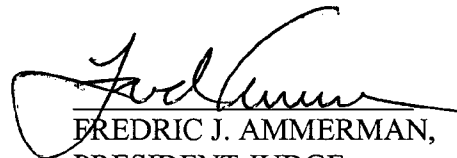
NOW, this 18<sup>th</sup> day of April, 2007, this Court, upon consideration of Defendants' Motion for Summary Judgment, finds as follows:

1. A landlord out of possession under the common law is not liable for snow removal unless a greater duty arises from another source of law. See: *Ignatowicz v. City of Pittsburgh*, 100 A.2d 608, 610 (1953) for a full discussion of landlords out of possession.
2. The terms of the lease and the factual conditions of residence establish that the Defendants are "landlords out of possession" as defined in the common law.
3. Dubois City Ordinance §602 imposes a duty equal to and not above that of the common law in this case and allows for the duty of snow removal to be passed to tenants from landlords.
4. The lease in question in this case provides that the tenant is responsible for snow removal.

5. The tenant, Mary Ward, was receiving rent assistance from the Dubois Housing Authority through the Section 8 - Housing Choice Voucher Program of the United States Department of Housing and Urban Development ("HUD").
6. Plaintiffs' assertion that the prohibitions imposed by HUD prevent an assignation of the duty of snow removal is groundless. Paragraph 15 of the sublease through the Dubois Housing Authority entitled "Prohibited Lease Provisions" does not prevent the landlord from delegating the duty of snow removal to the tenant.

Upon this Court's review of the applicable law, and upon examining the factual allegations in a light most favorable to the Plaintiffs, this Court finds that Defendants are absolved of liability in that Defendants had no legal responsibility or duty to remove snow from the sidewalk in question. Therefore, it is the **ORDER** of this Court that Defendants' Motion for Summary Judgment is hereby **GRANTED**. Plaintiffs' complaint is hereby **DISMISSED**, with prejudice.

BY THE COURT:

  
FREDRIC J. AMMERMAN,  
PRESIDENT JUDGE

DATE: 4-19-2007

☐ You are responsible for serving all appropriate parties.

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

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

**FILED**

**APR 19 2007**

William A. Shaw  
Prothonotary/Clerk of Courts