

05-1405-CD  
Catherine & John Ross vs Kurtz Bros

**Catherine Ross, John Ross vs Kurtz Bros.**  
**2005-1405-CD**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

CATHERINE ROSS, ) CIVIL DIVISION  
and JOHN ROSS )  
)  
Plaintiffs, ) No.: 05-1405-CD  
)  
vs. )  
) COMPLAINT IN CIVIL  
KURTZ BROS. ) ACTION  
)  
Defendant. ) Filed on Behalf of Plaintiff  
)  
) Counsel of Record for this Party:  
)  
) Howard F. Murphy, Esquire  
PA I.D. #: 82271  
)  
) Hal K. Waldman & Associates  
Suite 300, Dominion Tower  
625 Liberty Avenue  
Pittsburgh, PA 15222  
(412) 338-1000  
)  
) JURY TRIAL DEMANDED

FILED *cc: Shaw*  
m 13 ap 2005 Atty pd. 85.00  
SEP 12 2005

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

CATHERINE ROSS,	)	CIVIL DIVISION
and JOHN ROSS	)	
	)	
Plaintiffs,	)	No.:
	)	
vs.	)	
	)	
KURTZ BROS.	)	
	)	
Defendant	)	

**NOTICE TO DEFEND**

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

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

David S. Meholick, Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
(814) 765-2641 ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

CATHERINE ROSS, ) CIVIL DIVISION  
and JOHN ROSS )  
 )  
Plaintiffs, ) No.:  
 )  
vs. )  
 )  
KURTZ BROS. )  
 )  
Defendant )

**COMPLAINT IN CIVIL ACTION**

AND NOW, come the Plaintiffs, Catherine Ross and John Ross, wife and husband, by and through their attorneys, HAL K. WALDMAN & ASSOCIATES, and Howard F. Murphy, Esquire, and file the within Complaint in Civil Action, and in support thereof avers as follows:

1. The Plaintiffs, Catherine Ross and John Ross, wife and husband, are adult individuals with an address at 325 West Locust Street, Clearfield, Pennsylvania 156830.
2. The Defendant, Kurtz Bros., is a Pennsylvania corporation with an address where it regularly conducts business from at 400 Reed Street, PO Box 392, Clearfield, Pennsylvania 16830, (hereinafter referred to as, the "Property").
3. At all times relevant hereto, Defendant owned the Property.
4. At all times relevant hereto, Defendant and its agents, representatives, servants and/or employees possessed and controlled the

Property and had a duty to maintain the Property in a safe and reasonable condition.

5. At all times relevant hereto the Defendant's school supply, equipment and furniture business was operated and maintained under the care, custody, direction and control of Defendant at the Property.

Count I  
Catherine Ross v. Kurtz Bros.

6. On September 15, 2003, Mrs. Ross was a business invitee of the Defendant and was present at the Property.

7. At that time and place, Defendant directed its customers to use certain steps located next to a loading dock to enter its business premises at the Property rather than the usual visitor's entrance.

8. At that time and place the stairway which the Defendant required its customers to use were constructed out of cement and concrete and had metal plates attached to their surface.

9. Moreover, at that time and place, the handrail at said stairway was in disrepair and was not properly anchored or secured to the building.

10. At that time and place, there was a defective, dangerous, unsafe and hazardous condition located at the Property and said condition posed an unreasonable risk of harm to the business invitee's of the Defendant.

11. Specifically, the metal plates located on the stairway and over top of the steps was slick and slippery.

12. Moreover, it was raining at the time that the Plaintiff was present at the Property and the combination of the rain and the smooth metal surface created an unsafe condition and a significant slipping hazard.

13. Furthermore, on this occasion the Defendant deviated further from its normal custom and practice of carrying the Plaintiff's purchases out to her car for her and required her to carry her purchases out of this unfamiliar and highly slippery exit in the rain.

14. As a result of said defective, dangerous, unsafe and hazardous condition and the Defendant's conduct in requiring the Plaintiff to exit in the rain on a slippery surface with her hands full, the Plaintiff slipped and fell down on said steps and down said staircase.

15. The aforementioned fall and the resulting injuries and damages sustained by the Plaintiff were a direct and proximate result of the negligence of the Defendant, its agents, representatives, servants, and/or employees as follows:

- (a) In failing to exercise reasonable care to protect the Plaintiff and other business invitees from injury when it required the Plaintiff to exit in the rain on a slippery surface with her hands full, thereby creating an unreasonably dangerous condition;
- (b) In failing to exercise reasonable care to protect the Plaintiff and other business invitees from injury, when the Defendant knew or should have known that requiring the Plaintiff to exit in the rain on a slippery surface with her hands full created an unreasonable risk of harm;
- (c) In failing to exercise reasonable care to protect the Plaintiff and other business invitees from injury, when the Defendant should

have known that the Plaintiff and other business invitees would not discover or realize the danger that existed by the metal plated steps and/or would fail to protect themselves against it;

- (d) In negligently placing metal plates on and over the steps and stairway surface;
- (e) In requiring the Plaintiff to exit out the loading dock steps instead of the usual visitor entrance;
- (f) In deviating from its normal course of conduct with the Plaintiff and requiring her to carry her purchases herself instead of bringing them to her vehicle for her;
- (g) In failing to properly maintain the Property;
- (h) In negligently failing to place barriers and/or warning signs to alert Plaintiff and other business invitees to the danger when this Defendant knew or should have known of the dangerous condition;
- (i) In failing to provide a safe passageway out of the Defendant's business premises located at the Property;
- (j) In failing to properly inspect the steps and stairway and to make it safe;
- (k) In negligently creating, maintaining and/or consenting to or acquiescing to the creation of an artificial condition on the Property by a third party, which they knew or should have known created an unreasonable risk of harm to Plaintiff and other business invitees;
- (l) In creating and permitting the said steps and stairway to be and to remain in a dangerous and unsafe condition, when it knew or should have known that a dangerous condition existed;
- (m) In failing to warn or protect the plaintiff from the dangerous condition;
- (n) In failing to reasonably inspect the area for dangerous conditions;
- (o) In causing and/or permitting the dangerous, hazardous, and

unsafe condition to exist;

- (p) In failing to remove or repair the dangerous, hazardous, and unsafe condition when Defendants knew, or should have known, of its existence and that it created a serious risk of injury to people walking thereon; and
- (q) In failing to install or apply non-skid paint, non-skid tape or other such ant-skid/ant-slip materials to the steps and stairway

16. As the direct and proximate result of the above-described negligence, Plaintiff sustained serious and permanent injuries, including, but not limited to the following:

- (a) Severe injury to right index finger;
- (b) Swelling to PIPJ of right index finger;
- (c) Permanent deformity of the right index finger;
- (d) Permanent impairment of the flexion and extension of the right index finger;
- (e) Various contusions, abrasions and lacerations;
- (f) Right arm, wrist and hand pain;
- (g) Right upper extremity pain;
- (i) Shock to the nerves and nervous system; and
- (j) Other severe and disabling injuries.

17. As a direct and proximate result of the aforesaid injuries, Plaintiff has suffered and continues to suffer severe physical pain, mental anguish, inconvenience, humiliation and loss of life's pleasures, and she may continue to suffer the same for such a period as she shall continue to live.

18. As a direct and proximate result of the aforesaid injuries, Plaintiff has and will continue to be obliged to receive and undergo medical attention and care, and to expend various sums of money and to incur various expenses in an effort to restore her health.

19. As a direct and proximate result of the aforesaid injuries, Plaintiff's general health, strength and vitality have been impaired, and this impairment may be permanent.

WHEREFORE, Plaintiff, demands judgment against the Defendant in an amount in excess of the jurisdictional limits of the Arbitration Division of this Court, exclusive of interest and costs.

**A JURY TRIAL IS DEMANDED**

Count I  
John Ross v. Kurtz Bros.

20. The averments contained at Paragraphs 1 -19 of this Complaint are incorporated as though set forth fully at length herein.

21. John Ross is Catherine Ross' husband.

33. Solely as the direct and proximate result of said Defendant's carelessness and negligence as aforesaid, the Plaintiff, John Ross, suffered the

following damages:

- a. He has been and will be required to expend money for his wife's medical care, medical supplies, medicines and attendant services; and
- b. He has been and will be deprived of the services, assistance and companionship of his wife.

WHEREFORE, the Plaintiffs demand judgment against the Defendants, in an amount in excess of the jurisdictional limits of the Arbitration Division of this Court, exclusive of interest and costs.

**A JURY TRIAL IS DEMANDED.**

Respectfully submitted,

By:   
Howard F. Murphy, Esquire  
Attorney for Plaintiff

**VERIFICATION**

I, Catherine Ross, aver that the statements of fact contained in the attached **COMPLAINT IN CIVIL ACTION** are true and correct to the best of my information, knowledge and belief and are made subject to the penalties of 18 PA. CON. STAT. ANN. §4904 relating to unsworn falsification to authorities.

DATE: Sept. 3, 05

Catherine Ross  
Catherine Ross

16200-

CATHERINE ROSS and JOHN ROSS,  
Plaintiffs

vs.

KURTZ BROS.,

Defendant

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA  
:  
:  
: CIVIL DIVISION  
:  
: NO. 05-1405-CD  
:  
: JURY TRIAL DEMANDED

**PRAECIPE FOR ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of the Defendant, Kurtz Bros., in connection with the above-captioned matter.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY:

David B. Lingenfelter, I.D. No. 49652  
Attorney for Defendant  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
Telephone (570) 326-9067

Date:

*October 11, 2005*

cc: Howard F. Murphy, Esquire – Attorney for Plaintiffs

**FILED**

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m/1:05/2005  
William A. Shaw

Prothonotary/Clerk of Courts

*I CERT TO HTR*

*COPY TO YIA*

16200-00277

CATHERINE ROSS and JOHN ROSS,  
Plaintiffs

vs.

KURTZ BROS.,  
Defendant

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSLVANIA  
:  
: CIVIL DIVISION  
:  
: NO. 05-1405-CD  
:  
: JURY TRIAL DEMANDED

**NOTICE OF SERVING DISCOVERY**

TO THE PROTHONOTARY:

Please take notice that Defendant has served Personal Injury Interrogatories directed to Catherine Ross, Expert Witness Interrogatories directed to Plaintiffs, Request for Production of Documents directed to Plaintiffs and Consortium Interrogatories directed to John Ross addressed to Howard F. Murphy, Esquire, Attorney for Plaintiff, pursuant to the Pennsylvania Rules of Civil Procedure, by mail, postage prepaid, this 14<sup>th</sup> day of October, 2005.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

By

David B. Lingenfelter, Esquire  
Attorney for Defendant  
33 W. Third Street  
Williamsport, PA 17701  
570-326-9067

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William A. Shaw  
Prothonotary/Clerk of Courts

16200-00277

CATHERINE ROSS and JOHN ROSS,  
Plaintiffs

vs.

KURTZ BROS.,

Defendant

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA  
:  
: CIVIL DIVISION  
:  
: NO. 05-1405-CD  
:  
: JURY TRIAL DEMANDED

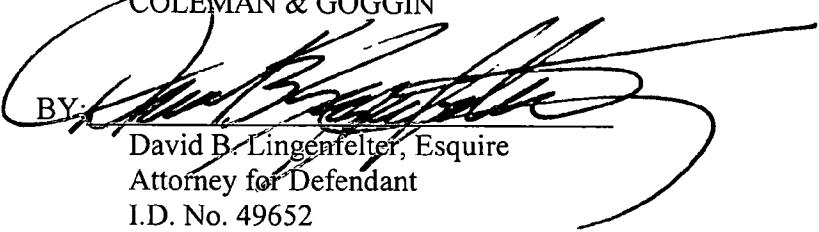
**NOTICE TO PLEAD**

TO: Plaintiffs  
c/o Howard F. Murphy, Esquire  
Hal K. Waldman & Associates  
Dominion Tower, Suite 300  
625 Liberty Avenue  
Pittsburgh, PA 15222

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

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY:

  
David B. Lingenfelter, Esquire  
Attorney for Defendant  
I.D. No. 49652  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
Telephone: (570)326-9067

FILED NOCC  
10:43 AM  
OCT 27 2006  
W.A. Shaw  
Prothonotary/Clerk of Courts

CATHERINE ROSS and JOHN ROSS,  
Plaintiffs : IN THE COURT OF COMMON PLEAS OF  
vs. : CLEARFIELD COUNTY, PENNSYLVANIA  
: :  
: CIVIL DIVISION  
: :  
: NO. 05-1405-CD  
KURTZ BROS., : :  
Defendant : JURY TRIAL DEMANDED

**DEFENDANT'S ANSWER WITH  
NEW MATTER TO PLAINTIFFS' COMPLAINT**

Defendant Kurtz Bros., by its counsel, makes this Answer Plaintiffs' Complaint as follows:

1. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments of No. 1 of Plaintiffs' Complaint, the same being therefore denied and strict proof thereof demanded at trial to the extent material to the issue before the Court.
2. Admitted.
3. Admitted.
4. This averment states a conclusion of law, and as such requires no direct answer, and is therefore denied.
5. It is admitted that at all times material hereto, Defendant operated its business at 400 Reed Street, Clearfield, Pennsylvania.

**COUNT I**

6. The averment states a conclusion of law, and as such requires no direct answer, and is therefore denied. To the extent that an answer may be required, the averments of paragraph 6 are denied pursuant to Pa.R.C.P 1029(e).
- 7-14. Denied pursuant to Pa.R.C.P. 1029(e).

15. This averment including each and every of its subparagraphs (a)-(q) are denied pursuant to Pa.R.C.P. 1029(e).

16. This averment including each and every of its subparagraphs (a)-(j) are denied pursuant to Pa.R.C.P. 1029(e).

17-19. Denied pursuant to Pa.R.C.P. 1029(e).

WHEREFORE, Defendant Kurtz Bros. demands judgment in its favor and against plaintiffs with cost of the action assessed to plaintiffs.

## **COUNT II**

20. Paragraph 20 of Plaintiffs' Complaint merely incorporates the preceding paragraphs of their, and as such requires no direct answer, and in answer thereto Defendant hereby incorporates the foregoing paragraphs of its Answer as if set forth more fully at length herein.

21. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of this averment, the same being therefore denied and strict proof thereof is demanded at trial to the extent material to the issues before the Court.

22. This averment including each and every of its subparagraphs (a)-(b) are denied pursuant to Pa.R.C.P. 1029(e).

WHEREFORE, Defendant Kurtz Bros. demands judgment in its favor and against plaintiffs with cost of the action assessed to plaintiffs.

## **NEW MATTER**

23. Defendant hereby incorporates the foregoing paragraphs of its Answer as if set forth more fully at length herein.

24. At all times pertinent hereto, the alleged condition of Defendants' premises, if such be proven, was open and obvious.

25. In whole or part, Plaintiffs' claims and/or injuries resulted from the conduct of other individuals or entities over whom Defendant had no control and for whom Defendant is not liable.

26. Defendant lacked actual and/or constructive notice of the allegedly dangerous condition which gave rise to Plaintiffs' Complaint.

27. Plaintiffs' claims or any amendment thereto are barred in whole or in part of the applicable statutes of limitation.

28. It is believed and therefore averred by Defendant that all medical expenses related to any injury sustained by any plaintiff herein, if such be proven, are paid or are payable by collateral sources.

29. It is believed and therefore averred that any lost wages and/or loss of earnings capacity, if such be proven, has been paid or is payable by collateral sources.

WHEREFORE, Defendant Kurtz Bros. respectfully demands that Plaintiffs' Complaint be dismissed.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY

David B. Lingenfelter  
Attorney for Defendant  
I.D. No. 49652  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
(570) 326-9067

**VERIFICATION**

I, David VonGunden, hereby state and aver that I am the Chief Financial Officer of Kurtz Bros.; that I am authorized to execute this Verification on behalf of Kurtz Bros. and that the facts set forth in the foregoing Answer are true and correct to the best of my knowledge, information and belief. I understand that the statements therein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: October 19, 2005



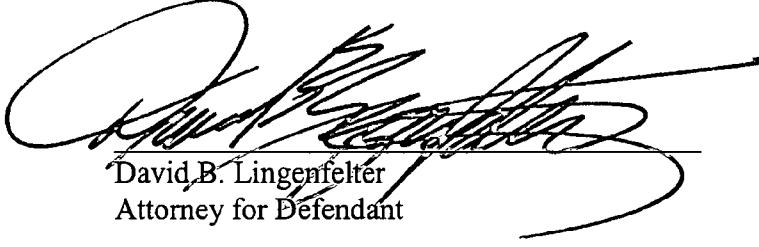
David VonGunden  
Chief Financial Officer  
Kurtz Bros.

**CERTIFICATE OF SERVICE**

I, David B. Lingenfelter, hereby certify that I have served a true and correct copy of the foregoing Answer with New Matter to Plaintiffs' Complaint upon:

**VIA UNITED STATES REGULAR MAIL:**

Howard F. Murphy, Esquire  
Hal K. Waldman & Associates  
Dominion Tower, Suite 300  
625 Liberty Avenue  
Pittsburgh, PA 15222



David B. Lingenfelter  
Attorney for Defendant

Date of Service: October 25, 2005

**FILED**

**OCT 27 2005**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

CATHERINE ROSS, ) CIVIL DIVISION  
and JOHN ROSS )  
 )  
Plaintiffs, ) No.: 05 - 1405 - CD  
 )  
vs. ) REPLY TO NEW MATTER  
 )  
 )  
KURTZ BROS. ) Filed on Behalf of Plaintiff  
 )  
 )  
Defendant. ) Counsel of Record for this Party:  
 )  
 ) Howard F. Murphy, Esquire  
 ) PA I.D. #: 82271  
 )  
 ) Hal K. Waldman & Associates  
 ) Suite 300, Dominion Tower  
 ) 625 Liberty Avenue  
 ) Pittsburgh, PA 15222  
 ) (412) 338-1000  
 )  
 ) JURY TRIAL DEMANDED

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William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

CATHERINE ROSS, ) CIVIL DIVISION  
and JOHN ROSS )  
 )  
Plaintiffs, ) No.: 05 - 1405 - CD  
 )  
vs. )  
 )  
KURTZ BROS. )  
 )  
Defendant )

REPLY TO NEW MATTER

AND NOW, come the Plaintiffs, Catherine Ross and John Ross, wife and husband, by and through their attorneys, HAL K. WALDMAN & ASSOCIATES, and Howard F. Murphy, Esquire, and file the within Reply To New Matter, and in support thereof avers as follows:

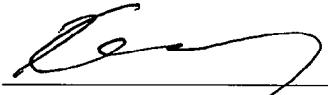
23. In response to Paragraph 23 of the Defendant's New Matter, the Plaintiffs, incorporate the averments contained in their Complaint as though set forth fully at length herein.

24-29. The averments contained at Paragraphs 24 through 29 of the Defendant's New Matter contain conclusions of law to which no response is required.

*WHEREFORE*, the Plaintiffs demand judgment against the Defendants, in an amount in excess of the jurisdictional limits of the Arbitration Division of this Court, exclusive of interest and costs.

**A JURY TRIAL IS DEMANDED.**

Respectfully submitted,

By:   
Howard F. Murphy, Esquire  
Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that a true and correct copy of the foregoing Reply To New Matter has been served upon the following counsel of record by mailing the same First Class Mail, postage prepaid, this 7<sup>th</sup> day of November, 2005, to the following address:

David B. Lingenfelter  
Marshall, Dennehey, Warner, Coleman & Goggin  
33 West Third Street, Suite 200  
Williamsport, Pa 17701

Hal K. Waldman & Associates  
Attorneys at Law

  
Howard F. Murphy, Esquire

CATHERINE ROSS and JOHN ROSS,  
Plaintiffs : IN THE COURT OF COMMON PLEAS OF  
vs. : CLEARFIELD COUNTY, PENNSYLVANIA  
KURTZ BROS., :  
Defendant : CIVIL DIVISION  
: NO. 05-1405-CD  
: JURY TRIAL DEMANDED

**RULE TO SHOW CAUSE**

AND NOW, this 4 day of January, <sup>2006</sup> 2005, upon consideration of the foregoing Motion to Compel Plaintiffs' Discovery Responses filed on behalf of defendant Kurtz Bros., a Rule is directed to be issued upon Plaintiffs to show cause if any they may have why the relief requested in the foregoing Motion shall not be granted.

RULE RETURNABLE the 27<sup>th</sup> day of January, 2006 at <sup>10:00</sup> a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania, with oral argument to be held at that time.

BY THE COURT



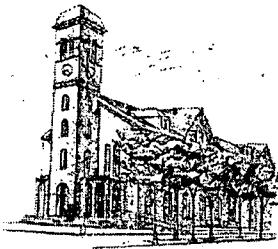
c: Howard F. Murphy, Esquire, counsel for plaintiffs  
David B. Lingenfelter, Esquire, counsel for defendant

FILED 10:00 AM  
JAN 06 2006  
Atty Lingenfelter  
William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**JAN 06 2006**

William A. Shaw  
Prothonotary/Clerk of Courts



## Clearfield County Office of the Prothonotary and Clerk of Courts

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

**David S. Ammerman**  
Solicitor

**Jacki Kendrick**  
Deputy Prothonotary

**Bonnie Hudson**  
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw  
Prothonotary

DATE: 11/16/06

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

CATHERINE ROSS and JOHN ROSS,  
Plaintiffs : IN THE COURT OF COMMON PLEAS OF  
vs. : CLEARFIELD COUNTY, PENNSYLVANIA  
KURTZ BROS., :  
Defendant : CIVIL DIVISION  
: NO. 05-1405-CD  
: JURY TRIAL DEMANDED

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2006, it is hereby  
ORDERED that defendant's Motion to Compel Plaintiffs' responses to Discovery is hereby  
GRANTED.

Plaintiffs are hereby ordered to provide full and complete answers to Personal Injury  
Interrogatories directed to Catherine Ross, Expert Witness Interrogatories directed to plaintiffs,  
and Consortium Interrogatories directed to John Ross, as well as full and complete responses to  
defendant's Request for Production of Documents directed to plaintiffs within ten days of this  
Order.

BY THE COURT,

\_\_\_\_\_, J.

c: Howard F. Murphy, Esquire, counsel for plaintiffs  
David B. Lingenfelter, Esquire, counsel for defendant

16200-00277

CATHERINE ROSS and JOHN ROSS,  
Plaintiffs

vs.

KURTZ BROS.,

Defendant

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA  
:  
: CIVIL DIVISION  
:  
: NO. 05-1405-CD  
:  
: JURY TRIAL DEMANDED

CA  
FILED NO  
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William A. Shaw  
Prothonotary/Clerk of Courts

**MOTION TO COMPEL PLAINTIFFS' RESPONSES TO DISCOVERY**

Defendant Kurtz Bros., by its counsel, moves the Court for entry of an Order compelling plaintiffs' responses to defendant's written discovery requests, as follows:

1. Plaintiffs filed their Complaint on or about September 12, 2005, claiming damages for personal injuries allegedly sustained by Catherine Ross as a result of a fall on defendant's premises on September 15, 2003. Plaintiff John Ross asserts his derivative claims as her husband.

2. On October 14, 2005, defendant, by its counsel, served Personal Injury Interrogatories directed to Catherine Ross, Expert Witness Interrogatories directed to plaintiffs, and Consortium Interrogatories directed to John Ross, as well as defendant's Request for Production of Documents directed to plaintiffs on plaintiffs' counsel. A copy of the Notice of Serving Discovery, filed with the Court on October 17, 2005, is attached hereto as Exhibit "1" and a copy of the aforesaid discovery requests are attached hereto collectively as Exhibit "2".

3. When no answers, responses, or objections were received, counsel for defendant requested voluntary responses from plaintiffs' counsel no later than December 28, 2005, by way of correspondence dated December 7, 2005, a copy of which is attached as Exhibit "3".

4. Despite the undersigned's requests for voluntary responses, no answers, responses, or objections have been received.

5. Defendant is prejudiced in its ability to prepare a defense and evaluate plaintiffs' claims because of plaintiffs' continuing failure to voluntarily provide answers and responses to defendant's written discovery.

6. Defendant is entitled to discovery of the matters into which inquiry is made by way of its written discovery.

WHEREFORE, defendant Kurtz Bros., by its counsel, respectfully moves the Court for entry of an Order compelling full and complete answers to Personal Injury Interrogatories directed to Catherine Ross, Expert Witness Interrogatories directed to plaintiffs, and Consortium Interrogatories directed to John Ross, as well as full and complete responses to defendant's Request for Production of Documents directed to plaintiffs within ten days of this Court's order pursuant to Pa.R.Civ.P. 4019.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

By:

David B. Lingenfelter  
I.D. 49652  
dlingenfelter@mdwcg.com

33 W. Third Street, Suite 200  
Williamsport, PA 17701  
(570)326-9094 – Phone  
(570)326-5507 – Fax

Date: December 28, 2005

16200-00277

FILE COPY

CATHERINE ROSS and JOHN ROSS, : IN THE COURT OF COMMON PLEAS OF  
Plaintiffs : CLEARFIELD COUNTY, PENNSLVANIA  
vs. : CIVIL DIVISION  
: NO. 05-1405-CD  
KURTZ BROS., : JURY TRIAL DEMANDED  
Defendant

NOTICE OF SERVING DISCOVERY

TO THE PROTHONOTARY:

Please take notice that Defendant has served Personal Injury Interrogatories directed to Catherine Ross, Expert Witness Interrogatories directed to Plaintiffs, Request for Production of Documents directed to Plaintiffs and Consortium Interrogatories directed to John Ross addressed to Howard F. Murphy, Esquire, Attorney for Plaintiff, pursuant to the Pennsylvania Rules of Civil Procedure, by mail, postage prepaid, this 14<sup>th</sup> day of October, 2005.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

By

David B. Lingenfelter, Esquire  
Attorney for Defendant  
33 W. Third Street  
Williamsport, PA 17701  
570-326-9067

FILE COPY  
1:34  
OCT 17 2005

William A. Shaw  
Prothonotary/Clerk of Courts

EXHIBIT

1

CATHERINE ROSS and JOHN ROSS, : IN THE COURT OF COMMON PLEAS OF  
Plaintiffs : CLEARFIELD COUNTY, PENNSLVANIA  
:  
vs. : CIVIL DIVISION  
:  
: NO. 05-1405-CD  
:  
KURTZ BROS., : JURY TRIAL DEMANDED  
Defendant

**PERSONAL INJURY INTERROGATORIES  
OF DEFENDANT TO PLAINTIFF**

TO: PLAINTIFF  
c/o Howard F. Murphy, Esquire

These Interrogatories are propounded pursuant to the Pennsylvania Rules of Civil Procedure and are to be answered by the Plaintiff(s) in accordance therewith. Plaintiff(s) are required to answer these Interrogatories in writing under oath, based upon all information available to them and to their attorneys, employees, and other agents, or representatives. Plaintiff(s) are also required to serve answers to these Interrogatories within thirty (30) days, and supplement their answers in accordance with the Pennsylvania Rules of Civil Procedure.

These Interrogatories are to be answered by the Plaintiff(s).

**INSTRUCTIONS**

A. The words "you" or "your" when used herein refer to all Plaintiff(s), their agents, servants and/or employees.

B. "Identity" when used herein with respect to an individual means to state: (1) the person's full name and present or last known address; and (2) the person's position, employer and employer's address at the time of the events referred to in the Interrogatory.

C. "Identity" when used herein with respect to an entity other than an individual (e.g., a corporation, partnership, unincorporated association, governmental agency, etc.), or a division or subdivision thereof, means to state the full name and present or last known address of the entity, and, if applicable, the full name and present or last known address of the entity's division or subdivision.

D. "Document" when used herein means any record, including any object containing written, printed, or magnetically recorded information, a graphic or photographic representation, or sound. "Document" includes the original or any copy of any statement, report, letter, memorandum,

**EXHIBIT**

2

book, article, note, blueprint, drawing, sketch, photograph, motion picture, videotape, sound recording. "Document" also includes any card, disc, tape, print-out or any other article designed for use with a computer or other word or data processing system.

E. "Identify" when used herein with respect to a document means to state: (1) the nature of the document (i.e., whether it is a statement, report, etc.); (2) the title of the document, or, if the document has no title, a description of the document; (3) the identity of the person or persons who prepared the document; (4) the identity of the person or persons for whom the document was prepared or to whom the document was directed; (5) the date the document was prepared; and, (6) the identity of the present custodian of the document or any copy of the document.

F. When the word "incident" is used in these Interrogatories it is to refer to those occurrences alleged in Plaintiffs' Complaint.

1. State your name, address, date of birth, and social security number.

**ANSWER:**

2. Identify all family members and others who have resided with you from the date of the accident or occurrence to the present time.

**ANSWER:**

3. What is your educational background?

**ANSWER:**

4. Please provide a full and complete summary of your employment history prior and subsequent to the accident or occurrence.

**ANSWER:**

5. What injuries did you sustain in the accident or occurrence upon which this suit is based. (Please do not answer this question by reference to the medical records or Complaint).

**ANSWER:**

6. What pains, ailments, complaints, injuries or disability do you presently have as a result of the accident or occurrence.

**ANSWER:**

7. When, where and by whom were you examined or given medical attention for the injuries received in this accident or occurrence?

**ANSWER:**

8. If you are claiming any scars or disfiguring marks as a result of the accident or occurrence, describe the scars or disfiguring marks giving their location, size, shape and color:

**ANSWER:**

9. State whether you were required to use any device or appliance such as a cane, crutches, medical braces or casts, corsets, elastic bandages, or any other means of artificial support and, if so, give details as to the nature and extent of its use.

**ANSWER:**

10. Describe the impact, if any, of your injuries on your daily activities.

**ANSWER:**

11. Are you still under treatment for the injuries sustained in the accident or occurrence and, if so, what is your present treatment status.

**ANSWER:**

12. Identify all doctors and hospitals providing medical treatment for a period of 3 years prior to the accident and give a brief description of the reasons for such treatment.

**ANSWER:**

13. State whether you are claiming a loss of earnings or a loss of earnings capacity as a result of the accident or occurrence and, if so, separately state the amount claimed for past wage loss, future wage loss or loss of earning capacity, and the reasons you feel you are entitled to recover the amount claimed.

**ANSWER:**

14. State whether you are making a claim for medical expenses incurred as a result of the accident or occurrence and, if so, set forth with particularity the amount claimed, whether the expenses have been paid, and if paid, the identity of the individual or entity making payment.

**ANSWER:**

15. Are you claiming any special damages other than for loss of earnings or medical expenses and, if so, state with particularity the basis of such claim.

**ANSWER:**

16. If you were ever injured in any other kind of accident or occurrence before or after the accident or occurrence upon which this suit is based please state:

- (a) the date of each accident or occurrence;
- (b) the injuries that were sustained;
- (c) the court, term and number of any suit which was instituted for recovery of damages.

**ANSWER:**

17. If you have ever suffered any injuries, sickness, disease or abnormality of any kind prior to the accident or occurrence alleged in this action involving any part or function of the body claimed in this suit to have been injured, please state:

- (a) the specific nature of your pre-existing problem;
- (b) the duration of the pre-existing injury or condition;
- (c) whether you were ever examined or treated for the injuries, sickness, disease or abnormality prior to the accident or occurrence alleged in this action and, if so, when and by whom.

**ANSWER:**

18. If known to you, your attorney or other representative, set forth the name, home and business address of the following person:

- (a) those who actually saw all or any part of the accident or occurrence;
- (b) those who were present at or near the scene of the accident or occurrence;
- (c) those who have any knowledge concerning the facts of the accident, the surrounding circumstances, and the plaintiff's injuries and damages resulting therefrom.
- (d) all persons who may be called by Plaintiff to testify at trial.

**ANSWER:**

19. Were you covered by any type of insurance with respect to the injuries, damages, expenses and/or losses claimed in this action? If so, please state:

- (a) the names and addresses of all insurance carriers;
- (b) the policy numbers of each policy
- (c) the nature and extent of insurance coverage provided, including tort selection;
- (d) the nature and extent of insurance benefits which have been paid;
- (e) whether any insurance benefits have been claimed but not paid.

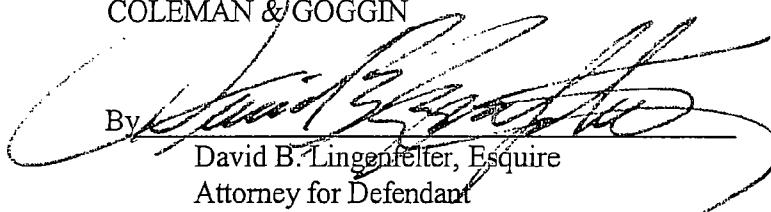
**ANSWER:**

20. Will you provide authorizations for the release of medical, employment and insurance records and documents which may have potential relevance to your claim? If so, please sign and return the attached authorizations with your answers.

**ANSWER:**

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

By

  
David B. Lingenfelter, Esquire  
Attorney for Defendant  
33 W. Third Street  
Williamsport, PA 17701  
570-326-9067

**AUTHORIZATION TO  
RELEASE EMPLOYMENT RECORDS**

I hereby authorize all present and past employers to release any and all employment records, including, but not limited to, wage information, W-2 forms, attendance records, etc., to Marshall, Dennehey, Warner, Coleman & Goggin or any member of that firm upon presentation of this authorization or photostatic copy thereof.

SIGNED: \_\_\_\_\_

DATE: \_\_\_\_\_

SS#: \_\_\_\_\_

**AUTHORIZATION TO RELEASE  
INSURANCE INFORMATION**

I hereby authorize \_\_\_\_\_ Insurance Company to release all documents relating to any and all claims arising out of the accident that occurred on \_\_\_\_\_ involving \_\_\_\_\_ including, specifically, application for First Party Benefits, PRO reports, policy declaration sheets, medical payment ledgers, wage loss payment ledgers, documents executed by the insured and any and all statements to Marshall, Dennehey, Warner, Coleman & Goggin or any member of that firm upon presentation of this authorization or photostatic copy thereof. It is not necessary to provide medical bills in response to this authorization.

Policy or Claim Number: \_\_\_\_\_

SIGNED: \_\_\_\_\_

DATE: \_\_\_\_\_

SS#: \_\_\_\_\_

**AUTHORIZATION  
TO USE AND DISCLOSE  
PROTECTED HEALTH INFORMATION**

Section A: This section must be completed for all Authorizations

Patient Name: <i>Catherine Ross</i>	Birth Date:	Social Security #:
Previous Name:	Recipient's Name:  MARSHALL, DENNEHEY, WARNER COLEMAN & GOGGIN	
MR #:		
Provider's Name:	Address:  33 WEST THIRD ST. SUITE 200 WILLIAMSPORT, PA 17701	

This Authorization will expire 6 months from the date of signature unless you request an earlier date:

Date: Event:

Purpose of Disclosure:  My personal records (Charge not to exceed state maximum)  
 Sharing with health care providers as needed  
 Other (please describe) Attorney

**Description of information to be used or disclosed**

Description:	Date(s):	Description:	Date(s):	Description:	Date:
<input type="checkbox"/> Discharge Summary		<input type="checkbox"/> Emergency Dept.		<input type="checkbox"/> Clinic Notes	
<input type="checkbox"/> History/Physical		<input type="checkbox"/> Physical Therapy		<input type="checkbox"/> Immunization	
<input type="checkbox"/> Operative Reports		<input type="checkbox"/> X-Ray Reports		<input type="checkbox"/> Labs	
<input type="checkbox"/> Cardiac Cath Reports					
<input checked="" type="checkbox"/> Other - Med Records					

I acknowledge, and hereby consent to such, that the released information may contain alcohol, drug abuse, psychiatric, HIV testing, HIV results or AIDS information.

I do not authorize the release of the above information. \_\_\_\_\_ (Initial)

I understand that:

1. I may refuse to sign this authorization and that it is strictly voluntary.
2. My treatment, payment, enrollment or eligibility for benefits may not be conditioned on signing this authorization. If the only purpose for providing me with a service is to obtain information to disclose to someone else, then I must authorize that disclosure in order to receive the service. (Example: physical examinations required to obtain certain types of licenses. If the services are related to research, I may be required to authorize the use or disclosure of my health information for the research. This applies only to health information related to the research services. The use and disclosure of my information will be limited to what is necessary for the research. If I do not authorize the use and disclosure of my information for the research, I may not be eligible to receive the services.)
3. I may revoke this authorization at any time in writing, but if I do, it will not have any affect on any actions taken prior to receiving the revocation. Further details may be found in the Notice of Privacy Practices.
4. If the requester or receiver is not a health plan or health care provider, the released information may no longer be protected by federal privacy regulations and may be redislosed.
5. I understand that I may see and obtain a copy of the information described on this form, for a reasonable fee, if I ask for it.

Section C: Signatures

I have read the above and authorize the disclosure of the protected health information as stated.

Signature of Patient/Guardian:

Date:

CATHERINE ROSS and JOHN ROSS, : IN THE COURT OF COMMON PLEAS OF  
Plaintiffs : CLEARFIELD COUNTY, PENNSLVANIA  
vs. :  
: CIVIL DIVISION  
: NO. 05-1405-CD  
KURTZ BROS., :  
Defendant : JURY TRIAL DEMANDED

**EXPERT INTERROGATORIES  
OF DEFENDANT ADDRESSED TO PLAINTIFF**

TO: PLAINTIFFS  
c/o Howard F. Murphy, Esquire

These Interrogatories are propounded pursuant to the Pennsylvania Rules of Civil Procedure and are to be answered by the Plaintiff(s) in accordance therewith. Plaintiff(s) are required to answer these Interrogatories in writing under oath, based upon all information available to them and to their attorneys, employees, and other agents, or representatives. Plaintiff(s) are also required to serve answers to these Interrogatories within thirty (30) days, and supplement their answers in accordance with the Pennsylvania Rules of Civil Procedure.

These Interrogatories are to be answered by the Plaintiff(s).

**INSTRUCTIONS**

A. The words "you" or "your" when used herein refer to all Plaintiff(s), their agents, servants and/or employees.

B. "Identity" when used herein with respect to an individual means to state: (1) the person's full name and present or last known address; and (2) the person's position, employer and employer's address at the time of the events referred to in the Interrogatory.

C. "Identity" when used herein with respect to an entity other than an individual (e.g., a corporation, partnership, unincorporated association, governmental agency, etc.), or a division or subdivision thereof, means to state the full name and present or last known address of the entity, and, if applicable, the full name and present or last known address of the entity's division or subdivision.

D. "Document" when used herein means any record, including any object containing written, printed, or magnetically recorded information, a graphic or photographic representation, or sound. "Document" includes the original or any copy of any statement, report, letter, memorandum, book, article, note, blueprint, drawing, sketch, photograph, motion picture, videotape, sound

recording. "Document" also includes any card, disc, tape, print-out or any other article designed for use with a computer or other word or data processing system.

E. "Identify" when used herein with respect to a document means to state: (1) the nature of the document (i.e., whether it is a statement, report, etc.); (2) the title of the document, or, if the document has no title, a description of the document; (3) the identity of the person or persons who prepared the document; (4) the identity of the person or persons for whom the document was prepared or to whom the document was directed; (5) the date the document was prepared; and, (6) the identity of the present custodian of the document or any copy of the document.

F. When the word "incident" is used in these Interrogatories it is to refer to those occurrences alleged in Plaintiffs' Complaint.

1. Identify each person whom you expect to call as an expert witness at the trial of this action, and
  - (a) as to each person so identified, state the subject matter on which the expert is expected to testify.

**ANSWER:**

2. As to each expert identified above, have the expert state the following:
  - (a) the substance of the facts and opinions to which they are expected to testify;
  - (b) a summary of the grounds for each opinion.

**ANSWER:**

3. With respect to each expert identified in the answer to the preceding interrogatory, state the following:

- (a) a brief chronological resume of the expert's education and professional background, including associations or societies of which they are a member, schools attended, including years of attendance and degree received, experience in particular fields, including names and addresses of employers with inclusive years of employment;
- (b) the title, publisher, date and form of all documentary material published by the expert.

**ANSWER:**

4. Identify any documents prepared or generated by the expert in whole or in part that contains the facts and opinions to which the expert is expected to testify, for whom prepared and when, and identify further each person to whom the document or documents were given or distributed.

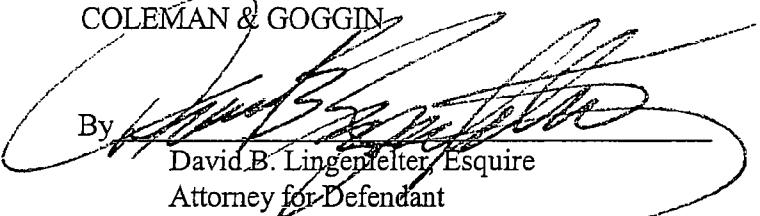
**ANSWER:**

5. Identify all factual information supplied to the expert which was used as the basis for opinion, including correspondence, memoranda, reports, tests, plans, specifications, drawings, and/or documents of any kind as well as objects and photographs examined.

**ANSWER:**

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

By

  
David B. Lingenfelter, Esquire  
Attorney for Defendant  
33 W. Third Street  
Williamsport, PA 17701  
570-326-9067

16200-00277

CATHERINE ROSS and JOHN ROSS, : IN THE COURT OF COMMON PLEAS OF  
Plaintiffs : CLEARFIELD COUNTY, PENNSLVANIA  
vs. :  
: CIVIL DIVISION  
: NO. 05-1405-CD  
KURTZ BROS., :  
Defendant : JURY TRIAL DEMANDED

**CONSORTIUM INTERROGATORIES  
OF DEFENDANT DIRECTED TO  
PLAINTIFF, JOHN ROSS**

TO: PLAINTIFF, JOHN ROSS  
C/O Howard F. Murphy, Esquire

These Interrogatories are propounded pursuant to the Pennsylvania Rules of Civil Procedure and are to be answered by the Plaintiff(s) in accordance therewith. Plaintiff(s) are required to answer these Interrogatories in writing under oath, based upon all information available to them and to their attorneys, employees, and other agents, or representatives. Plaintiff(s) are also required to serve answers to these Interrogatories within thirty (30) days, and supplement their answers in accordance with the Pennsylvania Rules of Civil Procedure.

These Interrogatories are to be answered by the Plaintiff(s).

**INSTRUCTIONS**

A. The words "you" or "your" when used herein refer to all Plaintiff(s), their agents, servants and/or employees.

B. "Identity" when used herein with respect to an individual means to state: (1) the person's full name and present or last known address; and (2) the person's position, employer and employer's address at the time of the events referred to in the Interrogatory.

C. "Identity" when used herein with respect to an entity other than an individual (e.g., a corporation, partnership, unincorporated association, governmental agency, etc.), or a division or subdivision thereof, means to state the full name and present or last known address of the entity, and, if applicable, the full name and present or last known address of the entity's division or subdivision.

D. "Document" when used herein means any record, including any object containing written, printed, or magnetically recorded information, a graphic or photographic representation, or sound. "Document" includes the original or any copy of any statement, report, letter, memorandum,

book, article, note, blueprint, drawing, sketch, photograph, motion picture, videotape, sound recording. "Document" also includes any card, disc, tape, print-out or any other article designed for use with a computer or other word or data processing system.

E. "Identify" when used herein with respect to a document means to state: (1) the nature of the document (i.e., whether it is a statement, report, etc.); (2) the title of the document, or, if the document has no title, a description of the document; (3) the identity of the person or persons who prepared the document; (4) the identity of the person or persons for whom the document was prepared or to whom the document was directed; (5) the date the document was prepared; and, (6) the identity of the present custodian of the document or any copy of the document.

F. When the word "incident" is used in these Interrogatories it is to refer to those occurrences alleged in Plaintiffs' Complaint.

1. State your name, address, social security number, and occupation.

**ANSWER:**

2. State the date and place of your marriage, (if applicable) your spouse's maiden name, and whether you have ever resided separately from your spouse.

**ANSWER:**

3. State the name, present address, and age of each child of the marriage.

**ANSWER:**

4. Identify all children, relatives, or other persons who have resided with you from the date of the occurrence to the present.

**ANSWER:**

5. State in detail how the injury to your spouse impacted on your own activities of daily living.

**ANSWER:**

6. If you are claiming damages for a disruption of marital relations, please state the factual basis of your claim.

**ANSWER:**

7. How, if at all, is your marriage relationship still affected by your spouse's injury.

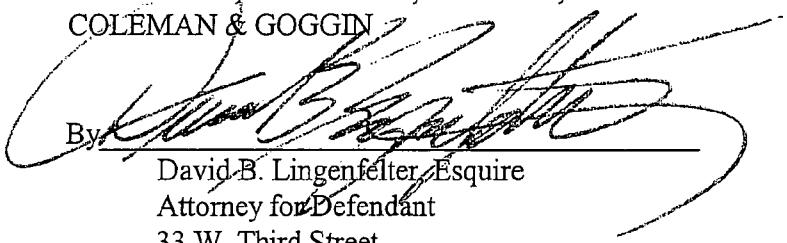
**ANSWER:**

8. What additional losses and damages, if any, do you contend you sustained as a result of the injury to your spouse.

**ANSWER:**

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

By

  
David B. Lingenfelter, Esquire  
Attorney for Defendant  
33 W. Third Street  
Williamsport, PA 17701  
570-326-9067

16200-00277

CATHERINE ROSS and JOHN ROSS,  
Plaintiffs

vs.

KURTZ BROS.,

Defendant

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSLVANIA  
:  
: CIVIL DIVISION  
:  
: NO. 05-1405-CD  
:  
: JURY TRIAL DEMANDED

**DEFENDANT'S REQUEST FOR PRODUCTION  
OF DOCUMENTS DIRECTED TO PLAINTIFFS**

TO: PLAINTIFFS  
c/o Howard F. Murphy, Esquire

Defendant, request(s) that Plaintiffs, pursuant to the applicable rules of civil procedure, produce the following documents within thirty (30) days from the date of this request. This is a continuing request requiring supplementation when additional documents become available.

1. Statements of all parties and witnesses.

2. Photographs of persons, places, and things involved in the accident or occurrence.

3. Drawings, maps, deeds, diagrams, sketches or any similar documents relating to the accident or occurrence.

4. Insurance records and documents relating to insurance benefits paid or payable in connection with the accident or occurrence.

5. Agreements and releases, if any, executed by the parties, their representatives, or insurance companies relating to the accident or occurrence.

6. Medical bills and records relating to injuries sustained in the accident or occurrence.

7. Tax returns including W-2s and 1099s for each year from three years prior to the date of the accident to the present.

8. Estimates, receipts, notes, diaries, and other records which relate in any way to the damages claimed.

9. Discoverable documents relating to the investigation of any aspect of this claim.

10. Notes, diaries, recordings, reports and any other discoverable documents relating to liability or damages, not specified above.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

By \_\_\_\_\_  
David B. Lingenfelter, Esquire  
Attorney for Defendant  
33 W. Third Street  
Williamsport, PA 17701  
570-326-9067

33 W. Third Street, Suite 200 · Williamsport, PA 17701  
(570) 326-9091 · Fax (570) 326-5507

FILE COPY

Direct Dial: (570) 326-9067  
Email: [dlingenfelter@mdwcg.com](mailto:dlingenfelter@mdwcg.com)

December 7, 2005

Howard F. Murphy, Esquire  
Hal K. Waldman & Associates  
Dominion Tower, Suite 300  
625 Liberty Avenue  
Pittsburgh, PA 15222

Re: **Ross v. Kurtz Bros.**  
**Clearfield County No. 05-1405**  
**Our File No. 16200-00277**

Dear Mr. Murphy:

I note that we have not received answers to our interrogatories or responses to our request for production of documents served on you under cover of my letter dated October 13, 2005. Kindly provide these answers and responses by December 28, 2005. If I do not receive your discovery responses by that date, I will be forced to prepare and file a motion to compel with the Court. I trust that this course of action will not be necessary.

Thank you for your attention to this matter.

Very truly yours,

David B. Lingenfelter

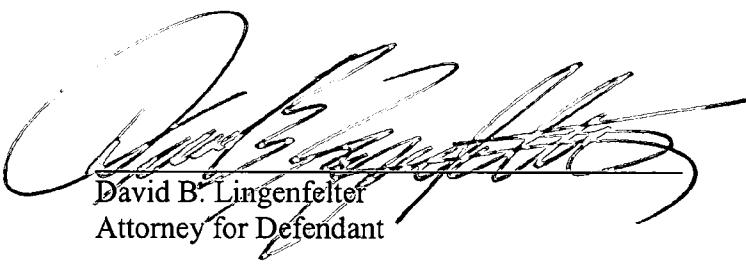


**CERTIFICATE OF SERVICE**

I, David B. Lingenfelter, hereby certify that I have served a true and correct copy of the foregoing Motion to Compel Plaintiffs' Responses to Discovery upon:

**VIA UNITED STATES REGULAR MAIL:**

Howard F. Murphy, Esquire  
Hal K. Waldman & Associates  
Dominion Tower, Suite 300  
625 Liberty Avenue  
Pittsburgh, PA 15222



David B. Lingenfelter  
Attorney for Defendant

Date of Service:

December 28, 2005

FILED

DEC 30 2005

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100807  
NO: 05-1405-CD  
SERVICE # 1 OF 1  
COMPLAINT

PLAINTIFF: CATHERINE ROSS and JOHN ROSS  
vs.  
DEFENDANT: KURTZ BROS.

**SHERIFF RETURN**

NOW, October 04, 2005 AT 2:48 PM SERVED THE WITHIN COMPLAINT ON KURTZ BROS. DEFENDANT AT 400 REED ST., PO BOX 392, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JANE DUNLAP, SECRETARY/RECEPTIONIST A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / HUNTER

**FILED**

070:15:61  
JAN 13 2006

William A. Shaw  
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	WALDMAN	12491	10.00
SHERIFF HAWKINS	WALDMAN	12491	20.37

Sworn to Before Me This

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

So Answers,

*Chester A. Hawkins  
by Marilynn Hagan*  
Chester A. Hawkins  
Sheriff

16200-00277

CATHERINE ROSS and JOHN ROSS,  
Plaintiffs

vs.

KURTZ BROS.,  
Defendant

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA  
:  
: CIVIL DIVISION  
:  
: NO. 05-1405-CD  
:  
: JURY TRIAL DEMANDED

**PRAECIPE TO WITHDRAW DEFENDANT'S MOTION TO COMPEL**

Kindly withdraw Defendant's Motion to Compel Plaintiffs' responses to discovery as filed with the Court on or about December 30, 2005.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY:

David B. Lingensfelter  
I.D. No. 49652  
Attorney for Defendant  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
Telephone (570) 326-9067

cc: Court Administrator

Howard F. Murphy, Esquire  
Hal K. Waldman & Associates  
Dominion Tower, Suite 300  
625 Liberty Avenue  
Pittsburgh, PA 15222

FILED  
11:43 AM  
JAN 17 2006  
cc: Party  
60

William A. Shaw  
Prothonotary/Clerk of Courts

16200-00277

CATHERINE ROSS and JOHN ROSS,  
Plaintiffs

vs.

KURTZ BROS.,

Defendant

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA  
:  
: CIVIL DIVISION  
:  
: NO. 05-1405-CD  
:  
: JURY TRIAL DEMANDED

**ORDER**

AND NOW, this 18<sup>th</sup> day of January, 2006, upon Praeclipe to Withdraw  
Defendant's Motion to Compel as filed by the defendant, it is hereby ORDERED that the said  
Motion is deemed withdrawn and the argument scheduled for January 26, 2006, is hereby  
cancelled.

*27 FSB*

BY THE COURT,

*Judie J. Zimmerman*  
\_\_\_\_\_, J.

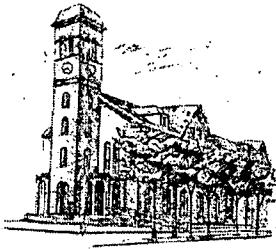
**FILED** *4ce*  
*class fil* *Atty Lingenfelter*  
**JAN 18 2006**

*6P*  
William A. Shaw  
Prothonotary/Clerk of Courts

FILED

JAN 18 2006

William A. Shaw  
Prothonotary/Clerk of Courts



## Clearfield County Office of the Prothonotary and Clerk of Courts

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

**David S. Ammerman**  
Solicitor

**Jacki Kendrick**  
Deputy Prothonotary

**Bonnie Hudson**  
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw  
Prothonotary

DATE: 11/18/06

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

16200-00277

CATHERINE ROSS and JOHN ROSS, : IN THE COURT OF COMMON PLEAS OF  
Plaintiffs : CLEARFIELD COUNTY, PENNSYLVANIA  
  
vs. : CIVIL DIVISION  
  
: NO. 05-1405-CD  
KURTZ BROS., :  
Defendant : JURY TRIAL DEMANDED

**NOTICE OF SERVING DISCOVERY**

TO THE PROTHONOTARY:

Please take notice that Defendant has served Answers to Interrogatories and Responses to Request for Production of Documents addressed to Timothy Montgomery, Esquire, Attorney for Plaintiff, pursuant to the Pennsylvania Rules of Civil Procedure, by mail, postage prepaid, this 8th day of August, 2006.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

By David B. Lingenfelter  
David B. Lingenfelter, Esquire  
Attorney for Defendants  
33 W. Third Street  
Williamsport, PA 17701  
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Prothonotary/Clerk of Courts

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**AUG 10 2006**

*William A. Shaw*  
Prothonotary/Clerk of Courts

16200-00277

CATHERINE ROSS and JOHN ROSS,  
Plaintiffs

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

vs.

KURTZ BROS.,

Defendant

: CIVIL DIVISION

: NO. 05-1405-CD

: JURY TRIAL DEMANDED

**PRAECIPE TO DISCONTINUE**

TO THE PROTHONOTARY:

Please mark the above-captioned matter as discontinued on the docket.

HAL K. WALDMAN & ASSOCIATES

By Hal K. Wald  
Attorneys for Plaintiffs

DATED: 10/19/06

FILED 1cc+1cert of  
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October 24, 2006

William A. Shaw, Sr.  
PROTHONOTARY  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830



**Re: Ross v. Kurtz Bros.  
Clearfield County No. 05-1405  
Our File No. 16200-00277**

Dear Mr. Shaw:

Enclosed please find a Praeceipe to Settle and Discontinue the above matter. Please return a time-stamped copy of the Praeceipe in the envelope provided. Thank you.

Very truly yours,

A handwritten signature in cursive ink, appearing to read 'Judy Berkheiser'.

Judy A. Berkheiser  
Legal Assistant

Enclosures

cc: Hal K. Waldman, Esquire

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

**COPY**

**Catherine Ross**  
**John Ross**

**Vs.**  
**Kurtz Bros.**

**No. 2005-01405-CD**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on October 26, 2006, marked:

Discontinued

Record costs in the sum of \$85.00 have been paid in full by Howard Murphy Esq..

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 26th day of October A.D. 2006.

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