

**Richard O'Shell et al vs Terri Clarkson et al**  
**2006-1024-CD**

**06-1024-CD**  
**Richard O'Shell al vs Terri Clarkson al**

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of  
CIERRA O'SHELL, a minor

(Plaintiff)

CIVIL ACTION

94 Gillen Lane

(Street Address)

Irvona, PA 16656

(City, State ZIP)

No. 06-1024-CD

Type of Case: Civil Complaint

Type of Pleading: Complaint

Filed on Behalf of:

VS.

TERRI A. CLARKSON and  
BARBARA JEAN LAING, EXECUTRICES  
OF THE ESTATE OF PATRICIA L. O'SHELL, Deceased,  
(Defendant)

Plaintiff

(Plaintiff/Defendant)

Terri A. Clarkson, Executrix  
PO Box 121

Irvona, PA  
(Street Address)

Barbara Jean Laing, Executrix  
~~1187 Union Street~~  
(City, State ZIP)  
Coalport, PA

Jonathan B. Mack, Esquire  
MARCUS AND MACK, P.C.  
57 South Sixth Street

(Filed by)

PO Box 1107  
Indiana, PA 15701

(Address)

(724) 349-5602

(Phone)



(Signature)

FILED

JUN 28 2006

2cc Shff

Any pd. 85.00

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA O'SHELL,  
a minor,  
Plaintiff,

NO.

vs.

TERRI A. CLARKSON and  
BARBARA JEAN LAING, EXECUTRICES  
of the ESTATE OF PATRICIA L. O'SHELL,  
Deceased,  
Defendants.

**COMPLAINT IN CIVIL ACTION**

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS  
PARTY:

Jonathan B. Mack, Esquire  
MARCUS & MACK, P.C.  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: (724) 349-5602  
Sup. Ct. ID 38970

**ORIGINAL**

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA O'SHELL,  
a minor,

NO.

Plaintiff,

vs.

TERRI A. CLARKSON and  
BARBARA JEAN LAING, EXECUTRICES  
of the ESTATE OF PATRICIA L. O'SHELL,  
Deceased,

Defendants.

**NOTICE TO DEFEND**

*TO: TERRI A. CLARKSON and BARBARA JEAN LAING, EXECUTRICES OF THE ESTATE OF PATRICIA L. O'SHELL, DECEASED, DEFENDANTS*

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 in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

David S. Meholick, Court Administrator, Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830  
(814) 765-2641 Ext. 5982

MARCUS & MACK, P.C.

By: 

Jonathan B. Mack, Esquire  
57 South Sixth Street, P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID 38970

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA O'SHELL,  
a minor,

NO.

Plaintiff,

vs.

TERRI A. CLARKSON and  
BARBARA JEAN LAING, EXECUTRICES  
of the ESTATE OF PATRICIA L. O'SHELL,  
Deceased,

Defendants.

**COMPLAINT**

AND NOW, comes the Plaintiff, Richard O'Shell, Parent and Natural Guardian of Cierra O'Shell, a minor, by and through his attorneys, Jonathan B. Mack, Esquire, and Marcus & Mack, P.C., and files the following Complaint:

1. The Plaintiff, Richard O'Shell, Parent and Natural Guardian of Cierra O'Shell, a minor, is an adult individual who resides at 94 Gillen Lane, Irvona, Clearfield County, Pennsylvania.
2. The Defendant, Terri A. Clarkson, Executrix of the Estate of Patricia L. O'Shell, Deceased, is an adult individual who is believed to reside at 255 Swank Street, Irvona, Clearfield County, Pennsylvania.
3. The Defendant, Barbara Jean Laing, Executrix of the Estate of Patricia L. O'Shell, Deceased, is an adult individual who is believed to reside at 1187 Union Street, Coalport, Clearfield County, Pennsylvania.

4. On or about January 30, 2003, the Minor Plaintiff, Cierra O'Shell, who was 3 years old at the time, was an invited guest on the property of Defendants' Decedent, Patricia L. O'Shell, when suddenly and without warning, she was attacked by a Cocker Spaniel dog owned by, and under the exclusive control of, Defendants' Decedent, Patricia L. O'Shell.

5. The aforesaid attack was caused by the negligence and carelessness of Defendants' Decedent, Patricia L. O'Shell, in general and in the following particulars:

- a. In failing to keep the dog secured, isolated or on a leash or other restraining device at all times;
- b. In failing to maintain proper control over the dog;
- c. In failing to warn the Minor Plaintiff of the presence and location of the dog;
- d. In failing to follow clear, express and explicit instructions from the Minor Plaintiff's mother to secure and isolate the dog in the garage area at all times while the Minor Plaintiff was present;
- e. In failing to warn the Minor Plaintiff of the vicious propensity of the dog;
- f. In exposing and/or failing to protect the Minor Plaintiff from a known vicious and dangerous dog that had bitten others in the past;
- g. In failing to deny access or otherwise restrict access to the area where the dog was located;
- h. In allowing the Minor Plaintiff to enter an area where the dog was located;
- i. In allowing the dog to enter an area where the Minor Plaintiff was located;
- j. In failing to appropriately train the dog;

- k. In failing to protect the Minor Plaintiff from encountering the dog while the Minor Plaintiff was on Defendants' Decedent's property;
- l. In failing to give appropriate and proper instructions to the dog; and
- m. In violating the Pennsylvania Dog Law.

6. As a result of the aforesaid attack, the Minor Plaintiff suffered, among other things, the following injuries:

- a. Full thickness left lower eyelid laceration;
- b. Left upper eyelid canalicular laceration;
- c. Pyogenic granuloma to left eye area;
- d. Edema and swelling to left eyelids;
- e. Pain in left eye area; and
- f. Emotional and psychological trauma.

7. As a result of the aforesaid injuries, the Minor Plaintiff has suffered, among other things, the following damages:

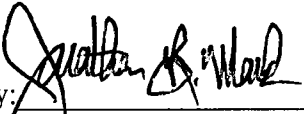
- a. She has incurred in the past, and will incur in the future, substantial medical expenses;
- b. She has sustain in the past, and will sustain in the future, substantial and permanent scarring and physical disfigurement;
- c. She has suffered in the past, and will suffer in the future, substantial pain; suffering and inconvenience; and
- d. She has sustained in the past, and will sustain in the future, other emotional, economic and physical harm.

WHEREFORE, the Plaintiff demands judgment against the Defendants in an amount in excess of the jurisdictional limits of a Board of Arbitrators of this Court.

JURY TRIAL DEMANDED.

Respectfully submitted,

MARCUS & MACK, P.C.

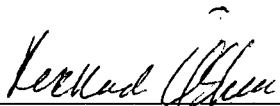
By: 

Jonathan B. Mack, Esquire  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID 38970



**VERIFICATION**

I, Richard O'Shell, Parent and Natural Guardian of Cierra O'Shell, a minor, verify that the averments of the foregoing document is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C. S. A. §4904, relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
Richard O'Shell

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

DOCKET # 101677  
NO: 06-1024-CD  
SERVICE # 1 OF 2  
COMPLAINT

PLAINTIFF: RICHARD O'SHELL, Parent and Natural Guardian of CIERRA O'SHELL, A minor  
vs.

DEFENDANT: TERRI A. CLARKSON and BARBARA JEAN LAING, Executrices of the ESTATE OF  
PATRICIA L. O'SHELL, Deceased

**SHERIFF RETURN**

---

NOW, July 27, 2006 AT 3:35 PM SERVED THE WITHIN COMPLAINT ON TERRI A. CLARKSON, Executrix of the Estate of Patricia L. O'Shell DEFENDANT AT SHERIFF'S OFFICE, 1 N. 2ND ST., SUITE 116, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO TERRI A. CLARKSON, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

**FILED**

AUG 03 2006

0/2:10/4  
William A. Shaw

Prothonotary/Clerk of Courts

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

DOCKET # 101677  
NO: 06-1024-CD  
SERVICE # 2 OF 2  
COMPLAINT

PLAINTIFF: RICHARD O'SHELL, Parent and Natural Guardian of CIERRA O'SHELL, A minor  
vs.

DEFENDANT: TERRI A. CLARKSON and BARBARA JEAN LAING, Executrices of the ESTATE OF  
PATRICIA L. O'SHELL, Deceased

**SHERIFF RETURN**

---

NOW, August 01, 2006 AT 10:57 AM SERVED THE WITHIN COMPLAINT ON BARBARA JEAN LAING, Executrix of the Estate of Patricia L. O'Shell DEFENDANT AT 110 N. 2ND ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DWIGHT KOERBER, ATTORNEY FOR DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER / NEVLING

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101677  
NO: 06-1024-CD  
SERVICES 2  
COMPLAINT

PLAINTIFF: RICHARD O'SHELL, Parent and Natural Guardian of CIERRA O'SHELL, A minor  
vs.

DEFENDANT: TERRI A. CLARKSON and BARBARA JEAN LAING, Executrices of the ESTATE OF  
PATRICIA L. O'SHELL, Deceased

**SHERIFF RETURN**

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RETURN COSTS


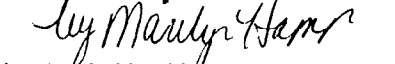
Description	Paid By	CHECK #	AMOUNT
SURCHARGE	MARCUS	37247	20.00
SHERIFF HAWKINS	MARCUS	37247	54.31

Sworn to Before Me This

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

\_\_\_\_\_

So Answers,

Chester A. Hawkins  
Sheriff

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA  
O'SHELL, a Minor,  
Plaintiff

vs.

TERRI A. CLARKSON and  
BARBARA JEAN LAING,  
EXECUTRICES of the ESTATE OF  
PATRICIA L. O'SHELL,  
Defendants

Type of Case: Civil Action

No. 2006-1024-CD

Type of Pleading:  
Praecipe for Entry of  
Appearance

Filed on Behalf of:  
Defendants

Counsel of Record for This  
Party:

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

Dated: August 8, 2006

**FILED** <sup>NO CC</sup>  
m 110:3264  
AUG 09 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

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

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA  
O'SHELL, a Minor,  
Plaintiff

vs.

No. 2006-1024-CD

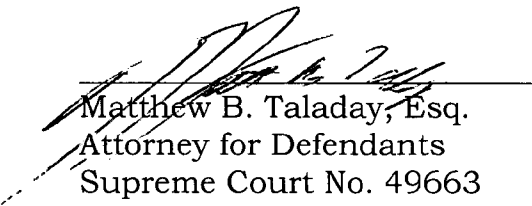
TERRI A. CLARKSON and  
BARBARA JEAN LAING,  
EXECUTRICES of the ESTATE OF  
PATRICIA L. O'SHELL,  
Defendants

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of the Defendants,  
Terri A. Clarkson and Barbara Jean Laing, Executrices of the Estate of  
Patricia L. O'Shell, in the above captioned matter.

Dated: 08/08/06

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

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

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA  
O'SHELL, a Minor,  
Plaintiff

vs.

No. 2006-1024-CD

TERRI A. CLARKSON and  
BARBARA JEAN LAING,  
EXECUTRICES of the ESTATE OF  
PATRICIA L. O'SHELL,  
Defendants

**CERTIFICATE OF SERVICE**

I certify that on the 8th day of August, 2006, a true and  
correct copy of Defendants' Praecipe for Entry of Appearance was sent via  
first class mail, postage prepaid, to the following:

Jonathan B. Mack, Esq.  
Attorney for Plaintiff  
Marcus & Mack  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701

  
Matthew B. Taladay, Esq.  
Attorney for Defendants

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA  
O'SHELL, a Minor,  
Plaintiff

vs.

TERRI A. CLARKSON and  
BARBARA JEAN LAING,  
EXECUTRICES of the ESTATE OF  
PATRICIA L. O'SHELL,  
Defendants

Type of Case: Civil Action

No. 2006-1024-CD

Type of Pleading:  
Answer

Filed on Behalf of:  
Defendants

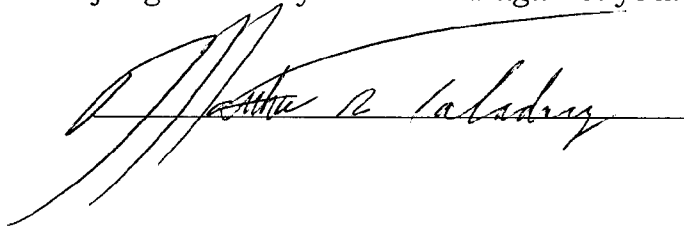
Counsel of Record for This  
Party:

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

JURY TRIAL DEMANDED

Dated: September 1, 2006

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



FILED NO  
m110:5281 CC  
SEP 05 2006

William A. Shaw  
Prothonotary/Clerk of Courts



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

RICHARD O'SHELL, Parent and	:	
Natural Guardian of CIERRA	:	
O'SHELL, a Minor,	:	
Plaintiff	:	
	:	
vs.	:	No. 2006-1024-CD
	:	
TERRI A. CLARKSON and	:	
BARBARA JEAN LAING,	:	
EXECUTRICES of the ESTATE OF	:	
PATRICIA L. O'SHELL,	:	
Defendants	:	

**ANSWER**

AND NOW, come the Defendants, Terri A. Clarkson and Barbara Jean Laing, Executrices of the Estate of Patricia L. O'Shell, by and through their attorneys, Hanak, Guido and Taladay, and hereby responds to Plaintiff's Complaint as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. After reasonable investigation, Defendants are without sufficient information to form a belief as to the truth of the averments of paragraph 4 of Plaintiff's Complaint, therefore, the same are denied and strict proof thereof is demanded at the time of trial.
5. Denied in accordance with Pa.R.C.P. Rule 1029(e).

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

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

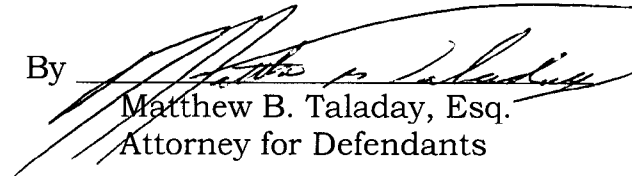
WHEREFORE, Defendants demand judgment in their favor.

A JURY TRIAL IS DEMANDED.

Respectfully submitted,

HANAK, GUIDO and TALADAY

By

  
Matthew B. Taladay, Esq.  
Attorney for Defendants

**VERIFICATION**

I, **Terri A. Clarkson**, Co-Executrix of the Estate of Patricia L. O'Shell, do hereby verify that I have read the foregoing Answer and New Matter. The statements therein are correct to the best of my personal knowledge or information and belief.

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

Date: Aug. 31, 2006

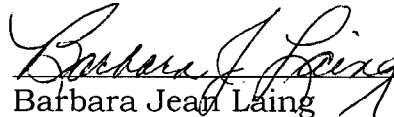
Terri A. Clarkson  
Terri A. Clarkson

**VERIFICATION**

I, **Barbara Jean Laing**, Co-Executrix of the Estate of Patricia L. O'Shell, do hereby verify that I have read the foregoing Answer and New Matter. The statements therein are correct to the best of my personal knowledge or information and belief.

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

Date: 8-31-06

  
Barbara Jean Laing

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

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA  
O'SHELL, a Minor,  
Plaintiff

vs.

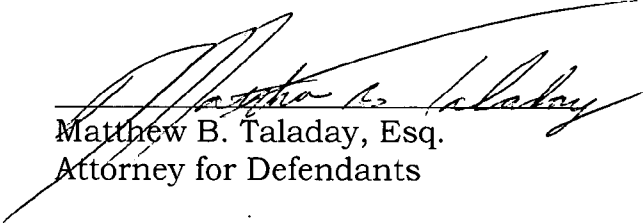
No. 2006-1024-CD

TERRI A. CLARKSON and  
BARBARA JEAN LAING,  
EXECUTRICES of the ESTATE OF  
PATRICIA L. O'SHELL,  
Defendants

**CERTIFICATE OF SERVICE**

I certify that on the 1<sup>st</sup> day of September, 2006, a true  
and correct copy of Defendants' Answer was sent via first class mail,  
postage prepaid, to the following:

Jonathan B. Mack, Esq.  
Attorney for Plaintiff  
Marcus & Mack  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701

  
Matthew B. Taladay, Esq.  
Attorney for Defendants

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA O'SHELL,  
a minor,

Plaintiff,

vs.

TERRI A. CLARKSON and  
BARBARA JEAN LAING, EXECUTRICES  
of the ESTATE OF PATRICIA L. O'SHELL,  
Deceased,

Defendants.

NO. 2006-1024-CD

FILED  
m11:38  
SEP 07 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

**NOTICE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANTS** was served upon the following by U.S. First Class Mail, postage pre-paid this 6<sup>th</sup> day of September, 2006:

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

*Cindy J. Holutz*

**ORIGINAL**

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA  
O'SHELL, a Minor,  
Plaintiff

vs.

TERRI A. CLARKSON and  
BARBARA JEAN LAING,  
EXECUTRICES of the ESTATE OF  
PATRICIA L. O'SHELL,  
Defendants

Type of Case: Civil Action

No. 2006-1024-CD

Type of Pleading:  
Notice of  
Service

Filed on Behalf of:  
Defendants

Counsel of Record for This  
Party:

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

Dated: September 21, 2006

FILED <sup>NO</sup>cc  
m 110.40/61  
SEP 22 2006

William A. Shaw  
Prothonotary/Clerk of Courts

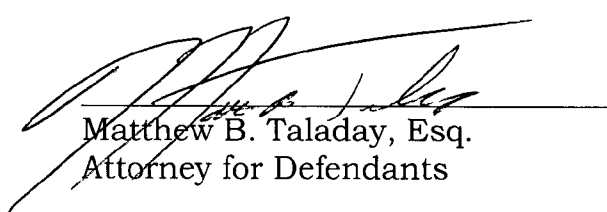
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

RICHARD O'SHELL, Parent and	:	
Natural Guardian of CIERRA	:	
O'SHELL, a Minor,	:	
Plaintiff	:	
	:	
vs.	:	No. 2006-1024-CD
	:	
TERRI A. CLARKSON and	:	
BARBARA JEAN LAING,	:	
EXECUTRICES of the ESTATE OF	:	
PATRICIA L. O'SHELL,	:	
Defendants	:	

**NOTICE OF SERVICE**

I, Matthew B. Taladay, of Hanak, Guido and Taladay, being counsel of record for Defendants, do hereby certify that I propounded on Plaintiff, via United States mail, first class, postage pre-paid, this 21st day of September, 2006, Defendants' RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS to the below indicated person, at said address, being counsel of record for the Plaintiff:

Jonathan B. Mack, Esq.  
Attorney for Plaintiff  
Marcus & Mack  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701

  
Matthew B. Taladay, Esq.  
Attorney for Defendants



IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA O'SHELL,  
a minor,

Plaintiff,

vs.

TERRI A. CLARKSON and  
BARBARA JEAN LAING, EXECUTRICES  
of the ESTATE OF PATRICIA L. O'SHELL,  
Deceased,

Defendants.

NO. 2006-1024-CD

FILED

MAY 16 2008

W/11:30

William A. Shaw

Prothonotary/Clerk of Courts

2 Clerk to Mr. n

**PETITION TO COMPROMISE  
MINOR'S ACTION, ALLOW  
COUNSEL FEES AND EXPENSES,  
AND DIRECT DISTRIBUTION**

Filed on behalf of Plaintiff

Jonathan B. Mack, Esquire  
Counsel for Plaintiff  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID 38970

ORIGINAL

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA O'SHELL,  
a minor,

NO. 2006-1024-CD

Plaintiff,

vs.

TERRI A. CLARKSON and  
BARBARA JEAN LAING, EXECUTRICES  
of the ESTATE OF PATRICIA L. O'SHELL,  
Deceased,

Defendants.

**PETITION TO COMPROMISE MINOR'S ACTION, ALLOW COUNSEL FEES  
AND EXPENSES, AND DIRECT DISTRIBUTION**

TO THE JUDGES OF YOUR HONORABLE COURT:

This Petition respectfully represents:

1. Your Petitioners, Susan O'Shell and Richard O'Shell, are the parents and natural guardians of Cierra O'Shell, whose date of birth is March 12, 1999.

2. Petitioners reside with the minor child at 94 Gillen Lane, Irvona, Clearfield County, Pennsylvania.

3. On January 30, 2003, Cierra O'Shell was the victim of an unprovoked attack by a dog belonging to Defendants' Decedent, Patricia L. O'Shell. Cierra was an invited guest on the property when the dog attacked her and bit her in the left eye area.

4. As a result of the aforesaid incident, Cierra O'Shell was taken to the Emergency Department of Altoona Hospital where the diagnosis of canicular laceration of the upper eye lid

and full thickness laceration of the left lower eye lid was made. Under general anesthesia, these lacerations were sutured and a tube was inserted into the lacerated tear duct.

5. On March 12, 2003, Cierra was again placed under general anesthesia for suture removal. At that time, the lower lid laceration was found to be infected and an antibiotic was prescribed. In late 2003, Cierra was treated for a granuloma of the left eye which did resolve with the use of topical corticosteroids. Cierra has since been released from active medical care.

6. A gross lien in the amount of Three Thousand Eight Hundred Seven and 80/100 (\$3,807.80) Dollars exists with Blue Cross/Blue Shield for medical expenses paid in connection with this action. Blue Cross/Blue Shield has agreed to reduce this lien to Eight Hundred Forty-Nine and 61/100 (\$849.61) Dollars which shall be paid from the settlement proceeds.

7. No other subrogation liens exist with regard to this action. There are no other outstanding accident related medical bills.

8. The parties are willing to enter into a compromise of this action on behalf of the above-named minor child as follows: Erie Insurance Exchange, on behalf of its insured, Patricia O'Shell, deceased; namely, Terri A. Clarkson and Barbara Jean Laing, Executrices of the Estate of Patricia L. O'Shell, shall pay the sum of Five Thousand Five Hundred and 00/100 (\$5,500.00) Dollars. A copy of the proposed Release is attached hereto, marked as Exhibit "A".

9. Under the circumstances, all interested parties believe that the above compromise is in the best interest of the minor child and represents a fair, complete and final disposition of all claims on behalf of said minor child.

10. Marcus & Mack have been attorneys for the minor child in this action and request counsel fees for services rendered which, in our opinion, are reasonable fees, to be approved not according to the Fee Agreement, which was 33-1/3%, but at a reduced fee of 25% as follows: the

sum of One Thousand Three Hundred Seventy-Five and 00/100 (\$1,375.00) Dollars, plus reimbursement for costs expended in the amount of Four Hundred Forty-Six and 56/100 (\$446.56) Dollars.

Copies of the Fee Agreement and proposed Settlement Statement are attached hereto and made a part hereof, marked Exhibits "B" and "C" respectively.

11. The net proceeds remaining due Cierra O'Shell are Two Thousand Eight Hundred Twenty-Eight and 83/100 (\$2,828.83) Dollars.

12. No Guardian of the Estate for said minor child qualified to receive said funds has been appointed. The Petitioners have been advised, and therefore believe, that Your Honorable Court will require the payment of these monies into Trust.

We, therefore, ask that the Court:

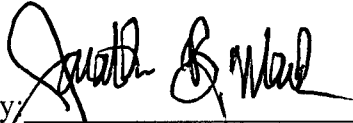
(a) Approve the compromise above stated;

(b) Authorize payment of attorneys fees and costs advanced above stated from the funds due the minor child; and

(c) Direct that the payment of Two Thousand Eight Hundred Twenty-Eight and 83/100 (\$2,828.83) Dollars, which represents the remaining net funds due the minor child, Cierra O'Shell, be made payable to Susan O'Shell and Richard O'Shell, parents and natural guardians of said minor child, and the bank or financial institution of their choosing, as said net proceeds for the above-named minor child shall be deposited in Trust at an institution insured by a federal government agency until Cierra O'Shell attains the legal age of eighteen (18) years.

RESPECTFULLY SUBMITTED:

MARCUS & MACK, P.C.

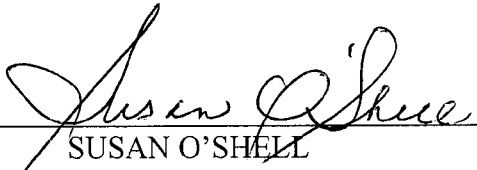
By: 


---

Jonathan B. Mack, Esquire  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
(724) 349-5602  
Sup. Ct. ID:38970

**VERIFICATION**

We, Susan O'Shell and Richard O'Shell, the parents and natural guardians of Cierra O'Shell, minor child, verify that the averments of the foregoing document are true and correct to the best of our knowledge, information and belief. We understand that false statements herein are made subject to the penalties of 18 Pa. C. S. A. §4904, relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
SUSAN O'SHELL

  
\_\_\_\_\_  
RICHARD O'SHELL

## RELEASE

For the consideration of Five Thousand, Five Hundred (\$5,500.00) Dollars, receipt of which is hereby acknowledged, I release and discharge, and for myself/my minor child, Sierra O'Shell, and for my/her heirs, representatives, executors, administrators, successors and assigns, do hereby remise, release and forever discharge TERRI A. CLARKSON and BARBARA JEAN LAING, Executrices of the ESTATE OF PATRIACIA L. O'SHELL, and ERIE INSURANCE EXCHANGE hereinafter referred to as the releasees, their heirs, executors, administrators, insurers, successors and assigns, of and from any and all causes of action, suits, rights, judgments, and claims arising out of an incident which occurred on or about January 30, 2003 and which is the subject of Clearfield County Civil Action No. 2206-1024-CD.

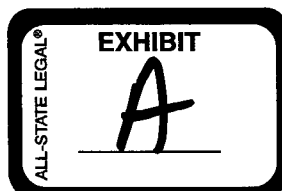
I agree that in consideration set forth above is specifically applicable to and paid to me with respect to any and all personal or bodily injury of my minor child, whether presently known or unknown, foreseen or unforeseen or which may subsequently develop and the consequences thereof, all as arising out of the aforementioned incident.

I further agree that the consideration set forth above is specifically applicable to my agreement that I will not join nor attempt to join the releasees, their executors, administrators, insurers, successors and assigns in any capacity, in any action that may be brought against me arising out of said incident.

Intending to be legally bound hereby, WITNESS my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2008.

WITNESS:

\_\_\_\_\_  
Richard O'Shell, Parent and Natural  
Guardian of Sierra O'Shell, a Minor (SEAL)



57 South 6th Street  
P.O. Box 1107  
Indiana, PA 15701  
800-488-0338  
724-349-5602  
724-349-8362 (Fax)

The Grant Building  
Suite 2220  
310 Grant Street  
Pittsburgh, PA 15219  
412-391-3990  
412-391-6673 (Fax)

## CONTINGENT FEE AGREEMENT

THIS AGREEMENT, made this **25th day of September 2003**, between **MARCUS & MACK**, as Attorney, and **Richard and Susan O'Shell, Parents and Natural Guardians of Cierra O'Shell, A MINOR** as Client.

1. Client retains Attorney to institute suit, adjust or settle such claims or actions as may be deemed advisable by Attorney and agreed to by Client, to recover damages from any person(s), firm(s) or corporation(s) deemed to be liable with respect to personal injuries suffered by Client on or about **01-30-03**.

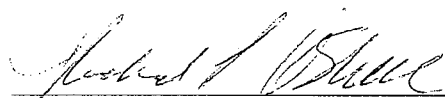
2. In consideration of the services rendered and to be rendered, it is agreed that Attorney shall deduct and retain 33 1/3% from any gross settlement (whether prior to or after litigation) as his fee. Costs advanced will be reimbursed from Client's proceeds and returned to Attorney's account. Examples of costs include Medical Records and Physicians Reports.

3. If the Client's case is litigated, Attorney is authorized to pay from the share of Client witness fees, court costs and any other expenses constituting the claim of Client or necessary to the recovery of the claim. Litigation is not instituted without the Client's approval except to preserve the Statute of Limitation.

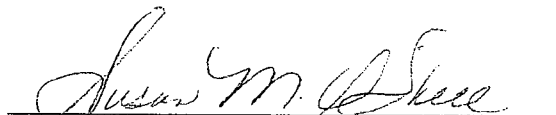
4. This Agreement does not contemplate any appeal to any appellate court.

5. Should no money be received by suit or settlement, Attorney shall have no claim against Client for professional services rendered.

6. CLIENT ACKNOWLEDGES RECEIPT OF ORIGINAL AGREEMENT.



Richard O'Shell, Father

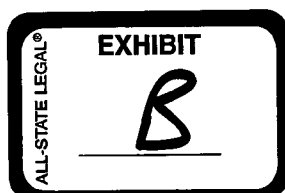


Susan O'Shell, Mother

MARCUS & MACK, P. C.

By: 

ROBERT S. MARCUS, ESQUIRE





# MARCUS & MACK

Attorneys at Law

A PROFESSIONAL CORPORATION

■ 1-(800) 488-0338  
www.marcusandmack.com

The Mitchell House ■ 57 South 6th Street ■ P.O. Box 1107 ■ Indiana, PA 15701

■ (724) 349-5602  
(724) 349-8362 (Fax)

## SETTLEMENT STATEMENT

### CIERRA O'SHELL

AMOUNT RECEIVED FROM ERIE INSURANCE EXCHANGE		\$5,500.00
LESS ATTORNEY FEES (REDUCED TO 25%)		- 1,375.00
		\$4,125.00
<u>LESS COSTS ADVANCED:</u>		
(SEE ATTACHED LISTING)		
TOTAL ADVANCED COSTS		- 446.56
SUBTOTAL		\$3,678.44
LESS BLUE CROSS/BLUE SHIELD LIEN	\$3,807.80	
LESS REDUCTION AGREED TO BY BC/BS	-2,958.19	
TOTAL COMPROMISED BC/BS LIEN	\$849.61	- 849.61
SUBTOTAL		\$2,828.83
NET SETTLEMENT PROCEEDS - Cierra O'Shell		<u>\$2,828.83</u>

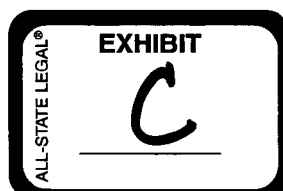
We, Susan O'Shell and Richard O'Shell, parents and natural guardians of Cierra O'Shell, a minor, have read this Settlement Statement, and acknowledge that the above settlement reflects the full and final settlement of all claims we have, or may have on behalf of our minor child, Cierra O'Shell. We understand that the execution of the Release will dismiss any and all claims, forever against Erie Insurance Exchange, Terri A. Clarkson and Barbara Jean Laing, Executrices of the Estate of Patricia L. O'Shell, or any other possible defendant, in connection with an incident which occurred on January 30, 2003. We further understand that any remaining or unpaid costs are our responsibility. We have been given a copy of this Statement for our records.

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

\_\_\_\_\_  
SUSAN O'SHELL

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

\_\_\_\_\_  
RICHARD O'SHELL



MARCUS & MACK, P.C.  
The McCall House  
57 South 6th Street  
P. O. Box 1107  
Indiana, PA 15701

SETTLEMENT STATEMENT

Cierra MINOR O'Shell  
94 Gillen Lane  
PO Box 301  
Irvona PA 16656

Page: 1  
February 14, 2008  
Client #: 2883-00A

Draft Statement

10/21/03	ChartOne, Inc. - Altoona Hospital, Medical Records	62.35
11/19/03	Smart Document Solutions, LLC - Medical Records	21.48
12/08/03	++++++BLUE CROSS/BLUE SHIELD++++++	n/c
05/26/04	Altoona Ophthalmology Associates, Medical Records	10.00
02/04/05	Randy Davis Photography	16.96
05/19/05	Altoona Ophthalmology Assoc. - Narrative Report	25.00
07/13/05	Randy Davis Photography - left eye	16.96
05/16/06	Clearfield County REgister of Wills - Certified Copy of Petition and Grant of Letters	2.00
06/26/06	Clearfield County Prothonotary - Filing Fees for Complaint	85.00
06/26/06	Clearfield County Sheriff - Sheriff's Fees, Service of Complaint	100.00
06/27/06	Gittings Investigation - Terri Clarkson	132.50
	TOTAL COSTS ADVANCED	472.25
	NET COSTS ADVANCED	472.25
08/07/06	Clearfield County Sheriff - refund of overpayment	-25.69
	ADDITIONAL COSTS DUE MARCUS & MACK	<u>\$446.56</u>

I have read this Settlement Statement and understand that any remaining or unpaid costs are my responsibility. I have been given a copy of this Statement for my records.  
Date: \_\_\_\_\_ Signed: \_\_\_\_\_

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA O'SHELL,  
a minor,  
Plaintiff,

NO. 2006-1024-CD

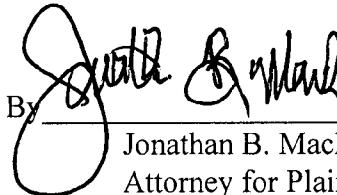
vs.

TERRI A. CLARKSON and  
BARBARA JEAN LAING, EXECUTRICES  
of the ESTATE OF PATRICIA L. O'SHELL,  
Deceased,  
Defendants.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Petition to Compromise Minor's  
Action, Allow Counsel Fees and Expenses and Direct Distribution was served upon the following  
by U.S. First Class Mail, postage pre-paid this 14<sup>th</sup> day of May, 2008:

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

By   
Jonathan B. Mack, Esquire  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA O'SHELL,  
a minor,

NO. 2006-1024-CD

Plaintiff,

vs.

TERRI A. CLARKSON and  
BARBARA JEAN LAING, EXECUTRICES  
of the ESTATE OF PATRICIA L. O'SHELL,  
Deceased,

Defendants.

**FILED**  
06:37/01  
MAY 19 2008

William A. Shaw  
Prothonotary/Clerk of Courts  
2 cc Atty Mack

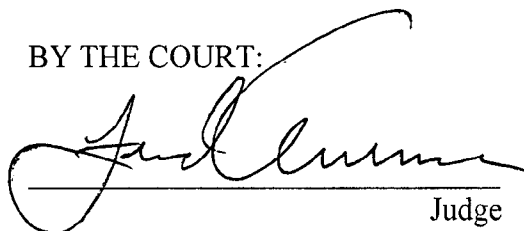
**ORDER OF COURT**

AND NOW, this 19<sup>th</sup> day of May, 2008, upon Petition of Marcus & Mack,  
P.C., it is Ordered and Directed that the above settlement and proposed distribution are approved.

The net settlement funds to be distributed on behalf of the minor child, Cierra O'Shell, in the amount of Two Thousand Eight Hundred Twenty-Eight and 83/100 (\$2,828.83) Dollars shall be made payable to Susan O'Shell and Richard O'Shell, her parents and natural guardians, and the bank or financial institution of their choosing.

The above-mentioned proceeds shall be deposited into an interest-bearing account on behalf of Cierra O'Shell at an institution insured by a federal government agency. This deposit, with accrued interest, shall not exceed the amount of deposit insurance provided by the appropriate federal agency. These monies may not be withdrawn before Cierra O'Shell attains the age of majority, except by Order of this Court. Upon Cierra O'Shell having attained the age of eighteen (18) years (03/12/2017), the said proceeds, together with all accrued interest, shall be paid to her. Proof of deposit shall be promptly filed of record.

BY THE COURT:

  
Judge

FILED

MAY 19 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 5/19/08

☒ You are responsible for serving all appropriate parties.

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

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

FILED  
MAY 16 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD O'SHELL, Parent and  
Natural Guardian of CIERRA O'SHELL,  
a minor,

NO. 2006-1024-CD

Plaintiff,

vs.

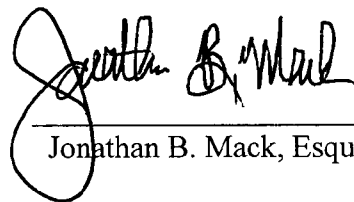
TERRI A. CLARKSON and  
BARBARA JEAN LAING, EXECUTRICES  
of the ESTATE OF PATRICIA L. O'SHELL,  
Deceased,

Defendants.

**FILED**  
m 11:14 a.m. GK  
JUL 23 2008 ICC Amy  
William A. Shaw  
Prothonotary/Clerk of Courts

**AFFIDAVIT**

AND NOW, COMES Marcus & Mack, P.C., counsel for Cierra O'Shell, the minor child in the above-captioned matter, who, having been duly sworn according to law, deposes and says that the net proceeds due to the minor child were deposited by Susan O'Shell and Richard O'Shell, her parents and natural guardians, into an interest-bearing account on behalf of the minor child on July 8, 2008, as evidenced by the deposit receipt attached hereto.

  
Jonathan B. Mack, Esquire

Sworn to and subscribed before me this

22<sup>nd</sup> day of July, 2008.

  
NOTARY PUBLIC

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Denise M. Fleming, Notary Public  
Indiana Boro, Indiana County  
My Commission Expires Nov. 30, 2010  
Member, Pennsylvania Association of Notaries

Page: 1 Document Name: untitled

Command ==&gt; STII

PAGE 01 OF 02 07/22/08

## ACCOUNT INFORMATION

10:24:39

Account 01011900003219 Ctl2 001 Ctl3 000 Ctl4 000 Ctl1 01 CURR

Prod Type 430 30 - 35 MONTH CD

## --- BALANCES ---

CIERRA OSHELL	Memo Bal	2828.83
PUTMA SUSAN OSHELL	Current Bal	2828.83
AND RICHARD P OSHELL	Closing Bal	2781.36
94 GILLEN LN	Coll Bal	2828.83
PO BOX 301	Holds	0.00
IRVONA PA 16656-0301	Pledges	0.00

Cust Nbr	Dt Opened	07/08/08	----- DRS / CRS -----
TIN	Dt Last Dr	00/00/00	Last Dr 0.00
Short Name OSHELL CIERRA	Dt Last Cr	00/00/00	Last Cr 0.00
Branch 011 Officer DFK	Dt Last Mnt	00/00/00	Dr Tdy 0 0.00
ACTIVE	----- MATURITY -----		Cr Tdy 0 0.00

## --- INTEREST ---

Period M	Incr	035	
Annv Day	08	Dly Accr	0.285983
Unrdm Accr	1	Accrd Int	4.003762
Prin Dist	0	Proj Accrd	4.00
Auto Renew	2	Redep Int	0.00
Nxt Mat Dt	06/08/2011	YTD Int	0.00

PERSONAL

PF1-Fwd PF4-Hist PF5-Redis PF12-Help PF14-S/H Inq