

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:
Praecipe 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

06/11/20/WR
William A. Shaw

Prothonotary/Clerk of Courts

2 CLERK TO ATTY

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

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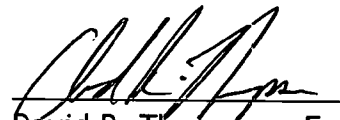
PRAECIPE TO ISSUE WRIT OF SUMMONS

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,

Plaintiff

vs.

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

Defendant

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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
0/3:33:51
MAY 02 2006 LA
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, administators &
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, administators & assigns,
and MAE H. NORRIS

SHERIFF RETURN

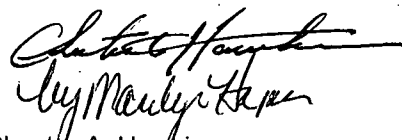
RETURN COSTS

| 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

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:
Praecipe 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. Shaw
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,

Plaintiff

vs.

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

Defendant

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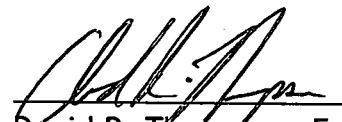
PRAECIPE TO ISSUE WRIT OF SUMMONS

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,

Plaintiff

vs.

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

Defendant

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06-


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

CIVIL DIVISION - LAW

Plaintiff

VS.

Defendant

06- 482-CD

TYPE OF CASE:
Civil Division

TYPE OF PLEADING:
Praecipe 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. Shaw
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,

Plaintiff

vs.

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

Defendant

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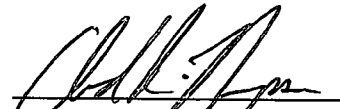
PRAECIPE TO ISSUE WRIT OF SUMMONS

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,

Plaintiff

vs.

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

Defendant

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06-

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

CIVIL DIVISION - LAW

Defendant

**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

William A. Shaw
Prothonotary/Clerk of Courts

Atty. pd. 7.00
G10

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

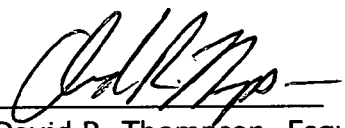
PRAECIPE TO RE-ISSUE WRIT OF SUMMONS

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,

Plaintiff

vs.

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

Defendant

06-482-CD

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

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

Deputy Prothonotary

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
013:03/61
MAY 24 2006
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 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

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

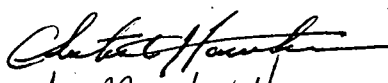

RETURN COSTS

| 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,


by 
Chester A. Hawkins
Sheriff

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

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

MAY 17 2016

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.

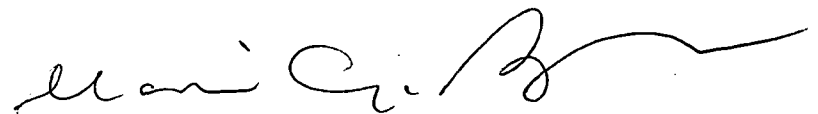
PRAECIPE FOR APPEARANCE

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 Praecipe For Appearance was served via U.S. First Class Mail, postage pre-paid, on this 13th 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

A handwritten signature in cursive script, appearing to read "Diane A. Blackburn", written over a horizontal line.

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

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

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*
MT 12-492-1
MAY 17 2011
S *LDV*
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

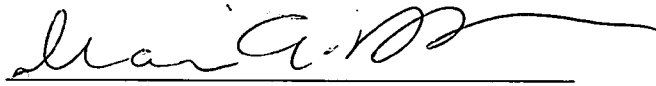


DIANE A. BLACKBURN
Attorney for Defendant
Estate Of Reuben A. Norris,
his heirs, executors, administrators
and assigns

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Praeipe For Appearance for the limited purpose of challenging in personam jurisdiction was served via U.S. First Class Mail, postage pre-paid, on this 13th 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

A handwritten signature in dark ink, appearing to read "Diane A. Blackburn", written over a horizontal line.

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

William A. Shaw
Prothonotary/Clerk of Courts

no 46

Issues Rule
to file complaint
to App?

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

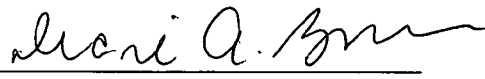
CERTIFICATE OF SERVICE

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, 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

§ m/12-056
William A. Shaw
Prothonotary/Clerk of Courts
no 4/1 (Ed)

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

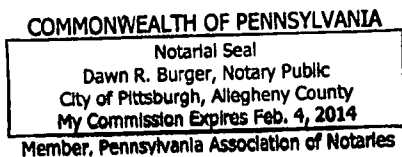
SWORN TO AND SUBSCRIBED

Before me this 3rd day of

June, 2010

Dawn R. Burger
Notary Public

My Commission Expires:



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-CD

| SENDER: COMPLETE THIS SECTION | | COMPLETE THIS SECTION ON DELIVERY | |
|--|--|--|--|
| <ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits. | | <p>A. Signature <i>Michelle L Keph...</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Michelle L Keph...</i></p> <p>C. Date of Delivery <i>MAY 28 2006</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>USPS</p> | |
| 1. Article Addressed to: <div>David R. Thompson, Esquire 308 Walton Street, Ste 4 Phillipsburg, PA 16866</div> | | 3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. | |
| 2. Article Number (Transfer from service label) | | 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes | |
| PS Form 3811, February 2004 | | Domestic Return Receipt | |

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 pre-paid, 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, 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

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.:

**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

JUL 16 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

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

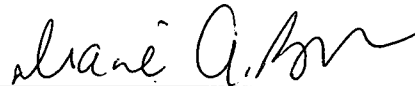
IMPORTANT NOTICE

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, 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-CD

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

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

vs.

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

Defendants

No. 10-

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.

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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. Reubin 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 Reubin 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 INFLICTION 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

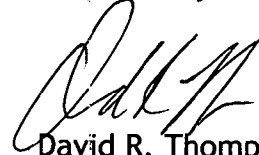
LOSS OF CONSORTIUM

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,

A handwritten signature in black ink, appearing to read 'D. Thompson', written over the printed name.

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

(18) CA

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

w
cc

FILED
JAN 26 2011
William A. Shaw
Prothonotary/Clerk of Courts

(61)

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."

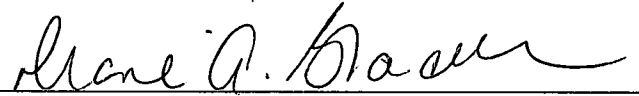
WHEREFORE, the defendants respectfully request that this Honorable Court issue the attached Order that strikes with prejudice the service of the Writ and the Complaint on Defendant "ESTATE OF REUBEN A. NORRIS, his heirs, executors, administrators, and assigns;" strikes with prejudice the service of the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

A handwritten signature in cursive script, appearing to read "Diane A. Blackburn", written over a horizontal line.

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.
Sex Male Social Security No. 174-16-6421 Date of Death March 31 2004
Date of Birth March 10 1919 Birthplace Olanta Pa.
Place of Death Clearfield Hospital Clearfield Clearfield Pennsylvania
Race White Occupation laborer Armed Forces? (Yes or No) No
Marital Status married Decedent's Mailing Address 120 Little Clearfield Creek Rd, Olanta PA 16863
Informant Mrs. Moe Norris Funeral Director W. C. Williams
Name and Address of Funeral Establishment Childs Funeral Home Inc. 700 State St. Curwensville PA 16833

Part I: Immediate Cause

Interval Between
Onset and Death

- (a) CARDIOPULMONARY ARREST
(b) PNEUMOTHORAX CLOSED, TRAUMATIC
(c) CARDIAC TAMPONADE
(d) HEMOPERICARDIUM

Part II: Other Significant Conditions

Manner of Death

Describe how injury occurred:

Natural ☐ Homicide ☐
Accident ☒ Pending Investigation ☐
Suicide ☐ Could not be Determined ☐

motor vehicle accident

Name and Title of Certifier Michael J. Polachek Jr. Deputy Coroner
Address PO Box 217 Hawk Run PA 16840 (M.D., D.O., Coroner, M.E.)

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.

APRIL 3 2004
Date Received by Local Registrar

John McGary Deputy 17-181
Local Registrar of Vital Records District No.
429 Locust St. Curwensville PA 16833
Street Address City, Borough, Township

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

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: Willie [Signature]

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

SEAL OF THE COURT

Willie [Signature]
Deputy Prothonotary

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 -CD
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 attested copy of the original
statement filed in this case.

JUL 26 2010

Attest.

William H. Thompson
Promoted to
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

vs.

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MAE H. NORRIS

Defendants

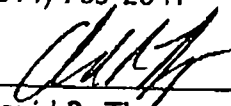
06-482-CD
No. ~~10~~

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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

vs.

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

*
*
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*

No. 06-482-CD

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.
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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.
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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. Reubin 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 Reubin 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 INFLICTION 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

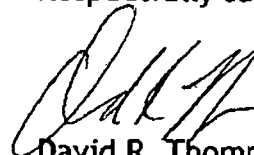
LOSS OF CONSORTIUM

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,

A handwritten signature in black ink, appearing to read 'D. R. Thompson', written in a cursive style.

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 24th 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

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 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
1110560
JAN 26 2011 @

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, 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

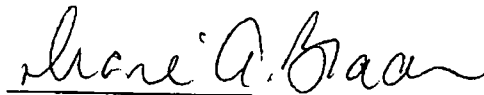
No. 06-482-CD

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 Praeceptum for Argument of Preliminary Objections were served on the following counsel of record by first class U.S. mail, postage prepaid, on the 24th day of January, 2011.

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



Diane A. Blackburn, Esquire

CA

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,

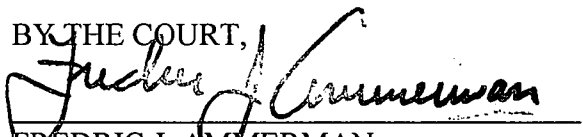
06-482-CD
NO. 2010-2461-C.D.

ORDER

NOW, this 2nd day of ~~January~~ ^{February}, 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 1st 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,

FREDRIC J. AMMERMAN
President Judge

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FEB 02 2011
William A. Shaw
Prothonotary/Clerk of Courts
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.
☒ 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-

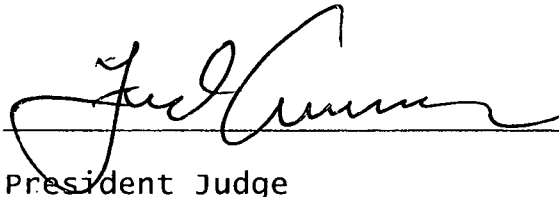
No. 06-482-CD

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

FILED
9:40 AM MAR 04 2011
William A. Shaw
Prothonotary/Clerk of Courts
Atty's: Thompson
Blackburn

FILED

MAR 04 2011

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/4/11

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☐ 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

NO. 2006-482-CD

OPINION

5 FILED 1CCAtys:
01/21/2011 Thompson
MAR 17 2011 Blackburn
William A. Shaw 1CC D.M. Kesell
Prothonotary, Clerk of Courts Law Library

This personal injury action arises from a motor vehicle accident on March 31, 2004, involving Plaintiff Preston Weatherholtz¹ 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. Norris² (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

¹ Mr. Weatherholtz’s wife, Susan, is also a named Plaintiff, asserting a claim for loss of consortium.

² 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,³ 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, 2010.⁴ 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

³ 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.

⁴ 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....").

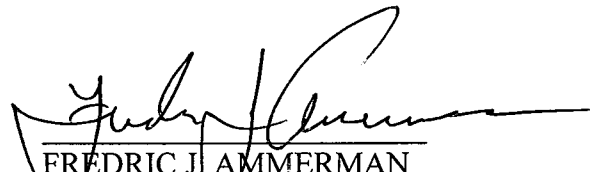
For this reason, the Court refuses to entertain, at this late juncture, an improperly raised "objection" to Defendants' timeliness.⁵

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 Complaint is hereby DISMISSED.

BY THE COURT,


FREDRIC J. AMMERMAN
Resident Judge

⁵ 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. Siaw
Prothonotary, Clerk of Courts

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

____ 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.

ISSUE NO.:

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
MAR 28 2011

William A. Shaw
Prothonotary/Clerk of Courts

Atty pd.
\$20.00

ICC Notice

to Atty Blackburn

ICC to Atty Thompson

(611)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

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

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

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NO. 2006-482-CD

OPINION

This personal injury action arises from a motor vehicle accident on March 31, 2004, involving Plaintiff Preston Weatherholtz¹ 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. Norris² (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.

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

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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 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,³ 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, 2010.⁴ 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

³ 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.

⁴ 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.⁵

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 Complaint is hereby DISMISSED.

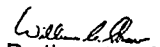
I hereby certify this to be a true and attested copy of the original statement filed in this case.

BY THE COURT,

MAR 17 2011

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

Attest.


Prothonotary

⁵ 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

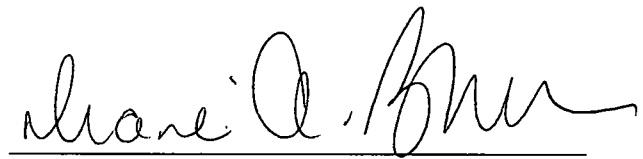
No. 06-482-CD

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 Praecipe for Entry of Judgment was served on the following counsel of record by first class U.S. mail, postage prepaid, on the 18th 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.

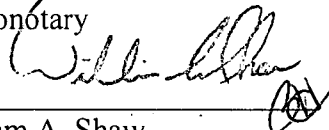
No. 2006-00482-CD

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



William A. Shaw