

05-1507-CD
Ashley Heichel et al vs Mary McKenrick et al

Ashley Heichel et al vs Mary McKenrick
2005-1507-CD

Date: 1/22/2008

Clearfield County Court of Common Pleas

User: LMILLER

Time: 10:08 AM

ROA Report

Page 1 of 2

Case: 2005-01507-CD

Current Judge: Paul E. Cherry

Ashley D. Heichel, Steven Heichel, Amy Heichel vs. Mary A. McKenrick, David M. Bunnell

Civil Other

Date		Judge
9/29/2005	New Case Filed. Filing: Complaint Civil Action Paid by: Ainsman, Levine & Drexler, LLC Receipt number: 1909194 Dated: 09/29/2005 Amount: \$85.00 (Check) 2CC Shff.	No Judge No Judge
10/31/2005	Entry of Appearance, filed. Please enter my appearance on behalf of the Defendant, Mary A. McKenrick, in the above-captioned matter, filed by s/ R. Denning Gearhart Esq. No CC.	No Judge
11/30/2005	Answer, Cross Claim and New Matter, filed by s/ R. Denning Gearhart Esq. 3CC Atty Gearhart. Certificate of Service, filed. Served a true and correct copy of the Defendant's, Mary A. McKenrick, Response to Plaintiff's First Request for Production of Documents and Materials filed in the above-captioned matter on Plaintiff, through their attorney Richard C. Levine, Esq and defendant, David M. Bunnell, filed by s/ R. Denning Gearhart Esq. 2CC Atty.	No Judge No Judge
12/14/2005	Ten-Day Notice to David M. Bunnell, filed by Atty. Levine Plaintiffs' Reply to New matter of Defendant, Mary A. McKendrick, filed by Atty. Levine no cert. copies.	No Judge No Judge
1/10/2006	Notice of Intent to Enter Default Judgment, filed by s/ R. Denning Gearhart Esq. (10 day notice) 2CC Atty Gearhart. Certificate of Service, filed. Served a certified copy of the Notice of Intent to Enter Default Judgment filed in the above-captioned matter on the Plaintiffs, through their attorney, Richard C. Levine Esq., filed by R. Denning Gearhart Esq.	No Judge No Judge
1/20/2006	Plaintiffs' Preliminary Objections to Defendant's Cross Claim, filed by Atty. Levine no cert. copies.	No Judge
2/3/2006	Sheriff Return, October 10, 2005 at 2:00 pm served the within Complaint on Mary A. McKenrick and David M. Bunnell. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Ainsman \$52.82	No Judge
2/7/2006	Order AND NOW, this 3rd day of February, 2006, upon consideration of Plaintiff's Preliminary Objections to Defendants' Cross Claim in the above matter, it is the ORDER of the Court that argument on said Objections has been scheduled for the 17th day of March, 2006 at 10:30 a.m. in Courtroom No. 2. BY THE COURT: /s/ Paul E. Cherry, Judge. 4CC Atty Levine.	Paul E. Cherry
2/15/2006	Filing: Judgment Paid by: Levine, Richard C. (attorney for Heichel, Ashley D.) Receipt number: 1912492 Dated: 02/15/2006 Amount: \$20.00 (Check) Praecipe For Default Judgment Against Defendant David M. Bunnell, filed by s/ Richard C. Levine, Esquire. No CC, Notice to Def.	No Judge No Judge
2/28/2006	Motion For Continuance, filed by s/ R. Denning Gearhart, Esquire. 3CC Atty. Gearhart Certificate of Service, filed. Served a certified copy of the Brief in Opposition to Preliminary Objections filed in the above captioned matter on the Plaintiffs through Plaintiff's attorney Richard C. Levine Esq., filed by s/ R. Denning Gearhart Esq. No CC.	No Judge No Judge

Date: 1/22/2008

Clearfield County Court of Common Pleas

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ROA Report

Page 2 of 2

Case: 2005-01507-CD

Current Judge: Paul E. Cherry

Ashley D. Heichel, Steven Heichel, Amy Heichel vs. Mary A. McKenrick, David M. Bunnell

Civil Other

Date	Judge	
3/3/2006	Certificate of Service, filed. Served a certified copy of the Motion for Continuance filed in the above captioned matter on the Plaintiffs through Plaintiffs' attorney, Richard C. Levine Esq., filed by s/ R. Denning Gearhart Esq. No CC. Order, NOW, this 1st day of March, 2006, upon consideration of the foregoing Motion for Continuance, Ordered that the Argument be continued and is rescheduled for the 10th day of April, 2006, at 3:30 p.m. in Courtroom No. 2. By The Court, /s/ Paul E. Cherry, Judge. 3CC Atty. Gearhart	Paul E. Cherry
4/10/2006	Order, NOW, this 10th day of April, 2006, ordered that hearing on Plaintiff's Preliminary Objections to Defendant's Cross Claim scheduled this date be and is hereby continued until the 20th day of April, 2006, beginning at 1:30 p.m. in Courtroom No. 2. 1/2 hour has been allotted for said hearing. By The Court, /s/ Paul E. Cherry, Judge. CC to Attys Levine, Gearhart, CC to David Bunnell, 111 High St., Clfd. PA. w/memo	Paul E. Cherry
5/3/2006	Order, NOW, this 2nd day of May, 2006, following argument on Plaintiff's Preliminary Objections to Defendant's Cross Claim, it is Ordered: (see original). By The Court, /s/ Paul E. Cherry, Judge. 2CC Attys. Levine, Gearhart, 1CC David Bennell-111 High St. Clearfield Pa 16830	Paul E. Cherry
8/1/2006	Certificate of Readiness for Jury Trial, filed by s/ R. Denning Gearhart Atty. Gearhart	3CC Paul E. Cherry
8/7/2006	Motion To Strike Case From Trial List, filed by s. Richard C. Levine, Esquire. 2CC to Atty.	Paul E. Cherry
8/10/2006	Order, NOW, this 9th day of August, 2006, it is Ordered that the above captioned matter is stricken from the Trial List. by the Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Levine	Paul E. Cherry
11/15/2007	Praeclipe For Trial, filed by s/ Richard C. Levine, Esquire. No CC	Paul E. Cherry
11/16/2007	Order, this 15th day of Nov., 2007, Pre-Trial Conference shall be held on the 20th day of Dec., 2007, in Chambers at 11:00 a.m. Jury Selection is scheduled for January 3, 2008 at 9:00 a.m. By the Court, /s/ Paul E. Cherry, Judge. 1CC Attys: R. Levine, Gearhart; 1CC D. Bunnell, 111 High St., Clearfield, PA 16830	Paul E. Cherry
12/20/2007	Order, Jury Selection is scheduled for Jan. 3, 2008 at 9:00 a.m. in Courtroom 2. Trial is scheduled for Jan. 21, 2008 at 9:00 a.m. (see original). By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys; Levine, Gearhart; 1CC David Bunnell, 111 High St. Clearfield, PA 16830	Paul E. Cherry
1/11/2008	Motion in Limine, filed by Att. Levine no cert. copies.	Paul E. Cherry
1/21/2008	Order, AND NOW, this 15th day of January, 2008, Ordered that all witnesses are precluded mentioning that the minor Plaintiff allegedly stated that she was stealing election signs from peoples' lawns on the evening of the incident in question. BY THE COURT: /s/John K. Reilly, Jr., Senior Judge, Specially Presiding Four CC Attorney Levine	Paul E. Cherry

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Code: 011

COMPLAINT IN CIVIL ACTION

Filed on Behalf of Plaintiffs.

Counsel of Record for this Party:

Richard C. Levine, Esquire
PA I.D. # 36627

Ainsman, Levine & Drexler, LLC
Firm #975

330 Grant Building, Suite 2201
Pittsburgh, PA 15219

(412) 338-9030

JURY TRIAL DEMANDED

FILED Atty pd. 85.00
m 13:52 AM
SEP 29 2005
cc Shaw

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No.:

Issue:

Code: 011

COMPLAINT IN CIVIL ACTION

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 other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

CLEARFIELD COUNTY COURTHOUSE
Attn: DAVID S. MEHOLIK, Court Administrator
1 North Second Street
Clearfield, PA 16830
Telephone: (814) 765-2641 ext.5982

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No.:

Issue:

Plaintiffs,

Code: 011

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

COMPLAINT IN CIVIL ACTION

AND NOW, come the Plaintiffs, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians and Steven and Amy Heichel in their own right, by and through their attorneys, Ainsman, Levine & Drexler, LLC, and Richard C. Levine, Esquire, and files the following Complaint in Civil Action, and in support thereof, aver the following:

1. Plaintiffs, Steven and Amy Heichel are adult individuals, who currently reside with their minor daughter, in Clearfield County, at 310 McCann Bottom Road, Grampian, Pennsylvania 16838.
2. Defendant, Mary A. McKenrick, is an adult individual who currently resides in Clearfield County, at Frederick Street, Curwensville, Pennsylvania 16833.
3. Defendant, David M. Bunnell, is an adult individual who currently resides in Clearfield County, at 11 High Street Clearfield, Pennsylvania 16830.

4. The events hereinafter complained of occurred at the residence of Defendant Mary A. McKenrick in Clearfield County, at Frederick Street, Curwensville, Pennsylvania 16833, on or about November 5, 2004, at approximately 9:30 p.m.

5. At that time and place, Plaintiff, Ashley D. Heichel, was invited to a sleep-over party at the residence of Defendant, Mary A. McKenrick.

6. At that time and place, Plaintiff, Ashley D. Heichel, was served alcoholic beverages (vodka) by Defendant's minor daughter Paige Smeal.

7. At all times pertinent hereto, Defendant, Mary A. McKenrick, was responsible for and had care, custody, and control over her minor daughter, her residence as described in paragraph two (2), and the activities stemming from her hosting a sleep-over party.

8. The Defendant, David M. Bunnell, prior to the date and time listed in paragraph four (4), knowingly furnished the alcoholic beverage (vodka) to a third party minor, in violation of the Pennsylvania Criminal Code.

9. At all times pertinent hereto, Defendant, Mary A. McKenrick, had actual knowledge and/or constructive knowledge that said alcoholic beverage would in turn be served at the party, at her residence.

10. The Plaintiffs, Steven and Amy Heichel, at no time gave permission to anyone to provide, plan, serve, purchase, or supply alcoholic beverages to their minor child, Plaintiff, Ashley D. Heichel.

11. As a result of the negligence of the Defendant, Mary A. McKenrick, and Defendant, David M. Bunnell, Plaintiff Ashley D. Heichel, sustained the following injuries all of which are or may be permanent in nature:

a. Alcohol poisoning;

- b. Pain to hips and legs; and
- c. Possibly other serious and/or permanent injuries.

12. As a result of these injuries, Plaintiff, Ashley D. Heichel, has sustained the following damages:

- a. She has endured and will continue to endure pain, suffering, inconvenience, embarrassment, mental anguish, and emotional and psychological trauma;
- b. She has been and will continue to be required to expend money for medical treatment and care, medical supplies, rehabilitation, medicines, and other attendant services;
- c. Her general health, strength, and vitality have been impaired;
- d. She has suffered by missing school and may, in the future, continue to suffer from missed school days, or a diminished education; and
- e. She has been and may in the future be unable to enjoy various pleasures of life that she previously enjoyed.

COUNT I
Ashley D. Heichel, a minor, by Steven and Amy Heichel,
her parents and natural guardians
v. Mary A. McKenrick
NEGLIGENCE

13. Paragraphs one (1) through and including twelve (12) are hereby incorporated by reference as if fully set forth herein.

14. The losses, injuries, and damages to Plaintiff, Ashley D. Heichel, as detailed above, were caused by the negligence of the Defendant in some or all of the following particulars:

- a. In permitting the serving of alcoholic beverages by one minor to another minor at a party, at Defendant's residence;

- b. In permitting the minor Plaintiff, Ashley D. Heichel, to be provided with, served, and supplied alcoholic beverages when Defendant knew, or should have reasonably known, that such activity was taking place at her residence;
- c. In breaching the implied duty of care given to the minor Plaintiff, Ashley D. Heichel, and failing to warn her of the potential injury and illegality of a minor consuming alcoholic beverages;
- d. In violating the Pennsylvania Criminal Code in providing alcoholic beverages to a minor;
- e. In permitting minors to gather at her residence and consume alcoholic beverages, as a social host after receiving actual and/or constructive knowledge that such behavior would be taking place; and
- f. Failing to reasonably monitor the activities of minors at a sleep-over party, at her residence.

WHEREFORE, Plaintiffs, Steven and Amy Heichel, as parents and natural guardians of Ashley D. Heichel, a minor, demand a judgment against Defendant, Mary A. McKenrick, in an amount that exceeds the Arbitration limits of this County plus costs and interest.

COUNT II
Steven and Amy Heichel, in their own right v. Mary A. McKenrick
NEGLIGENCE

15. Paragraphs one (1) through and including fourteen (14) are hereby incorporated by reference as if fully set forth herein.

16. Plaintiffs Steven and Amy Heichel are the parents and natural guardians of Ashley D. Heichel, a minor.

17. Solely as a result of the Defendant, Mary A. McKenrick's, negligence, Plaintiffs Steven and Amy Heichel have suffered the following damages:

- a. They have been and may continue to be required to expend money for their daughter's medical treatment and care, medical supplies, medicines, and other services.

WHEREFORE, Plaintiffs, Steven and Amy Heichel, in their own right, demand a judgment against Defendant, Mary A. Mckenrick, in an amount that exceeds the Arbitration limits of this County plus costs and interest.

COUNT III

Ashley D. Heichel, a minor, by Steven and Amy Heichel,
her parents and natural guardians
v. David M. Bunnell
NEGLIGENCE

18. Paragraphs one (1) through and including seventeen (17) are hereby incorporated by reference as if fully set forth herein.

19. The losses, injuries, and damages to Plaintiff, Ashley D. Heichel, as detailed above, were caused by the negligence of the Defendant in some or all of the following particulars:

- a. In supplying alcoholic beverages to a minor, in violation of the Pennsylvania Criminal Code;
- b. In providing alcoholic beverages to a minor without acquiring any parental permission to do so; and
- c. In failing to provide supervision to a third party minor in possession of alcoholic beverages, when Defendant knew or should have known, that said minor could serve the alcohol to another minor.

WHEREFORE, Plaintiffs, Steven and Amy Heichel, as parents and natural guardians of Ashley D. Heichel, a minor, demand a judgment against Defendant, David M. Bunnell, in an amount that exceeds the Arbitration limits of this County plus costs and interest.

COUNT IV
Steven and Amy Heichel, in their own right v. David M. Bunnell
NEGLIGENCE

20. Paragraphs one (1) through and including nineteen (19) are hereby incorporated by reference as if fully set forth herein.

21. Plaintiffs Steven and Amy Heichel are the parents and natural guardians of Ashley D. Heichel, a minor.

22. Solely as a result of the Defendant, David M. Bunnell's, negligence, Plaintiffs Steven and Amy Heichel have suffered the following damages:

- a. They have been and may continue to be required to expend money for their daughter's medical treatment and care, medical supplies, medicines, and other services.

WHEREFORE, Plaintiffs, Steven and Amy Heichel, in their own right, demand a judgment against Defendant, David M. Bunnell, in an amount that exceeds the Arbitration limits of this County plus costs and interest.

Respectfully submitted,

Ainsman, Levine & Drexler, LLC

By: 

Richard C. Levine, Esquire
Attorney for Plaintiffs

VERIFICATION

I verify that the statements made in the COMPLAINT IN CIVIL ACTION are true and correct; that the attached COMPLAINT IN CIVIL ACTION is based upon information which I have furnished to my counsel and information which has been gathered by my counsel in the preparation of the lawsuit. The language of the COMPLAINT IN CIVIL ACTION is that of counsel and not the plaintiff. I have read the COMPLAINT IN CIVIL ACTION and to the extent that the COMPLAINT IN CIVIL ACTION is based upon information which I have given to my counsel, it is true and correct to the best of my knowledge, information and belief. To the extent that the content of the COMPLAINT IN CIVIL ACTION is that of counsel, I have relied upon counsel in making this Verification. I understand that false statements herein made are subject to the penalties of 18 Pa.C.S. §4904 relating to the unsworn falsification to authorities.

DATED: 9/21/05

DATED: 9-21-05

Amy Heichel

AMY HEICHEL, as parent and natural
guardian of ASHLEY D. HEICHEL



STEVEN HEICHEL, as parent and
natural guardian of ASHLEY D. HEICHEL

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

No. 05-1507-CD

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants.

CASE NUMBER: 05-1507-CD

TYPE OF PLEADING: ENTRY OF APPEARANCE

FILED ON BEHALF OF: Defendant, Mary A. McKenrick

COUNSEL FOR RECORD FOR THIS PARTY: R. Denning Gearhart, Esquire
Supreme Court ID#: 26540
207 East Market Street
Clearfield, PA 16830
814-765-1581

FILED NO CC
01/00/05
OCT 3 12005
W.M.

William A. Shaw
Prothonotary/Clerk of Courts

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

No. 05-1507-CD

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants.

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance on behalf of the Defendant, Mary A. McKenrick, in the above-captioned matter.

Date: October 31, 2005


R. Denning Gearhart
Attorney for Defendant,
Mary A. McKenrick

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs.

No. 05-1507-CD

Y.

**MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants.**

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a true and correct copy of the ENTRY OF APPEARANCE filed in the above-captioned matter on the Plaintiff, through their attorney and the Defendant, David M. Bunnel, by depositing such documents in the United States Mail, postage pre-paid and addressed as follows:

Richard C. Levine, Esquire
Ainsman, Levine & Drexler, LLC
330 Grant Building, Suite 2201
Pittsburgh, PA 15219

David M. Bunnell
11 High Street
Clearfield, PA 16830

Date: October 31, 2005

R. Denning Gearhart, Esquire
Attorney for Defendant
Mary A. McKenrick

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

No. 05-1507-CD

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants.

FILED

CASE NUMBER: 05-1507-CD

TYPE OF PLEADING: **ANSWER,
CROSS CLAIM AND
NEW MATTER**

NOV 30 2005

0/12/05/

William A. Shaw

Prothonotary/Clerk of Courts

3 (Ran to Attn)

FILED ON BEHALF OF: Defendant, Mary A. McKenrick

COUNSEL FOR RECORD FOR THIS PARTY: R. Denning Gearhart, Esquire
Supreme Court ID#: 26540
207 East Market Street
Clearfield, PA 16830
814-765-1581

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

No. 05-1507-CD

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants.

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 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.

Court Administrator's Office
Clearfield County Courthouse
Clearfield, PA 16830
814-765-2641

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

No. 05-1507-CD

1

MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants.

ANSWER, CROSS CLAIM AND NEW MATTER

AND NOW, comes the Defendant, Mary A. McKenrick, by and through her attorney, R. Denning Gearhart, and files the Answer, Counterclaim and New Matter, and in support thereof avers as follows:

ANSWER TO COMPLAINT IN CIVIL ACTION

1. Admitted.
2. Admitted.
3. Unknown by answering Defendant.
4. Admitted.
5. Admitted.
6. Denied that the Plaintiff, Ashley D. Heichel, was served alcoholic by the Defendant, Mary A. McKenrick's minor daughter, Paige Smeal. Information by law enforcement authorities indicates that the alcoholic was the Defendant, Mary A. McKenrick's home unbeknownst to her or her

daughter by two other minors, namely: Hailey Clutter and Marissa Lee. It is believed that they provided Plaintiff, Ashley D. Heichel, with the alcohol.

7. Admitted.

8. Defendant, Mary A. McKenrick, has no information regarding Defendant, David M. Bunnell.

9. Denied that Defendant, Mary A. McKenrick, had any knowledge – actual or constructive – that alcohol would be served at her residence. In fact, Defendant, Mary A. McKenrick, checked several times for signs of alcohol use and found no obvious signs of alcohol use by the minor children.

10. Denied that Defendant, Mary A. McKenrick, is not able to comment on what Plaintiffs, Steven and Amy Heichel, may or may not have given their daughter, Ashley D. Heichel, permission to do.

11. Denied as to the negligence of the Defendant, Mary A. McKenrick. Further denied as to the listed injuries and strict proof is required at trial.

12. Denied as to the result of any alleged injuries and strict proof is required at trial.

COUNT I
Ashley D. Heichel, a minor, by Steven and Amy Heichel,
Her parents and natural guardians v.
Mary A. McKenrick
NEGLIGENCE

13. No answer required.

14. a. Denied that the Defendant, Mary A. McKenrick, permitted the serving of alcoholic beverages.

- b. Denied that the Defendant, Mary A. McKenrick, permitted, served or supplied alcoholic beverages. Further denied that the Defendant, Mary A. McKenrick, knew or should have known that alcohol was being used at her home by the minor children.
- c. Denied that there was an implied duty of care and that the Defendant, Mary A. McKenrick, did not know that Plaintiff, Ashley D. Heichel, would be consuming alcoholic beverages.
- d. Denied that Defendant, Mary A. McKenrick, provided alcoholic beverages to a minor.
- e. Denied that Defendant, Mary A. McKenrick, permitted minors to gather at her residence to consume alcoholic beverages or that she had actual or constructive knowledge that such behavior would be taking place.
- f. Denied that Defendant, Mary A. McKenrick, failed to reasonably monitor the activities of the minor children.

WHEREFORE, Defendant, Mary A. McKenrick, prays hour Honorable Court to enter a judgment for her and against the Plaintiffs, Ashley D. Heichel, and Steven and Amy Heichel.

COUNT II
Steven and Amy Heichel, in their own right v.
Mary A. McKenrick
NEGLIGENCE

- 15. No answer required.
- 16. Admitted.
- 17. Denied and strict proof is required at trial.

WHEREFORE, Defendant, Mary A. McKenrick, prays hour Honorable Court to enter a judgment for her and against the Plaintiffs, Ashley D. Heichel, and Steven and Amy Heichel.

COUNT III
Ashley D. Heichel, a minor, by Steven and Amy Heichel,
Her parents and natural guardians v.
David M. Bunnell
NEGLIGENCE

18 through 19. Not relevant to the defense of the Defendant, Mary A. McKenrick.

COUNT IV
Steven and Amy Heichel, in their own right v.
David M. Bunnell
NEGLIGENCE

20 through 22. Not relevant to the defense of the Defendant, Mary A. McKenrick.

CROSS CLAIM AGAINST ADDITIONAL DEFENDANTS
Steven and Amy Heichel

23. Paragraphs One through Twenty Two of the Complaint, together with the Defendant's, Mary A. McKenrick, Answers therein are incorporation herein as fully set forth.

24. That additional Defendants, Steven and Amy Heichel, were negligent in their failure to perform their parental duties of teaching their teenaged daughter of the dangers of alcohol.

25. That additional Defendants, Steven and Amy Heichel, were further negligent in allowing their teenaged daughter to attend a function were they might or should have known that alcoholic beverages were to be served.

26. That all of the injuries allegedly suffered by the Plaintiff, Ashley D. Heichel, and her parents – if such injuries exist at all – were solely the fault of the Plaintiffs' contributory negligence or the negligence of the additional Defendants, Steven and Amy Heichel, in concert with Defendant, David M. Bunnell.

WHEREFORE, Defendant, Mary A. McKenrick, prays your Honorable Court to enter judgment, if at all, against David M. Bunnell and/or additional Defendants, Steven and Amy Heichel.

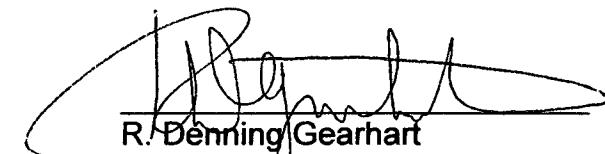
NEW MATTER

27. Paragraphs One through Twenty Two of the Complaint, together with the Defendant's, Mary A. McKenrick, Answers therein and Paragraphs Twenty Three through Twenty Six of the Cross Claim are incorporation herein as fully set forth.

28. That any injuries – if they occurred at all – were the result of the negligence or contributory negligence of the Plaintiffs, Steven and Amy Heichel and Ashley D. Heichel.

WHEREFORE, Defendant, Mary A. McKenrick, prays your Honorable Court to enter judgment for Defendant, Mary A. McKenrick.

Respectfully submitted,



R. Denning Gearhart
Attorney for Defendant
Mary A. McKenrick

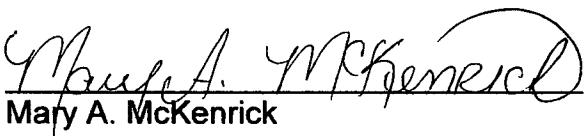
Date: November 30, 2005

COMMONWEALTH OF PENNSYLVANIA :

: ss.

COUNTY OF CLEARFIELD :

Before me, the undersigned officer, a Notary Public in and for the above named State and County, personally appeared MARY A. MCKENRICK, who being duly sworn according to law deposes and says that the facts set forth in the foregoing ANSWER, COUNTERCLAIM AND NEW MATTER are true and correct to the best of her knowledge, information and belief.


Mary A. McKenrick

Sworn to and subscribed

before me, this 2nd

day of November, 2005.



Shannon R. Wisor
Notary Public

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
Shannon R. Wisor, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Aug. 25, 2007

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

No. 05-1507-CD

v.

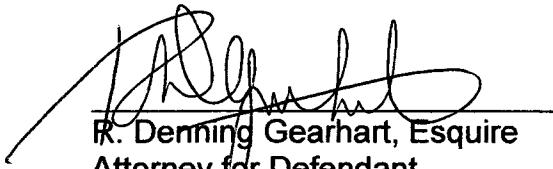
MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a certified copy of the ANSWER, CROSS CLAIM AND NEW MATTER filed in the above-captioned matter on the Plaintiffs, Ashley D. Heichel and Steven and Amy Hiechel, through their attorney, and Defendant, David M. Bunnell, by depositing such documents in the United States Mail, postage pre-paid and addressed as follows:

Richard C. Levine, Esquire
Ainsman, Levine & Drexler, LLC
330 Grant Building, Suite 2201
Pittsburgh, PA 15219

David M. Bunnell
11 High Street
Clearfield, PA 16830


R. Denning Gearhart, Esquire
Attorney for Defendant,
Mary A. McKenrick

Date: November 30, 2005

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

No. 05-1507-CD

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants.

FILED

NOV 30 2005
6/12/05/cw
William A. Shaw
Prothonotary/Clerk of Courts

2 cents to A.M.

CASE NUMBER: 05-1507-CD

TYPE OF PLEADING: CERTIFICATE OF SERVICE

FILED ON BEHALF OF: Defendant, Mary A. McKenrick

COUNSEL FOR RECORD FOR THIS PARTY: R. Denning Gearhart, Esquire
Supreme Court ID#: 26540
207 East Market Street
Clearfield, PA 16830
814-765-1581

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

No. 05-1507-CD

v.

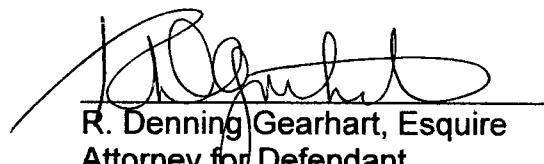
MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a true and correct copy of the Defendant's, Mary A. McKenrick, Response to Plaintiff's First Request for Production of Documents and Materials filed in the above-captioned matter on the Plaintiff, through their attorney and the Defendant, David M. Bunnell, by depositing such documents in the United States Mail, postage pre-paid and addressed as follows:

Richard C. Levine, Esquire
Ainsman, Levine & Drexler, LLC
330 Grant Building, Suite 2201
Pittsburgh, PA 15219

David M. Bunnell
11 High Street
Clearfield, PA 16830



R. Denning Gearhart, Esquire
Attorney for Defendant
Mary A. McKenrick

Date: November 30, 2005

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Code: 011

Filed on Behalf of Plaintiffs.

Counsel of Record for this Party:

Richard C. Levine, Esquire
PA I.D. # 36627

Ainsman, Levine & Drexler, LLC
Firm #975

330 Grant Building, Suite 2201
Pittsburgh, PA 15219

(412) 338-9030

JURY TRIAL DEMANDED

FILED

DEC 14 2005

m/110/m

William A. Shaw
Prothonotary
no 9c

AL055751.1

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Plaintiffs,

Code: 011

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

IMPORTANT TEN DAY NOTICE

TO: David M. Bunnell
11 High Street
Clearfield, PA 16830

DATE OF NOTICE: December 12, 2005

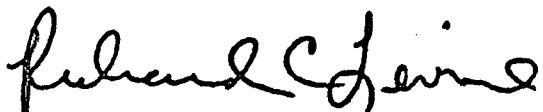
YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE
Allegheny County Bar Association
920 City-County Building
Pittsburgh, PA 15219
Telephone (412) 261-0518

AINSMAN, LEVINE & DREXLER, LLC



Richard C. Levine

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants.

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Code: 011

**PLAINTIFFS' REPLY TO NEW
MATTER OF DEFENDANT,
MARY A. MCKENRICK**

Filed on Behalf of Plaintiffs.

Counsel of Record for this Party:

Richard C. Levine, Esquire
PA I.D. # 36627

Ainsman, Levine & Drexler, LLC
Firm #975

330 Grant Building, Suite 2201
Pittsburgh, PA 15219

(412) 338-9030

JURY TRIAL DEMANDED

EW
FILED NO
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DEC 14 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Plaintiffs,

Code: 011

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

**PLAINTIFFS' REPLY TO NEW MATTER OF
DEFENDANT, MARY A. MCKENRICK**

AND NOW, come the Plaintiffs, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel in their own right, by and through their attorneys, Ainsman, Levine & Drexler, L.L.C. and Richard C. Levine, Esquire, and file the following Reply to New Matter of Defendant, Mary A. McKenrick:

1. In response to Paragraph 27 of Defendant, Mary A. McKenrick's New Matter, Plaintiffs hereby incorporate Paragraphs 1 through 26 of their Complaint as fully as though the same were here and set forth at length.
2. The allegations set forth in Paragraph 28 are specifically denied. To the contrary, Plaintiffs were not negligent with regard to Plaintiff, Ashley Heichel's injuries.

WHEREFORE, Plaintiffs, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel, demand judgment against the Defendants, Mary A. McKenrick and David M. Bunnell, in an amount in excess of the Arbitration limits of this Court, plus interest and costs.

Respectfully submitted,

Ainsman, Levine & Drexler, LLC

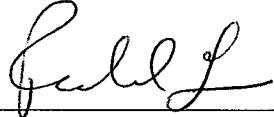


Richard C. Levine, Esquire
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Plaintiffs Reply to Defendant, Mary A. McKenrick's New Matter was served by mailing same via first class mail, postage prepaid at Pittsburgh, Pennsylvania, on this 12th day of December, 2005, addressed as follows:

R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830



Richard C. Levine, Esquire
Attorney for Plaintiff

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants,

v.

STEVEN and AMY HEICHEL,
Additional Defendants.

No. 05-1507-CD

FILED

01/15/06

JAN 10 2006

2cc A44y
Geahart

LM

William A. Shaw
Prothonotary

TO: STEVEN AND AMY HEICHEL,
c/o Richard C. Levine, Esquire
Ainsman, Levine & Drexler, LLC
330 Grant Street, Suite 2201
Pittsburgh, PA 15219

DATE OF NOTICE: January 10, 2006

NOTICE OF INTENT TO ENTER DEFAULT JUDGMENT

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE
ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10)
DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED
AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR
OTHER IMPORTANT RIGHTS. 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 FOLLOWING OFFICE TO FIND OUT WHERE
YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
814-765-2641

By:

R. Denning Gearhart
Attorney for Defendant,
Mary A. McKenrick

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

No. 05-1507-CD

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants,

v.

STEVEN and AMY HEICHEL,
Additional Defendants.

FILED *acc AMY*
0/151 cm *Gearhart*
JAN 10 2006 *LM*

CASE NUMBER: 05-1507-CD

William A. Shaw
Prothonotary

TYPE OF PLEADING: CERTIFICATE OF SERVICE

FILED ON BEHALF OF: Defendant, Mary A. McKenrick

COUNSEL FOR RECORD FOR THIS PARTY: R. Denning Gearhart, Esquire
Supreme Court ID#: 26540
207 East Market Street
Clearfield, PA 16830
814-765-1581

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

No. 05-1507-CD

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants,

v.

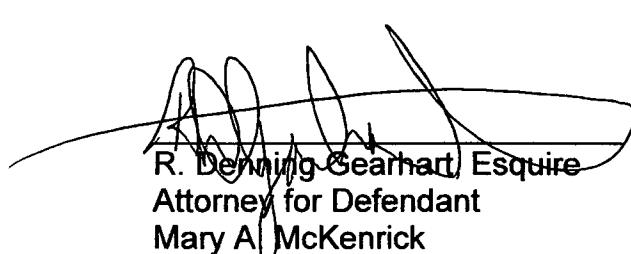
STEVEN and AMY HEICHEL,
Additional Defendants.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a certified copy of the Notice of Intent to Enter Default judgment filed in the above-captioned matter on the Plaintiffs, through their attorney, by depositing such documents in the United States Mail, postage pre-paid and addressed as follows:

Richard C. Levine, Esquire
Ainsman, Levine & Drexler, LLC
330 Grant Building, Suite 2201
Pittsburgh, PA 15219

Date: January 10, 2006


R. Denning Gearhart, Esquire
Attorney for Defendant
Mary A. McKenrick

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Code: 011

**PLAINTIFFS' PRELIMINARY
OBJECTIONS TO DEFENDANT'S
CROSS CLAIM**

Filed on Behalf of Plaintiffs.

Counsel of Record for this Party:

Richard C. Levine, Esquire
PA I.D. # 36627

Ainsman, Levine & Drexler, LLC
Firm #975

330 Grant Building, Suite 2201
Pittsburgh, PA 15219

(412) 338-9030

JURY TRIAL DEMANDED

FILED *(initials)*

JAN 20 2006

M 11:30 AM

William A. Shaw
Prothonotary/Clerk of Courts

No 4/2

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Plaintiffs,

Code: 011

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

PLAINTIFFS' PRELIMINARY OBJECTIONS TO DEFENDANT'S CROSS CLAIM

AND NOW, come the Plaintiffs, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians and Steven and Amy Heichel in their own right, by and through their attorneys, Ainsman, Levine & Drexler, LLC, and Richard C. Levine, Esquire, and file the following Preliminary Objections to Defendant's, Mary A. McKenrick's Cross Claim, and in support thereof aver as follows:

1. This case arises out of an incident that occurred on November 5, 2004, in Clearfield County at Frederick Street, Curwensville, Pennsylvania 16833, which is the residence of the Defendant, Mary A. McKenrick.

2. At that time and place, the Plaintiff, Ashley D. Heichel, was served alcoholic beverages (vodka) by the Defendant's minor daughter, Paige Smeal.

3. As a result of this incident, the Plaintiff, Ashley D. Heichel, sustained serious injuries and thereafter filed a Complaint in Civil Action on or about September 26, 2005 against the Defendants, Mary A. McKenrick and David M. Bunnell.

4. On or about November 30, 2005, the Defendant, Mary A. McKenrick, filed her Answer, Cross Claim, and New Matter, making a number of averments that are legally insufficient and subject to Preliminary Objections under the Pennsylvania Rules of Civil Procedure.

Preliminary Objection One
MOTION TO STRIKE Paragraph 24 of Cross Claim

5. Paragraphs one (1) through and including four (4) are hereby incorporated by reference as if fully set forth herein.

6. Plaintiffs preliminarily object in the nature of a demurrer pursuant to the Pennsylvania Rules of Civil Procedure Rule 1028(a)(4) as to the legal sufficiency of paragraph twenty four (24) of Defendant's Cross Claim.

7. The Defendant's Cross Claim fails to state a cause of action upon which relief can be granted because no such cause of action exists in Pennsylvania.

8. More specifically, paragraph twenty four (24) of Defendants' Cross Claim alleges that the Plaintiffs, Steven and Amy Heichel, were negligent in their failure to perform their parental duties of teaching their teenaged daughter of the dangers of alcohol.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to sustain their Preliminary Objection to paragraph twenty four (24) of Defendant's Cross Claim as it is legally insufficient, and strike paragraph twenty four (24) from the Pleading.

Preliminary Objection Two
MOTION TO STRIKE Paragraph 25 of Cross Claim

9. Paragraphs one (1) through and including eight (8) are hereby incorporated by reference as if fully set forth herein.

10. Plaintiffs preliminarily object in the nature of a demurrer pursuant to the Pennsylvania Rules of Civil Procedure Rule 1028(a)(4) as to the legal sufficiency of paragraph twenty five (25) of Defendants' New Matter.

11. The Defendant's Cross Claim fails to state a cause of action upon which relief can be granted because no such cause of action exists in Pennsylvania.

12. More specifically, paragraph twenty five (25) of Defendant's Cross Claim alleges that both of the Plaintiffs were further negligent in allowing their teenaged daughter to attend a function where they might or should have known that alcoholic beverages were to be served.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to sustain their Preliminary Objection to paragraph twenty five (25) of Defendant's Cross Claim as it is legally insufficient, and strike paragraph twenty-five (25) from the Pleading.

Respectfully submitted,

Ainsman, Levine & Drexler, LLC



Richard C. Levine, Esquire
Counsel for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No.:

Issue:

Plaintiffs,

Code: 011

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

ORDER OF COURT

AND NOW, on this _____ day of _____, 2006, upon consideration
of the within Preliminary Objections, it is hereby ORDERED that the Preliminary Objections are
sustained and that Paragraphs 24 and 25 are hereby stricken from the Defendant's Answer, Cross
Claim and New Matter and that Paragraph 26 of the Defendant's Answer, Cross Claim, and New
Matter Pursuant to Rule 2252(d) is also stricken from the Pleading.

BY THE COURT:

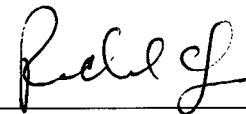
_____, J

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Plaintiffs' Preliminary Objections to Defendant's Cross Claim was served by facsimile transmission and by mailing same via first class mail, postage prepaid at Pittsburgh, Pennsylvania, on this 19th day of January, 2006, addressed as follows:

FACSIMILE NO. 814-765-8142

R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830



Richard C. Levine, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Code: 011

**BRIEF IN SUPPORT OF PLAINTIFFS'
PRELIMINARY OBJECTIONS TO
DEFENDANT'S CROSS CLAIM**

Filed on Behalf of Plaintiffs.

Counsel of Record for this Party:

Richard C. Levine, Esquire
PA I.D. # 36627

Ainsman, Levine & Drexler, LLC
Firm #975

330 Grant Building, Suite 2201
Pittsburgh, PA 15219

(412) 338-9030

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Plaintiffs,

Code: 011

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

**BRIEF IN SUPPORT OF PLAINTIFFS' PRELIMINARY OBJECTIONS TO
DEFENDANT'S CROSS CLAIM**

AND NOW, come the Plaintiffs, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians and Steven and Amy Heichel in their own right, by and through their attorneys, Ainsman, Levine & Drexler, LLC, and Richard C. Levine, Esquire, and file the following Brief in Support of Preliminary Objections to Defendant's, Mary A. McKenrick's, Cross Claim, and in support thereof aver as follows:

I. Factual and Procedural History

This case arises out of an incident that occurred on November 5, 2004 in Clearfield County at the residence of the Defendant, Mary A. McKenrick, Frederick Street, Curwensville, Pennsylvania 16833. At that time and place, the Plaintiff, Ashley D. Heichel, was served alcoholic beverages (vodka) by the Defendant's minor daughter, Paige Smeal. As a result of this incident, the Plaintiff, Ashley D. Heichel, sustained serious injuries and thereafter filed a Complaint in Civil Action on or about September 26, 2005 against the Defendants, Mary A. McKenrick and David M. Bunnell. On or about November 30, 2005, the Defendant, Mary A. McKenrick, filed her Answer, Cross Claim,

and New Matter, making a number of averments that are legally insufficient and subject to Preliminary Objections under the Pennsylvania Rules of Civil Procedure.

II. Issues

- A. Whether Paragraphs twenty four (24) and twenty five (25) of Defendant's Cross Claim are legally insufficient in that they allege that the Plaintiffs, Steven and Amy Heichel, parents of the Plaintiff, Ashley D. Heichel, were negligent in their failure to perform their parental duties of teaching their teenaged daughter of the dangers of alcohol and further negligent in allowing their teenaged daughter to attend a function where they might or should have known that alcoholic beverages were to be served, when no such causes of action exist in Pennsylvania?

Suggested Answer: YES.

III. Argument

- A. **Paragraphs twenty four (24) and twenty five (25) of Defendant's Cross Claim are legally insufficient because they fail to state a cause of action under Pennsylvania law.**

Plaintiffs preliminarily object in the nature of a demurrer pursuant to the Pennsylvania Rules of Civil Procedure Rule 1028(a)(4) as to the legal sufficiency of paragraphs twenty four (24) and twenty five (25) of Defendant's Cross Claim which allege that the Plaintiffs, Steven and Amy Heichel, were negligent in their failure to perform their parental duties of teaching their teenaged daughter of the dangers of alcohol and further negligent in allowing their teenaged daughter to attend a function where they might or should have known that alcoholic beverages were to be served. No such causes of action exist in Pennsylvania.

In Pennsylvania, “[p]arents owe the duty of protection to their child of tender years, and they must exercise care to prevent it being exposed to danger in order to relieve themselves from the charge of contributory negligence if the child is injured through the fault of another. When, therefore, a parent seeks to charge a negligent defendant with injury to his child, it must appear that he has used the care towards it demanded of him by the circumstances.” *Del Rossi v. Cooney*, 57

A. 514, 515 (Pa. 1904). Furthermore, “[t]he care this required ... is only such as persons of reasonable prudence of the same class and with the same means ordinarily exercise and deem adequate to protect their children from danger.” *Id.*

The Pennsylvania Courts have apparently not ruled on the question as to whether a parent owes a duty to a minor child to teach them of the dangers of alcohol or to prevent them from attending a function where they might or should have known that alcoholic beverages are to be served. The Defendant is apparently asking this Court to recognize duties owed by the Heichel’s to their daughter that have not been recognized by the Courts of this Commonwealth. It has been said that “...it is clear that the parent child relationship remains a special one and that not every act or omission by a parent will be regarded as actionable negligence, even if, as to some other persons, negligence might be found to exist.” *Prosser and Keaton on Torts*, 5th Edition P. 908. In other jurisdictions, a number of decisions show leniency towards parents who merely failed to instruct or supervise adequately. It has been held that the parent who fails to instruct a child on the precautions required for crossing streets in safety is not liable. *Lemmen v. Servais*, 39 WIS. 2d 75, 158 M.W. 2d. 341 (1968). Parents who allegedly fail to instruct their child in the use of seatbelts in a car was found not liable. *Latta v. Siefke*, 60 A.D. 2d 991, 401 M.Y.S. 2d 937 (1978).

As stated in *Prosser and Keaton*, *supra*,

Though it is not possible to state an exact Rule as to the scope of “parental discretion,” there are patterns in the cases that may be significant. Courts apparently feel that the jury should not be permitted to second guess the parent as to the exact amount of supervision, training or freedom a child should have, and similarly, that household dangers such as the vaporizer, electrical cord or slippery rug are such constant and common risks that negligence should not readily be inferred when they cause harm. But if the parent engaged in an affirmative actively, as where he drives a tractor, or where he recognizes a danger and tries to guard against it, but does so in a negligent manner, the role of “parental discretion” is much smaller and liability may be imposed.finally it may be said that most of the cases involve physical injury and that, though there is no

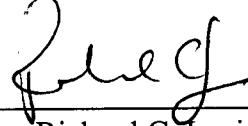
hard and fast Rule against recovery for purely dignitary or purely economic harm, it is unlikely that claims for bad parenting or slander or poor education will meet with much enthusiasm in the Courts, at least in the absence of genuine ill will on the part of the parent.

Therefore, the Courts have not extended the duty of a parent to supervise their child to the degree to which the original Defendant is urging this Court to adopt.

In addition, “[p]ursuant to Pennsylvania law, social host liability for furnishing alcohol to minors cannot be imposed upon [the parents] when they were not at the premises and/or did not provide substantial assistance in the furnishing of alcohol.” *Balest v. Krafick*, 1999 WL 1457494, 42 Pa. D. & C.4th 366, 371 (1999). Since, in Pennsylvania, social host liability cannot be imposed upon parents when they were not at the premises, and/or did not provide or help to provide alcohol, Steven and Amy Heichel should not be held negligent for their daughter’s acts because they were not at the premises where their daughter was served and subsequently drank alcohol nor did they provide any assistance in the furnishing of the alcohol.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to sustain their Preliminary Objections to paragraphs twenty four (24) and twenty five (25) of Defendant’s Cross Claim as they are legally insufficient, and strike paragraphs twenty four (24) and twenty five (25) from the Pleading.

Respectfully Submitted,
Ainsman, Levine & Drexler, LLC

By: 

Richard C. Levine, Esquire
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Brief in Support of Plaintiffs' Preliminary Objections to Defendant's Cross Claim was served by facsimile transmission and by mailing same via first class mail, postage prepaid at Pittsburgh, Pennsylvania, on this 19th day of January, 2006, addressed as follows:

FACSIMILE NO. 814-765-8142

R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830



Richard C. Levine, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100862
NO: 05-1507-CD
SERVICE # 1 OF 2
COMPLAINT

PLAINTIFF: ASHLEY D. HEICHEL a minor by STEVEN and AMY HEICHEL her parents & natural
guardians and STEVEN & AM HEICHEL in their own right

vs.

DEFENDANT: MARY A. MCKENRICK and DAVID M. BUNNELL

SHERIFF RETURN

NOW, October 10, 2005 AT 2:00 PM SERVED THE WITHIN COMPLAINT ON MARY A. MCKENRICK
DEFENDANT AT FREDERICK ST., CURWENSVILLE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO
MARY A. MCKENRICK, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND
MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DAVIS / MORGILLO

FILED
01/30/2006
FEB 03 2006
WES

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100862
NO: 05-1507-CD
SERVICE # 2 OF 2
COMPLAINT

PLAINTIFF: ASHLEY D. HEICHEL a minor by STEVEN and AMY HEICHEL her parents & natural
guardians and STEVEN & AM HEICHEL in their own right
vs.
DEFENDANT: MARY A. MCKENRICK and DAVID M. BUNNELL

SHERIFF RETURN

NOW, October 18, 2005 AT 3:20 PM SERVED THE WITHIN COMPLAINT ON DAVID M. BUNNELL DEFENDANT
AT SHERIFF'S OFFICE, 1 N. 2ND ST., SUITE 116, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY
HANDING TO DAVID M. BUNNELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL
COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER / NEVLING

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100862
NO: 05-1507-CD
SERVICES 2
COMPLAINT

PLAINTIFF: ASHLEY D. HEICHEL a minor by STEVEN and AMY HEICHEL her parents & natural guardians and STEVEN & AM HEICHEL in their own right

-
vs.

DEFENDANT: MARY A. MCKENRICK and DAVID M. BUNNELL

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	AINSMAN	11205	20.00
SHERIFF HAWKINS	AINSMAN	11205	32.82

Sworn to Before Me This

So Answers,

____ Day of _____ 2006

Charles Hawkins
by Marilyn Haskin

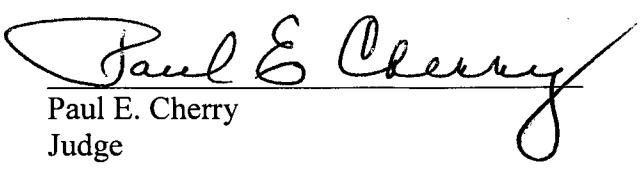
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

ASHLEY D. HEICHEL, a minor, :
by STEVEN and AMY HEICHEL, :
her parents and natural guardians, and :
STEVEN and AMY HEICHEL, :
in their own right, :
vs. : No. 05-1507-CD
: :
MARY A. MCKENRICK, and :
DAVID M. BUNNELL, :

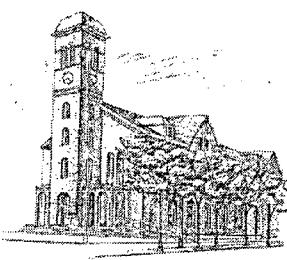
O R D E R

AND NOW, this 3rd day of February, 2006, upon
consideration of Plaintiff's Preliminary Objections to Defendants' Cross Claim in
the above matter, it is the ORDER of the Court that argument on said Objections
has been scheduled for the 17th day of March, 2006, at
10:30 A.M. in Courtroom No. 2, Clearfield County
Courthouse, Clearfield, PA.

BY THE COURT:


Paul E. Cherry
Judge

FILED ^{4CC}
01-3-27-2006 Atty. Levine
FEB 07 2006
LMP



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: 217/06

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:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Code: 011

**PRAECIPE FOR DEFAULT
JUDGMENT AGAINST DEFENDANT,
DAVID M. BUNNELL**

Filed on Behalf of Plaintiffs.

Counsel of Record for this Party:

Richard C. Levine, Esquire
PA I.D. # 36627

Ainsman, Levine & Drexler, LLC
Firm #975

330 Grant Building, Suite 2201
Pittsburgh, PA 15219

(412) 338-9030

JURY TRIAL DEMANDED

FILED *McC*
m 11:26 AM
FEB 15 2006 Atty pd. 20.00
Notice to Def.
William A. Shaw
Prothonotary/Clerk of Courts
(60) *10*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Plaintiffs,

Code: 011

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

PRAECIPE FOR DEFAULT JUDGMENT
AGAINST DEFENDANT, DAVID M. BUNNELL

TO: PROTHONOTARY

SIR:

Kindly enter a Default Judgment against Defendant, David M. Bunnell, No.05-1507-CD
in an amount to be determined by the Court at the time of the trial for his failure to enter his
appearance or for failure to file an Answer to the above captioned action.

Ainsman, Levine & Drexler, LLC

By: 
Richard C. Levine, Esquire
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Plaintiffs,

Code: 011

v.

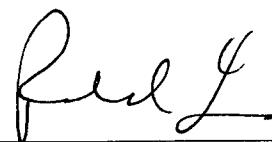
MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that I mailed to the Defendant, David M. Bunnell, a Notice of Intention to Take A Default Judgment, by United States First Class Mail, postage prepaid, on December 12, 2005, at least ten days prior to the entry of judgment. A true and correct copy of the Notice of Intention To Take a Default Judgment is attached hereto.

Ainsman, Levine & Drexler, LLC

By: 
Richard C. Levine, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Code: 011

Filed on Behalf of Plaintiffs.

Counsel of Record for this Party:

Richard C. Levine, Esquire
PA I.D. # 36627

Ainsman, Levine & Drexler, LLC
Firm #975

330 Grant Building, Suite 2201
Pittsburgh, PA 15219

(412) 338-9030

JURY TRIAL DEMANDED

AL055751.1

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Plaintiffs,
v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

IMPORTANT TEN DAY NOTICE

TO: David M. Bunnell
11 High Street
Clearfield, PA 16830

DATE OF NOTICE: December 12, 2005

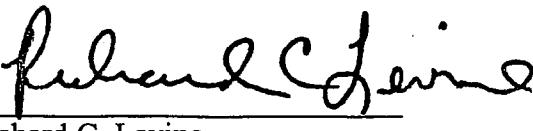
YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE
Allegheny County Bar Association
920 City-County Building
Pittsburgh, PA 15219
Telephone (412) 261-0518

AINSMAN, LEVINE & DREXLER, LLC


Richard C. Levine

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No.: 05-1507-CD

Issue:

 COPY

Plaintiffs,

Code: 011

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

NOTICE OF ORDER OR JUDGMENT

() Plaintiff () Defendant () Garnishee

You are hereby notified that the following judgment has been entered against you
on February 15, 20 06.

() Civil Judgment in the amount of \$ _____ plus costs.

() If not satisfied within sixty (60) days, your motor vehicle operator's
license will be suspended by the Department of Transportation,
Bureau of Traffic Safety, Harrisburg, PA

() Entry of Judgment of () Court Order
() Non Pros
() Default
() Verdict
() Arbitration Award

PROTHONOTARY

Willie Shager

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians,
and STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs : No. 05-1507-CD
vs. :
MARY A. McKENRICK, and
DAVID M. BUNNELL,
Defendants :
:

CASE NUMBER: No. 05-1507-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: MOTION FOR CONTINUANCE

FILED ON BEHALF OF: Defendants

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I. D. #26540
207 E. Market Street
Clearfield, PA 16830
(814) 765-1581

FILED 3^{CC}
01/10/39/01 Atty Gearhart
FEB 28 2006 (60)

William A. Shaw
Prothonotary/Clerk of Courts

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians,
and STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs : No. 05-1507-CD
vs. :
MARY A. McKENRICK, and :
DAVID M. BUNNELL, :
Defendants :
.

MOTION FOR CONTINUANCE

AND NOW, comes R. Denning Gearhart, Esq., Attorney for the Defendants, and sets forth the following:

1. That Argument on Plaintiff's Preliminary Objections to Defendants' Cross Claim has been scheduled for March 17, 2006, at 10:30 o'clock A.M., in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, PA 16830.

2. That your movant/counsel will be out of State during that time period and unavailable for said hearing.

3. The Certificate of Concurrence/Non-Concurrence is attached hereto and signed by the Attorney for the Plaintiffs.

WHEREFORE, movant prays your Honorable Court to continue the matter and to schedule it for another date and time.

Respectfully submitted,

R. Denning Gearhart, Esq.
Attorney for Defendants

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians,
and STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs : No. 05-1507-CD
vs. :

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants :

ORDER

AND NOW, THIS 15th day of March, 2006, upon consideration
of the foregoing Motion for Continuance, it is the ORDER of this Court that the Argument
be continued and it is hereby rescheduled for the 10th Day of April, 2006,
at 3:30 O'clock 9.M., in Courtroom No. 2 of the Clearfield County
Courthouse, Clearfield, PA 16830.

BY THE COURT

Paul E. Cherry
JUDGE

FILED 3cc
01/09/2006 Atty Gearhart
MAR 03 2006
©K

William A. Shaw
Prothonotary/Clerk of Courts

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians,
and STEVEN and AMY HEICHEL,
in their own right.

Plaintiffs : No. 05-1507-CD
vs. :
:

MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants

CERTIFICATE OF CONCURRENCE OR NON-CONCURRENCE

Be advised that:

1 Consum

I Do Not Concur

with the request of Attorney R. Denning Gearhart for a continuance of the hearing scheduled for March 17, 2006, at 10:30 o'clock A.M., in Courtroom No. 2, at the Clearfield County Courthouse, Clearfield, Pennsylvania.

Date: 2/27/06

Richard C. Levine, Esq.
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION No. 05-1507-CD

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians,
and STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs

vs.

MARY A. MCKENRICK and

DAVID M. BUNNELL, Defendants

MOTION FOR CONTINUANCE

FILED

FEB 28 2006

William A. Shaw
Prothonotary/Clerk of Courts

R. Denning Gearhart

Attorney & Counselor At Law

207 East Market Street
Clearfield, PA 16830

814-765-1581
fax-814-765-8142

w.dgearhartpalaw.com

dgearhart@dgearhartpalaw.com

February 24, 2006

OK
RECEIVED
2-27-06

Hon. Paul E. Cherry
Judge's Chambers
Court House
Clearfield, PA 16830

Re: Ashley D. Heichel, et. al. vs. Mary A. McKenrick, et. al.
No. 05-1507-CD

Dear Judge Cherry:

As I dictate this letter on the Friday before my vacation, it is my intention to ask for a continuance on an Argument that is scheduled for March 17, 2006, at 10:30 o'clock A.M., when I am not going to be present.

My assistant, Kathy, spoke to Attorney Levine's office and faxed to them a Certificate of Concurrence/Non-Concurrence on February 17, 2006, and again on February 23, 2006, that I will attach to my Motion for Continuance. However, I have not received the same back from him at this time.

At this point, I am advising Kathy to file my Motion with a copy of this letter by Wednesday, March 1, 2006, regardless of whether or not I get a response from Attorney Levine.

Sincerely,

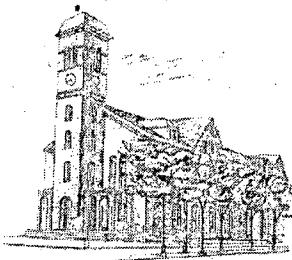


R. Denning Gearhart

RDG:kar
Enclosure
cc: Richard C. Levine, Esq.

4 PD
& Across Town

Heichel v. McKenrick



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: 3/3/04

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:

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians,
and STEVEN and AMY HEICHEL,
in their own right, :
Plaintiffs : No. 05-1507-CD
vs. :
MARY A. MCKENRICK and :
DAVID M. BUNNELL, :
Defendants :
vs. :
STEVEN and AMY HEICHEL, :
Defendants :

CASE NUMBER: No. 05-1507-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: CERTIFICATE OF SERVICE

FILED ON BEHALF OF: Defendant, Mary A. McKenrick

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I. D. #26540
207 E. Market Street
Clearfield, PA 16830
(814) 765-1581

FILED
03/01/06
FEB 28 2006
WM

William A. Shaw
Prothonotary/Clerk of Courts

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

ASHLEY D. HEICHEL, a minor, by STEVEN and AMY HEICHEL, her parents and natural guardians, and STEVEN and AMY HEICHEL, in their own right,	:	
		No. 05-1507-CD
		:
Plaintiffs	:	
vs.	:	
MARY A. McKENRICK and DAVID M. BUNNELL,	:	
Defendants	:	
vs.	:	
STEVEN and AMY HEICHEL, Defendants	:	

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a certified copy of the Brief in Opposition to Preliminary Objections filed in the above captioned matter on the Plaintiffs through Plaintiffs' attorney by depositing such documents in the United States Mail postage pre-paid and addressed as follows:

Richard C. Levine, Esq.
Ainsman, Levine & Drexler, LLC
330 Grant Street
Suite 2201
Pittsburgh, PA 15219

By: 

R. Denning Gearhart, Esq.
Attorney for Defendant, Mary A. McKenrick

Dated: February 28, 2006

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

ASHLEY D. HEICHEL, a minor, :
by STEVEN and AMY HEICHEL, :
her parents and natural guardians, :
and STEVEN and AMY HEICHEL, :
in their own right, :
Plaintiffs : No. 05-1507-CD
vs. :
MARY A. McKENRICK and :
DAVID M. BUNNELL, :
Defendants :
vs. :
STEVEN and AMY HEICHEL, :
Defendants :
vs.

CASE NUMBER: No. 05-1507-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: CERTIFICATE OF SERVICE

FILED ON BEHALF OF: Defendant, Mary A. McKenrick

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I. D. #26540
207 E. Market Street
Clearfield, PA 16830
(814) 765-1581

FILED NOCC.
03.29cm
MAR 03 2006
WM

William A. Shaw
Prothonotary/Clerk of Courts

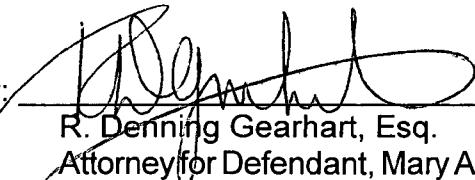
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians,
and STEVEN and AMY HEICHEL,
in their own right, :
Plaintiffs :
vs. :
MARY A. McKENRICK and
DAVID M. BUNNELL, :
Defendants :
vs. :
STEVEN and AMY HEICHEL,
Defendants :
No. 05-1507-CD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a certified copy of the Motion for Continuance filed in the above captioned matter on the Plaintiffs through Plaintiffs' attorney by depositing such documents in the United States Mail postage pre-paid and addressed as follows:

Richard C. Levine, Esq.
Ainsman, Levine & Drexler, LLC
330 Grant Street
Suite 2201
Pittsburgh, PA 15219

By: 

R. Denning Gearhart, Esq.
Attorney for Defendant, Mary A. McKenrick

Dated: March 3, 2006

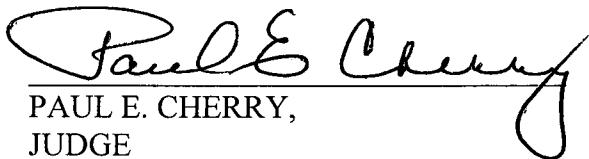
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ASHLEY D. HEICHEL, a minor, by : NO. 05-1507-CD
STEVEN and AMY HEICHEL, her :
parents and natural guardians, and :
STEVEN and AMY HEICHEL, in their :
own right :
: V. :
: :
MARY McKENRICK and :
DAVID M. BUNNELL :
:

ORDER

AND NOW, this 10th day of April, 2006, it is the ORDER of this Court that
hearing on Plaintiff's Preliminary Objections to Defendant's Cross Claim scheduled this
date be and is hereby continued until the 20th day of April, 2006,
beginning at 1:30 o'clock P.M. in Courtroom No. 2 of the Clearfield
County Courthouse, Clearfield, Pennsylvania. One half hour has been allotted for said
hearing.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED

APR 10 2006

04/11:30 PM
William A. Shaw
Prothonotary/Clerk of Courts

ENT TO MARY LEVINE

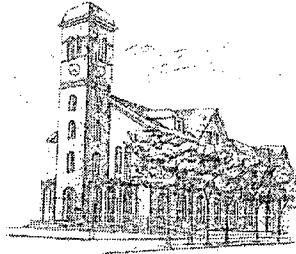
MARY GEARHARD

DAVID BUNNELL

111 HIGH ST.

CLEARFIELD, PA.

w/memo



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: 4-10-06

 You are responsible for serving all appropriate parties.

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

X Plaintiff(s)/Attorney(s)

X Defendant(s)/Attorney(s)

X Other DAVID BUNNELL

 Special Instructions:

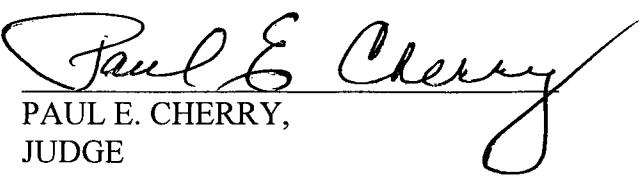
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ASHLEY D. HEICHEL, a minor, : NO. 05-1507-CD
by STEVEN and AMY HEICHEL, :
her parents and natural guardians, and :
STEVEN and AMY HEICHEL, :
in their own right, :
Plaintiffs :
: :
V. :
: :
MARY A. McKENRICK and :
DAVID M. BUNNELL, :
Defendants :
:

ORDER

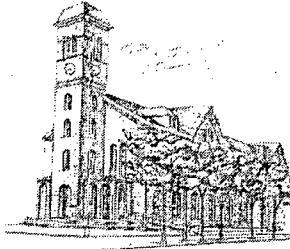
AND NOW, this 2nd day of May, 2006, following argument on Plaintiff's Preliminary Objections to Defendant's Cross Claim and presentation of the issues before the Court and upon consideration of the same, it is the ORDER of this Court that Preliminary Objection 1 and 2 to Defendant's Cross Claim shall be and are hereby SUSTAINED and paragraphs 24 and 25 shall be and are hereby stricken from the Defendant's Answer, Cross Claim and New Matter. It is the further ORDER of this Court that paragraph 26 of Defendant's Answer, Cross Claim and New Matter shall be and is hereby stricken from the pleading pursuant to Rule 2252(d).

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED *cc*
04/03/06
MAY 03 2006
*Atty's Levine
Gashart*

cc *David Bunnell*
William A. Shaw
Prothonotary/Clerk of Courts 111 High St.
Clearfield, PA 16830
GR



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: 5/31/06

 You are responsible for serving all appropriate parties.

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

 X Plaintiff(s)/Attorney(s)

 X Defendant(s)/Attorney(s)

 Other

 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL TRIAL LISTING

CERTIFICATE OF READINESS
TO THE PROTHONOTARY

CASE NUMBER: **05-1507-CD**

DATE PRESENTED: **August 1, 2006**

TYPE TRIAL REQUESTED		
Date Complaint Filed: September 29, 2005	(X) jury () arbitration	Estimated Trial Time 1 day
PLAINTIFF(S) Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel, in their own right	(X) Check Block	
DEFENDANT(S) Mary A. McKenrick, and David M. Bunnell	() if a Minor is a Party to the Case	
ADDITIONAL DEFENDANT(S)	()	

JURY DEMAND FILED BY:

Richard C. Levine, Esquire

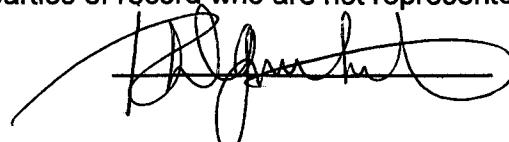
DATE JURY DEMAND FILED:

September 29, 2005

AMOUNT AT ISSUE	CONSOLIDATION	DATE CONSOLIDATION ORDERED:
More than \$25,000.00	() yes (X) no	n/a

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel.



Richard C. Levine
FOR THE PLAINTIFF

412-338-9030
TELEPHONE NUMBER

R. Denning Gearhart
FOR THE DEFENDANT, **Mary A. McKenrick**

814-765-1581
TELEPHONE NUMBER

David M. Bunnell, Pro Se

FOR ADDITIONAL DEFENDANT

TELEPHONE NUMBER

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

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

No. 05-1507-CD

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,
Defendants,

v.

STEVEN and AMY HEICHEL,
Additional Defendants.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a certified copy of the Certificate of Readiness for Trial filed in the above-captioned matter on the Plaintiffs, through their attorney, and the Defendant, David M. Bunnell, by depositing such documents in the United States Mail, postage pre-paid and addressed as follows:

Richard C. Levine, Esquire
Ainsman, Levine & Drexler, LLC
330 Grant Building, Suite 2201
Pittsburgh, PA 15219

David M. Bunnell
11 High Street
Clearfield, PA 16830



R. Denning Gearhart, Esquire
Attorney for Defendant
Mary A. McKenrick

Date: August 1, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Code: 011

**MOTION TO STRIKE CASE FROM
TRIAL LIST**

Filed on Behalf of Plaintiffs.

Counsel of Record for this Party:

Richard C. Levine, Esquire
PA I.D. # 36627

Ainsman, Levine & Drexler, LLC
Firm #975

330 Grant Building, Suite 2201
Pittsburgh, PA 15219

(412) 338-9030

JURY TRIAL DEMANDED

FILED

AUG 07 2006
m 12-20-06 60
William A. Shaw
Prothonotary/Clerk of Courts

2 CENT TO ATTY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Plaintiffs,

Code: 011

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

MOTION TO STRIKE CASE FROM TRIAL LIST

AND NOW, comes the Plaintiffs, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel in their own right, and file the following Motion to Strike Case From the Trial List pursuant to Rule 212.2:

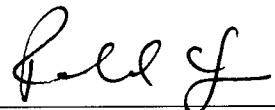
1. This is a claim against the Defendants for allowing alcohol to be consumed by the minor plaintiff and others at the residence of Defendant, Mary A. McKenrick, which alcohol was supplied by Defendant, David M. Bunnell.
2. Defendant, Mary A. McKenrick, filed a Certificate of Readiness on or about August 1, 2006. Counsel of Plaintiff received a copy of the Certificate of Readiness on August 3, 2006.
3. Defendant, Mary A. McKenrick, has not complied with Rule 212.2(a)(1) since discovery has not been completed.
4. This case has not been listed for trial previously.

5. Ms. McKenrick has yet to be deposed. There are also several other attendees of the gathering at Defendant McKenrick's home that have yet to be deposed and this case is not ready for Trial.

WHEREFORE, Plaintiffs, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel in their own right, respectfully request this Honorable Court to Strike the above captioned matter from the Trial List.

Respectfully submitted,

Ainsman, Levine & Drexler, LLC



Richard C. Levine, Esquire
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Plaintiffs,

Code: 011

v.

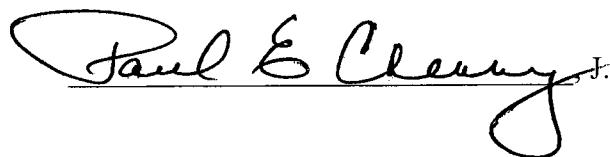
MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

ORDER OF COURT

AND NOW, to-wit, this 9th day of August, 2006, it is hereby
ORDERED, ADJUDGED and DECREED that the above captioned matter is stricken from the
Trial List.

BY THE COURT:



FILED *acc*
01:43 PM
AUG 10 2006 Atty Levine
GK
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Motion to Strike Case from Trial List was served by mailing same via first class mail, postage prepaid at Pittsburgh, Pennsylvania, on this 3rd day of August, 2006, addressed as follows:

R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830

David M. Bunnell
11 High Street
Clearfield, PA 16830

Ree L

Richard C. Levine, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Code: 011

PRAECIPE FOR TRIAL

Filed on Behalf of Plaintiffs.

Counsel of Record for this Party:

Richard C. Levine, Esquire
PA I.D. # 36627

Ainsman, Levine & Drexler, LLC
Firm #975

330 Grant Building, Suite 2201
Pittsburgh, PA 15219

(412) 338-9030

JURY TRIAL DEMANDED

FILED
M 10:47 AM
NOV 15 2007
NO CC
GP

William A. Shaw
Prothonotary/Clerk of Courts

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

ASHLEY D. HEICHEL, a minor,)
by STEVEN and AMY HEICHEL,)
her parents and natural guardians, and) No.: 05-1507-CD
STEVEN and AMY HEICHEL,)
in their own right,)
Plaintiffs,)
)
v.)
)
MARY A. MCKENRICK, and)
DAVID M. BUNNELL,)
Defendants.)

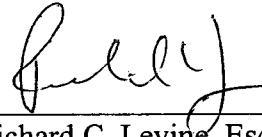
PRAECIPE FOR TRIAL

TO: PROTHONOTARY

Kindly list the above captioned case for trial. Counsel for Plaintiffs hereby certify that:

1. No motions are outstanding and that discovery has been completed and the case is ready for trial;
2. The case is to be heard by a jury;
3. Notice of the praecipe has been given to counsel for Defendant McKenrick and unrepresented Defendant David M. Bunnell.

Respectfully submitted,



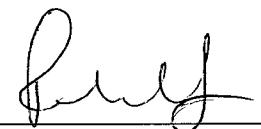
Richard C. Levine, Esquire
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing PRAECIPE FOR TRIAL was served by mailing same via first class mail, postage prepaid at Pittsburgh, Pennsylvania, on the 10th day of November, 2007, addressed as follows:

R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830

David M. Bunnell
11 High Street
Clearfield, PA 16830



Richard C. Levine, Esquire
Attorney for Plaintiffs

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

ASHLEY D. HEICHEL, a minor, by STEVEN and *
AMY HEICHEL, her parents and natural guardians, *
and STEVEN and AMY HEICHEL, in their own right, *
Plaintiffs *
vs. *
MARY A. MCKENRICK and DAVID M. BUNNELL, *
Defendants *

1507
NO. 05-1576-CD

ORDER

AND NOW, this 15th day of November, 2007, it is the ORDER of the Court that a Pre-Trial Conference in the above matter shall be held on the **20th day of December, 2007, in Chambers at 11:00 o'clock a.m.** In addition, Jury Selection in this matter is scheduled for January 3, 2008 at 9:00 a.m.

BY THE COURT,


PAUL E. CHERRY

Judge

6P
FILED
01/16/2008 R. Levine
NOV 16 2007 Gearhart

William A. Shaw
Prothonotary/Clerk of Courts
ICC D. Bunnell
111 High St.
Clearfield, PA
16830

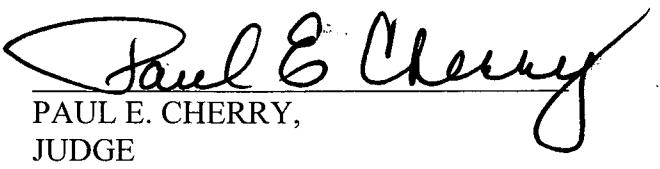
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ASHLEY D. HEICHEL, a minor, by : NO. 05-1507-CD
STEVEN and AMY HEICHEL, her :
parents and natural guardians, and :
STEVEN and AMY HEICHEL, in their :
own right :
V. :
MARY McKENRICK and :
DAVID M. BUNNELL :
:

ORDER

1. Jury Selection in this matter is scheduled for January 3, 2008, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Trial in this matter is scheduled for January 21, 22, 2008, beginning at 9:00 o'clock A.M., before Honorable John K. Reilly, Jr., Senior Judge, specially presiding.
3. The deadline for submitting any and all Motions shall be by and no later than January 5, 2008.
5. Points for Charge shall be submitted to the Court by and no later than ten (10) days prior to the commencement of trial.
6. Proposed Verdict Slip shall be submitted to the Court by and no later than ten (10) days prior to the commencement of trial.
7. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.
8. The parties hereto stipulate to the admittance of the report of Dr. Austin as well as all medical bills and expenses and all medical records.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED 1cc
01/3/2007
DEC 20 2007
1cc Atty. Levine
Gearhart
1cc David Bunnell
111 High St.
Clearfield, PA 16830
William A. Shaw
Prothonotary/Clerk of Courts
1cc
6K

FILED

DEC 20 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/20/07

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
 Plaintiff(s) Plaintiff(s) Attorney Other
 Defendant(s) Defendant(s) Attorney
 Defendant(s) Defendant(s) Attorney

Special Instructions:

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No. 05-1507-CD

Code:

FILED

JAN 11 2008

m (2:00 PM)

William A. Shaw
Prothonotary/Clerk of Courts

No Court copies

MOTION IN LIMINE

Filed on behalf of Plaintiff.

Counsel of Record for this Party:
Richard C. Levine, Esquire
Pa. I.D. No. 36627

Ainsman, Levine & Drexler, LLC
Firm No. 975

330 Grant Street, Suite 2201
Pittsburgh, PA 15219
(412) 338-9030

A JURY TRIAL IS DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No. 05-1507-CD

Code:

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

MOTION IN LIMINE

AND NOW, comes the Plaintiff, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel, in their own right and by and through their attorneys Richard C. Levine, Esquire and Ainsman, Levine & Drexler, LLC and file the following Motion in Limine:

1. This Motion arises out of injuries sustained by the minor Plaintiff when she consumed alcohol on the premises of the Defendant, Mary A. McKenrick.

In her deposition, Defendant McKenrick testified that the minor Plaintiff stated upon arriving at the Defendants home that earlier in the evening she had been “stealing Kerry-Edward signs from people’s lawns”.

The above statement attributed to the minor Plaintiff has no relevance to this case and is prejudicial.

WHEREFORE, Plaintiffs, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel respectfully request this honorable court enter an Order precluding the Defendant or any witnesses from mentioning the allegation that the minor Plaintiff was stealing Kerry-Edward signs from peoples lawns.

Respectfully Submitted,



Richard C. Levine, Esquire
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion in Limine was served via U.S. Mail, first class, postage prepaid on January 10, 2008 to all counsel of record as follows:

**R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830**

**David M. Bunnell
11 High Street
Clearfield, PA 16830**



Richard C. Levine, Esq.
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No. 05-1507-CD

Code:

Plaintiffs,

v.

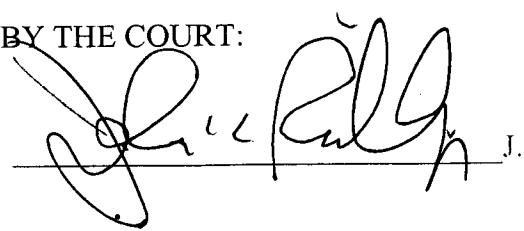
MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

ORDER OF COURT

And now, to wit, on this 15 day of January, 2008, it is hereby
ORDERED and DECREED that all witnesses are precluding mentioning that the minor Plaintiff,
Ashley D. Heichel, allegedly stated that she was stealing Kerry-Edwards election signs from
peoples lawns on the evening of the incident in question.

BY THE COURT:



FILED 4CC
JAN 21 2008 Atty Levine
B6
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No. 05-1507-CD

Code:

**PRAECLPICE TO REDUCE VERDICT
TO JUDGMENT**

Filed on behalf of Plaintiff.

Counsel of Record for this Party:
Richard C. Levine, Esquire
Pa. I.D. No. 36627

Ainsman, Levine & Drexler, LLC
Firm No. 975

330 Grant Street, Suite 2201
Pittsburgh, PA 15219
(412) 338-9030

A JURY TRIAL IS DEMANDED

FILED Atty pd. 20.00
m 11:00 AM
FEB 13 2008
Notice to
William A. Shaw
Prothonotary/Clerk of Courts
Def. Bunnell
Statement to
Atty
⑥

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No. 05-1507-CD

Code:

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

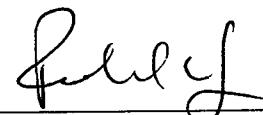
Defendants.

PRAECIPE TO REDUCE VERDICT TO JUDGMENT

TO: PROTHONOTARY

Kindly reduce the verdict entered in the above captioned matter on January 21, 2008 to
Judgment against Defendant, David M. Bunnell as follows: Verdict of compensatory damages in
the amount of \$14741.92.

Respectfully Submitted,



Richard C. Levine, Esquire

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Praecipe to Reduce Verdict to Judgment was served via U.S. Mail, first class, postage prepaid on this 8th day of February, 2008, to all counsel of record as follows:

**R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830**

**David M. Bunnell
11 High Street
Clearfield, PA 16830**



Richard C. Levine, Esq.
Attorney for Plaintiffs

NOTICE OF JUDGMENT

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

Ashley D. Heichel Steven Heichel Amy Heichel

Vs.

No. 2005-01507-CD

Mary A. McKenrick and David M. Bunnell

To: DAVID M. BUNNELL

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you in the amount of \$14,741.92 on February 13, 2008.

William A. Shaw
Prothonotary



William A. Shaw

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY ,
PENNSYLVANIA
STATEMENT OF JUDGMENT

COPY

Ashley D. Heichel
Steven Heichel
Amy Heichel
Plaintiff(s)

No.: 2005-01507-CD

Real Debt: \$14,741.92 against David M.
Bunnell ONLY

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

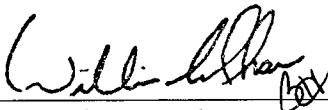
Mary A. McKenrick
David M. Bunnell
Defendant(s)

Entry: \$20.00

Instrument: Verdict

Date of Entry: February 13, 2008

Certified from the record this 13th day of February, 2008.



William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on _____, _____, of defendant full satisfaction of this Judgment,
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

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

FILED ^{NO cc}
01/31/08
JAN 21 2008 (6p)

William A. Shaw
Prothonotary/Clerk of Courts

ASHLEY D. HEICHEL, a minor :
by STEVEN and AMY HEICHEL, :
her parents and natural :
guardians, and STEVEN and :
AMY HEICHEL, in their own right, :
:
Plaintiffs :
:
VS. : NO. 05-1507-CD
:
MARY A. MCKENRICK, and :
DAVID M. BUNNELL, :
:
Defendants :

VERDICT SLIP

1. Do you find the Defendant, David M. Bunnell, negligent?

X _____
YES _____
NO _____

2. Was David M. Bunnell's negligence a factual cause of the Plaintiff's injuries?

X _____
YES _____
NO _____

3. Do you find that the Defendant, Mary A. McKenrick, was negligent?

X _____
YES _____
NO _____

4. If you answered "Yes" to No. 3, was Mary A. McKenrick's negligence a factual cause of Plaintiff's injuries?

YES _____

NO

5. Do you find that the Plaintiff, Ashley D. Heichel, was negligent?

YES

NO _____

6. If you answered "Yes" to No. 5, was Ashley D. Heichel's negligence a factual cause of her injuries?

YES

NO _____

7. State the amount of damages you award the Plaintiffs.

\$17,343.43

8. State the percentage of negligence, if you so find,

attributable to Mary A. McKenrick. 0 percent

9. State the percentage of negligence, if you so find

attributable to David M. Bunnell. 85 percent

10. State the percentage of negligence, if you so find,

attributable to Ashley D. Heichel. 15 percent

1-21-08
DATE

Brady Cain
FOREPERSON

COURT OF COMMON PLEAS, CLEARFIELD COUNTY
PENNSYLVANIA

CASE NO. 05-1507-CD

Date of Jury Selection: January 3, 2008

Presiding Judge: John K. Reilly Jr., SJSP

Ashley D. Heichel, a minor, by Steven
and Amy Heichel, her parents and
natural guardians, and Steven and Amy
Heichel, in their own right

Court Reporter: Tom Snyder

VS

Date of Trial: January 21-22, 2008

Date Trial Ended: _____

Mary McKenrick and David M. Bunnell

MEMBERS OF THE JURY

1. Jana Wilcox
2. Brenda Reitz
3. Arden Fry
4. Tanya Kunsman
5. Rosella Butler
6. Cecile Freno
ALT #1 Dana Martino

7. Melvin Luzier
8. Brady Crain
9. Randy Socoski
10. Thomas Lidgett
11. Jami Hollenbaugh
12. Wayne Fox
ALT #2 Alda Schaffer

PLAINTIFF'S WITNESSES:

1. Amy Heichel
2. Jan Hooyer
3. Marisa Lee
4. Bridget Lee
5. Ashley Heichel
6. _____

DEFENDANT'S WITNESSES:

1. Mary M. Kendrick
2. _____
3. _____
4. _____
5. _____
6. _____

PLAINTIFF'S ATTY: Richard Levine Esq.

DEF'S ATTY (McKenrick): R. Denning Gearhart Esq

ADDRESS TO JURY: 1:36 P.M.

DEF'S ATTY (Bunnell): Pro Se

JUDGE'S ADDRESS TO JURY: 1:47 PM.

ADDRESS TO JURY: 1:26 P.M.

JURY OUT: 2:25 P.M. JURY IN: 3:15 P.M.

VERDICT: See attached slip.

FOREPERSON: Brady Crain

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

ASHLEY D. HEICHEL, a minor :
by STEVEN and AMY HEICHEL, :
her parents and natural :
guardians, and STEVEN and :
AMY HEICHEL, in their own right, :
:
Plaintiffs :
:
VS. : NO. 05-1507-CD
:
MARY A. MCKENRICK, and :
DAVID M. BUNNELL, :
:
Defendants :

VERDICT SLIP

1. Do you find the Defendant, David M. Bunnell, negligent?

X _____
YES NO

2. Was David M. Bunnell's negligence a factual cause of the Plaintiff's injuries?

X _____
YES NO

3. Do you find that the Defendant, Mary A. McKenrick, was negligent?

X _____
YES NO

4. If you answered "Yes" to No. 3, was Mary A. McKenrick's negligence a factual cause of Plaintiff's injuries?

YES

X
NO

5. Do you find that the Plaintiff, Ashley D. Heichel, was negligent?

X
YES

NO

6. If you answered "Yes" to No. 5, was Ashley D. Heichel's negligence a factual cause of her injuries?

X
YES

NO

7. State the amount of damages you award the Plaintiffs.

\$ 17,343.43

8. State the percentage of negligence, if you so find,

attributable to Mary A. McKenrick. 0 percent

9. State the percentage of negligence, if you so find

attributable to David M. Bunnell. 85 percent

10. State the percentage of negligence, if you so find,

attributable to Ashley D. Heichel. 15% percent

1/21/08
DATE

S. Brady Cram
FOREPERSON

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN and AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No.: 05-1507-CD

Issue:

Code:

S **FILED**

JAN 27 2009
on 19:10 1/27/09
William A. Shaw
Prothonotary/Clerk of Courts
6 cent w/ warrants to
S. HENRICK

**PRAECIPE FOR WRIT OF
EXECUTION**

Filed on Behalf of Plaintiffs.

Counsel of Record for this Party:

Richard C. Levine, Esquire
PA I.D. # 36627

Ainsman, Levine & Drexler, LLC
Firm #975

330 Grant Building, Suite 1500
Pittsburgh, PA 15219

(412) 338-9030

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,)
by STEVEN and AMY HEICHEL,)
her parents and natural guardians, and)
STEVEN and AMY HEICHEL,)
in their own right,)
)
Plaintiffs,) No. 05-1507-CD
)
v.)
)
MARY A. MCKENRICK, and)
DAVID M. BUNNELL,)
)
Defendants.)

PRAECIPE FOR WRIT OF EXECUTION

TO PROTHONOTARY:

Issue writ of execution in the above matter,

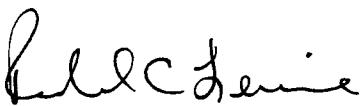
- (1) directed to the sheriff of Clearfield County;
- (2) against David M. Bunnell, defendant;
- (3) and enter this writ in the judgment index

(a) against David M. Bunnell, defendant, as a lis pendens against real property of the defendant as follows:

11 High Street, Clearfield, Pennsylvania 16830

(4) Amount due	\$ <u>14,741.92</u>
Interest from February 13, 2008	\$ <u>1,122.91</u>
Costs to be added	\$ <u> </u>

Prothonotary costs \$145.00



Richard C. Levine
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,)	
by STEVEN and AMY HEICHEL,)	
her parents and natural guardians, and)	
STEVEN and AMY HEICHEL,)	
in their own right,)	
)	
Plaintiffs,)	No. 05-1507-CD
)	
v.)	
)	
MARY A. MCKENRICK, and)	
DAVID M. BUNNELL,)	
)	
Defendants.)	

WRIT OF EXECUTION

This paper is a Writ of Execution. It has been issued because there is a judgment against you. It may cause your property to be held or taken to pay the judgment. You may have legal rights to prevent your property from being taken. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly.

The law provides that certain property cannot be taken. Such property is said to be exempt. There is a debtor's exemption of \$300. There are other exemptions which may be applicable to you. Attached is a summary of some of the major exemptions. You may have other exemptions or other rights.

If you have an exemption, you should do the following promptly: (1) Fill out the attached claim form and demand for a prompt hearing. (2) Deliver the form or mail it to the Sheriff's Office at the address noted.

You should come to court ready to explain your exemption. If you do not come to court and prove your exemption, you may lose some of your property.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

CLEARFIELD COUNTY COURTHOUSE
Attn: DAVID S. MEHOLIK, Court Administrator
1 North Second Street
Clearfield, PA 16830
Telephone: (814) 765-2641 ext. 5982

WRIT OF EXECUTION

Commonwealth of Pennsylvania
County of Clearfield

To the Sheriff of Clearfield County:

To satisfy the judgment, interest and costs against David Bunnell, Defendant.

(1) you are directed to levy upon the property of the defendant and to sell his interest therein.

(2) if property of the defendant not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify them that they have been added as a garnishee and is enjoined as above stated.

Amount due	\$ 14,741.92
interest from 07/03/06	\$1,122.91
[costs to be added]	\$ _____

Prothonotary costs \$145..



Prothonotary

W. R. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

Seal of the Court

By: _____
-(Deputy) _____

MAJOR EXEMPTIONS UNDER PENNSYLVANIA AND FEDERAL LAW

1. \$300.00 statutory exemption
2. Bibles, school books, sewing machines, uniforms and equipment
3. Most wages and unemployment compensation
4. Social Security benefits
5. Certain retirement funds and accounts
6. Certain veteran and armed forces benefits
7. Certain insurance proceeds
8. Such other exemptions as may be provided by law

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,)
by STEVEN and AMY HEICHEL,)
her parents and natural guardians, and)
STEVEN and AMY HEICHEL,)
in their own right,)
)
Plaintiffs,) No. 05-1507-CD
)
v.)
)
MARY A. MCKENRICK, and)
DAVID M. BUNNELL,)
)
Defendants.)

CLAIM FOR EXEMPTION

To the Sheriff:

I, the above named defendant, claim exemption of property from levy or attachment:

(1) From my personal property in my possession which has been levied upon,
(a) I desire that my \$300.00 statutory exemption be
 (i) set aside in kind (specify property to be set aside in kind):

 (ii) paid in cash following the sale of the property levied upon; or
(b) I claim the following exemption (specify property and basis of exemption):

(2) From my property which is in the possession of a third party, I claim the following exemptions:
(a) my \$300.00 statutory exemption: in cash; in kind (specify property):

(b) Social Security benefits on deposit in the amount of \$ _____
(c) Other (specify amount and basis of exemption): _____

I request a prompt court hearing to determine the exemption. Notice of the hearing should be given to me at _____
(Address)

(Telephone Number)

I verify that the statements made in this Claim for Exemption are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
(Defendant)

**THIS CLAIM TO BE FILED WITH THE OFFICE OF
THE SHERIFF OF CLEARFIELD COUNTY:
Courthouse Suite 116, 1 North 2nd Street
Clearfield, Pennsylvania 16830**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20922
NO: 05-1507-CD

PLAINTIFF: ASHLEY D. HEICHEL, A MINOR, BY STEVEN AND AMY HEICHEL, HER PARENTS AND NATURAL GUARDIANS, AND STEVEN AND AMY HEICHEL, IN THEIR OWN RIGHT

vs.

DEFENDANT: MARY A. MCKENRICK AND DAVID M. BUNNELL

Execution PERSONAL PROPERTY

SHERIFF RETURN

DATE RECEIVED WRIT: 1/27/2009

LEVY TAKEN 3/17/2009 @ 11:12 AM

POSTED 3/27/2009 @ 2:00 PM

SALE HELD

SOLD TO

SOLD FOR AMOUNT PLUS COSTS

WRIT RETURNED 8/25/2011

DATE DEED FILED

PROPERTY ADDRESS 11 HIGH STREET a/k/a 61 HIGH STREET CLEARFIELD, PA 16830

FILED
08/25/2011
S AUG 25 2011
William A. Shaw
Prothonotary/Clerk of Courts
61C

SERVICES

SEE ATTACHED SHEET(S) OF SERVICES

SHERIFF HAWKINS \$104.68

SURCHARGE \$20.00 PAID BY ATTORNEY

Sworn to Before Me This

So Answers,

____ Day of _____ 2011

Chester A. Hawkins
by Andrea Butte, Asst. Sheriff
Chester A. Hawkins
Sheriff

ASHLEY D. HEICHEL, A MINOR, BY STEVEN AND AMY HEICHEL, HER PARENTS AND NATURAL GUARDIANS, AND
vs STEVEN AND AMY HEICHEL, IN THEIR OWN RIGHT
MARY A. MCKENRICK AND DAVID M. BUNNELL

1 3/19/2009 @ 11:05 AM SERVED DAVID M. BUNNELL

SERVED DAVID M. BUNNELL, DEFENDANT, AT HIS RESIDENCE 11 HIGH STREET A/K/A 61 HIGH STREET,
CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO DAVID M. BUNNELL

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION AND COPY OF THE LEVY AND BY MAKING
KNOWN TO HIM THE CONTENTS THEREOF.

2 3/27/2009 @ 2:00 PM SERVED DAVID M. BUNNELL

SERVED DAVID M. BUNNELL, DEFENDANT, AT HIS RESIDENCE 11 HIGH STREET A/K/A 61 HIGH STREET,
CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO DAVE BUNNELL

A NOTICE OF SALE AND BY MAKING KNOWN TO HIM THE CONTENTS THEREOF.

3 6/29/2009 @ 9:50 AM SERVED MARY A. MCKENRICK & DAVID M. BUNNELL

POSTED THE PROPERTY FOR SHERIFF SALE.

@ SERVED

NOW, JANUARY 20, 2009 RECEIVED A FAX LETTER FROM THE PLAINTIFF'S ATTORNEY TO CONTINUE THE SHERIFF
SALE SCHEDULED FOR JUNE 12, 2009 TO JULY 17, 2009.

@ SERVED

NOW, JULY 14, 2009 RECEIVED A FAX LETTER FROM THE PLAINTIFF'S ATTORNEY TO CANCEL THE SHERIFF SALE
SCHEDULED FOR JULY 17, 2009.

@ SERVED

NOW, AUGUST 25, 2011 RETURN WRIT AS TIME EXPIRED.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,)
by STEVEN and AMY HEICHEL,)
her parents and natural guardians, and)
STEVEN and AMY HEICHEL,)
in their own right,)
)
Plaintiffs,) No. 05-1507-CD
)
v.)
)
MARY A. MCKENRICK, and)
DAVID M. BUNNELL,)
)
Defendants.)

WRIT OF EXECUTION

This paper is a Writ of Execution. It has been issued because there is a judgment against you. It may cause your property to be held or taken to pay the judgment. You may have legal rights to prevent your property from being taken. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly.

The law provides that certain property cannot be taken. Such property is said to be exempt. There is a debtor's exemption of \$300. There are other exemptions which may be applicable to you. Attached is a summary of some of the major exemptions. You may have other exemptions or other rights.

If you have an exemption, you should do the following promptly: (1) Fill out the attached claim form and demand for a prompt hearing. (2) Deliver the form or mail it to the Sheriff's Office at the address noted.

You should come to court ready to explain your exemption. If you do not come to court and prove your exemption, you may lose some of your property.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

CLEARFIELD COUNTY COURTHOUSE
Attn: DAVID S. MEHOLIK, Court Administrator
1 North Second Street
Clearfield, PA 16830
Telephone: (814) 765-2641 ext. 5982

WRIT OF EXECUTION

Commonwealth of Pennsylvania
County of Clearfield

To the Sheriff of Clearfield County:

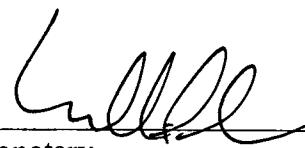
To satisfy the judgment, interest and costs against David Bunnell, Defendant.

(1) you are directed to levy upon the property of the defendant and to sell his interest therein.

(2) if property of the defendant not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify them that they have been added as a garnishee and is enjoined as above stated.

Amount due	\$ 14,741.92
interest from 07/03/06	\$1,122.91
[costs to be added]	\$ _____

Prothonotary costs \$145.00


Prothonotary

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

Seal of the Court

Received this writ this 27th day
of January A.D. 2009
At 10:30 A.M./P.M.

By: _____
(Deputy)

Charles A. Hawley
Sheriff Sgt. Cynthia Bittner-Coughland

MAJOR EXEMPTIONS UNDER PENNSYLVANIA AND FEDERAL LAW

1. \$300.00 statutory exemption
2. Bibles, school books, sewing machines, uniforms and equipment
3. Most wages and unemployment compensation
4. Social Security benefits
5. Certain retirement funds and accounts
6. Certain veteran and armed forces benefits
7. Certain insurance proceeds
8. Such other exemptions as may be provided by law

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,)
by STEVEN and AMY HEICHEL,)
her parents and natural guardians, and)
STEVEN and AMY HEICHEL,)
in their own right,)
)
Plaintiffs,) No. 05-1507-CD
)
v.)
)
MARY A. MCKENRICK, and)
DAVID M. BUNNELL,)
)
Defendants.)

CLAIM FOR EXEMPTION

To the Sheriff:

I, the above named defendant, claim exemption of property from levy or attachment:

(1) From my personal property in my possession which has been levied upon,
(a) I desire that my \$300.00 statutory exemption be
 (i) set aside in kind (specify property to be set aside in kind):

 (ii) paid in cash following the sale of the property levied upon; or
(b) I claim the following exemption (specify property and basis of exemption):

(2) From my property which is in the possession of a third party, I claim the following exemptions:
(a) my \$300.00 statutory exemption: in cash; in kind (specify property):

(b) Social Security benefits on deposit in the amount of \$ _____
(c) Other (specify amount and basis of exemption): _____

I request a prompt court hearing to determine the exemption. Notice of the hearing should be given to me at _____
(Address)

(Telephone Number)

I verify that the statements made in this Claim for Exemption are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
(Defendant)

**THIS CLAIM TO BE FILED WITH THE OFFICE OF
THE SHERIFF OF CLEARFIELD COUNTY:
Courthouse Suite 116, 1 North 2nd Street
Clearfield, Pennsylvania 16830**

**PERSONAL PROPERTY SALE
SCHEDULE OF DISTRIBUTION**

NAME DAVID M. BUNNELL

NO. 05-1507-CD

NOW, August 24, 2011, by virtue of the Writ hereunto attached, after having given due and legal notice of time and place of sale by handbills posted on the premises setting forth the date, time and place of sale, I exposed the within described real estate of Mary A. Mckenrick And David M. Bunnell to public venue or outcry at which time and place I sold the same to he/she being the highest bidder, for the sum of and made the following appropriations, viz:

SHERIFF COSTS:

PLAINTIFF COSTS, DEBT AND INTEREST:

RDR	9.00	DEBT-AMOUNT DUE	14,741.92
SERVICE	9.00	INTEREST @ %	0.00
MILEAGE	2.00	FROM TO	
LEVY	20.00		
MILEAGE	2.00	PROTH SATISFACTION	
POSTING	9.00	LATE CHARGES AND FEES	
HANDBILLS		COST OF SUIT-TO BE ADDED	
COMMISSION	0.00	FORECLOSURE FEES	
POSTAGE	1.68	ATTORNEY COMMISSION	
HANDBILLS	10.00	REFUND OF ADVANCE	
DISTRIBUTION		REFUND OF SURCHARGE	20.00
ADVERTISING		SATISFACTION FEE	
ADD'L SERVICE	2.00	ESCROW DEFICIENCY	
		PROPERTY INSPECTIONS	
ADD'L POSTING		INTEREST	1,122.91
ADD'L MILEAGE		MISCELLANEOUS	
ADD'L LEVY			
BID/ SETTLEMENT AMOUNT		TOTAL DEBT AND INTEREST	\$16,134.51
RETURNS/DEPUTIZE			
COPIES	15.00	COSTS:	
		ADVERTISING	0.00
BILLING/PHONE/FAX	5.00	TAXES - COLLECTOR	
CONTINUED SALES	20.00	TAXES - TAX CLAIM	
MISCELLANEOUS		DUE	
TOTAL SHERIFF COSTS	\$104.68	LIEN SEARCH	
		ACKNOWLEDGEMENT	
		SHERIFF COSTS	104.68
		LEGAL JOURNAL COSTS	0.00
		PROTHONOTARY	145.00
		MORTGAGE SEARCH	
		MUNICIPAL LIEN	
		TOTAL COSTS	\$249.68
		TOTAL COSTS	\$16,134.51

COMMISSION 2% ON THE FIRST \$ 100,000 AND 1/2% ON ALL OVER THAT. DISTRIBUTION WILL BE MADE IN ACCORDANCE WITH THE ABOVE SCHEDULE UNLESS EXCEPTIONS ARE FILED WITH THIS OFFICE **WITHIN TEN (10) DAYS FROM THIS DATE.**

CHESTER A. HAWKINS, Sheriff

THE LAW FIRM OF
AINSMAN, LEVINE & DREXLER, LLC

330 Grant Street, Suite 1500 • Pittsburgh, PA 15219 • 412.338.9030 fax 412.338.9167

January 20, 2009

VIA FAX 814-765-5915

ATTN: Cindy
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

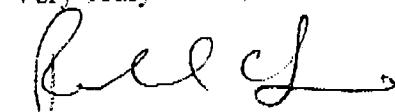
Re: Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and
natural guardians, and Steven and Amy Heichel, in their own right vs.
Mary A. McKenrick, and David M. Bunnell
Case No.: 05-1507-CD, Clearfield County, Pennsylvania
Our File No.: 203834

Dear Cindy:

This letter is to confirm my request for continuation of the Sheriff Sale in the above matter originally scheduled for June 12, 2009. Per your telephone conversation with my secretary Tracy, the Sheriff Sale has been rescheduled to Friday, July 17, 2009 at 10:00 a.m.

Thank you for your cooperation in this matter.

Very Truly Yours,


Richard C. Levine, Esquire

RCL/thu

THE LAW FIRM OF
AINSMAN, LEVINE & DREXLER, LLC

330 Grant Street, Suite 1500 • Pittsburgh, PA 15219 • 412.338.9030 fax 412.338.9167

July 14, 2009

VIA FAX 814-765-5915

ATTN: Cindy
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

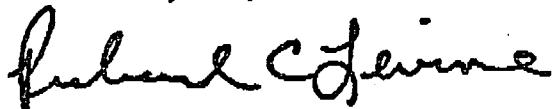
Re: Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel, in their own right vs. Mary A. McKenrick, and David M. Bunnell
Case No.: 05-1507-CD, Clearfield County, Pennsylvania
Our File No.: 203834

Dear Cindy:

This letter is to confirm my request for the cancelation of the Sheriff Sale in the above matter scheduled for June 17, 2009 at 10:00 a.m.

Thank you for your cooperation in this matter. If you have any questions, please feel free to contact me.

Very Truly Yours,



Richard C. Levine, Esquire

RCL/tlu

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No. 05-1507-CD

Code:

Plaintiffs,

v.

MOTION IN LIMINE

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

Filed on behalf of Plaintiff.

Counsel of Record for this Party:
Richard C. Levine, Esquire
Pa. I.D. No. 36627

Ainsman, Levine & Drexler, LLC
Firm No. 975

330 Grant Street, Suite 2201
Pittsburgh, PA 15219
(412) 338-9030

A JURY TRIAL IS DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No. 05-1507-CD

Code:

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

MOTION IN LIMINE

AND NOW, comes the Plaintiff, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel, in their own right and by and through their attorneys Richard C. Levine, Esquire and Ainsman, Levine & Drexler, LLC and file the following Motion in Limine:

1. This Motion arises out of injuries sustained by the minor Plaintiff when she consumed alcohol on the premises of the Defendant, Mary A. McKenrick.

In her deposition, Defendant McKenrick testified that the minor Plaintiff stated upon arriving at the Defendants home that earlier in the evening she had been “stealing Kerry-Edward signs from people’s lawns”.

The above statement attributed to the minor Plaintiff has no relevance to this case and is prejudicial.

WHEREFORE, Plaintiffs, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel respectfully request this honorable court enter an Order precluding the Defendant or any witnesses from mentioning the allegation that the minor Plaintiff was stealing Kerry-Edward signs from peoples lawns.

Respectfully Submitted,



Richard C. Levine, Esquire
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion in Limine was served via U.S. Mail, first class, postage prepaid on January 10, 2008 to all counsel of record as follows:

**R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830**

**David M. Bunnell
11 High Street
Clearfield, PA 16830**



**Richard C. Levire, Esq.
Attorney for Plaintiffs**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No. 05-1507-CD

Code:

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

ORDER OF COURT

And now, to wit, on this _____ day of _____, 2008, it is hereby
ORDERED and DECREED that all witnesses are precluding mentioning that the minor Plaintiff,
Ashley D. Heichel, allegedly stated that she was stealing Kerry-Edwards election signs from
peoples lawns on the evening of the incident in question.

BY THE COURT:

J.

THE LAW FIRM OF

AINSMAN, LEVINE & DREXLER, LLC

330 Grant Street, Suite 2201 • Pittsburgh, PA 15219 • 412.338.9030 fax 412.338.9167

January 15, 2008

Court Administrator
Clearfield County Courthouse
230 East Market Street
Suite 228
Clearfield, PA 16830

Re: Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel, in their own right vs.
Mary A. McKenrick, and David M. Bunnell
Case No.: 05-1507-CD, Clearfield County, Pennsylvania
Our File No.: 203834

Dear Sir or Madam:

Enclosed please find the Plaintiff's Supplemental Proposed Points for Charge that I request be filed in the above captioned matter. Kindly return a time stamped copy of the cover sheet to our office in the envelope provided.

Thank you for your attention to this matter.

Sincerely,



Richard C. Levine, Esquire

RCL/tlu
Enclosure

Cc: Judge John Reilly w/ enclosures
R. Denning Gearhart, Esquire w/ enclosures
David M. Bunnell w/ enclosures

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

No. 05-1507-CD

Code:

**PLAINTIFF'S SUPPLEMENTAL
PROPOSED POINTS FOR CHARGE**

Filed on behalf of Plaintiff.

Counsel of Record for this Party:
Richard C. Levine, Esquire
Pa. I.D. No. 36627

Ainsman, Levine & Drexler, LLC
Firm No. 975

330 Grant Street, Suite 2201
Pittsburgh, PA 15219
(412) 338-9030

A JURY TRIAL IS DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No. 05-1507-CD

Code:

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

PLAINTIFF'S SUPPLEMENTAL PROPOSED POINTS FOR CHARGE

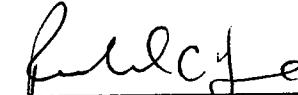
AND NOW, comes the Plaintiff, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel, in their own right and file by and through their attorneys Richard C. Levine, Esquire and Ainsman, Levine & Drexler,

LLC the following Supplemental Proposed Points for Charge:

1. An adult who has undertaken the care, custody and control of a minor has a duty to exercise reasonable care to protect the minor and keep them from danger. Knaupp v. Bolen 83 Pa. D. & C. 4th 323 (Adams County 2006)

GRANTED: _____ DENIED: _____ COVERED: _____

Respectfully submitted,
AINSMAN & LEVINE, P.C.



Richard C. Levine, Esquire
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Plaintiff's
Supplemental Proposed Points For Charge was served via U.S. Mail, first class, postage
prepaid on January 15, 2008 to all counsel of record as follows:

**R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830**

**David M. Bunnell
11 High Street
Clearfield, PA 16830**



**Richard C. Levine, Esq.
Attorney for Plaintiffs**

THE LAW FIRM OF

AINSMAN, LEVINE & DREXLER, LLC

330 Grant Street, Suite 2201 • Pittsburgh, PA 15219 • 412.338.9030 fax 412.338.9167

January 10, 2008

Court Administrator
Clearfield County Courthouse
230 East Market Street
Suite 228
Clearfield, PA 16830

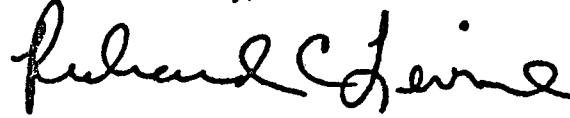
Re: Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel, in their own right vs.
Mary A. McKenrick, and David M. Bunnell
Case No.: 05-1507-CD, Clearfield County, Pennsylvania
Our File No.: 203834

Dear Sir or Madam:

Enclosed please find the Motion in Limine, Plaintiff's Proposed Points for Charge and Verdict Slip that I request be filed in the above captioned matter. Kindly return a time stamped copy of the cover sheet of each to our office in the envelope provided.

Thank you for your attention to this matter.

Sincerely,



Richard C. Levine, Esquire

RCL/tlu
Enclosure

Cc: Judge John Reilly w/ enclosures
R. Denning Gearhart, Esquire w/ enclosures
David M. Bunnell w/ enclosures

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

CIVIL DIVISION

No. 05-1507-CD

Code:

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

VERDICT SLIP

Defendants.

Filed on behalf of Plaintiff.

Counsel of Record for this Party:
Richard C. Levine, Esquire
Pa. I.D. No. 36627

Ainsman, Levine & Drexler, LLC
Firm No. 975

330 Grant Street, Suite 2201
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A JURY TRIAL IS DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
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CIVIL DIVISION

No. 05-1507-CD

Code:

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

VERDICT SLIP

1. Do you find the Defendant, David M. Bunnell, negligent?

X _____
YES NO

2. Was David M. Bunnell's negligence a factual cause of the Plaintiff's injuries?

X _____
YES NO

3. Do you find that the Defendant, Mary A. McKenrick, was negligent?

_____ YES NO _____

4. If you answered "Yes" to #3, was Mary A. McKenrick negligence a factual cause of Plaintiff's injuries?

_____ YES NO _____

5. State the amount of damages you award the Plaintiffs \$ _____.



Richard C. Levine, Esquire
Attorney for Plaintiff's

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Plaintiff's Slip was served via U.S. Mail, first class, postage prepaid on January 10, 2008 to all counsel of record as follows:

**R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830**

**David M. Bunnell
11 High Street
Clearfield, PA 16830**



Richard C. Levine, Esq.

Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
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CIVIL DIVISION

No. 05-1507-CD

Code:

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

**PLAINTIFF'S PROPOSED POINTS
FOR CHARGE**

Filed on behalf of Plaintiff.

Counsel of Record for this Party:
Richard C. Levine, Esquire
Pa. I.D. No. 36627

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PLAINTIFF'S PROPOSED POINTS FOR CHARGE

AND NOW, comes the Plaintiff, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel, in their own right and file by and through their attorneys Richard C. Levine, Esquire and Ainsman, Levine & Drexler, LLC the following Proposed Points for Charge:

1. The Plaintiff's have obtained a judgment by default against Defendant, David M. Bunnell. Therefore, you must answer "yes" on the Verdict/Jury Interrogatory to Question #1 (whether the Defendant was negligent or whether the Defendant's negligence was the "factual cause" of harm to the Plaintiff).

The legal term negligence, otherwise known as carelessness, is the absence of ordinary care which a reasonably prudent person would exercise in the circumstances here presented. Negligent conduct may consist either of an act or an omission to act when there is a duty to do

so. In other words, negligence is the failure to do something which a reasonably careful person would do, or the doing of something which a reasonably careful person would not do, in light of all the surrounding circumstances established by the evidence in this case. It is for you to determine how a reasonably careful person would act in those circumstances. (Pa. SSJI Civ. 3.01)

GRANTED: _____ DENIED: _____ COVERED: _____

2. A Defendant who knowingly and intentionally allows premises in which she has control to be used for purposes of consumption of alcohol by minors has created an unreasonable risk of intoxication of minor guests and is liable for injuries resulting therefrom, if you find that the use of the premises to be a factual cause in bringing about intoxication of minor guests. *Macleary v. Hines* 817 F.2d 1081 (3rd Cir. 1987) An adult who knows or should reasonably know that alcohol is being consumed by minors on her premises is negligent. *Balest v. Krafick* 42 PA D and C 4th 366 (Westmoreland County 1999)

3. A possessor of land owes a duty to protect invitee from foreseeable harm and, in some circumstances, from obvious dangers. A possessor of land is not liable to her invitee for physical harm caused to them by any activity or condition on the land who's danger is known or obvious to them, unless the possessor should anticipate the harm despite such knowledge or obviousness. *Jones v. Three Rivers Management Corp.*, 483 PA 75, 394 A. 2d 546 (1978); Restatement (2nd) of Torts § 343A.

4. Where the possessor of land can and should anticipate that the dangerous condition will cause physical harm to the invitee, notwithstanding its known or obvious danger, the possessor is not relieved of the duty of reasonable care which she owes the invitee for her protection. *Id.* An invitee must prove either the proprietor of the land had a hand in creating the harmful condition, or she had actual or constructive notice of such condition. *Id.*

5. A parent is under a duty to exercise reasonable care so as to control her minor child as to prevent her from intentionally harming others or from so conducting herself as to create an unreasonable risk of bodily harm to them, if the parent (a) knows or has reason to know that she has the ability to control her child and; (b) knows or should know of the necessity and opportunity for exercising such control. Restatement of torts (2nd) Section 316; *Johnson v. Johnson* 600 A. 2d 965. (1991)

6. If an actor permits a third person to use land or chattels in her possession she is, if present, under a duty to exercise reasonable care so as to control the conduct of the third person as to prevent him from intentionally harming others or from so conducting himself or herself as to create an unreasonable risk of bodily harm to them, if the actors of (a) knows or has reason to know that she has the ability to control the 3rd person; and (b) knows or should know of the necessity and opportunity for exercising such control. Restatement (2nd) Torts Section 318; *Booker v. Lehigh University* 800 F. Supp. 234 (Edpa 1992)

7. A parent is liable for the torts of a child where the act of the child is done as the agent of the parent or where the negligence of the parent makes the injury possible. The injury committed

by the child must have been a natural and probable consequence of the parent's negligent act, that is, a consequence which, under the surrounding circumstances, might and not reasonably to have been foreseen as likely to flow from such negligent act. *Condell v. Savo* 350 Pa. 350, 39 A. 2d 51 (1944)

8. In this case, you are concerned with the care taken, or not taken, by Ashley Heichel, who was 14 years old at the time of the accident. The law does not hold children to the same standard of care as adults. A child is required to exercise the ordinary care appropriate for a child. Specifically, he or she is held to that measure of care that other children of the same age, experience, capacity, and development would ordinarily exercise under similar circumstances.

In applying this standard, the law has placed children of different ages in different categories. Once a child has reached the age of 14, the law presumes that he or she has the capacity to appreciate danger and to exercise care. With respect to a child 14 years of age or over, the law puts upon him or her the burden of showing lack of intelligence, prudence, foresight, or strength such as is usual in those of his or her age. (Pa. SSJI Civ. 3.12)

GRANTED: _____ DENIED: _____ COVERED: _____

9. The Plaintiff must prove to you that the Defendant's conduct caused the Plaintiff's damages. This is referred to as "factual cause." The question is: "Was the Defendant's negligent conduct a factual cause in bringing about the plaintiff's damages?"

Conduct is a factual cause of harm when the harm would not have occurred absent the conduct.

An act is a factual cause of an outcome if, in the absence of the act, the outcome would not have occurred.

A Defendant's negligent conduct need only be a factual cause of the Plaintiff's harm. It does not need to be the only cause. The existence of other causes of the harm does not relieve the Defendant from liability as long as the Defendant's negligent conduct was a factual cause of the injury. If you find that one of the alleged acts of a Defendant was negligent and a factual cause of the harm, this is sufficient to subject that Defendant to liability.

In order for conduct of a party to be a factual cause, the conduct must not be fanciful or imaginary, but must have played a real role in causing the injury. Therefore, in determining factual cause, you must decide whether the negligent conduct of the defendant was more than an insignificant factor in bringing about any harm to the Plaintiff. Under Pennsylvania law, conduct can be found to be a contributing factor if the action or omission alleged to have caused the harm was an actual, real factor, not a negligible, imaginary, or fanciful factor, or a factor having no connection or only an insignificant connection with the injury. However, factual cause does not mean it is the only, primary, or even the most important factor in causing the injury. A cause may be found to be a factual cause as long as it contributes to the injury in a way that is not minimal or insignificant.

To be a contributing factor, the Defendant's conduct need not be the only factor. The fact that some other cause concurs with the negligence of the Defendant in producing an injury does not relieve the Defendant from liability as long as his or her own negligence is a factual cause of the

injury.

The negligence of a Defendant may be found to be a factual cause of a Plaintiff's harm even though it was relatively minor as compared to the negligence of [the other Defendant or] the Plaintiff. In effect, the test for factual causation has been met when the conduct in question has such an effect in producing the harm as to lead reasonable persons to regard it as one of the contributing causes that is neither insignificant nor inconsequential considering all the circumstances. (Pa. SSJI Civ. 3.15)

GRANTED: _____ DENIED: _____ COVERED: _____

10. You may find inconsistencies in the evidence. Even actual contradictions in the testimony of witnesses do not necessarily mean that any witness has been wilfully false. Poor memory is not uncommon. Sometimes a witness forgets; sometimes the witness remembers incorrectly. It is also true that two persons witnessing an incident may see or hear it differently.

If different parts of the testimony of any witness or witnesses appear to be inconsistent, you the jury should try to reconcile the conflicting statements, whether of the same or different witnesses, and you should do so if it can be done fairly and satisfactorily.

If, however, you decide that there is a genuine and irreconcilable conflict of testimony, it is your function and duty to determine which, if any, of the contradictory statements you will believe. (Pa. SSJI Civ. 5.04)

GRANTED: _____ DENIED: _____ COVERED: _____

11. If you decide that a witness has deliberately testified falsely about a material point (that is, about a matter that could affect the outcome of this trial), you may for that reason alone choose to disbelieve the rest of the witness' testimony. But you are not required to do so. You should consider not only the deliberate falsehood, but also all other factors bearing on the witness' credibility in deciding whether to believe other parts of the witness' testimony. (Pa. SSJI Civ. 5.05)

GRANTED: _____ DENIED: _____ COVERED: _____

12. Evidence may either be direct evidence or circumstantial evidence. Direct evidence is proof of a fact, such as testimony by a witness about what that witness personally saw, heard, or did. Circumstantial evidence is proof of one or more facts from which you could find another fact. You should consider both kinds of evidence. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence. You may decide the case solely based on circumstantial evidence. (Pa. SSJI Civ. 5.07)

GRANTED: _____ DENIED: _____ COVERED: _____

13. I have invited your attention to various factors which you may consider in evaluating the evidence for the Plaintiff and Defendant. In doing so, I have not attempted to indicate any

opinion on my part concerning the weight which you should give to the evidence or to any part of it and I would not want you to think that I had. In any event, it is for you and you alone to determine the credibility of each witness. (Pa. SSJI Civ. 5.40).

GRANTED: _____ DENIED: _____ COVERED: _____

14. In civil cases such as this one, the plaintiff has the burden of proving those contentions which entitle him or her to relief.

When a party has the burden of proof on a particular issue, his or her contention on that issue must be established by a fair preponderance of the evidence. The evidence establishes a contention by a fair preponderance of the evidence if you are persuaded that it is more probably accurate and true than not.

To put it another way, think, if you will, of an ordinary balance scale, with a pan on each side. Onto one side of the scale, place all of the evidence favorable to the plaintiff; onto the other, place all of the evidence favorable to the defendant. If, after considering the comparable weight of the evidence, you feel that the scales tip, ever so slightly or to the slightest degree, in favor of the plaintiff, your verdict must be for the plaintiff. If the scales tip in favor of the defendant, or are equally balanced, your verdict must be for the defendant.

In this case, the plaintiff has the burden of proving the following propositions: that the defendant was negligent, and that that negligence was a substantial factor in bringing about the

accident. If, after considering all of the evidence, you feel persuaded that these propositions are more probably true than not true, your verdict must be for the plaintiff. Otherwise, your verdict should be for the defendant. (Pa. SSJI Civ. 5.50).

GRANTED:_____ DENIED:_____ COVERED:_____

15. If you find that the defendant is liable to the plaintiff, you must then find an amount of money damages you believe will fairly and adequately compensate the plaintiff for all the physical and financial injury (she) has sustained as a result of the accident. The amount you award today must compensate the plaintiff completely for damage sustained in the past, as well as damage the plaintiff will sustain in the future. (Pa. SSJI Civ. 6.00)

GRANTED:_____ DENIED:_____ COVERED:_____

16. The parties agree that the Defendant was negligent and [the parties] [medical experts] agree that the negligence caused some injury to the Plaintiff. Therefore, you must answer "yes" on the Verdict/Jury Interrogatory to Question #1 and Question #2 [whether the Defendant was negligent or whether the Defendant's negligence was the "factual cause" of harm to the Plaintiff].

You must therefore at least award some damages for those [uncontested] [agreed-upon] injuries [specify damages - e.g., medical bills, lost wages, pain and suffering, etc.].

The parties disagree, however, on the extend of the Plaintiff's injuries the Defendant caused.

Therefore, you must determine the extent of the injuries the Defendant caused and return a fair and just verdict in accordance with the law on damages that I will discuss in greater detail now. (Pa. SSJI Civ. 6.02)

GRANTED: _____ DENIED: _____ COVERED: _____

17. The Plaintiff claims that each of the Defendants has contributed to [his] [her] damages. As I have told you , in order to recover in this case against one or more of the Defendants, you must find that the conduct of the Defendant whom yo have found liable was a factual cause in bringing about the Plaintiff's damages. If you find that a Defendant caused distinct damages from that of another Defendant, you must determine what percentage of the Plaintiff's damages was caused by that Defendant. The verdict slip will have a space in which you can write in the percentage figures. (Pa. SSJI Civ. 6.04)

GRANTED: _____ DENIED: _____ COVERED: _____

18. The Plaintiff has made a claim for the damage award for past and future noneconomic loss. There are four items that make up a damage award for noneconomic loss, both past and future: (1) pain and suffering; (2) embarrassment and humiliation; (3) loss of ability to enjoy the pleasures of life; and (4) disfigurement.

First, the Plaintiff must have experienced pain and suffering in order to be able to claim damage awards for past noneconomic loss and for future noneconomic loss. You are instructed that the

Plaintiff is entitled to be fairly and adequately compensated for all physical pain, mental anguish, discomfort, inconvenience, and distress that you find she has endured from the time of the injury until today and that the Plaintiff is also entitled to be fairly and adequately compensated for all physical pain, mental anguish, discomfort, inconvenience, and distress you find she will endure in the future as a result of her injuries.

Second, the Plaintiff must have experienced embarrassment and humiliation in order to claim noneconomic loss, The Plaintiff is entitled to be fairly and adequately compensated for such embarrassment and humiliation as you believe she has endured and will continue to endure in the future as a result of her injuries. (Pa. SSJI Civ. 6.09)

GRANTED: _____ DENIED: _____ COVERED: _____

In this case you have heard testimony concerning various medical services provided to the Plaintiff in an effort to bring her back to health. The parties have stipulated, or agreed, that the medical bills were reasonable and necessary. Therefore, you must award the amount of the medical bills in addition to the non-economic damages or damages for pain and suffering, against Defendant, David Bunnell. If you award damages to the Plaintiff against Mary McKenrick, you must award the amount of medical bills in addition to the non-economic damages. It is undisputed that the amount of the recoverable medical bills in this case is \$17,373.43.

Respectfully submitted,

AINSMAN & LEVINE, P.C.



Richard C. Levine, Esquire
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Plaintiff's Proposed Points for Charge was served via U.S. Mail, first class, postage prepaid on January 10, 2008 to all counsel of record as follows:

**R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830**

**David M. Bunnell
11 High Street
Clearfield, PA 16830**



**Richard C. Levine, Esq.
Attorney for Plaintiffs**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
her parents and natural guardians, and
STEVEN and AMY HEICHEL,
in their own right,

Plaintiffs,

v.

MARY A. MCKENRICK, and
DAVID M. BUNNELL,

Defendants.

CIVIL DIVISION

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**PLAINTIFF'S SUPPLEMENTAL
PROPOSED POINTS FOR CHARGE**

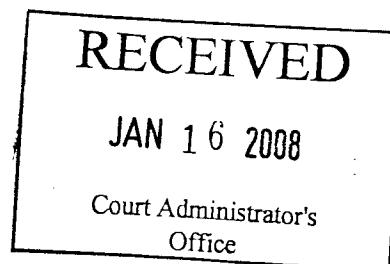
Filed on behalf of Plaintiff.

Counsel of Record for this Party:
Richard C. Levine, Esquire
Pa. I.D. No. 36627

Ainsman, Levine & Drexler, LLC
Firm No. 975

330 Grant Street, Suite 2201
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A JURY TRIAL IS DEMANDED



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ASHLEY D. HEICHEL, a minor,
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CIVIL DIVISION

No. 05-1507-CD

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Plaintiffs,

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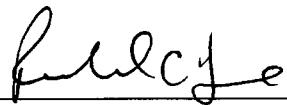
PLAINTIFF'S SUPPLEMENTAL PROPOSED POINTS FOR CHARGE

AND NOW, comes the Plaintiff, Ashley D. Heichel, a minor, by Steven and Amy Heichel, her parents and natural guardians, and Steven and Amy Heichel, in their own right and file by and through their attorneys Richard C. Levine, Esquire and Ainsman, Levine & Drexler, LLC the following Supplemental Proposed Points for Charge:

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GRANTED: _____ DENIED: _____ COVERED: _____

Respectfully submitted,
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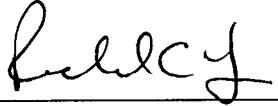
Richard C. Levine, Esquire
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

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**R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830**

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Attorney for Plaintiffs**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

vs
ASHLEY D. HEICHEL, a minor,
by STEVEN AND AMY HEICHEL,
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No. 05-1507-CD

Code:

Plaintiffs,

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MARY A. MCKENRICK, and
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Defendants.

**PLAINTIFF'S PROPOSED POINTS
FOR CHARGE**

Filed on behalf of Plaintiff.

Counsel of Record for this Party:
Richard C. Levine, Esquire
Pa. I.D. No. 36627

Richard C. Levine
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1. The Plaintiff's have obtained a judgment by default against Defendant, David M. Bunnell. Therefore, you must answer "yes" on the Verdict/Jury Interrogatory to Question #1 (whether the Defendant was negligent or whether the Defendant's negligence was the "factual cause" of harm to the Plaintiff).

2. The legal term negligence, otherwise known as carelessness, is the absence of ordinary care which a reasonably prudent person would exercise in the circumstances here presented. Negligent conduct may consist either of an act or an omission to act when there is a duty to do

so. In other words, negligence is the failure to do something which a reasonably careful person would do, or the doing of something which a reasonably careful person would not do, in light of all the surrounding circumstances established by the evidence in this case. It is for you to determine how a reasonably careful person would act in those circumstances. (Pa. SSJI Civ. 3.01)

& then compare

GRANTED: _____ DENIED: _____ COVERED: _____

2. A Defendant who knowingly and intentionally allows premises in which she has control to be used for purposes of consumption of alcohol by minors has created an unreasonable risk of intoxication of minor guests and is liable for injuries resulting therefrom, if you find that the use of the premises to be a factual cause in bringing about intoxication of minor guests. *Macleary v. Hines* 817 F.2d 1081 (3rd Cir. 1987) An adult who knows or should reasonably know that alcohol is being consumed by minors on her premises is negligent. *Balest v. Krafick* 42 PA D and C 4th 366 (Westmoreland County 1999)

if she fails to take reasonable steps to prevent it.

3. A possessor of land owes a duty to protect invitee from foreseeable harm and, in some circumstances, from obvious dangers. A possessor of land is not liable to her invitee for physical harm caused to them by any activity or condition on the land who's danger is known or obvious to them, unless the possessor should anticipate the harm despite such knowledge or obviousness. *Jones v. Three Rivers Management Corp.*, 483 PA 75, 394 A. 2d 546 (1978); Restatement (2nd) of Torts § 343A.

4. Where the possessor of land can and should anticipate that the dangerous condition will cause physical harm to the invitee, notwithstanding its known or obvious danger, the possessor is not relieved of the duty of reasonable care which she owes the invitee for her protection. *Id.* An invitee must prove either the proprietor of the land had a hand in creating the harmful condition, or she had actual or constructive notice of such condition. *Id.*

5. A parent is under a duty to exercise reasonable care so as to control her minor child as to prevent her from intentionally harming others or from so conducting herself as to create an unreasonable risk of bodily harm to them, if the parent (a) knows or has reason to know that she has the ability to control her child and; (b) knows or should know of the necessity and opportunity for exercising such control. Restatement of torts (2nd) Section 316; *Johnson v. Johnson* 600 A. 2d 965. (1991)

6. If an actor permits a third person to use land or chattels in her possession she is, if present, under a duty to exercise reasonable care so as to control the conduct of the third person as to prevent him from intentionally harming others or from so conducting himself or herself as to create an unreasonable risk of bodily harm to them, if the actors of (a) knows or has reason to know that she has the ability to control the 3rd person; and (b) knows or should know of the necessity and opportunity for exercising such control. Restatement (2nd) Torts Section 318; *Booker v. Lehigh University* 800 F. Supp. 234 (Edpa 1992)

7. A parent is liable for the torts of a child where the act of the child is done as the agent of the parent or where the negligence of the parent makes the injury possible. The injury committed

by the child must have been a natural and probable consequence of the parent's negligent act, that is, a consequence which, under the surrounding circumstances, might and not reasonably to have been foreseen as likely to flow from such negligent act. *Condell v. Savor* 350 Pa. 350, 39 A. 2d 51 (1944)

8 ✓ In this case, you are concerned with the care taken, or not taken, by Ashley Heichel, who was 14 years old at the time of the accident. The law does not hold children to the same standard of care as adults. A child is required to exercise the ordinary care appropriate for a child. *of her age.* Specifically, he or she is held to that measure of care that other children of the same age, experience, capacity, and development would ordinarily exercise under similar circumstances.

✓ In applying this standard, the law has placed children of different ages in different categories. Once a child has reached the age of 14, the law presumes that he or she has the capacity to appreciate danger and to exercise care. With respect to a child 14 years of age or over, the law puts upon him or her the burden of showing lack of intelligence, prudence, foresight, or strength such as is usual in those of his or her age. (Pa. SSJI Civ. 3.12)

GRANTED: _____ DENIED: _____ COVERED: _____

9. The Plaintiff must prove to you that the Defendant's conduct caused the Plaintiff's damages. This is referred to as "factual cause." The question is: "Was the Defendant's negligent conduct a factual cause in bringing about the plaintiff's damages?"

Conduct is a factual cause of harm when the harm would not have occurred absent the conduct.

An act is a factual cause of an outcome if, in the absence of the act, the outcome would not have occurred.

A Defendant's negligent conduct need only be a factual cause of the Plaintiff's harm. It does not need to be the only cause. The existence of other causes of the harm does not relieve the Defendant from liability as long as the Defendant's negligent conduct was a factual cause of the injury. If you find that one of the alleged acts of a Defendant was negligent and a factual cause of the harm, this is sufficient to subject that Defendant to liability.

In order for conduct of a party to be a factual cause, the conduct must not be fanciful or imaginary, but must have played a real role in causing the injury. Therefore, in determining factual cause, you must decide whether the negligent conduct of the defendant was more than an insignificant factor in bringing about any harm to the Plaintiff. Under Pennsylvania law, conduct can be found to be a contributing factor if the action or omission alleged to have caused the harm was an actual, real factor, not a negligible, imaginary, or fanciful factor, or a factor having no connection or only an insignificant connection with the injury. However, factual cause does not mean it is the only, primary, or even the most important factor in causing the injury. A cause may be found to be a factual cause as long as it contributes to the injury in a way that is not minimal or insignificant.

To be a contributing factor, the Defendant's conduct need not be the only factor. The fact that some other cause concurs with the negligence of the Defendant in producing an injury does not relieve the Defendant from liability as long as his or her own negligence is a factual cause of the

injury.

The negligence of a Defendant may be found to be a factual cause of a Plaintiff's harm even though it was relatively minor as compared to the negligence of [the other Defendant or] the Plaintiff. In effect, the test for factual causation has been met when the conduct in question has such an effect in producing the harm as to lead reasonable persons to regard it as one of the contributing causes that is neither insignificant nor inconsequential considering all the circumstances. Pa. SSJI Civ. 3.15)

GRANTED: _____

DENIED: _____

COVERED: _____

10. ~~You may find inconsistencies in the evidence. Even actual contradictions in the testimony of witnesses do not necessarily mean that any witness has been wilfully false. Poor memory is not uncommon. Sometimes a witness forgets; sometimes the witness remembers incorrectly. It is also true that two persons witnessing an incident may see or hear it differently.~~

~~If different parts of the testimony of any witness or witnesses appear to be inconsistent, you the jury should try to reconcile the conflicting statements, whether of the same or different witnesses, and you should do so if it can be done fairly and satisfactorily.~~

~~If, however, you decide that there is a genuine and irreconcilable conflict of testimony, it is your function and duty to determine which, if any, of the contradictory statements you will believe. (Pa. SSJI Civ. 5.04)~~

GRANTED: _____ DENIED: _____ COVERED: _____

11. If you decide that a witness has deliberately testified falsely about a material point (that is, about a matter that could affect the outcome of this trial), you may for that reason alone choose to disbelieve the rest of the witness' testimony. But you are not required to do so. You should consider not only the deliberate falsehood, but also all other factors bearing on the witness' credibility in deciding whether to believe other parts of the witness' testimony. (Pa. SSJI Civ. 5.05)

GRANTED: _____ DENIED: _____ COVERED: _____

12. Evidence may either be direct evidence or circumstantial evidence. Direct evidence is proof of a fact, such as testimony by a witness about what that witness personally saw, heard, or did. Circumstantial evidence is proof of one or more facts from which you could find another fact. You should consider both kinds of evidence. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence. You may decide the case solely based on circumstantial evidence. (Pa. SSJI Civ. 5.07)

GRANTED: _____ DENIED: _____ COVERED: _____

13. I have invited your attention to various factors which you may consider in evaluating the evidence for the Plaintiff and Defendant. In doing so, I have not attempted to indicate any

opinion on my part concerning the weight which you should give to the evidence or to any part of it and I would not want you to think that I had. In any event, it is for you and you alone to determine the credibility of each witness. (Pa. SSJI Civ. 5.40).

GRANTED: _____ DENIED: _____ COVERED: _____

14. In civil cases such as this one, the plaintiff has the burden of proving those contentions which entitle him or her to relief.

When a party has the burden of proof on a particular issue, his or her contention on that issue must be established by a fair preponderance of the evidence. The evidence establishes a contention by a fair preponderance of the evidence if you are persuaded that it is more probably accurate and true than not.

To put it another way, think, if you will, of an ordinary balance scale, with a pan on each side. Onto one side of the scale, place all of the evidence favorable to the plaintiff; onto the other, place all of the evidence favorable to the defendant. If, after considering the comparable weight of the evidence, you feel that the scales tip, ever so slightly or to the slightest degree, in favor of the plaintiff, your verdict must be for the plaintiff. If the scales tip in favor of the defendant, or are equally balanced, your verdict must be for the defendant.

In this case, the plaintiff has the burden of proving the following propositions: that the defendant was negligent, and that that negligence was a substantial factor in bringing about the

accident. If, after considering all of the evidence, you feel persuaded that these propositions are more probably true than not true, your verdict must be for the plaintiff. Otherwise, your verdict should be for the defendant. (Pa. SSJI Civ. 5.50).

GRANTED: _____ DENIED: _____ COVERED: _____

15. If you find that the defendant is liable to the plaintiff, you must then find an amount of money damages you believe will fairly and adequately compensate the plaintiff for all the physical and financial injury (she) has sustained as a result of the accident. The amount you award today must compensate the plaintiff completely for damage sustained in the past, as well as damage the plaintiff will sustain in the future. (Pa. SSJI Civ. 6.00)

GRANTED: _____ DENIED: _____ COVERED: _____

16. *Demand* The parties agree that the Defendant was negligent and [the parties] [medical experts] agree that the negligence caused some injury to the Plaintiff. Therefore, you must answer "yes" on the Verdict/Jury Interrogatory to Question #1 and Question #2 [whether the Defendant was negligent or whether the Defendant's negligence was the "factual cause" of harm to the Plaintiff].

You must therefore at least award some damages for those [uncontested] [agreed-upon] injuries [specify damages - e.g., medical bills, lost wages, pain and suffering, etc.].

The parties disagree, however, on the extend of the Plaintiff's injuries the Defendant caused.

Therefore, you must determine the extent of the injuries the Defendant caused and return a fair and just verdict in accordance with the law on damages that I will discuss in greater detail now. (Pa. SSJI Civ. 6.02)

GRANTED: _____ DENIED: _____ COVERED: _____

17. The Plaintiff claims that each of the Defendants has contributed to [his] [her] damages. As I have told you, in order to recover in this case against one or more of the Defendants, you must find that the conduct of the Defendant whom you have found liable was a factual cause in bringing about the Plaintiff's damages. If you find that a Defendant caused distinct damages from that of another Defendant, you must determine what percentage of the Plaintiff's damages was caused by that Defendant. The verdict slip will have a space in which you can write in the percentage figures. (Pa. SSJI Civ. 6.04)

GRANTED: _____ DENIED: _____ COVERED: _____

18. The Plaintiff has made a claim for the damage award for past and future noneconomic loss. There are ~~four~~³ items that make up a damage award for noneconomic loss, both past and future: (1) pain and suffering; (2) embarrassment and humiliation; (3) loss of ability to enjoy the pleasures of life; and (4) ~~disfigurement~~¹.

First, the Plaintiff must have experienced pain and suffering in order to be able to claim damage awards for past noneconomic loss and for future noneconomic loss. You are instructed that the

Plaintiff is entitled to be fairly and adequately compensated for all physical pain, mental anguish, discomfort, inconvenience, and distress that you find she has endured from the time of the injury until today and that the Plaintiff is also entitled to be fairly and adequately compensated for all physical pain, mental anguish, discomfort, inconvenience, and distress you find she will endure in the future as a result of her injuries.

Second, the Plaintiff must have experienced embarrassment and humiliation in order to claim noneconomic loss, The Plaintiff is entitled to be fairly and adequately compensated for such embarrassment and humiliation as you believe she has endured and will continue to endure in the future as a result of her injuries. (Pa. SSJI Civ. 6.09)

No prior injury - best judgment + common sense.

GRANTED: _____

DENIED: _____

COVERED: _____

In this case you have heard testimony concerning various medical services provided to the Plaintiff in an effort to bring her back to health. The parties have stipulated, or agreed, that the medical bills were reasonable and necessary. Therefore, you must award the amount of the medical bills in addition to the non-economic damages or damages for pain and suffering, against Defendant, David Bunnell. If you award damages to the Plaintiff against Mary McKenrick, you must award the amount of medical bills in addition to the non-economic damages. It is undisputed that the amount of the recoverable medical bills in this case is \$17,373.43.

Respectfully submitted,

AINSMAN & LEVINE, P.C.



Richard C. Levine, Esquire
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Plaintiff's Proposed Points for Charge was served via U.S. Mail, first class, postage prepaid on January 10, 2008 to all counsel of record as follows:

**R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830**

**David M. Bunnell
11 High Street
Clearfield, PA 16830**



Richard C. Levine, Esq.
Attorney for Plaintiffs

THE HONORABLE JOHN K. REILLY, JR., PRESIDING

MONDAY, JANUARY 21-TUESDAY, JANUARY 22, 2008

At Multi-Service Center

9:00 ASHLEY D. HEICHEL, a minor Richard Levine, Esquire
by STEVEN AND AMY HEICHEL
her parents and natural guardians, and
STEVEN and AMY HEICHEL, in their
own right

vs.

→ MARY MCKENRICK and R. Denning Gearhart, Esquire
DAVID M. BUNNELL
No. 05-1507-CD
Civil Jury Trial *fnp vs*