

06-482-CD  
Preston Weatherholtz et al vs Estate of Reuben

Preston Weatherholtz et al vs Reuben estate  
2006-482-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,

Plaintiff

vs.

ESTATE OF RUEBEN A. NORRIS, his  
heirs, executors, administrators and  
assigns, and MAE H. NORRIS,

Defendant

\* 06- 482-cd

\* TYPE OF CASE:  
\* Civil Division

\* TYPE OF PLEADING:  
\* Praeclipe to Issue Writ of  
\* Summons

\* FILED ON BEHALF OF:  
\* Plaintiff

\* COUNSEL OF RECORD FOR  
\* THIS PARTY:  
\* David R. Thompson, Esq.  
\* Attorney at Law  
\* Supreme Court I.D. 73053  
\* P.O. Box 587  
\* 308 Walton Street, Suite 4  
\* Philipsburg PA 16866  
\* (814) 342-4100

FILED

MAR 29 2006

011.201w

William A. Shaw  
Prothonotary/Clerk of Courts

2 copy to Atty

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

## CIVIL DIVISION - LAW

PRESTON P. WEATHERHOLTZ AND \*  
SUSAN WEATHERHOLTZ, his wife, \*  
\* 06-  
Plaintiff \*

VS. \*

ESTATE OF RUEBEN A. NORRIS, his  
heirs, executors, administrators and  
assigns, and MAE H. NORRIS,

**Defendant**

**PRAEICE TO ISSUE WRIT OF SUMMONS**

## TO THE PROTHONOTARY:

Kindly issue the attached Writ of Summons in the above-captioned matter.

Respectfully submitted,

DATE: 3-27-06

David R. Thompson, Esquire  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,

\*  
\*  
\* 06-  
\*

Plaintiff

\*  
\*  
\*  
\*  
\*

vs.

ESTATE OF RUEBEN A. NORRIS, his  
heirs, executors, administrators and  
assigns, and MAE H. NORRIS,

\*

Defendant

**WRIT OF SUMMONS**

TO: **ESTATE OF RUEBEN A. NORRIS AND MAE H. NORRIS:**

You are hereby notified that PRESTON P. WEATHERHOLTZ AND SUSAN  
WEATHERHOLTZ, his wife, has commenced an action against you.

DATE: MARCH 29, 2006

Prothonotary

By: \_\_\_\_\_

  
\_\_\_\_\_  
[Deputy]

SEAL OF THE COURT

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

Service # 1 of 2 Services

Sheriff Docket # **101390**

PRESTON P. WEATHERHOLTZ and SUSAN WEATHERHOLTZ

Case # **06-482-CD**

VS.

ESTATE OF RUEBEN A. NORRIS, his heirs, executors, administrators & assigns,

TYPE OF SERVICE PRAECIPE & SUMMONS

**SHERIFF RETURNS**

NOW May 02, 2006 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURNED THE WITHIN PRAECIPE & SUMMONS "NOT FOUND" AS TO ESTATE OF RUEBEN A. NORRIS, HIS HEIRS, EXECUTORS, ADMINISTRATORS AND ASSIGNS, DEFENDANT. UNKNOWN.

SERVED BY: /

**FILED**  
063:3364  
MAY 02 2006 LM

William A. Shaw  
Prothonotary/Clerk of Courts

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

Service # 2 of 2 Services

Sheriff Docket #

**101390**

PRESTON P. WEATHERHOLTZ and SUSAN WEATHERHOLTZ

Case #

06-482-CD

VS.

ESTATE OF RUEBEN A. NORRIS, his heirs, executors, administrators & assigns,

TYPE OF SERVICE PRAECIPE & SUMMONS

**SHERIFF RETURNS**

NOW May 02, 2006 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURNED THE WITHIN PRAECIPE & SUMMONS "NOT FOUND" AS TO MAE H. NORRIS, DEFENDANT. UNKNOWN.

SERVED BY: /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101390  
NO: 06-482-CD  
SERVICES 2  
PRAECIPE & SUMMONS

PLAINTIFF: PRESTON P. WEATHERHOLTZ and SUSAN WEATHERHOLTZ

vs.

DEFENDANT: ESTATE OF RUEBEN A. NORRIS, his heirs, executors, administrators & assigns,  
and MAE H. NORRIS

**SHERIFF RETURN**

---

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	THOMPSON	11093	20.00
SHERIFF HAWKINS	THOMPSON	11093	22.89

Sworn to Before Me This

\_\_\_\_ Day of \_\_\_\_\_ 2006

So Answers,



Chester A. Hawkins  
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,

Plaintiff

\* 06- 482- CD

vs.

ESTATE OF RUEBEN A. NORRIS, his  
heirs, executors, administrators and  
assigns, and MAE H. NORRIS,

Defendant

\* TYPE OF CASE:  
\* Civil Division

\* TYPE OF PLEADING:  
\* Praeclipe to Issue Writ of  
\* Summons

\* FILED ON BEHALF OF:  
\* Plaintiff

\* COUNSEL OF RECORD FOR  
\* THIS PARTY:  
\* David R. Thompson, Esq.  
\* Attorney at Law  
\* Supreme Court I.D. 73053  
\* P.O. Box 587  
\* 308 Walton Street, Suite 4  
\* Philipsburg PA 16866  
\* (814) 342-4100

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

MAR 29 2006

Attest.

*William B. Rose*  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

## CIVIL DIVISION - LAW

PRESTON P. WEATHERHOLTZ AND \*  
SUSAN WEATHERHOLTZ, his wife, \*  
\* 26

**Plaintiff**

VS.

ESTATE OF RUEBEN A. NORRIS, his  
heirs, executors, administrators and  
assigns, and MAE H. NORRIS,

**Defendant**

**PRAEICE TO ISSUE WRIT OF SUMMONS**

## TO THE PROTHONOTARY:

Kindly issue the attached Writ of Summons in the above-captioned matter.

Respectfully submitted,

DATE: 3-27-09

**David R. Thompson, Esquire  
Attorney for Plaintiff**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

## CIVIL DIVISION - LAW

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,

06

**Plaintiff**

vs.

ESTATE OF RUEBEN A. NORRIS, his  
heirs, executors, administrators and  
assigns, and MAE H. NORRIS,

\* \* \*

**Defendant**

## WRIT OF SUMMONS

TO: ESTATE OF RUEBEN A. NORRIS AND MAE H. NORRIS:

You are hereby notified that PRESTON P. WEATHERHOLTZ AND SUSAN WEATHERHOLTZ, his wife, has commenced an action against you.

DATE: MARCH 29, 2006

## Prothonotary

By:

**Deputy**

**SEAL OF THE COURT**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

## CIVIL DIVISION - LAW

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,

**Plaintiff**

vs.

ESTATE OF RUEBEN A. NORRIS, his  
heirs, executors, administrators and  
assigns, and MAE H. NORRIS,

**Defendant**

06-482.CD

**TYPE OF CASE:**  
Civil Division

## TYPE OF PLEADING: Praeclipe to Issue Writ of Summons

FILED ON BEHALF OF:  
Plaintiff

COUNSEL OF RECORD FOR  
THIS PARTY:

David R. Thompson, Esq.  
Attorney at Law  
Supreme Court I.D. 73053  
P.O. Box 587  
308 Walton Street, Suite 4  
Philipsburg PA 16866  
(814) 342-4100

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

MAR 29 2006

## Attest

William L. Chan  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,

\*  
\*  
\* 06-  
\*

Plaintiff

\*  
\*  
\*  
\*  
\*

vs.

ESTATE OF RUEBEN A. NORRIS, his  
heirs, executors, administrators and  
assigns, and MAE H. NORRIS,

\*  
\*  
\*  
\*  
\*

Defendant

***PRAECIPE TO ISSUE WRIT OF SUMMONS***

TO THE PROTHONOTARY:

Kindly issue the attached Writ of Summons in the above-captioned matter.

Respectfully submitted,

DATE: 3-27-06

  
David R. Thompson, Esquire  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

## CIVIL DIVISION - LAW

PRESTON P. WEATHERHOLTZ AND \*  
SUSAN WEATHERHOLTZ, his wife, \*  
\* 06

**Plaintiff**

VS.

ESTATE OF RUEBEN A. NORRIS, his  
heirs, executors, administrators and  
assigns, and MAE H. NORRIS,

**Defendant**

## WRIT OF SUMMONS

TO: ESTATE OF RUEBEN A. NORRIS AND MAE H. NORRIS:

You are hereby notified that PRESTON P. WEATHERHOLTZ AND SUSAN WEATHERHOLTZ, his wife, has commenced an action against you.

DATE: March 29, 2006

## Prothonotary

By:

**SEAL OF THE COURT**



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,

\*  
\*  
\* 06-482-CD

Plaintiff

\*

\*

VS.

\*

\*

ESTATE OF RUEBEN A. NORRIS, his  
heirs, executors, administrators and  
assigns, and MAE H. NORRIS,

\*

\*

Defendant

\*

\*

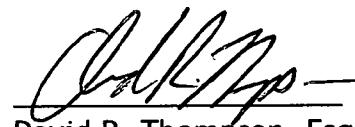
**PRAECIPE TO RE-ISSUE WRIT OF SUMMONS**

TO THE PROTHONOTARY:

Kindly re-issue the attached Writ of Summons in the above-captioned matter.

Respectfully submitted,

DATE: 5-15-06

  
\_\_\_\_\_  
David R. Thompson, Esquire  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,

\*  
\*  
\* 06-482-CD

Plaintiff

\*

\*

\*

\*

\*

\*

ESTATE OF RUEBEN A. NORRIS, his  
heirs, executors, administrators and  
assigns, and MAE H. NORRIS,

Defendant

**WRIT OF SUMMONS**

TO: ESTATE OF RUEBEN A. NORRIS AND MAE H. NORRIS:

You are hereby notified that PRESTON P. WEATHERHOLTZ AND SUSAN  
WEATHERHOLTZ, his wife, has commenced an action against you.

DATE: March 29, 2006

Prothonotary

By: \_\_\_\_\_

5-18-06 Document  
Reinstated/Reissued to Sheriff/Attorney  
for service.

Willie L. Lathan  
Beatty Prothonotary

SEAL OF THE COURT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101545  
NO: 06-482-CD  
SERVICE # 1 OF 2  
SUMMONS & PRAECIPE

PLAINTIFF: PRESTON P. WEATHERHOLTZ and SUSAN WEATHERHOLTZ, his wife  
vs.

DEFENDANT: ESTATE OF RUEBEN A. NORRIS, his heirs, executors, administrators and  
assigns, AND MAE H. NORRIS

**SHERIFF RETURN**

---

NOW, May 23, 2006 AT 8:25 AM SERVED THE WITHIN SUMMONS & PRAECIPE ON ESTATE OF RUEBEN A. NORRIS, his heirs, executors, administrators and assigns DEFENDANT AT MARILOYD PERSONAL CARE HOME, 100 INDUSTRIAL PARK ROAD, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MAE NORRIS, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS & PRAECIPE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER / NEVLING

**FILED**  
013:03 PM  
MAY 24 2006  
WM  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101545  
NO: 06-482-CD  
SERVICE # 2 OF 2  
SUMMONS & PRAECIPE

PLAINTIFF: PRESTON P. WEATHERHOLTZ and SUSAN WEATHERHOLTZ, his wife  
VS.

DEFENDANT: ESTATE OF RUEBEN A. NORRIS, his heirs, executors, administrators and  
assigns, AND MAE H. NORRIS

**SHERIFF RETURN**

---

NOW, May 23, 2006 AT 8:25 AM SERVED THE WITHIN SUMMONS & PRAECIPE ON MAE H. NORRIS  
DEFENDANT AT MARLOYD PERSONAL CARE HOME, 100 INDUSTRIAL PARK ROAD, CLEARFIELD,  
CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MAE NORRIS, DEFENDANT A TRUE AND  
ATTESTED COPY OF THE ORIGINAL SUMMONS & PRAECIPE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER / NEVLING

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101545  
NO: 06-482-CD  
SERVICES 2  
SUMMONS & PRAECIPE

PLAINTIFF: PRESTON P. WEATHERHOLTZ and SUSAN WEATHERHOLTZ, his wife  
vs.

DEFENDANT: ESTATE OF RUEBEN A. NORRIS, his heirs, executors, administrators and  
assigns, AND MAE H. NORRIS

**SHERIFF RETURN**

---

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	THOMPSON	11232	20.00
SHERIFF HAWKINS	THOMPSON	11232	17.39

Sworn to Before Me This

\_\_\_\_ Day of \_\_\_\_\_ 2006

So Answers,

*Chester A. Hawkins*  
*by Marilyn Harris*  
Chester A. Hawkins  
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

VS.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

CIVIL DIVISION

No. 06-482-CD

**PRAECIPE FOR APPEARANCE**

Filed on Behalf of Defendant  
Mae H. Norris

Counsel of Record for this Party:

DIANE A. BLACKBURN  
PA I.D. No. 91275  
Diane.Blackburn@LibertyMutual.com

LAW OFFICES OF TERRY L.M.  
BASHLINE  
Suite 3500, One Oliver Plaza  
210 Sixth Avenue  
Pittsburgh, PA 15222  
412-434-0201

**JURY TRIAL DEMANDED**

FILED NO CC  
MAY 17 2010

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION  
No. 06-482-CD

VS.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

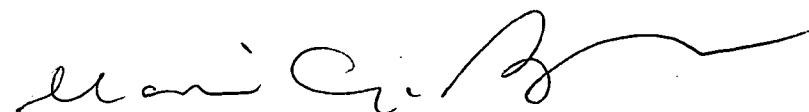
PRAECIPE FOR APPEARANCE

To the Prothonotary:

You are hereby directed to enter my appearance on behalf of Mae H. Norris, a Defendant in the  
afore-captioned case.

JURY TRIAL DEMANDED.

LAW OFFICES OF TERRY L.M. BASHLINE



DIANE A. BLACKBURN  
Attorney for Defendant  
Mae H. Norris

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Praeclipe For Appearance was served via U.S. First Class Mail, postage pre-paid, on this 13<sup>th</sup> day of May, 2010, upon the following counsel of record:

David R. Thompson, Esq.  
P. O. Box 587  
308 Walton Street, Suite 4  
Philipsburg, PA 16866

Diane A. Blackburn

Diane A. Blackburn  
Attorney for the Defendant,  
Mae H. Norris

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

VS.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

CIVIL DIVISION  
No. 06-482-CD

**PRAECIPE FOR APPEARANCE**  
for the limited purpose of challenging in  
personam jurisdiction

Filed on Behalf of Defendant  
Estate Of Reuben A. Norris, his heirs,  
executors, administrators and assigns

Counsel of Record for this Party:

DIANE A. BLACKBURN  
PA I.D. No. 91275  
Diane.Blackburn@LibertyMutual.com

LAW OFFICES OF TERRY L.M.  
BASHLINE  
Suite 3500, One Oliver Plaza  
210 Sixth Avenue  
Pittsburgh, PA 15222  
412-434-0201

**JURY TRIAL DEMANDED**

FILED NO CC  
MAY 12 2011  
MAY 17 2011  
S  
LM  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION  
No. 06-482-CD

VS.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

**PRAECIPE FOR APPEARANCE FOR THE LIMITED PURPOSE OF CHALLENGING  
IN PERSONAM JURISDICTION**

To the Prothonotary:

You are hereby directed to enter my appearance for the limited purpose of challenging in personam jurisdiction on behalf of Estate of Reuben A. Norris, his heirs, executors, administrators and assigns the Defendant in the afore-captioned case.

JURY TRIAL DEMANDED.

LAW OFFICES OF TERRY L.M. BASHLINE

  
DIANE A. BLACKBURN  
Attorney for Defendant  
Estate Of Reuben A. Norris,  
his heirs, executors, administrators  
and assigns

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing Praeclipe For Appearance for the limited purpose of challenging in personam jurisdiction was served via U.S. First Class Mail, postage pre-paid, on this 13<sup>th</sup> day of May, 2010, upon the following counsel of record:

David R. Thompson, Esq.  
P. O. Box 587  
308 Walton Street, Suite 4  
Philipsburg, PA 16866



Diane A. Blackburn  
Diane A. Blackburn  
Attorney for the Defendant,  
Estate Of Reuben A. Norris,  
his heirs, executors, administrators  
and assigns

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

v.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

CIVIL DIVISION

No. 06-482-CD

ISSUE NO.:

PRAECIPE FOR RULE TO FILE  
COMPLAINT

Filed on Behalf of Defendants:

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS

Counsel of Record for this Party:

DIANE A. BLACKBURN  
PA I.D. No. 91275  
Diane.Blackburn@LibertyMutual.com

LAW OFFICES OF TERRY L.M.  
BASHLINE  
Suite 3500, K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, PA 15222  
412-434-0201

Firm I.D. No.: 150

JURY TRIAL DEMANDED

FILED

MAY 24 2010  
5/12/2010  
William A. Shaw  
Prothonotary/Clerk of Courts

No 46  
Terry Rine  
TO Five Lorraine  
TO ATT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION  
No. 06-482-CD

v.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

PRAECIPE FOR RULE TO FILE COMPLAINT

To the Prothonotary:

Pursuant to the provisions of Rule No. 1037(a) of the Pennsylvania Rules of Civil Procedure,  
enter a Rule on the Plaintiffs, Preston P. Weatherholtz and Susan Weatherholtz, his wife, to file their  
Complaint, sec. leg., or Judgment of Non Pros may be entered.

Date: 5/20/2010

LAW OFFICES OF TERRY L.M. BASHLINE

BY Diane A. Blackburn  
Diane A. Blackburn, Esquire  
Attorney for Defendants,  
Estate Of Reuben A. Norris, his heirs, executors,  
administrators and assigns, and Mae H. Norris

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing PRAECIPE FOR RULE TO FILE COMPLAINT was served via U.S. First Class Mail, postage pre-paid, on this 20 day of May, 2010 upon the following counsel of record:

David R. Thompson, Esquire  
308 Walton Street, Ste 4  
Phillipsburg, PA 16866

*(Attorney for Plaintiffs)*

LAW OFFICES OF TERRY L.M. BASHLINE

BY Diane A. Blackburn

Diane A. Blackburn, Esquire  
Attorney for Defendants,  
Estate Of Reuben A. Norris, his heirs, executors,  
administrators and assigns, and Mae H. Norris

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

Preston P. Weatherholtz and  
Susan Weatherholtz, his wife  
Plaintiff

Vs.  
Estate of Rueben A. Norris, his heirs,  
Executors, administrators and assign, and  
Mae H. Norris, Defendants.

Case No. 2006-00482-CD

RULE TO FILE COMPLAINT

TO: Preston P. Weatherholtz and Susan Weatherholtz, his wife

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

---

William A. Shaw, Prothonotary

Dated: May 24, 2010

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

v.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

CIVIL DIVISION

No. 06-482-CD

ISSUE NO.:

**FILED**

JUN 07 2010

William A. Shaw  
Prothonotary/Clerk of Courts

no 41

611

**AFFIDAVIT OF SERVICE OF RULE  
TO FILE COMPLAINT**

Filed on Behalf of Defendants:

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS

Counsel of Record for this Party:

DIANE A. BLACKBURN  
PA I.D. No. 91275  
Diane.Blackburn@LibertyMutual.com

LAW OFFICES OF TERRY L.M.  
BASHLINE  
Suite 3500, K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, PA 15222  
412-434-0201

Firm I.D. No.: 150

**JURY TRIAL DEMANDED**

**AFFIDAVIT OF SERVICE**

COMMONWEALTH OF PENNSYLVANIA :

: SS

COUNTY OF ALLEGHENY :

BEFORE ME, the undersigned authority, Notary Public in and for said County and State, personally appeared DIANE A. BLACKBURN, ESQUIRE, who after being duly sworn according to law, states she served the Rule to File Complaint on Plaintiffs, Preston P. Weatherholtz and Susan Weatherholtz, his wife, by mailing same to their attorney, by Certified Mail, Return Receipt Requested. The original Return Receipt is attached hereto and marked as Exhibit "A".

BY Diane A. M.  
Diane A. Blackburn, Esquire  
Attorney for Defendants,  
Estate Of Reuben A. Norris, his heirs, executors,  
administrators and assigns, and Mae H. Norris

SWORN TO AND SUBSCRIBED

Before me this 3<sup>rd</sup> day of

June, 2010

Dawn R. Burger  
Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Dawn R. Burger, Notary Public  
City of Pittsburgh, Allegheny County  
My Commission Expires Feb. 4, 2014

Member, Pennsylvania Association of Notaries

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

Preston P. Weatherholtz and  
Susan Weatherholtz, his wife  
Plaintiff

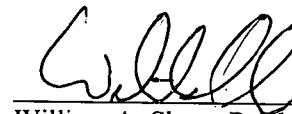
Vs.  
Estate of Rueben A. Norris, his heirs,  
Executors, administrators and assign, and  
Mae H. Norris, Defendants.

Case No. 2006-00482-CD

RULE TO FILE COMPLAINT

TO: Preston P. Weatherholtz and Susan Weatherholtz, his wife

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

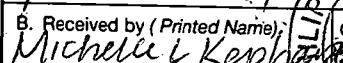


\_\_\_\_\_  
William A. Shaw, Prothonotary

Dated: May 24, 2010

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan, 2014  
Clearfield Co., Clearfield, PA

2006-00482-C

<b>SENDER: COMPLETE THIS SECTION</b> <ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
1. Article Addressed to: <div style="border: 1px solid black; padding: 10px; min-height: 100px; margin-bottom: 10px;">           David R. Thompson, Esquire            308 Walton Street, Ste 4            Phillipsburg, PA 16866         </div>		A. Signature  <div style="display: flex; justify-content: space-between;"> <div style="flex: 1;"> <input checked="" type="checkbox"/> <b>URG.</b>  <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee         </div> <div style="flex: 1; text-align: right;"> <input type="checkbox"/> C. Date of Delivery  <div style="border: 1px solid black; padding: 2px; border-radius: 50%; text-align: center; width: 40px; height: 20px; margin-left: 10px;">           MAY 20 2010         </div> </div> </div> B. Received by (Printed Name)  <div style="display: flex; justify-content: space-between;"> <div style="flex: 1;"> <input type="checkbox"/> </div> <div style="flex: 1; text-align: right;"> <input type="checkbox"/> C. Date of Delivery  <div style="border: 1px solid black; padding: 2px; border-radius: 50%; text-align: center; width: 40px; height: 20px; margin-left: 10px;">           MAY 20 2010         </div> </div> </div> D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <div style="border: 1px solid black; padding: 10px; min-height: 100px; margin-top: 10px;"> </div>	
		3. Service Type <div style="display: flex; justify-content: space-between;"> <div style="flex: 1;"> <input checked="" type="checkbox"/> Certified Mail  <input type="checkbox"/> Registered  <input type="checkbox"/> Insured Mail         </div> <div style="flex: 1;"> <input type="checkbox"/> Express Mail  <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> C.O.D.         </div> </div>	
2. Article Number <div style="border: 1px solid black; padding: 2px; width: 100px; margin-bottom: 5px;">           (Transfer from service label)         </div> <div style="border: 1px solid black; padding: 2px; width: 100px; margin-bottom: 5px;">           100051160000358497219         </div>		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

## Exhibit "A"

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing AFFIDAVIT OF SERVICE OF RULE TO FILE COMPLAINT was served via U.S. First Class Mail, postage prepaid, on this 3 day of June, 2010 upon the following counsel of record:

David R. Thompson, Esquire  
308 Walton Street, Ste 4  
Phillipsburg, PA 16866

*(Attorney for Plaintiffs)*

LAW OFFICES OF TERRY L.M. BASHLINE

BY Diane A. Blackburn

Diane A. Blackburn, Esquire  
Attorney for Defendants,  
Estate Of Reuben A. Nortis, his heirs, executors,  
administrators and assigns, and Mae H. Norris

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION

No. 06-482-CD

v.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

ISSUE NO.:

**NOTICE OF INTENTION TO  
ENTER JUDGMENT OF NON PROS**

Filed on Behalf of Defendants:

Estate of Reuben A. Norris, his heirs,  
executors, administrators and assigns, and  
Mae H. Norris

Counsel of Record for this Party:

Diane A. Blackburn, Esquire  
PA I.D. No. 91275  
Diane.Blackburn@LibertyMutual.com

LAW OFFICES OF TERRY L.M.  
BASHLINE  
Suite 3500, K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, PA 15222  
412-434-0521

Firm I.D. No.: 150

**JURY TRIAL DEMANDED**

FILED  
MILLION NO. 24601  
S JUL 16 2010  
C.C.  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND CIVIL DIVISION  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS No. 06-482-CD

v.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

**NOTICE OF INTENT TO FILE JUDGMENT OF NON PROS**

TO: David R. Thompson, Esquire

Date: July 13, 2010

**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO FILE A COMPLAINT 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 RIGHT TO SUE THE DEFENDANT AND THEREBY LOSE PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A 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:

Lawyer Referral Service  
Court Administrator Office  
230 East Market St.  
Clearfield, PA 16830  
814-765-2641, ext. 5982

**LAW OFFICES OF TERRY L.M. BASHLINE**

BY:

*Diane A. Blackburn*

Diane A. Blackburn, Esquire

PA I.D. No. 91275

K&L Gates Center, Suite 3500, 210 Sixth Avenue  
Pittsburgh, PA 15222, Phone: (412) 434-0201, ext: 334  
Attorney for Defendants,  
Estate of Reuben A. Norris, his heirs, executors,  
administrators and assigns, and Mae H. Norris

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

PRESTON P. WEATHERHOLTZ; AND  
SUSAN WEATHERHOLTZ

Plaintiffs

vs.

REUBIN NORRIS, his heirs, executors,  
administrators and assigns;  
MAE H. NORRIS

Defendants

No. 10-

06-482-CJ

TYPE OF CASE  
Civil Action

TYPE OF PLEADING:  
Complaint

FILED ON BEHALF OF:  
Plaintiffs

COUNSEL OF RECORD FOR  
THIS PARTY:  
David R. Thompson, Esquire  
Attorney at Law  
Supreme Court I.D. 73053  
P.O. Box 587  
308 Walton Street, Suite 4  
Philipsburg PA 16866  
(814) 342-4100

FILED 4CC  
0104301 Atty Thompson  
JUL 26 2010

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

PRESTON P. WEATHERHOLTZ; AND  
SUSAN WEATHERHOLTZ

\*  
\*  
\*

Plaintiffs

\* No. 10-

\*  
\*  
\*  
\*  
\*

vs.

\*

REUBIN NORRIS, his heirs, executors,  
administrators and assigns;  
MAE H. NORRIS

\*  
\*  
\*  
\*  
\*

Defendants

\*  
\*  
\*  
\*  
\*

**NOTICE**

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering 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 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  
Clearfield County Courthouse  
Clearfield, PA 16830  
(814) 765-2641

  
\_\_\_\_\_  
David R. Thompson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

PRESTON P. WEATHERHOLTZ; and	*
SUSAN WEATHERHOLTZ,	*
Plaintiffs	*
	No
vs.	*
	*
REUBIN NORRIS, his heirs,	*
executors, administrators and assigns;	*
MAE H. NORRIS,	*
Defendants	*

COMPLAINT

AND NOW, come the Plaintiffs, by and through their attorney, David R. Thompson, Esquire, who file the following Complaint against the Defendants, of which the following are averments of fact:

1. Plaintiffs Preston and Susan Weatherholtz, husband and wife, currently reside at 2379 Port Matilda o Highway, Philipsburg, Pennsylvania, 16866.
2. Defendant Reubin Norris, is a deceased individual, and is the husband of Defendant Mae H. Norris.
3. Defendant Mae H. Norris, is an adult individual, formerly of 123 Little Clearfield Creek Road, Olanta, Pennsylvania, 16863.
4. At all relevant times herein, the Defendants were married to each other.
5. On or about March 31, 2004, at approximately 3:06 in the afternoon, Plaintiff Preston Weatherholtz was operating a 1987 Chevrolet truck (hereafter: the "Weatherholtz" vehicle). By way of further pleading, there were no other occupants of this vehicle.

6. The Weatherholtz vehicle was properly being operated North bound on State Route 879 East in Lawrence Township, Clearfield County, Pennsylvania. (Hereafter : SR 879E).

7. SR 879E is a two-lane uni-directional road.

8. As Plaintiff proceeded down the road at the suggested speed limit, he approached the intersection of SR 879E and State Route 8009. (Hereafter: SR 8009).

9. At the same time, a 1996 Buick Sedan, operated by Defendant Reubin Norris, with Defendant Mae Norris in the vehicle, was traveling west along SR 8009 and approaching the intersection of SR 879E and SR 8009 (hereafter: the "Norris" vehicle). By way of further pleading, the vehicle was also occupied by Defendant Mae Norris.

10. The Norris vehicle then, without stopping, proceeded through a stop sign at the intersection of SR 879E and SR 8009.

11. The Weatherholtz vehicle then collided with the Norris vehicle in the intersection of SR 879E and SR 8009.

12. This collision resulted in the Weatherholtz vehicle spinning counter-clockwise and coming to rest facing south on SR 879W.

13. The Norris vehicle then collided with a guardrail on the westernmost side of SR 879W.

14. At the time of the incident there were no adverse weather conditions, the roadway was dry, and it was daylight.

15. As a result of the collision, Plaintiff was thrown generally forward and backward within the vehicle in which he was driving, causing the numerous and serious injuries set forth.

16. As a result of the violent collision, Plaintiff Preston Weatherholtz has suffered the following injuries, some or all of which are of a permanent nature:

- a. Thoracic whiplash sprain/strain injury;
- b. Lumbar segmental joint dysfunction;
- c. Left glenohumeral segmental joint dysfunction;
- d. Numerous other cuts, bruises, and contusions;
- e. Limitation of motion;
- f. Loss of health, strength, vigor, vitality, and/or physical and mental well being;
- g. Severe pain and suffering, loss of life's pleasures, inconvenience, embarrassment, and humiliation, past present and future.

17. As a further direct and proximate result of the aforesaid accident, Plaintiff Preston Weatherholtz has been and will be required to receive and undergo medical attention and care and to expend various sums of money and to incur various expenses, which expenses have exceeded the sums recoverable under the limits set forth in Title 75 Pa.C.S. §1711, and may be required to expend such sums or incur such expenditures for an indefinite time into the future.

18. As a further direct and proximate result of this accident, Plaintiff Preston Weatherholtz has sustained emotional distress resulting from the violent collision and over the injuries he sustained.

19. As a further direct and proximate result of the aforesaid accident, Plaintiff Preston Weatherholtz has suffered a loss of his earnings and an impairment of his earning capacity and powers, which such loss of income and/or impairment of earning capacity

has or may exceed the sums recoverable under their policy limits pursuant to Title 75 Pa.C.S. § 1711.

20. As a further direct and proximate result of this accident, Plaintiff Preston Weatherholtz has suffered severe physical pain and suffering, mental anguish, humiliation, embarrassment, loss of enjoyment of life, loss of vitality, vigor, health and/or strength and may continue to suffer the same for an indefinite time into the future.

---

**COUNT I**  
**PRESTON WEATHERHOLTZ, an individual**  
**vs.**  
**REUBIN NORRIS AND MAE NORRIS**

---

**NEGLIGENCE - PERSONAL INJURY**

Paragraphs 1 through 20 hereof are incorporated by reference herein as though the same were set forth at length.

21. Reuben Norris was negligent in the operation of his automobile, and such negligence was the direct and proximate cause of the aforesaid collision and the injuries sustained by the Plaintiff.

22. The negligences of Reuben Norris are as follows:

a. in failing to keep a safe, careful and adequate lookout for other vehicles on the roadway, and particularly those vehicles traveling properly within their lane of travel, to wit: the Weatherholtz vehicle;

- b. in failing to obey road signs by running the stop-sign into an oncoming traffic lane;
- c. in operating his vehicle in a direction toward the Weatherholtz vehicle when he knew or should have known that to do so would result in a violent collision;
- d. in failing to take appropriate, proper, timely or other evasive action to avoid the aforesaid accident, despite avenues of evasion being open to him such as turning, braking, stopping, or slowing his vehicle;
- e. in failing to observe and see the Weatherholtz vehicle which was properly within its legal lane of travel;
- f. failing to keep his vehicle under proper and adequate control such that the operator did not avoid striking the Weatherholtz vehicle;
- g. in failing to warn, signal, or otherwise advise the Weatherholtz vehicle or the Plaintiff that he was going to strike the Weatherholtz vehicle, such as by flashing lights or sounding horn;
- h. in violating one or more of the provisions of the Motor Vehicle Code;

WHEREFORE, Plaintiff demands that judgement be entered in his favor and against Defendant, each in an amount in excess of \$25,000.00, plus interest and costs of suit.

---

COUNT II  
PRESTON WEATHERHOLTZ, an individual  
VS.  
REUBIN NORRIS AND MAE NORRIS

---

### **NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**

Paragraphs 1 through 22 are incorporated by reference herein as though the same were set forth at length.

23. As a direct and proximate result of the Defendant's negligence, as aforesaid, and Plaintiff's sensory observation of both the collision and the injuries which he sustained, Plaintiff has experienced severe emotional distress and extreme mental pain and suffering, and injury from loss of sleep, diminution in appetite, shock, frustration and fatigue.

WHEREFORE, Plaintiff demands that judgment be entered in favor of Plaintiff and against Defendant in an amount in excess of \$25,000.00, plus interest and costs of suit.

---

**COUNT III**  
**SUSAN WEATHERHOLTZ, an individual**  
**vs.**  
**ESTATE OF REUBIN NORRIS AND MAE NORRIS**

---

### **LOSS OF CONSORTIUM**

Paragraphs 1 through 23 are incorporated by reference herein as though the same were set forth at length.

24. As a direct and proximate result of the Defendant's negligence, as aforesaid, Plaintiff Susan Weatherholtz has been deprived of the services and society of her husband, Plaintiff Preston Weatherholtz, and will continue to be so deprived for an indefinite period of time in the future.

WHEREFORE, Plaintiffs demand that judgment be entered in favor of Plaintiffs and against Defendant in an amount in excess of \$25,000.00, plus interest and costs of suit.

Respectfully submitted,

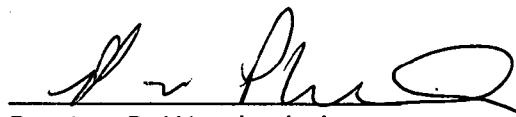


David R. Thompson, Esquire  
Attorney for Plaintiff

**VERIFICATION**

Plaintiff hereby verifies that the statements made in this **COMPLAINT** 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: 7-22-10

  
\_\_\_\_\_  
Preston P. Weatherholtz

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION

No. 06-482-CD

v.

ISSUE NO.:

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

**PRELIMINARY OBJECTIONS**

Filed on Behalf of Defendants:

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS

Counsel of Record for this Party:

DIANE A. BLACKBURN  
PA I.D. No. 91275  
Diane.Blackburn@LibertyMutual.com

LAW OFFICES OF TERRY L.M.  
BASHLINE  
Suite 3500, K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, PA 15222  
412-434-0201

Firm I.D. No.: 150

**JURY TRIAL DEMANDED**

FILED  
M 11/05/2011  
JAN 26 2011  
S ⑥

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION  
No. 06-482-CD

v.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

PRELIMINARY OBJECTIONS

AND NOW, come the defendants, ESTATE OF REUBEN A. NORRIS, his heirs, executors, administrators and assigns, and MAE H. NORRIS, by and through their attorneys, Diane A. Blackburn, Esquire, and the Law Offices of Terry L.M. Bashline, and file the within Preliminary Objections stating:

1. This matter arises out of an automobile accident occurring in Clearfield County, Pennsylvania on March 31, 2004.
2. The driver of the defendant vehicle, Reuben A. Norris, died on the day of this accident as a result of his injuries from this accident. The Plaintiffs acknowledge in Paragraph 2 of their Complaint that "Reubin [sic] Norris" is deceased. Additionally, the applicable death certificate is attached hereto as Exhibit A.
3. This action was initiated with a Writ of Summons, issued on March 29, 2006, against defendants "ESTATE OF REUBEN A. NORRIS, his heirs, executors, administrators and assigns, and MAE H. NORRIS." The Writ of Summons is attached hereto as Exhibit B.
4. The undersigned counsel filed a general appearance on behalf of "MAE H. NORRIS," and a limited appearance for the purpose of challenging in personam jurisdiction on

behalf of "ESTATE OF REUBEN A. NORRIS, his heirs, executors, administrators and assigns."

5. The undersigned counsel secured and served on Plaintiffs' counsel a Rule to File Complaint.

6. A complaint was filed that identified the defendants as "REUBIN NORRIS, his heirs, executors, administrators and assigns; Mae H. NORRIS."

7. The complaint was served on the undersigned counsel. A copy of the Complaint is attached hereto as Exhibit C.

8. To the extent that the newly identified defendant, "REUBIN NORRIS, his heirs, executors, administrators, and assigns" is not the same defendant as "ESTATE OF REUBEN A. NORRIS, his heirs, executors, administrators, and assigns," then the newly identified defendant "REUBIN NORRIS, his heirs, executors, administrators, and assigns" was not personally served with the Complaint nor was the Complaint served on any legal counsel representing said newly-identified defendant.

#### **PRELIMINARY OBJECTIONS BY DEFENDANT "ESTATE OF REUBEN A. NORRIS"**

9. As of the time of issuance of the Writ of Summons and filing of the Complaint, no estate has ever been opened for Reuben A. Norris.

10. The plaintiffs cannot sue a legal entity that did not exist at the time the Writ of Summons and/or Complaint was issued against that non-existent legal entity.

11. Additionally, as no estate has been opened for Reuben A. Norris, there is no personal representative of the "Estate of Reuben A. Norris" to accept service.

12. The Plaintiffs' attempt to serve the non-existent estate by handing the Writ of Summons to the decedent's wife, who had not been named by Letters of Administration as the

personal representative of the non-existent estate, is ineffective as no estate exists and Mae H. Norris is not the personal representative.

13. There is no duty on Mae H. Norris to open an estate on behalf of Reuben A. Norris for the purpose of Plaintiffs' litigation.

14. It is the Plaintiffs' duty to open an estate on behalf of Reuben A. Norris if the plaintiff desires to file a civil action against the estate.

15. The statute of limitations for this personal injury action expired on March 31, 2006.

16. The service of the Writ and Complaint against "Estate of Reuben A. Norris" should be stricken as no such legal entity exists.

17. The service of the Complaint against the defendant "Reubin Norris" should be stricken as it was not properly served on the alleged defendant.

18. Additionally, the Writ and Complaint against "The Estate of Reuben A. Norris" should be stricken as no such legal entity exists.

#### **PRELIMINARY OBJECTIONS BY DEFENDANT "MAE H. NORRIS"**

19. The Complaint does not contain any averments of negligence against Mae H. Norris.

20. The Complaint should be stricken as to the defendant "Mae H. Norris."

WHEREFORE, the defendants respectfully request that this Honorable Court issue the attached Order that strikes with prejudice the service of the Writ and the Complaint on Defendant "ESTATE OF REUBEN A. NORRIS, his heirs, executors, administrators, and assigns;" strikes with prejudice the service of the Complaint on the Defendant "REUBIN

NORRIS, his heirs, executors, administrators, and assigns;" and strikes the Complaint as to all Defendants.

RESPECTFULLY SUBMITTED,

LAW OFFICES OF TERRY L.M. BASHLINE

By:

Diane A. Blackburn  
DIANE A. BLACKBURN, ESQUIRE  
Counsel for Defendants Mae H. Norris and the  
Estate of Reuben A. Norris

WARNING: IT IS ILLEGAL TO ALTER THIS COPY OR  
TO DUPLICATE BY PHOTOSTAT OR PHOTOGRAPH  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF HEALTH VITAL RECORDS

LOCAL REGISTRAR'S CERTIFICATION OF DEATH



CERT. NO. T 5597272

APRIL 3 2004

Date of Issue of This Certification

Name of Decedent Reuben Albert NORRIS Sr.

First

Middle

Last

Sex Male Social Security No. 174-16-6421 Date of Death March 31 2004

Date of Birth March 10 1919 Birthplace Olcata Pa

Place of Death Cleerfield Hospital County Cleerfield City, Borough or Township Cleerfield Pennsylvania

Race White Occupation laborer Armed Forces? (Yes or No) No

Marital Status Married Decedent's Mailing Address 190 Little Cleerfield Creek Rd, Olcata PA 16863

Facility Name  Number  Street  City or Town  State

Informant Mrs. M. e. NORRIS Funeral Director W. C. Williams

Name and Address of Funeral Establishment Chidley Funeral Home Inc, 700 State St. Curwensville Pa 16833

Part I: Immediate Cause Interval Between Onset and Death

(a) CARDIOPULMONARY ARREST

(b) PNEUMOTHORAX CLOSED TRAMATIC

(c) CARDIAC TAMPONADE

(d) HEMOPERICARDIUM

Part II: Other Significant Conditions

Manner of Death Describe how injury occurred:

Natural  Homicide  motor vehicle accident

Accident  Pending Investigation

Suicide  Could not be Determined

Name and Title of Certifier Michael J. Polachek Jr. Deputy Coroner (M.D., D.O., Coroner, M.E.)

Address PO Box 917 Hawk Run Pa 16840

This is to certify that the information here given is correctly copied from an original certificate of death duly filed with me as Local Registrar. The original certificate will be forwarded to the State Vital Records Office for permanent filing.

John McGarry Deputy 17-181

Local Registrar of Vital Records

District No.

429 Locust St. Curwensville Pa 16833

Street Address

City, Borough, Township

APRIL 3 2004  
Date Received by Local Registrar

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

**CIVIL DIVISION - LAW**

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,

**Plaintiff**

vs.

ESTATE OF RUEBEN A. NORRIS, his  
heirs, executors, administrators and  
assigns, and MAE H. NORRIS,

**Defendant**

## WRIT OF SUMMONS

TO: ESTATE OF RUEBEN A. NORRIS AND MAE H. NORRIS:

You are hereby notified that PRESTON P. WEATHERHOLTZ AND SUSAN WEATHERHOLTZ, his wife, has commenced an action against you.

DATE: March 29, 2009

## Prothonotary

By:

William H. Dugan

5-18-06 Document  
Reissued to Sheriff's Office  
for service.

SEAL OF THE COURT

## Exhibit B

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

PPRESTON P. WEATHERHOLTZ; AND  
SUSAN WEATHERHOLTZ

Plaintiffs

vs.

REUBIN NORRIS, his heirs, executors,  
administrators and assigns;  
MAE H. NORRIS

Defendants

06-482-C0  
No. 10

TYPE OF CASE  
Civil Action

TYPE OF PLEADING:  
Complaint

FILED ON BEHALF OF:  
Plaintiffs

COUNSEL OF RECORD FOR  
THIS PARTY:  
David R. Thompson, Esquire  
Attorney at Law  
Supreme Court I.D. 73053  
P.O. Box 587  
308 Walton Street, Suite 4  
Philipsburg PA 16866  
(814) 342-4100

I hereby certify this to be a true  
and accurate copy of the original  
statement filed in this cause

JUL 26 2010

affest.



Walter E. Pomeroy  
Clerk of Courts

Exhibit C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

PRESTON P. WEATHERHOLTZ; AND  
SUSAN WEATHERHOLTZ

Plaintiffs

06-482-CJ

No. 18

VS.

REUBIN NORRIS, his heirs, executors,  
administrators and assigns;  
MAE H. NORRIS

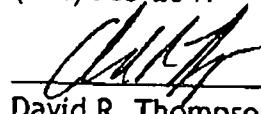
Defendants

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering 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 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  
Clearfield County Courthouse  
Clearfield, PA 16830  
(814) 765-2641

  
\_\_\_\_\_  
David R. Thompson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

PRESTON P. WEATHERHOLTZ; and	*
SUSAN WEATHERHOLTZ,	*
Plaintiffs	*
	No. 06-482-CJ
vs.	*
REUBIN NORRIS, his heirs,	*
executors, administrators and assigns;	*
MAE H. NORRIS,	*
Defendants	*

COMPLAINT

AND NOW, come the Plaintiffs, by and through their attorney, David R. Thompson, Esquire, who file the following Complaint against the Defendants, of which the following are averments of fact:

1. Plaintiffs Preston and Susan Weatherholtz, husband and wife, currently reside at 2379 Port Matilda o Highway, Philipsburg, Pennsylvania, 16866.
2. Defendant Reubin Norris, is a deceased individual, and is the husband of Defendant Mae H. Norris.
3. Defendant Mae H. Norris, is an adult individual, formerly of 123 Little Clearfield Creek Road, Olanta, Pennsylvania, 16863.
4. At all relevant times herein, the Defendants were married to each other.
5. On or about March 31, 2004, at approximately 3:06 in the afternoon, Plaintiff Preston Weatherholtz was operating a 1987 Chevrolet truck (hereafter: the "Weatherholtz" vehicle). By way of further pleading, there were no other occupants of this vehicle.

6. The Weatherholtz vehicle was properly being operated North bound on State Route 879 East in Lawrence Township, Clearfield County, Pennsylvania. (Hereafter : SR 879E).

7. SR 879E is a two-lane uni-directional road.

8. As Plaintiff proceeded down the road at the suggested speed limit, he approached the intersection of SR 879E and State Route 8009. (Hereafter: SR 8009).

9. At the same time, a 1996 Buick Sedan, operated by Defendant Reubin Norris, with Defendant Mae Norris in the vehicle, was traveling west along SR 8009 and approaching the intersection of SR 879E and SR 8009 (hereafter: the "Norris" vehicle). By way of further pleading, the vehicle was also occupied by Defendant Mae Norris.

10. The Norris vehicle then, without stopping, proceeded through a stop sign at the intersection of SR 879E and SR 8009.

11. The Weatherholtz vehicle then collided with the Norris vehicle in the intersection of SR 879E and SR 8009.

12. This collision resulted in the Weatherholtz vehicle spinning counter-clockwise and coming to rest facing south on SR 879W.

13. The Norris vehicle then collided with a guardrail on the westernmost side of SR 879W.

14. At the time of the incident there were no adverse weather conditions, the roadway was dry, and it was daylight.

15. As a result of the collision, Plaintiff was thrown generally forward and backward within the vehicle in which he was driving, causing the numerous and serious injuries set forth.

16. As a result of the violent collision, Plaintiff Preston Weatherholtz has suffered the following injuries, some or all of which are of a permanent nature:

- a. Thoracic whiplash sprain/strain injury;
- b. Lumbar segmental joint dysfunction;
- c. Left glenohumeral segmental joint dysfunction;
- d. Numerous other cuts, bruises, and contusions;
- e. Limitation of motion;
- f. Loss of health, strength, vigor, vitality, and/or physical and mental well being;
- g. Severe pain and suffering, loss of life's pleasures, inconvenience, embarrassment, and humiliation, past present and future.

17. As a further direct and proximate result of the aforesaid accident, Plaintiff Preston Weatherholtz has been and will be required to receive and undergo medical attention and care and to expend various sums of money and to incur various expenses, which expenses have exceeded the sums recoverable under the limits set forth in Title 75 Pa.C.S. §1711, and may be required to expend such sums or incur such expenditures for an indefinite time into the future.

18. As a further direct and proximate result of this accident, Plaintiff Preston Weatherholtz has sustained emotional distress resulting from the violent collision and over the injuries he sustained.

19. As a further direct and proximate result of the aforesaid accident, Plaintiff Preston Weatherholtz has suffered a loss of his earnings and an impairment of his earning capacity and powers, which such loss of income and/or impairment of earning capacity

has or may exceed the sums recoverable under their policy limits pursuant to Title 75 Pa.C.S. § 1711.

20. As a further direct and proximate result of this accident, Plaintiff Preston Weatherholtz has suffered severe physical pain and suffering, mental anguish, humiliation, embarrassment, loss of enjoyment of life, loss of vitality, vigor, health and/or strength and may continue to suffer the same for an indefinite time into the future.

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COUNT I  
PRESTON WEATHERHOLTZ, an individual  
vs.  
REUBIN NORRIS AND MAE NORRIS

---

**NEGLIGENCE - PERSONAL INJURY**

Paragraphs 1 through 20 hereof are incorporated by reference herein as though the same were set forth at length.

21. Reuben Norris was negligent in the operation of his automobile, and such negligence was the direct and proximate cause of the aforesaid collision and the injuries sustained by the Plaintiff.

22. The negligences of Reuben Norris are as follows:

a. in failing to keep a safe, careful and adequate lookout for other vehicles on the roadway, and particularly those vehicles traveling properly within their lane of travel, to wit: the Weatherholtz vehicle;

- b. in failing to obey road signs by running the stop-sign into an oncoming traffic lane;
- c. in operating his vehicle in a direction toward the Weatherholtz vehicle when he knew or should have known that to do so would result in a violent collision;
- d. in failing to take appropriate, proper, timely or other evasive action to avoid the aforesaid accident, despite avenues of evasion being open to him such as turning, braking, stopping, or slowing his vehicle;
- e. in failing to observe and see the Weatherholtz vehicle which was properly within its legal lane of travel;
- f. failing to keep his vehicle under proper and adequate control such that the operator did not avoid striking the Weatherholtz vehicle;
- g. in failing to warn, signal, or otherwise advise the Weatherholtz vehicle or the Plaintiff that he was going to strike the Weatherholtz vehicle, such as by flashing lights or sounding horn;
- h. in violating one or more of the provisions of the Motor Vehicle Code;

WHEREFORE, Plaintiff demands that judgement be entered in his favor and against Defendant, each in an amount in excess of \$25,000.00, plus interest and costs of suit.

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COUNT II  
PRESTON WEATHERHOLTZ, an individual  
VS.  
REUBIN NORRIS AND MAE NORRIS

---

## **NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**

Paragraphs 1 through 22 are incorporated by reference herein as though the same were set forth at length.

23. As a direct and proximate result of the Defendant's negligence, as aforesaid, and Plaintiff's sensory observation of both the collision and the injuries which he sustained, Plaintiff has experienced severe emotional distress and extreme mental pain and suffering, and injury from loss of sleep, diminution in appetite, shock, frustration and fatigue.

WHEREFORE, Plaintiff demands that judgment be entered in favor of Plaintiff and against Defendant in an amount in excess of \$25,000.00, plus interest and costs of suit.

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**COUNT III**  
**SUSAN WEATHERHOLTZ, an individual**  
**vs.**  
**ESTATE OF REUBIN NORRIS AND MAE NORRIS**

---

## **LOSS OF CONSORTIUM**

Paragraphs 1 through 23 are incorporated by reference herein as though the same were set forth at length.

24. As a direct and proximate result of the Defendant's negligence, as aforesaid, Plaintiff Susan Weatherholtz has been deprived of the services and society of her husband, Plaintiff Preston Weatherholtz, and will continue to be so deprived for an indefinite period of time in the future.

WHEREFORE, Plaintiffs demand that judgment be entered in favor of Plaintiffs and against Defendant in an amount in excess of \$25,000.00, plus interest and costs of suit.

Respectfully submitted,

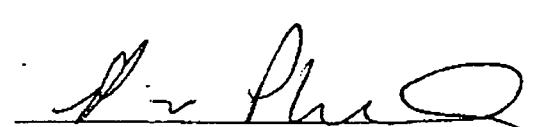


David R. Thompson, Esquire  
Attorney for Plaintiff

**VERIFICATION**

Plaintiff hereby verifies that the statements made in this **COMPLAINT** 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: 7-22-10



Preston P. Weatherholtz

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION  
No. 06-482-CD

v.  
ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within Preliminary Objections were served on the following counsel of record by first class U.S. mail, postage prepaid, on the 24<sup>th</sup> day of January, 2011.

David R. Thompson, Esquire  
P.O. Box 587  
308 Walton Street, Suite 4  
Philipsburg, PA, 16866

  
\_\_\_\_\_  
Diane A. Blackburn, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION  
No. 06-482-CD

v.  
ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

**ORDER**

AND NOW, to-wit, on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, upon  
consideration of the foregoing Preliminary Objections, it is hereby ORDERED, ADJUDGED  
and DECREED that:

1. The service of the Writ of Summons on the Defendant "Estate of Reuben A. Norris, his heirs, executors, administrators and assigns" is stricken with prejudice;
2. To the extent that the Defendant identified in the Complaint as "Reubin Norris, his heirs, executors, administrators and assigns" is an individual separate and apart from the Defendant identified in the Writ of Summons as "Estate of Reuben A. Norris, his heirs, executors, administrators and assigns," the service of the Complaint against Defendant "Reubin Norris, his heirs, executors, administrators and assigns" is stricken with prejudice;
3. The Complaint against the Defendants "Estate of Reuben A. Norris, his heirs, executors, administrators and assigns" and "Reubin Norris, his heirs, executors, administrators, and assigns" is stricken with prejudice;
4. The Complaint against the Defendant "Mae H. Norris" is stricken with prejudice.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION

No. 06-482-CD

v.

ISSUE NO.:

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

**PRAECIPE FOR ARGUMENT OF  
PRELIMINARY OBJECTIONS**

Filed on Behalf of Defendants:

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS

Counsel of Record for this Party:

DIANE A. BLACKBURN  
PA I.D. No. 91275  
Diane.Blackburn@LibertyMutual.com

LAW OFFICES OF TERRY L.M.  
BASHLINE  
Suite 3500, K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, PA 15222  
412-434-0201

Firm I.D. No.: 150

JURY TRIAL DEMANDED

FILED NO  
M 11.05.2011  
JAN 26 2011  
610

William A. Shaw  
Prothonotary/Clerk of Court

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION  
No. 06-482-CD

v.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

**PRAECIPE FOR ARGUMENT OF PRELIMINARY OBJECTIONS**

To: Prothonotary

Please direct the Court Administrator to schedule argument on the Defendants' Preliminary Objections pursuant to Local Rule 211.

RESPECTFULLY SUBMITTED,

LAW OFFICES OF TERRY L.M. BASHLINE

By:

Diane A. Blackburn

DIANE A. BLACKBURN, ESQUIRE  
Counsel for Defendants Mae H. Norris and the  
Estate of Reuben A. Norris

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION  
No. 06-482-CD

v.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Praeclipe for Argument of Preliminary Objections were served on the following counsel of record by first class U.S. mail, postage prepaid, on the 24<sup>th</sup> day of January, 2011.

David R. Thompson, Esquire  
P.O. Box 587  
308 Walton Street, Suite 4  
Philipsburg, PA 16866

Diane A. Blackburn  
Diane A. Blackburn, Esquire

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

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
Plaintiffs,

vs.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators and  
assigns, and MAE H. NORRIS,  
Defendants,

06-482-C.D.  
NO. 2010-2161-C.D.

ORDER

NOW, this 2<sup>nd</sup> day of <sup>February</sup> January, 2011, upon consideration of Defendant's  
Preliminary Objections to Plaintiff's Complaint in the above captioned case, it is the ORDER  
of this Court that argument on the Preliminary Objections is scheduled for the 1<sup>st</sup> day of  
**MARCH, 2011 at 2:30 PM** in Courtroom No. 1 of the Clearfield County Courthouse,  
Clearfield, PA 16830.

Fifteen minutes has been allotted for this hearing.

BY THE COURT,

  
FREDERIC J. AMMERMAN  
President Judge

FILED

FEB 02 2011

William A. Shaw  
Prothonotary/Clerk of Courts

10:33 AM  
cc: Atys:

Thompson  
Blackburn

**FILED**

**FEB 02 2011**

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

DATE: 2/2/11

You are responsible for serving all appropriate parties.  
 Plaintiff(s)  Plaintiff(s) Attorney \_\_\_\_\_  
 Defendant(s)  Defendant(s) Attorney \_\_\_\_\_  
 Other \_\_\_\_\_  
 Special Instructions:

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

PRESTON P. WEATHERHOLTZ and :  
SUSAN WEATHERHOLTZ, his wife :

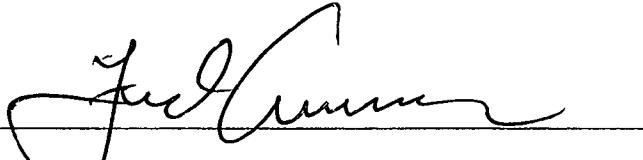
-vs- : No. 06-482-CD

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors,  
administrators and assigns,  
and MAE H. NORRIS :

O R D E R

AND NOW, this 1st day of March, 2011, following argument on the Preliminary Objections, it is the ORDER of this Court that counsel for both parties have no more than seven (7) days from this date in which to supply letter brief to the Court.

BY THE COURT,

  
\_\_\_\_\_  
President Judge

5  
FILED  
04/06/2011 2cc  
MAR 04 2011 Atty's Thompson  
Bd. of Cc. Blackburn  
William A. Straw  
Prothonotary/Clerk of Courts

**FILED**

MAR 04 2011

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

DATE: 3/4/11

You are responsible for serving all appropriate parties.

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

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

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

PRESTON P. WEATHERHOLTZ and  
SUSAN WEATHERHOLTZ, his wife

vs.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators and  
assigns, and MAE H. NORRIS

\*

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NO. 2006-482-CD

5 **FILED** ICC Atty's:  
OCT 21 2010 Thompson  
MAR 17 2011 Blackburn  
D.A.  
William A. Shaw ICC D. M. Kessell  
Prothonotary, Clerk of Courts Law Library

OPINION

This personal injury action arises from a motor vehicle accident on March 31, 2004, involving Plaintiff Preston Weatherholtz<sup>1</sup> and Reuben A. Norris, who died as a result of the accident. On March 29, 2006, Plaintiffs sought a Writ of Summons, naming the "Estate of Reuben A. Norris, his heirs, executors, administrators and assigns" (hereinafter "Estate") and Mr. Norris's widow Mae H. Norris<sup>2</sup> (hereinafter "Mrs. Norris") as defendants. The issuance of the writ tolled the statute of limitation, which was to expire two days later. The writ was reissued on May 18, 2009, and shortly thereafter, personal service was made on Mrs. Norris on behalf of herself and the Estate. On May 17, 2010, Defense Counsel entered a limited appearance for the purpose of challenging *in personam* jurisdiction. A Rule to File Complaint was subsequently issued, and on July 26, 2010, Plaintiff's filed a Complaint against the above-captioned Defendants. Six months later, on January 26, 2011, Defendants filed Preliminary Objections, which are the subject of this Opinion.

The preliminary objections challenge the Court's *in personam* jurisdiction over the Estate because of improper service and failure to state a claim against Mrs. Norris. For the

<sup>1</sup> Mr. Weatherholtz's wife, Susan, is also a named Plaintiff, asserting a claim for loss of consortium.

<sup>2</sup> Mrs. Norris was also a passenger in the vehicle driven by her husband at the time of the accident.

reasons that follow, the Court sustains Defendants' preliminary objections and, as a result, dismisses Plaintiffs' complaint.

**Preliminary objection regarding jurisdiction over Estate**

The first issue raised by the Defendants challenges this Court's *in personam* jurisdiction over the Estate. Specifically, Defendants argue Plaintiffs sued an incompetent party, namely the late Mr. Norris, and because no estate was ever opened on his behalf, Plaintiffs sued a non-existent party. Therefore, it could not properly serve Mrs. Norris because she was not the personal representative of her husband's estate. Plaintiffs argue personal injury actions survive a defendant's death and Mrs. Norris, though not actually appointed personal representative, is the successor of Mr. Norris and was properly served.

Plaintiffs are correct when they assert personal injury actions survive death. However, “[i]t is well settled that all actions that survive a decedent must be brought by or against the personal representative.” *Marzella v. King*, 389 A.2d 659, 660 (Pa. Super. 1978) (citations omitted). This is so because a “dead man cannot be a party to an action, and any such attempted proceeding is completely void and of no effect.” *Id.* at 661 (quoting *Thompson v. Peck*, 187 A. 597, 598 (Pa. 1935)).

In order to proceed, the suit must be against the personal representative of the defendant's estate. However, an estate cannot be a party to litigation unless a personal representative exists. *Marzella*, 389 A.2d at 660-61. “[A] plaintiff in an action against a decedent's estate must take affirmative steps to secure the appointment of an administrator prior to the running of the statute of limitations or his cause of action will be lost.” *Id.* at 661 (citing *Lovejoy v. Georgeff*, 303 A.2d 501 (Pa. Super. 1973)). In the instant action, Plaintiffs failed to seek the appointment of a personal representative for the Estate.

Plaintiffs argue that the Complaint can be amended to cure the defect, but case law is clear that this type of defect cannot be cured by amendment. “[B]ecause a dead person cannot be a party to an action commenced after his death, substitution of a personal representative of the dead person's estate is improper.” *Valentin v. Cartegena*, 544 A.2d 1028, 1029 (Pa. Super. 1988). Because the complaint, as filed, is a nullity, “[t]here can be no amendment where there is nothing to amend. In any event, an amendment the effect of which is to bring in new parties after the running of the statute of limitations will not be permitted.” *Marzella*, 389 A.2d at 661 (quoting *Thompson v. Peck*, 187 A. 597, 598 (Pa. 1935)). See also *Thompson v. Peck*, 181 A. 597 (Pa. 1935); *Ehrhardt v. Costello*, 264 A.2d 620 (Pa. 1970); *Schor v. Becker*, 263 A.2d 324 (Pa. 1970) (all cases in which the case was initiated against a person who died *before* a writ and/or complaint was filed).

Plaintiffs cite *Drumm v. Rigberg*, 7 Phila. 333 (Pa. Ct. Com. Pl. 1982), in support of their position. However, *Drumm* is clearly distinguishable from the case *sub judice*. In *Drumm*, the defendant was alive when the case was filed but died before trial. Here, Mr. Norris predeceased the filing of the writ and the complaint. Although his “estate” was named, no estate was opened and Plaintiffs failed to have a personal representative appointed. Consequently, the case was filed against a non-existent entity and is void as a matter of law. This case is more comparable to those cited above, which hold the complaint cannot be amended to cure the defect because there is nothing to correct. Plaintiffs’ service on Mrs. Norris on behalf of the non-existent estate was thus improper because she could not accept service for the alleged estate.

**Preliminary objection regarding cause of action against Mrs. Norris**

Next, Defendant Mrs. Norris argues Plaintiffs failed to state a cause of action against her. The Court agrees. Only three of the twenty-four paragraphs in Plaintiffs’ Complaint even

reference Mrs. Norris. Paragraph 3 identified Mrs. Norris as an adult, formerly of Olanta, Pennsylvania. Paragraph 4 states she was married to Reuben Norris. Paragraph 9 states she was a passenger in her husband's vehicle at the time of the accident. Nowhere does the Complaint aver that Mrs. Norris somehow contributed to the accident. Plaintiffs failed to state a *prima facie* case of negligence or any other cause of action against Mrs. Norris. Therefore, the preliminary objection shall be sustained.

#### *Timeliness of preliminary objections*

In his brief to the Court, Plaintiffs' counsel argues Defendants' preliminary objections should be dismissed as untimely. Although Plaintiffs' counsel only briefly mentions this argument,<sup>3</sup> the Court will address the matter in order to be thorough.

Rule 1026 of the Pennsylvania Rules of Civil Procedure require all responsive pleadings to be filed within twenty days of service of the preceding pleading. Pursuant to Rule 1017, preliminary objections are a pleading. The preliminary objections were directed at Plaintiffs' Complaint, which was filed on July 26, 2010. Thus, by rule, Defendants' preliminary objections should have been raised no later than 20 days thereafter, or August 16, 2010.<sup>4</sup> Defendants filed the preliminary objections on January 26, 2011, some six months after the Complaint was filed. Clearly, the preliminary objections were untimely.

However, Plaintiffs, too, failed to adhere to the rules. Plaintiffs also "raised" the timeliness issue outside the twenty day timeframe and also ignored the proper procedure to do so. As explained by the Superior Court in *Hehnermann Medical College and Hospital of Philadelphia v. Hubbard*, "an objection to preliminary objections as untimely is properly characterized as a 'preliminary objection to a preliminary objection.'" 406 A.2d 1120, 1123

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<sup>3</sup> At no time during argument on said Preliminary Objections did counsel for the Plaintiffs raise the issue of timeliness. Rather, he raised the argument, for the first time, via a short paragraph at the end of his two-page brief.

<sup>4</sup> The Court uses Monday, August 16, 2010, because otherwise, the deadline would have fallen on a Sunday.

(Pa. Super. 1979). *See also McKeever v. Mercaldo*, 3 Pa. D. & C. 2d 188 (Pa. Ct. Com. Pl. 1954). No such preliminary objection to Defendants' preliminary objections was raised by Plaintiffs, and certainly nothing even remotely comparable to the same was raised within the twenty days allowed by the rules.

In fairness, counsel for both parties should be held to the same standard. While [Defendants'] preliminary objections were untimely, it was the responsibility of [Plaintiffs'] counsel to file his own timely preliminary objection to the preliminary objections. [Plaintiffs'] counsel's failure to do so constituted a waiver of the untimeliness of [Defendants'] preliminary objections.

*Hubbard*, 406 A.2d at 1123. *See also* Pa. R.C.P. 1032(a) ("A party waived all defenses and objections which are not presented by either preliminary objection, answer or reply....").

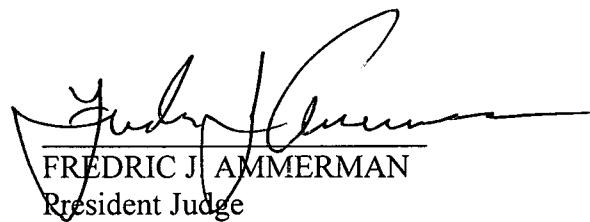
For this reason, the Court refuses to entertain, at this late juncture, an improperly raised "objection" to Defendants' timeliness.<sup>5</sup>

Based on the foregoing, the Court enters the following:

**ORDER**

NOW, this 17th day of March, 2011, following argument and upon consideration of the parties' briefs, it is the ORDER of this Court that Defendant's Preliminary Objections be and are hereby SUSTAINED. Plaintiff's Compliant is hereby DISMISSED.

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

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<sup>5</sup> Alternatively, the Court could find the Defendant "Estate" was not bound by the timing deadlines because it did not exist and thus was not required to file preliminary objections to the complaint. The Court notes defense counsel entered a limited appearance in this matter, for the express purpose of challenging jurisdiction, and as the Court previously explained, it lacks *in personam* jurisdiction over the non-existent estate.

FILED

MAR 17 2011

William A. Shaw  
Prothonotary/Clerk/Court

DATE: 3/17/11

You are responsible for serving all appropriate parties.

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

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney  Other

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION  
No. 06-482-CD

v.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

**PRAECIPE FOR ENTRY OF  
JUDGMENT**

Filed on Behalf of Defendants:

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS

Counsel of Record for this Party:

DIANE A. BLACKBURN  
PA I.D. No. 91275  
Diane.Blackburn@LibertyMutual.com

LAW OFFICES OF TERRY L.M.  
BASHLINE  
Suite 3500, K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, PA 15222  
412-434-0201

Firm I.D. No.: 150

**JURY TRIAL DEMANDED**

FILED *Atty pd.*  
MAY 3 2011 *\$20.00*  
MAR 28 2011  
S William A. Shaw  
Prothonotary/Clerk of Courts  
ICC Notice  
to Atty Blackburn  
ICC to Atty Thompson  
600

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION  
No. 06-482-CD

v.

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

**PRAECIPE FOR ENTRY OF JUDGMENT**

To: Prothonotary

Pursuant to Pa.R.C.P. 227.4(2), please enter judgment on the Order of President Judge Frederic J. Ammerman dated March 17, 2011 sustaining Defendants' Preliminary Objections and dismissing Plaintiffs' Complaint. A copy of the Opinion and Order is attached. I certify a true and correct copy of this Praecipe was served on Plaintiffs' counsel on March 18, 2011. Please provide counsel of record with Notice of the Entry of Judgment pursuant to Pa.R.C.P. 236.

RESPECTFULLY SUBMITTED,

LAW OFFICES OF TERRY L.M. BASHLINE

March 18, 2011

By:

  
DIANE A. BLACKBURN, ESQUIRE

Counsel for Defendants Mae H. Norris and the  
Estate of Reuben A. Norris

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

PRESTON P. WEATHERHOLTZ and  
SUSAN WEATHERHOLTZ, his wife

vs.

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NO. 2006-482-CD

ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators and  
assigns, and MAE H. NORRIS

**OPINION**

This personal injury action arises from a motor vehicle accident on March 31, 2004, involving Plaintiff Preston Weatherholtz<sup>1</sup> and Reuben A. Norris, who died as a result of the accident. On March 29, 2006, Plaintiffs sought a Writ of Summons, naming the "Estate of Reuben A. Norris, his heirs, executors, administrators and assigns" (hereinafter "Estate") and Mr. Norris's widow Mae H. Norris<sup>2</sup> (hereinafter "Mrs. Norris") as defendants. The issuance of the writ tolled the statute of limitation, which was to expire two days later. The writ was reissued on May 18, 2009, and shortly thereafter, personal service was made on Mrs. Norris on behalf of herself and the Estate. On May 17, 2010, Defense Counsel entered a limited appearance for the purpose of challenging *in personam* jurisdiction. A Rule to File Complaint was subsequently issued, and on July 26, 2010, Plaintiff's filed a Complaint against the above-captioned Defendants. Six months later, on January 26, 2011, Defendants filed Preliminary Objections, which are the subject of this Opinion.

The preliminary objections challenge the Court's *in personam* jurisdiction over the Estate because of improper service and failure to state a claim against Mrs. Norris. For the

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<sup>1</sup> Mr. Weatherholtz's wife, Susan, is also a named Plaintiff, asserting a claim for loss of consortium.

<sup>2</sup> Mrs. Norris was also a passenger in the vehicle driven by her husband at the time of the accident.

reasons that follow, the Court sustains Defendants' preliminary objections and, as a result, dismisses Plaintiffs' complaint.

**Preliminary objection regarding jurisdiction over Estate**

The first issue raised by the Defendants challenges this Court's *in personam* jurisdiction over the Estate. Specifically, Defendants argue Plaintiffs sued an incompetent party, namely the late Mr. Norris, and because no estate was ever opened on his behalf, Plaintiffs sued a non-existent party. Therefore, it could not properly serve Mrs. Norris because she was not the personal representative of her husband's estate. Plaintiffs argue personal injury actions survive a defendant's death and Mrs. Norris, though not actually appointed personal representative, is the successor of Mr. Norris and was properly served.

Plaintiffs are correct when they assert personal injury actions survive death. However, it is well settled that all actions that survive a decedent must be brought by or against the personal representative." *Marzella v. King*, 389 A.2d 659, 660 (Pa. Super. 1978) (citations omitted). This is because a "dead man cannot be a party to an action, and any such action and proceeding is completely void and of no effect." *Id.* at 661 (quoting *Thompson v. Peck*, 187 A. 597, 598 (Pa. 1935)).

In order to proceed, the suit must be against the personal representative of the defendant's estate. However, an estate cannot be a party to litigation unless a personal representative exists. *Marzella*, 389 A.2d at 660-61. "[A] plaintiff in an action against a decedent's estate must take affirmative steps to secure the appointment of an administrator prior to the running of the statute of limitations or his cause of action will be lost." *Id.* at 661 (citing *Lovejoy v. Georgeff*, 303 A.2d 501 (Pa. Super. 1973)). In the instant action, Plaintiffs failed to seek the appointment of a personal representative for the Estate.

Plaintiffs argue that the Complaint can be amended to cure the defect, but case law is clear that this type of defect cannot be cured by amendment. “[B]ecause a dead person cannot be a party to an action commenced after his death, substitution of a personal representative of the dead person's estate is improper.” *Valentin v. Cartegena*, 544 A.2d 1028, 1029 (Pa. Super. 1988). Because the complaint, as filed, is a nullity, “[t]here can be no amendment where there is nothing to amend. In any event, an amendment the effect of which is to bring in new parties after the running of the statute of limitations will not be permitted.” *Marzella*, 389 A.2d at 661 (quoting *Thompson v. Peck*, 187 A. 597, 598 (Pa. 1935)). *See also Thompson v. Peck*, 181 A. 597 (Pa. 1935); *Ehrhardt v. Costello*, 264 A.2d 620 (Pa. 1970); *Schor v. Becker*, 263 A.2d 324 (Pa. 1970) (all cases in which the case was initiated against a person who died *before* a writ and/or complaint was filed).

Plaintiffs cite *Drumm v. Rigberg*, 7 Phila. 333 (Pa. Ct. Com. Pl. 1982), in support of their position. However, *Drumm* is clearly distinguishable from the case *sub judice*. In *Drumm*, the defendant was alive when the case was filed but died before trial. Here, Mr. Norris predeceased the filing of the writ and the complaint. Although his “estate” was named, no estate was opened and Plaintiffs failed to have a personal representative appointed. Consequently, the case was filed against a non-existent entity and is void as a matter of law. This case is more comparable to those cited above, which hold the complaint cannot be amended to cure the defect because there is nothing to correct. Plaintiffs’ service on Mrs. Norris on behalf of the non-existent estate was thus improper because she could not accept service for the alleged estate.

*Preliminary objection regarding cause of action against Mrs. Norris*

Next, Defendant Mrs. Norris argues Plaintiffs failed to state a cause of action against her. The Court agrees. Only three of the twenty-four paragraphs in Plaintiffs’ Complaint even

reference Mrs. Norris. Paragraph 3 identified Mrs. Norris as an adult, formerly of Olanta, Pennsylvania. Paragraph 4 states she was married to Reuben Norris. Paragraph 9 states she was a passenger in her husband's vehicle at the time of the accident. Nowhere does the Complaint aver that Mrs. Norris somehow contributed to the accident. Plaintiffs failed to state a *prima facie* case of negligence or any other cause of action against Mrs. Norris. Therefore, the preliminary objection shall be sustained.

#### *Timeliness of preliminary objections*

In his brief to the Court, Plaintiffs' counsel argues Defendants' preliminary objections should be dismissed as untimely. Although Plaintiffs' counsel only briefly mentions this argument,<sup>3</sup> the Court will address the matter in order to be thorough.

Rule 1026 of the Pennsylvania Rules of Civil Procedure require all responsive pleadings to be filed within twenty days of service of the preceding pleading. Pursuant to Rule 1017, preliminary objections are a pleading. The preliminary objections were directed at Plaintiffs' Complaint, which was filed on July 26, 2010. Thus, by rule, Defendants' preliminary objections should have been raised no later than 20 days thereafter, or August 16, 2010.<sup>4</sup> Defendants filed the preliminary objections on January 26, 2011, some six months after the Complaint was filed. Clearly, the preliminary objections were untimely.

However, Plaintiffs, too, failed to adhere to the rules. Plaintiffs also "raised" the timeliness issue outside the twenty day timeframe and also ignored the proper procedure to do so. As explained by the Superior Court in *Hehnermann Medical College and Hospital of Philadelphia v. Hubbard*, "an objection to preliminary objections as untimely is properly characterized as a 'preliminary objection to a preliminary objection.'" 406 A.2d 1120, 1123

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<sup>3</sup> At no time during argument on said Preliminary Objections did counsel for the Plaintiffs raise the issue of timeliness. Rather, he raised the argument, for the first time, via a short paragraph at the end of his two-page brief.

<sup>4</sup> The Court uses Monday, August 16, 2010, because otherwise, the deadline would have fallen on a Sunday.

(Pa. Super. 1979). *See also McKeever v. Mercaldo*, 3 Pa. D. & C. 2d 188 (Pa. Ct. Com. Pl. 1954). No such preliminary objection to Defendants' preliminary objections was raised by Plaintiffs, and certainly nothing even remotely comparable to the same was raised within the twenty days allowed by the rules.

In fairness, counsel for both parties should be held to the same standard. While [Defendants'] preliminary objections were untimely, it was the responsibility of [Plaintiffs'] counsel to file his own timely preliminary objection to the preliminary objections. [Plaintiffs'] counsel's failure to do so constituted a waiver of the untimeliness of [Defendants'] preliminary objections.

*Hubbard*, 406 A.2d at 1123. *See also* Pa. R.C.P. 1032(a) ("A party waived all defenses and objections which are not presented by either preliminary objection, answer or reply....").

For this reason, the Court refuses to entertain, at this late juncture, an improperly raised "objection" to Defendants' timeliness.<sup>5</sup>

Based on the foregoing, the Court enters the following:

**ORDER**

NOW, this 17th day of March, 2011, following argument and upon consideration of the parties' briefs, it is the ORDER of this Court that Defendant's Preliminary Objections be and are hereby SUSTAINED. Plaintiff's Compliant is hereby DISMISSED.

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

BY THE COURT,

/S/ Fredric J Ammerman  
FREDRIC J. AMMERMAN  
President Judge

Attest.

*Lee L. L.*

Prothonotary

<sup>5</sup> Alternatively, the Court could find the Defendant "Estate" was not bound by the timing deadlines because it did not exist and thus was not required to file preliminary objections to the complaint. The Court notes defense counsel entered a limited appearance in this matter, for the express purpose of challenging jurisdiction, and as the Court previously explained, it lacks *in personam* jurisdiction over the non-existent estate.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PRESTON P. WEATHERHOLTZ AND  
SUSAN WEATHERHOLTZ, his wife,  
PLAINTIFFS

CIVIL DIVISION  
No. 06-482-CD

v.  
ESTATE OF REUBEN A. NORRIS,  
his heirs, executors, administrators  
and assigns, and MAE H. NORRIS,  
DEFENDANTS.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within Praeclipe for Entry of Judgment  
was served on the following counsel of record by first class U.S. mail, postage prepaid, on the  
18<sup>th</sup> day of March, 2011.

David R. Thompson, Esquire  
P.O. Box 587  
308 Walton Street, Suite 4  
Philipsburg, PA 16866

  
\_\_\_\_\_  
Diane A. Blackburn, Esquire

COPY

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Preston P. Weatherholtz and  
Susan Weatherholtz

Vs.

No. 2006-00482-CD

Estate of Reuben A. Norris, his heirs  
executors, administrators and assigns,  
and Mae H. Norris

To: PLAINTIFF(S)

NOTICE is given that a JUDGMENT in the above captioned matter has been entered  
against you on March 28, 2011.

William A. Shaw  
Prothonotary

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William A. Shaw