

06-1168-CD -

Andrew Volchko et al vs Cheryl Johnston

2006-1168-CD

Andrew Volchko et al vs Cheryl Johnston

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANDREW VOLCHKO and TERESA VOLCHKO,  
Husband and Wife and SHELBY VOLCHKO, a  
minor by and through her parents, ANDREW and  
TERESA VOLCHKO,

Plaintiffs ,

GD: \_\_\_\_\_ of 2006

2006-1168- CD

vs.

CHERYL JOHNSTON,

An adult Individual

PRAECIPE FOR WRIT OF SUMMONS  
CIVIL ACTION- TRESPASS

Filed on Behalf of Plaintiffs,  
Andrew Volchko, Teresa Volchko  
and Shelby Volchko

Counsel of Record For This  
Party:

Leslie D. Michel, Esquire  
PA ID #09766

226 Elmore Road  
Forest Hills, PA 15221

(412) 241-4129

FILED

JUL 21 2006

AM 1:50 PM

William A. Shaw  
Prothonotary/Clerk of Courts

I CERT w/ *Summons*

to *Att*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANDREW VOLCHKO and TERESA VOLCHKO,  
Husband and Wife and SHELBY VOLCHKO, a  
minor by and through her parents, ANDREW and  
TERESA VOLCHKO,

Plaintiffs

GD: \_\_\_\_\_ of 2006

vs.

CHERYL JOHNSTON,

An adult Individual

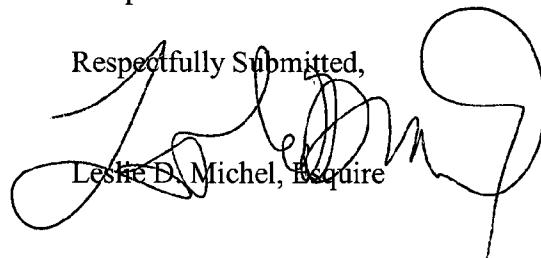
PRAECIPE FOR WRIT OF SUMMONS:

TO: William A. Shaw, Prothonotary:

Kindly issue a Writ of Summons for the above caption civil matter.

Respectfully Submitted,

Leslie D. Michel, Esquire

A handwritten signature in black ink, appearing to read "Leslie D. Michel, Esquire", is written over a stylized, swirling line drawing that resembles a map or a signature itself.

FILED  
JUL 21 2006

William A. Shaw  
Prothonotary/Clerk of Courts

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

**SUMMONS**

**Andrew Volchko and Teresa Volchko,  
Husband and Wife and Shelby Volchko, a  
minor by and through her parents, Andrew  
Volchko and Shelby Volchko  
Plaintiffs,**

Vs.

**NO.: 2006-01168-CD**

**Cheryl Johnston  
An adult Individual**

TO: **CHERYL JOHNSTON**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 07/21/2006

---

**William A. Shaw  
Prothonotary**

Issuing Attorney:

Leslie D. Michel  
226 Elmore Road  
Forest Hills, PA 15221  
412-241-4129

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101757  
NO: 06-1168-CD  
SERVICE # 1 OF 1  
SUMMONS

PLAINTIFF: ANDREW VOLCHKO and TERESA VOLCHKO, husband & wife and SHELBY VOLCHKO,  
A MINOR BY & THROUGH HER PARENTS

vs.

DEFENDANT: CHERYL JOHNSTON

**SHERIFF RETURN**

---

NOW, July 31, 2006 AT 1:05 PM SERVED THE WITHIN SUMMONS ON CHERYL JOHNSTON DEFENDANT AT  
SHERIFF'S OFFICE, 1 N. 2ND ST., SUITE 116, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY  
HANDING TO CHERYL JOHNSTON, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL  
SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HAWKINS /

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	BACHARACH	3830	10.00
SHERIFF HAWKINS	BACHARACH	3830	42.14

**FILED**

0/3:10 LM

AUG 10 2006 LM

William A. Shaw  
Prothonotary

Sworn to Before Me This

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

So Answers,

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

FILED

AUG 10 2006

William A. Shaw  
Prothonotary

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

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

Plaintiffs,

v.

CHERYL JOHNSTON,

Defendant.

: No. 2006-01168-CD  
: TYPE OF PLEADING:  
: **PRAECIPE FOR ENTRY OF**  
: **APPEARANCE**  
: TYPE OF CASE: CIVIL  
: FILED ON BEHALF OF:  
: **DEFENDANT**  
: COUNSEL OF RECORD FOR  
: FOR THIS PARTY:  
: KATHERINE V. OLIVER, ESQ.  
: I.D. NO. 77069  
: JAMES M. HORNE, ESQ.  
: I.D. NO. 26908  
: McQUAIDE, BLASKO,  
: FLEMING & FAULKNER, INC.  
: 811 University Drive  
: State College, PA 16801  
: PH# (814) 238-4926

**FILED**

DEC 29 2006

12:45 PM

William A. Shaw

Prothonotary/Clerk of Courts

No. 4c

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

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO, :  
Plaintiffs, :  
v. :  
CHERYL JOHNSTON, :  
Defendant. :

**PRAECIPE FOR ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Please enter our appearance on behalf of the Defendant, Cheryl Johnston, in the above-captioned matter.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

Dated: December 28, 2006

By: 

Katherine V. Oliver, Esquire  
I.D. No. 77069  
James M. Horne, Esquire  
I.D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Attorneys for Defendant

FILED  
DEC 29 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

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

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

Plaintiffs,

v.

CHERYL JOHNSTON,

Defendant.

: No. 2006-01168-CD  
: TYPE OF PLEADING:  
: **PRAECIPE FOR RULE TO**  
: **FILE COMPLAINT**  
: TYPE OF CASE: CIVIL  
: FILED ON BEHALF OF:  
: **DEFENDANT**  
: COUNSEL OF RECORD FOR  
: FOR THIS PARTY:  
: KATHERINE V. OLIVER, ESQ.  
: I.D. NO. 77069  
: JAMES M. HORNE, ESQ.  
: I.D. NO. 26908  
: McQUAIDE, BLASKO,  
: FLEMING & FAULKNER, INC.  
: 811 University Drive  
: State College, PA 16801  
: PH# (814) 238-4926

FILED

DEC 29 2006  
M 112:40 (W)  
William A. Shaw  
Prothonotary/Clerk of Courts  
no C/c fee Kopis

Issue Date to Atty

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

ANDREW VOLCHKO and TERESA, :  
VOLCHKO, husband and wife, and : No. 2006-01168-CD  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
Plaintiffs, :  
v. :  
CHERYL JOHNSTON, :  
Defendant. :

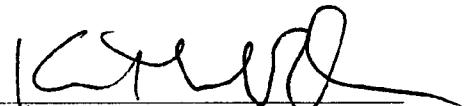
**PRAECIPE FOR RULE TO FILE COMPLAINT**

TO THE PROTHONOTARY:

Please issue a Rule on Plaintiffs to file their Complaint within twenty (20) days from service thereof or suffer a judgment of non pros against them.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

Dated: December 28, 2006

By:   
Katherine V. Oliver, Esquire  
I.D. No. 77069  
James M. Horne, Esquire  
I.D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Attorneys for Defendant

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

ANDREW VOLCHKO and TERESA, :  
VOLCHKO, husband and wife, and : No. 2006-01168-CD  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
Plaintiffs, :  
v.  
: :  
CHERYL JOHNSTON, :  
: :  
Defendant. : :  
:

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of our Praeclipe for Entry of Appearance and Praeclipe for Rule to File Complaint on behalf the Defendant Cheryl Johnston, in the above-captioned matter was mailed by U.S. 1<sup>st</sup> Class Mail, postage prepaid, on this 28<sup>th</sup> day of December, 2006, to the attorney of record:

Leslie D. Michel  
226 Elmore Road  
Forest Hills, PA 15221

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire  
I.D. No. 77069  
James M. Horne, Esquire  
I. D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Attorneys for Defendant

Prothonotary/Clerk of Courts  
William A. Shaw

DEC 29 2006

FILED

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

ANDREW VOLCHKO and TERESA, :  
VOLCHKO, husband and wife, and : No. 2006-01168-CD  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
Plaintiffs, :  
v.  
CHERYL JOHNSTON, :  
Defendant. :

**RULE**

To: Andrew & Teresa Volchko &  
Shelby Volchko, a minor, by  
and through her parents,  
Andrew & Teresa Volchko  
c/o Leslie D. Michel  
226 Elmore Road  
Forest Hills, PA 15221

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 Shaw, Prothonotary

[SEAL]

Dated: December 29, 2006

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

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

ANDREW VOLCHKO and TERESA  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
Through her parents, ANDREW VOLCHKO  
And TERESA VOLCHKO,

No. 2006-01168-CD

Plaintiffs,

Vs.

CHERYL JOHNSTON,

Defendant.

**COMPLAINT IN  
CIVIL ACTION**

Code: 01

Filed on Behalf of:  
PLAINTIFFS

Counsel of Record for  
this Party:

EVAN E. LLOYD,  
ESQUIRE  
Pa. I.D. #10481  
Suite LL400-Fort Pitt  
Commons  
445 Fort Pitt Boulevard  
Pittsburgh, PA 15219

(412) 471-6898

FILED  
m/12:12pm  
MAR 12 2007  
WM  
No cc.

William A. Shaw  
Prothonotary/Clerk of Courts

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

ANDREW VOLCHKO and TERESA )No. 2006-01168-CD  
VOLCHKO, husband and wife, and )  
SHELBY VOLCHKO, a minor, by and )  
Through her parents, ANDREW VOLCHKO)  
And TERESA VOLCHKO, )  
 )  
 Vs. )  
 )  
 CHERYL JOHNSTON, )  
 )  
 Defendant. )  
 )

**NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served 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 of 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.**

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

ANDREW VOLCHKO and TERESA )No. 2006-01168-CD  
VOLCHKO, husband and wife, and )  
SHELBY VOLCHKO, a minor, by and )  
Through her parents, ANDREW VOLCHKO)  
And TERESA VOLCHKO, )  
 )  
Vs. )  
 )  
CHERYL JOHNSTON, )  
 )  
Defendant. )  
 )

**COMPLAINT IN CIVIL ACTION**

AND NOW, comes the Plaintiffs, by and through their attorney,  
EVAN E. LLOYD, ESQUIRE, and presents this Complaint in Civil Action  
based on the following averments:

1. Plaintiffs are all residents of Allegheny County, Pennsylvania. Plaintiffs ANDREW VOLCHKO and TERESA VOLCHKO are married to each other and are the parents and natural guardians of the Plaintiff SHELBY VOLCHKO, a minor.
2. Defendant, CHERYL JOHNSTON is an adult with a last known residence believed to be 635 North Street, Rockton, PA 15856.
3. The events hereinafter complained of occurred on or about July 23, 2004 at or about 11:30 a.m. on State Route 255 located in Sandy Township, Clearfield County, Pennsylvania at or near the intersection with

Industrial Drive.

4. At the above said time and date, the Plaintiffs were situated in a motor vehicle driven and operated by the plaintiff Andrew Volchko. At the time of the incident in question, the plaintiff's vehicle was stopped in a line of traffic and intending to proceed in a southerly direction on said State Route 255.

5. While the Plaintiffs were so situated as indicated above, the Defendant was operating her motor vehicle in a southerly direction on said State Route 255 directly behind the plaintiffs' vehicle. Suddenly and without warning, the defendant caused her vehicle to violently collide with the rear portion of the plaintiffs' vehicle.

6. As a result of the violent collision that occurred between the Defendant's vehicle and the Plaintiffs', the Plaintiffs were thrown in and about their motor vehicle and were caused to suffer the serious and severe injuries and damages as hereinafter described.

#### **COUNT I**

#### **ANDREW VOLCHKO vs. CHERYL JOHNSTON**

7. Paragraphs 1 through 6 are hereby incorporated herein as if more fully set forth.

8. The injuries sustained and damages incurred by the Plaintiff, as more fully described hereinafter, were the direct and proximate result of the negligence of the Defendant, CHERYL JOHNSTON, in operating her vehicle as follows:

- a) Driving at excessive rate of speed;
- b) failing to keep her vehicle under control;
- c) failing to keep her vehicle properly maintained;
- d) failing to drive carefully and lawfully upon the roads of the Commonwealth of Pennsylvania;
- e) failing to operate a motor vehicle in a proper reasonable and adequate manner under the circumstances;
- f) failing to take evasive action to avoid colliding with the rear portion of the Plaintiffs' vehicle, as described;
- g) In failing to properly and carefully maintain the operation of her vehicle in the southbound lane of said State Route 255.
- h) failing to maintain an assured clear distance ahead.
- i) failing to operate a motor vehicle in a proper, reasonable and adequate manner under the circumstances.

- j) in failing to keep a proper and safe distance between her vehicle and other vehicles traveling in the same direction, such as the Plaintiffs;
- k) in violating the rules of the motor vehicle code of the Commonwealth of Pennsylvania;
- l) negligence as a matter of law;

9. As a direct and proximate result of the negligence the Defendant as hereinbefore set forth, the Plaintiff, ANDREW VOLCHKO, incurred the following serious and severe injuries all of which may be permanent in nature:

- a) severe sprain, strain and injury and damage to the bones, joints, muscles, ligaments, tendons, discs, nerves and tissues of the head, neck, shoulder, back and other parts of his body;
- b) headaches;
- c) severe shock, injury and damage to nerves and nervous system;
- d) Severe impairments of bodily functions;

10. At the time of the above described incident, the Plaintiff, ANDREW VOLCHKO as well as the other plaintiffs, were insured under a Full Tort alternative insuring agreement with a company identified as American National Property and Casualty Company with a policy number identified as 37-A-F39-409-9.

11. As a direct result of the Defendant's aforesaid negligence, the Plaintiff, ANDREW VOLCHKO, has sustained such injuries as to necessitate undergoing medical and chiropractic attention and care. Furthermore the plaintiff has been and may be obliged to continue to expend sums of money for necessary medical and chiropractic care and treatment.

12. As a direct result of the Defendant's negligence, the Plaintiff, ANDREW VOLCHKO has at times been prevented from performing all of the material acts and duties that constitute his usual, customary and daily activities.

13. As a further direct result of the Defendant's negligence, the Plaintiff, ANDREW VOLCHKO, has suffered and may suffer great pain, inconvenience, embarrassment, mental anguish, and his general health, strength and vitality have been impaired.

14. The Plaintiff, ANDREW VOLCHKO, has suffered and may suffer in the future a loss of the joys of life.

15. The Plaintiff, ANDREW VOLCHKO, may have suffered and may suffer in the future from loss of earnings and a diminishment of earning power.

16. As a result of the injuries and damages sustained by his wife, in this incident, the Plaintiff, ANDREW VOLCHKO, has sustained a loss of services of his wife and claim is therefore made for damages as a result of that loss of services.

17. As a result of the injuries and damages sustained by his daughter, the Plaintiff SHELBY VOLCHKO, the Plaintiff ANDREW VOLCHKO has been deprived the services of his daughter and has also been required to expend sums of moneys for the necessary medical and chiropractic care and treatment of his daughter SHELBY VOLCHKO.

WHEREFORE, Plaintiff, ANDREW VOLCHKO, demands judgment against the Defendant, CHERYL JOHNSTON, in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

## **COUNT II**

### **TERESA VOLCHKO vs. CHERYL JOHNSTON**

18. Paragraphs 1 through 17 are hereby incorporated herein as if more fully set forth.

19. As a direct and proximate result of the negligence of the Defendant, CHERYL JOHNSTON, as hereinbefore set forth, the Plaintiff, TERESA, incurred the following severe and serious injuries, all of which may be permanent in nature:

- a) severe sprain, strain and injury and damage to the bones, joints, muscles, ligaments, tendons, discs, nerves and tissues of the head, neck, shoulder, back and other parts of his body;
- b) severe and prolonged headaches
- c) severe shock, injury and damage to nerves and nervous system;
- d) Severe impairments of bodily functions;

20. As a direct result of the Defendant's aforesaid negligence, the Plaintiff, TERESA VOLCHKO, has sustained such injuries as to necessitate undergoing medical and chiropractic attention and care. Furthermore the plaintiff has been and may be obliged to continue to expend sums of money

for necessary medical and chiropractic care and treatment.

21. As a direct result of the Defendant's negligence, the Plaintiff, TERESA has at times been prevented from performing all of the material acts and duties that constitute her usual, customary and daily activities.

22. As a further direct result of the Defendant's negligence, the Plaintiff, TERESA VOLCHKO, has suffered and may suffer great pain, inconvenience, embarrassment, mental anguish, and her general health, strength and vitality have been impaired.

23. The Plaintiff, TERESA VOLCHKO, has suffered and may suffer in the future a loss of the joys of life.

24. As a result of the injuries and damages sustained by her husband in this incident, the Plaintiff, TERESA VOLCHKO, has sustained a loss of services of her husband and claim is therefore made for damages as a result of that loss of services.

25. As a result of the injuries and damages sustained by her daughter, the Plaintiff SHELBY VOLCHKO, the Plaintiff TERESA VOLCHKO has been deprived the services of her daughter and has also been required to expend sums of moneys for the necessary medical and chiropractic care and treatment of her daughter SHELBY VOLCHKO

WHEREFORE, Plaintiff, TERESA VOLCHKO, demands judgment against the Defendant, CHERYL JOHNSTON, in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

### COUNT III

ANDREW VOLCHKO AND TERESA VOLCHKO, the parents and natural guardians of SHELBY VOLCHKO, a minor by and through her parents, ANDREW VOLCHKO AND TERESA VOLCHKO vs. CHERYL JOHNSTON.

26. Paragraphs 1 through 25 are hereby incorporated herein as if more fully set forth.

27. As a direct and proximate result of the negligence of the Defendant, CHERYL JOHNSTON, as hereinbefore set forth, the Plaintiff, SHELBY, incurred the following severe and serious injuries, all of which may be permanent in nature:

- a) severe sprain, strain and injury and damage to the bones, joints, muscles, ligaments, tendons, discs, nerves and

tissues of the head, neck, shoulder, back and other parts of his body;

- b) severe and prolonged headaches
- c) severe shock, injury and damage to nerves and nervous system;
- d) Severe impairments of bodily functions;

28. As a direct result of the Defendant's aforesaid negligence, the Plaintiff, SHELBY VOLCHKO has sustained such injuries as to necessitate undergoing medical and chiropractic attention and care. Furthermore the Plaintiff has been and may be obliged to continue to expend sums of money for necessary medical and chiropractic care and treatment.

29. As a direct result of the Defendant's negligence, the Plaintiff, SHELBY VOLCHKO has at times been prevented from performing all of the material acts and duties that constitute her usual, customary and daily activities.

30. As a further direct result of the Defendant's negligence, the Plaintiff, SHELBY VOLCHKO, has suffered and may suffer great pain, inconvenience, embarrassment, mental anguish, and her general health, strength and vitality have been impaired.

31. The Plaintiff, SHELBY VOLCHKO, has suffered and may suffer in the future a loss of the joys of life.

WHEREFORE, Plaintiff, SHELBY VOLCHKO, by and through her parents the Plaintiffs, ANDREW VOLCHKO and TERESA VOLCHKO, demand judgment against the Defendant, CHERYL JOHNSTON, in an amount in excess of the Arbitration limits of the Court of Common Pleas of Clearfield County, Pennsylvania.

Respectfully Submitted,



EVAN E. LLOYD  
Attorney for Plaintiffs

**JURY TRIAL DEMANDED**

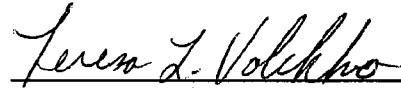
## VERIFICATION

The undersigned, Plaintiffs,  
aver that the statements of fact contained in the attached  
CCMPLAINT are true and correct to the best of  
Their information, knowledge and belief, and are made subject  
to the penalties of 18 Pa. Cons. Stat. Ann. Section 4904 relating to unsworn  
falsification to authorities.

Dated: March 2, 2007



Andrew Volchko



Teresa Volchko

**FILED**

**MAR 12 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

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

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

Plaintiffs,

v.

CHERYL JOHNSTON,

Defendant.

: No. 2006-01168-CD  
: TYPE OF PLEADING:  
**DEFENDANT'S PRAECIPE TO  
LIST FOR ARGUMENT IN  
ACCORDANCE WITH CLEARFIELD  
COUNTY RULE 211**  
: TYPE OF CASE: CIVIL  
:  
:  
: FILED ON BEHALF OF:  
**DEFENDANT**  
:  
: COUNSEL OF RECORD FOR  
: FOR THIS PARTY:  
: KATHERINE V. OLIVER, ESQ.  
: I.D. NO. 77069  
: JAMES M. HORNE, ESQ.  
: I.D. NO. 26908  
: McQUAIDE, BLASKO,  
: FLEMING & FAULKNER, INC.  
: 811 University Drive  
: State College, PA 16801  
: PH# (814) 238-4926

FILED NO  
M 11 2006  
MAR 28 2007  
6K

William A. Shaw  
Prothonotary/Clerk of Courts

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

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

: No. 2006-01168-CD

Plaintiffs,

v.

CHERYL JOHNSTON,

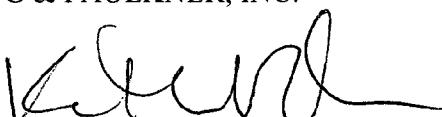
Defendant.

**PRAECIPE TO LIST FOR ARGUMENT IN ACCORDANCE WITH**  
**CLEARFIELD COUNTY RULE 211**

TO THE PROTHONOTARY/COURT ADMINISTRATOR:

Kindly list Defendant Cheryl Johnston's Preliminary Objections on the next available argument list.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire  
I.D. No. 77069  
James M. Horne, Esquire  
I. D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Attorneys for Defendant

Dated March 27, 2007

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

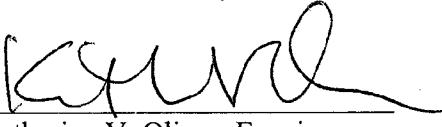
ANDREW VOLCHKO and TERESA, :  
VOLCHKO, husband and wife, and : No. 2006-01168-CD  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
Plaintiffs, :  
v. :  
CHERYL JOHNSTON, :  
Defendant. :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Defendant's Praecipe to List for Argument in Accordance with Clearfield County Rule 211 in the above-captioned matter was mailed by U.S. 1<sup>st</sup> Class Mail, postage prepaid, on this 27<sup>th</sup> day of March, 2007, to the attorney of record:

Leslie D. Michel  
226 Elmore Road  
Forest Hills, PA 15221

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire  
I.D. No. 77069  
James M. Horne, Esquire  
I. D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Attorneys for Defendant

**FILED**  
**MAR 28 2007**

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

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

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,  
Plaintiffs,  
v.  
CHERYL JOHNSTON,  
Defendant.

: No. 2006-01168-CD  
: TYPE OF PLEADING:  
: **DEFENDANT'S PRELIMINARY  
OBJECTIONS TO PLAINTIFFS'  
COMPLAINT**  
: TYPE OF CASE: CIVIL  
: FILED ON BEHALF OF:  
: **DEFENDANT**  
: COUNSEL OF RECORD FOR  
: FOR THIS PARTY:  
: KATHERINE V. OLIVER, ESQ.  
: I.D. NO. 77069  
: JAMES M. HORNE, ESQ.  
: I.D. NO. 26908  
: McQUAIDE, BLASKO,  
: FLEMING & FAULKNER, INC.  
: 811 University Drive  
: State College, PA 16801  
: PH# (814) 238-4926

FILED NO  
MAR 28 2007  
GR

William A. Shaw  
Prothonotary/Clerk of Courts

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

ANDREW VOLCHKO and TERESA, :  
VOLCHKO, husband and wife, and : No. 2006-01168-CD  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
Plaintiffs, :  
v. :  
CHERYL JOHNSTON, :  
Defendant. :

**PROPOSED ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2007, upon consideration of  
Defendant's Preliminary Objections in the nature of a demurrer it is hereby ORDERED as  
follows:

1. Defendant's Preliminary Objections are GRANTED, and Plaintiff Andrew Volchko and Teresa Volchko's claims for loss of consortium based on injuries to Shelby Volchko are hereby DISMISSED, with prejudice;
2. Plaintiff Andrew Volchko's allegations of filial consortium as set forth in ¶ 17 of Plaintiffs' Complaint and Plaintiff Teresa Volchko's allegations of filial consortium as set forth in ¶ 25 of Plaintiffs' Complaint are hereby STRICKEN.

BY THE COURT:

---

J.

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

ANDREW VOLCHKO and TERESA, :  
VOLCHKO, husband and wife, and : No. 2006-01168-CD  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
: Plaintiffs, :  
: :  
v. :  
: :  
CHERYL JOHNSTON, :  
: :  
: Defendant. :  
:

**DEFENDANT'S PRELIMINARY OBJECTIONS TO**  
**PLAINTIFFS' COMPLAINT**

AND NOW, comes Defendant Cheryl Johnston, by and through her attorneys, McQuaide, Blasko, Fleming and Faulkner, Inc., and files the following Preliminary Objections to Plaintiffs' Complaint pursuant to Pa.R.C.P. 1028(4) and 46 J.D.R.C.P. 1028(c).

**BACKGROUND**

1. The above-captioned action sounds in motor vehicle negligence and was filed by Writ of Summons on July 21, 2006.
2. An Entry of Appearance was filed on behalf of Defendant on December 28, 2006, and Defendant filed a Praecept for Rule to File Complaint on that same date.
3. A Rule to File Complaint was issued on December 29, 2006 and served on Plaintiffs on January 3, 2007.
4. Pursuant to agreements to extend the time for Plaintiffs to file their Complaint, Plaintiffs' Complaint was filed on or about March 10, 2007.

**DEMURRER TO CLAIMS FOR LOSS OF CONSORTIUM  
OF MINOR CHILD**

5. Plaintiffs in this action are Andrew Volchko and Teresa Volchko, husband and wife, and Shelby Volchko, a minor, by and through her parents, Andrew Volchko and Teresa Volchko.

6. Plaintiff Andrew Volchko asserts a claim for physical injuries he allegedly incurred in the July 23, 2004 accident giving rise to this case, (Compl. ¶¶ 9-15), for loss of consortium based on alleged injuries to his wife in the accident (¶ 16), and for medical expenses he allegedly incurred for treatment provided to his minor daughter, Shelby Volchko, for accident-related injuries. (¶ 17).

7. In addition, Plaintiff Andrew Volchko asserts a loss of filial consortium claim resulting from the alleged injuries to his minor daughter, Shelby Volchko. Specifically, Plaintiff Andrew Volchko asserts that he has been “deprived the services of his daughter” as a result of her alleged injuries and damages. (Id. ¶ 17).

8. Likewise, Plaintiff Teresa Volchko asserts a claim for injuries she allegedly sustained in the accident, (id. ¶¶19-23), for loss of consortium arising from the alleged injuries to her husband, Andrew Volchko (¶24), and for alleged medical expenses for treatment to her daughter, Shelby Volchko. (¶ 25).

9. In addition, Plaintiff Teresa Volchko asserts a claim for loss of filial consortium based on the alleged injuries to her minor daughter, Shelby Volchko. Specifically, Plaintiff Teresa Volchko claims that as a result of the injuries to her minor daughter, Shelby, she has been “deprived the services of her daughter.” (Compl. ¶ 25).

10. It is well established that Pennsylvania law does not recognize a valid cause of action for loss of consortium between a parent and child, sometimes referred to as claims for "filial" consortium. (See e.g., Department of Public Welfare v. Schultz, 855 A.2d 753, 755 (Pa. 2004); McCaskill v. Philadelphia Housing Authority, 615 A.2d 382, 384-85 (Pa. Super. 1992)).

11. Accordingly, Defendant files the within Preliminary Objections in the nature of a demurrer, and respectfully requests that Plaintiff Andrew and Teresa Volchko's claims for loss of consortium arising from the alleged injuries to their minor daughter, Shelby Volchko, be stricken from their Complaint and dismissed from this lawsuit, with prejudice.

WHEREFORE, Defendant, Cheryl Johnston, respectfully requests that this Honorable Court enter an Order dismissing Plaintiff Andrew and Teresa Volchko's claims for loss of consortium arising from the alleged injuries of their minor daughter, Shelby Volchko, and striking those portions of Plaintiffs' Complaint at paragraphs 17 and 25 relating to such claims.

Respectfully submitted,

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

Dated: March 27, 2007

By: 

Katherine V. Oliver, Esquire  
I.D. No. 77069  
James M. Horne, Esquire  
I.D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Attorneys for Defendant

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

ANDREW VOLCHKO and TERESA, :  
VOLCHKO, husband and wife, and : No. 2006-01168-CD  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
: Plaintiffs, :  
: :  
v. :  
: :  
CHERYL JOHNSTON, :  
: :  
Defendant. :  
:

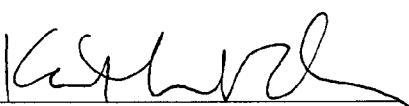
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Defendant's Preliminary Objections to Plaintiffs' Complaint in the above-captioned matter was mailed by U.S. 1<sup>st</sup> Class Mail, postage prepaid, on this 27<sup>th</sup> day of March, 2007, to the attorney of record:

Leslie D. Michel  
226 Elmore Road  
Forest Hills, PA 15221

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
Katherine V. Oliver, Esquire  
I.D. No. 77069  
James M. Horne, Esquire  
I. D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Attorneys for Defendant

**FILED**

**MAR 28 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

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

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

Plaintiffs,

v.

CHERYL JOHNSTON,

Defendant.

: No. 2006-01168-CD  
: TYPE OF PLEADING:  
**CERTIFICATE OF SERVICE**  
: TYPE OF CASE: CIVIL  
: FILED ON BEHALF OF:  
**DEFENDANT**  
: COUNSEL OF RECORD FOR  
: FOR THIS PARTY:  
: KATHERINE V. OLIVER, ESQ.  
: I.D. NO. 77069  
: JAMES M. HORNE, ESQ.  
: I.D. NO. 26908  
: McQUAIDE, BLASKO,  
: FLEMING & FAULKNER, INC.  
: 811 University Drive  
: State College, PA 16801  
: PH# (814) 238-4926

FILED

MAR 29 2007

11/22/07  
William A. Shaw  
Prothonotary/Clerk of Courts

no 9/c

Prothonotary/Clerk of Courts  
William A. Shaw

MAR 29 2007

FILED

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

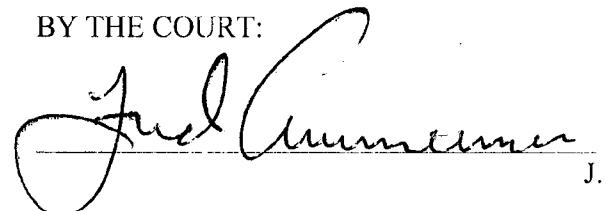
ANDREW VOLCHKO and TERESA, :  
VOLCHKO, husband and wife, and : No. 2006-01168-CD  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
Plaintiffs, :  
v. :  
CHERYL JOHNSTON, :  
Defendant. :

**RULE TO SHOW CAUSE**

AND NOW, this 9<sup>th</sup> day of April, 2007, a Rule is hereby issued upon Plaintiffs to show cause why Defendant's Preliminary Objections to Plaintiffs' Complaint should not be granted.

Rule returnable the 9<sup>th</sup> day of May, 2007, in Courtroom 1 at 1:30 P.M. o'clock, at the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

  
J.

FILED 4CC  
04:00 PM  
APR 09 2007  
Atty Oliver  
6K

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

APR 09 2007

Probate/Dependency Clerk of Courts  
William A. Straw

DATE: 10/6/17

You are responsible for serving all appropriate parties.

The Probationary'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 ACTION – LAW

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

Plaintiffs,

v

## CHERYL JOHNSTON.

Defendant.

: No. 2006-01168-CD  
:  
: TYPE OF PLEADING:  
: CERTIFICATE OF SERVICE

TYPE OF CASE: CIVIL

FILED ON BEHALF OF:  
**DEFENDANT**  
  
COUNSEL OF RECORD FOR  
FOR THIS PARTY:  
KATHERINE V. OLIVER, ESQ.  
I.D. NO. 77069  
JAMES M. HORNE, ESQ.  
I.D. NO. 26908  
McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.  
811 University Drive  
State College, PA 16801  
PH# (814) 238-4926

FILED

APR 12 2007

8m / 12:40 (h)

William A. Shaw  
Prothonotary/Clerk of Courts

Prothonotary/Clerk of Courts  
No 4C (GR)

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

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO, : No. 2006-01168-CD  
Plaintiffs, :  
v. :  
CHERYL JOHNSTON, :  
Defendant. :  
:

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Court's Order dated April 9, 2007 scheduling argument on Defendant's Preliminary Objections to Plaintiffs' Complaint in the above-captioned matter was mailed by U.S. 1<sup>st</sup> Class Mail, postage prepaid, on this 11<sup>th</sup> day of April, 2007, to the attorney of record:

Leslie D. Michel  
226 Elmore Road  
Forest Hills, PA 15221

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By:

  
Katherine V. Oliver, Esquire  
I.D. No. 77069  
James M. Horne, Esquire  
I. D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Attorneys for Defendant

William A Shaw  
Prothonotary/Clerk of Courts

APR 12 2007

FILED

JK

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

ANDREW VOLCHKO and TERESA VOLCHKO,  
husband and wife, and SHELBY VOLCHKO,  
a minor, by and through her parents, ANDREW  
AND TERESA VOLCHKO,

Plaintiffs

vs.  
CHERYL JOHNSTON,

Defendant

\*  
\*  
\*  
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\*  
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\*  
\*

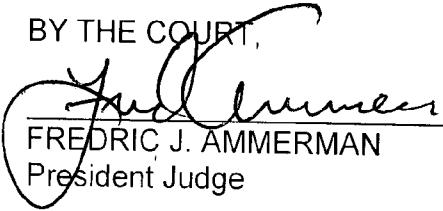
06-1168-CD

**ORDER**

NOW, this 9<sup>th</sup> day of May, 2007, upon consideration of Defendant's Preliminary Objections in the nature of a demurrer it is hereby ORDERED as follows:

1. Defendant's Preliminary Objections are GRANTED, and Plaintiff Andrew Volchko and Teresa Volchko's claims for loss of consortium based on injuries to Shelby Volchko are hereby DISMISSED, with prejudice;
2. Plaintiff Andrew Volchko's allegations of filial consortium as set forth in ¶17 of Plaintiffs' Complaint and Plaintiff Teresa Volchko's allegations of filial consortium as set forth in ¶ 25 of Plaintiffs' Complaint are hereby STRICKEN.

BY THE COURT,

  
FREDRIC J. AMMERMAN  
President Judge

FILED 2cc  
04/09/2007 MAY 09 2007 Atty Oliver  
(60)

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**MAY 09 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 5/9/07

You are responsible for serving all appropriate parties.

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

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

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

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

Plaintiffs,

v.

CHERYL JOHNSTON,

Defendant.

: No. 2006-01168-CD  
: TYPE OF PLEADING:  
: **CERTIFICATE OF SERVICE**  
: TYPE OF CASE: CIVIL  
: FILED ON BEHALF OF:  
: **DEFENDANT**  
: COUNSEL OF RECORD FOR  
: FOR THIS PARTY:  
: KATHERINE V. OLIVER, ESQ.  
: I.D. NO. 77069  
: JAMES M. HORNE, ESQ.  
: I.D. NO. 26908  
: McQUAIDE, BLASKO,  
: FLEMING & FAULKNER, INC.  
: 811 University Drive  
: State College, PA 16801  
: PH# (814) 238-4926

FILED  
MAY 14 2006  
NO CC  
WAS  
William A. Shaw  
Prothonotary/Clerk of Courts

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

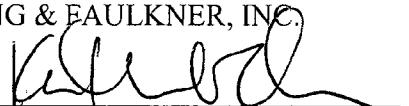
ANDREW VOLCHKO and TERESA, :  
VOLCHKO, husband and wife, and : No. 2006-01168-CD  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
: Plaintiffs, :  
: :  
v. :  
: :  
CHERYL JOHNSTON, :  
: :  
Defendant. :  
:

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Court's Order dated May 9, 2007 in the above-captioned matter was mailed by U.S. 1<sup>st</sup> Class Mail, postage prepaid, on this 11<sup>th</sup> day of May, 2007, to the attorneys of record:

Leslie D. Michel  
226 Elmore Road  
Forest Hills, PA 15221

Evan E. Lloyd, Esquire  
Suite LL 400-445  
Ft. Pitt Blvd.  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.  
By:   
Katherine V. Oliver, Esquire  
I.D. No. 77069  
James M. Horne, Esquire  
I. D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Attorneys for Defendant

**FILED**

**MAY 14 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

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

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO.

Plaintiffs,

Y.

CHERYL JOHNSTON.

Defendant.

No. 2006-01168-CD

TYPE OF PLEADING:  
**ANSWER WITH NEW MATTER TO  
PLAINTIFFS' COMPLAINT**

TYPE OF CASE: CIVIL

FILED ON BEHALF OF:  
**DEFENDANT**

COUNSEL OF RECORD FOR  
FOR THIS PARTY:  
KATHERINE V. OLIVER, ESQ.  
I.D. NO. 77069  
JAMES M. HORNE, ESQ.  
I.D. NO. 26908  
DOMINICK J. MURACCO, ESQ.  
I.D. NO. 91381  
McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.  
811 University Drive  
State College, PA 16801  
PH# (814) 238-4926

FILED  
MAY 30 2007  
NOCC  
MAY 30 2007  
RE

William A. Shaw  
Prothonotary/Clerk of Courts

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

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

: No. 2006-01168-CD

Plaintiffs,

v.

CHERYL JOHNSTON,

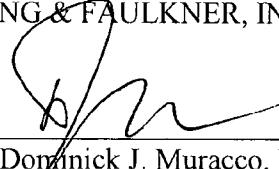
Defendant.

**NOTICE TO PLEAD**

TO: Andrew Volchko, Teresa Volchko and Shelby Volchko, A Minor  
c/o Leslie D. Michel  
226 Elmore Road  
Forest Hills, PA 15221  
AND  
Evan E. Lloyd, Esquire  
Suite LL 400-445  
Ft. Pitt Boulevard  
Pittsburgh, PA 15219

YOU ARE HEREBY notified to file a written response to the enclosed Answer with New  
Matter to Plaintiffs' Complaint within twenty (20) days from the date of service hereof or a  
judgment may be entered against you.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

\_\_\_\_\_  
Dominick J. Muracco, Esquire  
I.D. 91381

Katherine V. Oliver, Esquire  
I.D. No. 77069

James M. Horne, Esquire  
I.D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant

Dated: May 29, 2007

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

ANDREW VOLCHKO and TERESA, :  
VOLCHKO, husband and wife, and : No. 2006-01168-CD  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
: Plaintiffs, :  
: :  
v. :  
: :  
CHERYL JOHNSTON, :  
: :  
Defendant. :  
:

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

AND NOW, comes Defendant, Cheryl Johnston, by and through her attorneys, McQuaide, Blasko, Fleming & Faulkner, Inc., and files the following Answer with New Matter to Plaintiffs' Complaint.

1. Denied. After reasonable investigation, Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 1. The same are therefore denied and strict proof thereof demanded.

2. Admitted.

3. Admitted in part and denied in part. It is admitted that a motor vehicle accident occurred on July 23, 2004 at or about 11:30 a.m. on State Route 255 in Sandy Township, Clearfield County, Pennsylvania. It is denied that the accident occurred in the manner set forth in Plaintiffs' Complaint, as set forth below.

4. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of these allegations. The same are therefore denied and strict proof thereof demanded.

5. Admitted in part and denied in part. It is admitted that Defendant was operating her motor vehicle in a southerly direction on State Route 255 directly behind Plaintiffs' vehicle. It is denied as stated, however, that Defendant caused her vehicle to violently collide with the rear portion of Plaintiffs' vehicle. Defendant admits only that she was unable to stop her vehicle in time to avoid collision with the rear of Plaintiffs' vehicle.

6. Denied. As to Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. These allegations are, therefore, denied and strict proof thereof is demanded. As to Plaintiffs' allegations of causation, these allegations are denied as legal conclusions to which no response is required. To the extent a response is deemed required, these allegations are denied and strict proof thereof demanded.

**COUNT I**  
**ANDREW VOLCHKO V. CHERYL JOHNSTON**

7. The averments of paragraphs 1 through 6 of this Answer with New Matter are incorporated herein by reference as though set forth in full.

8. (a)-(l). Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e). As to Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. These allegations are, therefore, denied and strict proof thereof demanded.

9. (a)-(d). Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e). As to Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. The same are, therefore, denied and strict proof thereof is demanded.

10. Denied. After reasonable investigation, Defendant is without sufficient knowledge or information sufficient to form a belief as to the allegations of paragraph 10. The same are therefore denied and strict proof thereof demanded.

11. Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e). As to Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. The same are therefore denied and strict proof thereof demanded.

12. Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e). As to Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. The same are therefore denied and strict proof thereof demanded.

13. Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e). As to Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. The same are therefore denied and strict proof thereof demanded.

14. Denied. After reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of this allegation. The same is therefore denied and strict proof thereof demanded.

15. Denied. After reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of these allegations. The same are therefore denied and strict proof thereof demanded.

16. Denied. After reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of these allegations. The same are therefore denied and strict proof thereof demanded.

17. Denied. Pursuant to Defendant's Preliminary Objections and this Court's Order of May 9, 2007, paragraph 17 is stricken from Plaintiffs' Complaint. (See Order attached hereto as Exhibit A).

WHEREFORE, Defendant Cheryl Johnston respectfully requests that Plaintiffs' Complaint be dismissed with prejudice and costs of suit.

**COUNT II**  
**TERESA VOLCHKO V. CHERYL JOHNSTON**

18. The averments of paragraphs 1 through 17 of this Answer with New Matter are incorporated herein by reference as though set forth in full.

19. (a)-(d). Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e). As to the Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. The same are therefore denied and strict proof thereof demanded.

20. Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e). As to Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. The same are therefore denied and strict proof thereof demanded.

21. Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e).

As to Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations.

The same are therefore denied and strict proof thereof demanded.

22. Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e).

As to Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations.

The same are therefore denied and strict proof thereof demanded.

23. Denied. After reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. The same are therefore denied and strict proof thereof demanded.

24. Denied. After reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. The same are therefore denied and strict proof thereof demanded.

25. Denied. Pursuant to Defendant's Preliminary Objections and this Court's Order of May 9, 2007, paragraph 25 is stricken from Plaintiffs' Complaint. (See Order attached hereto as Exhibit A).

WHEREFORE, Defendant Cheryl Johnston respectfully requests that Plaintiffs' Complaint be dismissed with prejudice and costs of suit.

**COUNT III**

**ANDREW VOLCHKO AND TERESA VOLCHKO, the parents and natural guardians of  
SHELBY VOLCHKO, a minor by and through her parents, ANDREW VOLCHKO AND  
TERESA VOLCHKO vs. CHERYL JOHNSTON**

26. The averments of paragraphs 1 through 25 of this Answer with New Matter are incorporated herein by reference as though set forth in full.

27. (a)-(d). Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e). As to the Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. The same are therefore denied and strict proof thereof demanded.

28. Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e). As to Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. The same are therefore denied and strict proof thereof demanded.

29. Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e). As to Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. The same are therefore denied and strict proof thereof demanded.

30. Denied. All allegations of negligence are denied pursuant to Pa. R.C.P. 1029(e). As to Plaintiffs' allegations of injuries and damages, after reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations. The same are therefore denied and strict proof thereof demanded.

31. Denied. After reasonable investigation, Defendant is without sufficient knowledge or information to form a belief as to the truth of these allegations. These allegations are therefore denied and strict proof thereof demanded.

WHEREFORE, Defendant Cheryl Johnston respectfully requests that Plaintiffs' Complaint be dismissed with prejudice and costs of suit.

**NEW MATTER**

32. The averments at paragraphs 1 through 31 of this Answer with New Matter are incorporated by reference as though set forth in full.

33. Defendant hereby raises and asserts all those defenses and/or limitations on damages available by reason of the terms and provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, as amended.

34. To the extent Plaintiffs' medical expenses, if any, have been paid or are payable under a policy of insurance, the same may not be plead, proven or recovered in the instant action.

35. To the extent Plaintiffs were insured under a policy of insurance carrying the limited tort option, Plaintiffs' claims are barred or reduced accordingly.

36. Plaintiffs' injuries and damages, if any, are unrelated to the motor vehicle accident.

WHEREFORE, Defendant Cheryl Johnston respectfully requests that Plaintiffs' Complaint be dismissed, with prejudice and costs of suit.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

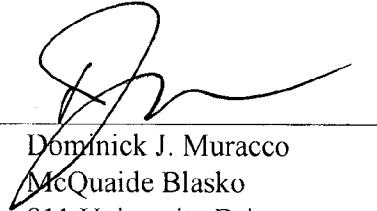
By: 

\_\_\_\_\_  
Dominick J. Muracco, Esquire  
I.D. 91381  
Katherine V. Oliver, Esquire  
I.D. No. 77069  
James M. Horne, Esquire  
I.D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant

Dated: May 29, 2007

**VERIFICATION**

Dominick J. Muracco, hereby verifies that he is the attorney for Defendant, Cheryl Johnston, in the foregoing action. As such, he is authorized to make this verification on her behalf, and that the facts set forth in the foregoing Answer With New Matter to Plaintiffs' Complaint is true and correct to the best of his information, knowledge and belief. This verification is hereby made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

By: 

Dominick J. Muracco  
McQuaide Blasko  
811 University Drive  
State College, PA 16801  
Attorney for Defendant

Dated: May 29, 2007

A

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

ANDREW VOLCHKO and TERESA VOLCHKO,  
husband and wife, and SHELBY VOLCHKO,  
a minor, by and through her parents, ANDREW  
AND TERESA VOLCHKO,

Plaintiffs

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

ANDREW VOLCHKO and TERESA,  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO, : No. 2006-01168-CD  
Plaintiffs, :  
v. :  
CHERYL JOHNSTON, :  
Defendant. :  
:

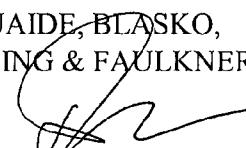
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Defendant's Answer With New Matter to Plaintiffs' Complaint in the above-captioned matter was mailed by U.S. 1<sup>st</sup> Class Mail, postage prepaid, on this 29<sup>th</sup> day of May, 2007, to the attorneys of record:

Leslie D. Michel  
226 Elmore Road  
Forest Hills, PA 15221

Evan E. Lloyd, Esquire  
Suite LL 400-445, Ft. Pitt Blvd.  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

Dominick J. Muracco, Esquire  
I.D. No. 91381  
Katherine V. Oliver, Esquire  
I.D. No. 77069  
James M. Horne, Esquire  
I. D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant

**FILED**

**MAY 30 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

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

ANDREW VOLCHKO and TERESA, :  
VOLCHKO, husband and wife, and : No. 2006-01168-CD  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
: Plaintiffs, :  
: :  
v. :  
: :  
CHERYL JOHNSTON, :  
: :  
Defendant. :  
:

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Defendant's Answer With New Matter to Plaintiffs' Complaint in the above-captioned matter was mailed by U.S. 1<sup>st</sup> Class Mail, postage prepaid, on this 29<sup>th</sup> day of May, 2007, to the attorneys of record:

Leslie D. Michel  
226 Elmore Road  
Forest Hills, PA 15221

Evan E. Lloyd, Esquire  
Suite LL 400-445, Ft. Pitt Blvd.  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

Dominick J. Muracco, Esquire  
I.D. No. 91381  
Katherine V. Oliver, Esquire  
I.D. No. 77069  
James M. Horne, Esquire  
I. D. No. 26908  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant

FILED NO CC  
MAY 30 2007  
GEO

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**MAY 30 2007**

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

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

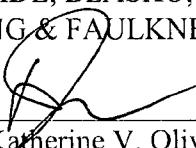
ANDREW VOLCHKO and TERESA, :  
VOLCHKO, husband and wife, and : No. 2006-01168-CD  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
: Plaintiffs,  
: :  
v. :  
: :  
CHERYL JOHNSTON, :  
: :  
Defendant. :  
:

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Notice of Intent to Serve Subpoenas to Produce Documents and Things in the above-captioned matter was mailed by U.S. 1<sup>st</sup> Class Mail, postage prepaid, on this 24<sup>th</sup> day of October 2007, to the attorneys of record:

Evan E. Lloyd, Esquire  
Suite LL 400-445  
Ft. Pitt Blvd.  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire  
I.D. No. 77069  
Dominick J. Muracco, Esquire  
I.D. No. 91381  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Attorneys for Defendant

**FILED** No CC.  
m 11:15 am  
OCT 25 2007  
WM  
William A. Shaw  
Prothonotary/Clerk of Courts

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

ANDREW VOLCHKO and TERESA VOLCHKO, husband and wife, and SHELBY VOLCHKO, a minor, by and through her parents, ANDREW VOLCHKO and TERESA VOLCHKO, : No. 2006-01168-CD  
Plaintiffs, : TYPE OF PLEADING:  
v. : **CERTIFICATE PREREQUISITE**  
CHERYL JOHNSTON, :  
Defendant. : TYPE OF CASE: **CIVIL**  
: FILED ON BEHALF OF:  
: **DEFENDANT**  
: COUNSEL OF RECORD FOR  
: THIS PARTY:  
: KATHERINE V. OLIVER, ESQ.  
: I.D. NO. 77069  
: DOMINICK J. MURACCO, ESQ.  
: I.D. NO. 91381  
: McQUAIDE, BLASKO,  
: FLEMING & FAULKNER, INC.  
: 811 University Drive  
: State College, PA 16801  
: PH# (814) 238-4926

FILED *Nov 19, 2007*  
*112:51 AM*  
NOV 19 2007  
*(60)*

William A. Shaw  
Prothonotary/Clerk of Courts

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

ANDREW VOLCHKO and TERESA VOLCHKO, husband and wife, and SHELBY VOLCHKO, a minor, by and through her parents, ANDREW VOLCHKO and TERESA VOLCHKO, Plaintiffs, v. CHERYL JOHNSTON, Defendant.

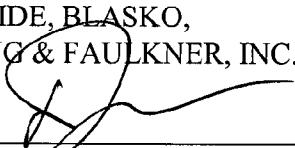
**CERTIFICATE**  
**PREREQUISITE TO SERVICE OF SUBPOENAS**  
**PURSUANT TO RULE 4009.22**

As a prerequisite to service of subpoenas for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- 1) a notice of intent to serve the subpoenas with a copy of the subpoenas attached thereto were mailed or delivered to the party at least twenty days prior to the date on which the subpoenas are sought to be served;
- 2) a copy of the notice of intent, including the proposed subpoenas, are attached to this certificate;
- 3) no objection to the subpoenas have been received; and
- 4) the subpoenas which will be served are identical to the subpoenas which are attached to the notice of intent to serve the subpoenas.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

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

  
Katherine V. Oliver, Esquire  
I.D. No.. 77069  
Dominick J. Muracco, Esquire  
I.D. No. 91381  
811 University Drive  
State College, PA 16801  
(814) 238-4926  
Attorneys for Defendant

Dated: November 13, 2007

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

ANDREW VOLCHKO and TERESA VOLCHKO, husband and wife, and SHELBY VOLCHKO, a minor, by and through her parents, ANDREW VOLCHKO and TERESA VOLCHKO,

: No. 2006-01168-CD

Plaintiffs,

v.

CHERYL JOHNSTON,

Defendant.

**NOTICE OF INTENT TO SERVE SUBPOENAS TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Defendant intends to serve subpoenas identical to those attached to this notice to Dr. Tamara Price-Wetterman, DuBois Hospital, Dr. Todd Moses, Dr. Alex Kalenak, and State Farm Insurance Company. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoenas. If no objection is made, the subpoenas may be served.

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

Katherine V. Oliver, Esquire  
I.D. No. 77069  
Dominick J. Muracco, Esquire  
I.D. No. 91381  
811 University Drive  
State College, PA 16801  
(814) 238-4926

Dated: October 24, 2007

Attorneys for Defendant

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

ANDREW VOLCHKO and TERESA  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

No. 2006-01168-CD

Plaintiffs,

v.

CHERYL JOHNSTON,

Defendant.

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: *Dr. Todd Moses*  
Attention: *Medical Records Custodian*  
*2101 Green Tree Road*  
*Pittsburgh, PA 15220*

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *a true and correct copy of any and all medical records and billings in your possession pertaining to Teresa Lynn Volchko, SS# 187-50-1156 Birth date: 6/11/70*

We reserve the right to obtain copies of radiology films using this subpoena after we have had an opportunity to review any records or radiology reports that are received in response to this request.

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

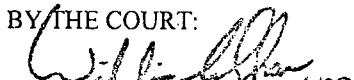
You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena, within twenty (20) days after its service, the party serving this subpoena may seek a court ordering compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: *Dominick J. Muracco, Esquire*  
ADDRESS: *811 University Drive, State College, PA 16801*  
TELEPHONE: *(814) 238-4926*  
SUPREME CT ID# *91381*  
ATTORNEY FOR: *Defendant*

BY THE COURT:



William Shaw, Prothonotary/Clerk  
Civil Division  
[Seal of the Court]

Dated: October 25, 2007

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

ANDREW VOLCHKO and TERESA VOLCHKO, husband and wife, and SHELBY VOLCHKO, a minor, by and through her parents, ANDREW VOLCHKO and TERESA VOLCHKO, Plaintiffs, v. CHERYL JOHNSTON, Defendant.

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: *Dr. Todd Moses*  
Attention: *Medical Records Custodian*  
*2101 Green Tree Road*  
*Pittsburgh, PA 15220*

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *a true and correct copy of any and all medical records and billings in your possession pertaining to Andrew Volchko, SS# 193-62-4486, Birth date: 9/17/71*

We reserve the right to obtain copies of radiology films using this subpoena after we have had an opportunity to review any records or radiology reports that are received in response to this request.

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena, within twenty (20) days after its service, the party serving this subpoena may seek a court ordering compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: *Dominick J. Muracco, Esquire*  
ADDRESS: *811 University Drive, State College, PA 16801*  
TELEPHONE: *(814) 238-4926*  
SUPREME CT ID# *91381*  
ATTORNEY FOR: *Defendant*

BY THE COURT:

 *um*

William Shaw, Prothonotary/Clerk  
Civil Division  
[Seal of the Court]

Dated: October 25, 2007

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

ANDREW VOLCHKO and TERESA  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

No. 2006-01168-CD

Plaintiffs,

v.

CHERYL JOHNSTON,

Defendant.

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: *Dr. Todd Moses*  
*Attention: Medical Records Custodian*  
*2101 Green Tree Road*  
*Pittsburgh, PA 15220*

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *a true and correct copy of any and all medical records and billings in your possession pertaining to Shelby-Lynn Volchko, SS# 194-74-3037, Birth date: 10/6/93.*

We reserve the right to obtain copies of radiology films using this subpoena after we have had an opportunity to review any records or radiology reports that are received in response to this request.

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

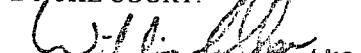
You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena, within twenty (20) days after its service, the party serving this subpoena may seek a court ordering compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: *Dominick J. Muracco, Esquire*  
ADDRESS: *811 University Drive, State College, PA 16801*  
TELEPHONE: *(814) 238-4926*  
SUPREME CT ID# *91381*  
ATTORNEY FOR: *Defendant*

BY THE COURT:



William Shaw, Prothonotary/Clerk  
Civil Division  
[Seal of the Court]

Dated: October 25, 2007

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

ANDREW VOLCHKO and TERESA : No. 2006-01168-CD  
VOLCHKO, husband and wife, and :  
SHELBY VOLCHKO, a minor, by and :  
through her parents, ANDREW VOLCHKO :  
and TERESA VOLCHKO, :  
Plaintiffs, :  
v. :  
CHERYL JOHNSTON, :  
Defendant. :

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS**  
**FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: *State Farm Insurance Company*  
*Custodian of Records*  
*P. O. Box 12808*  
*Pittsburgh, PA 15241*

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: any and all records/document within your custody or control pertaining to *Teresa Lynn Volchko, SS# 187-50-1156 Birth date: 6/11/70, Date of Loss: 11/19/03*.

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

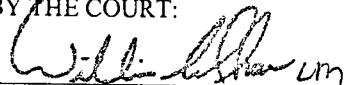
You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena, within twenty (20) days after its service, the party serving this subpoena may seek a court ordering compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: *Dominick J. Muracco, Esquire*  
ADDRESS: *811 University Drive, State College, PA 16801*  
TELEPHONE: *(814) 238-4926*  
SUPREME CT ID# *91381*  
ATTORNEY FOR: *Defendant*

BY THE COURT:



William Shaw, Prothonotary/Clerk  
Civil Division  
[Seal of the Court]

Dated: October 25, 2007

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

ANDREW VOLCHKO and TERESA  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

No. 2006-01168-CD

Plaintiffs,

v.

CHERYL JOHNSTON,

Defendant.

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: *Dr. Alex Kalenak  
Custodian of Records  
21-7<sup>th</sup> Street  
Midland, PA 15059*

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *a true and correct copy of any and all medical records and billings in your possession pertaining to Teresa Lynn Volchko, SS# 187-50-1156 Birth date: 6/11/70*

We reserve the right to obtain copies of radiology films using this subpoena after we have had an opportunity to review any records or radiology reports that are received in response to this request.

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

You may deliver or mail legible copies of the documents or produce things by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek, in advance, the reasonable cost of preparing the copies or producing the things sought.

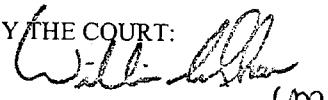
If you fail to produce the documents or things required by this subpoena, within twenty (20) days after its service, the party serving this subpoena may seek a court ordering compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: *Dominick J. Muracco, Esquire*  
ADDRESS: *811 University Drive, State College, PA 16801*  
TELEPHONE: *(814) 238-4926*  
SUPREME CT ID# *91381*  
ATTORNEY FOR: *Defendant*

Dated: October 26, 2007

BY THE COURT:

  
William Shaw, Prothonotary/Clerk  
Civil Division  
[Seal of the Court]

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

ANDREW VOLCHKO and TERESA  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

;

No. 2006-01168-CD

Plaintiffs,

v.

CHERYL JOHNSTON,

Defendant.

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: *Dr. Tamara Price-Wetterman*  
*Attention: Medical Records Custodian*  
*900 Commerce Drive, Suite 903*  
*Moon Township, PA 15108*

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *a true and correct copy of any and all medical records and billings in your possession pertaining to Andrew Volchko, SS# 193-62-4486, Birth date: 9/17/71*

We reserve the right to obtain copies of radiology films using this subpoena after we have had an opportunity to review any records or radiology reports that are received in response to this request.

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

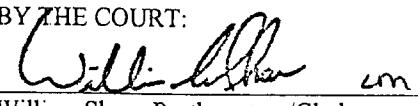
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ADDRESS: *811 University Drive, State College, PA 16801*  
TELEPHONE: *(814) 238-4926*  
SUPREME CT ID#: *91381*  
ATTORNEY FOR: *Defendant*

BY THE COURT:

  
William Shaw, Prothonotary/Clerk  
Civil Division  
[Seal of the Court]

Dated: October 25, 2007

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

ANDREW VOLCHKO and TERESA VOLCHKO, husband and wife, and SHELBY VOLCHKO, a minor, by and through her parents, ANDREW VOLCHKO and TERESA VOLCHKO, Plaintiffs, v. CHERYL JOHNSTON, Defendant.

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: *DuBois Hospital  
Attention: Medical Records Custodian  
100 Hospital Avenue  
DuBois, PA 15801*

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *a true and correct copy of any and all medical records and billings in your possession pertaining to Shelby-Lynn Volchko, SS# 194-74-3037, Birth date: 10/6/93.*

We reserve the right to obtain copies of radiology films using this subpoena after we have had an opportunity to review any records or radiology reports that are received in response to this request.

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

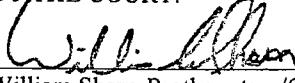
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ADDRESS: *811 University Drive, State College, PA 16801*  
TELEPHONE: *(814) 238-4926*  
SUPREME CT ID# *91381*  
ATTORNEY FOR: *Defendant*

BY THE COURT:

  
\_\_\_\_\_  
William Shaw, Prothonotary/Clerk  
Civil Division  
[Seal of the Court]

Dated: *October 25, 2007*

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

ANDREW VOLCHKO and TERESA  
VOLCHKO, husband and wife, and  
SHELBY VOLCHKO, a minor, by and  
through her parents, ANDREW VOLCHKO  
and TERESA VOLCHKO,

No. 2006-01168-CD

Plaintiffs,

v.

CHERYL JOHNSTON,

Defendant.

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: *DuBois Hospital*  
Attention: *Medical Records Custodian*  
*100 Hospital Avenue*  
*DuBois, PA 15801*

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *a true and correct copy of any and all medical records and billings in your possession pertaining to Andrew Volchko, SS# 193-62-4486, Birth date: 9/17/71*

We reserve the right to obtain copies of radiology films using this subpoena after we have had an opportunity to review any records or radiology reports that are received in response to this request.

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

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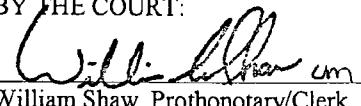
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ADDRESS: *811 University Drive, State College, PA 16801*  
TELEPHONE: *(814) 238-4926*  
SUPREME CT ID# *91381*  
ATTORNEY FOR: *Defendant*

Dated: October 25, 2007

BY THE COURT:

  
\_\_\_\_\_  
William Shaw, Prothonotary/Clerk  
Civil Division  
[Seal of the Court]

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

ANDREW VOLCHKO and TERESA VOLCHKO, husband and wife, and SHELBY VOLCHKO, a minor, by and through her parents, ANDREW VOLCHKO and TERESA VOLCHKO,

No. 2006-01168-CD

Plaintiffs,

v.

CHERYL JOHNSTON,

Defendant.

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: *DuBois Hospital*  
*Attention: Medical Records Custodian*  
*100 Hospital Avenue*  
*DuBois, PA 15801*

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: *a true and correct copy of any and all medical records and billings in your possession pertaining to Teresa Lynn Volchko, SS# 187-50-1156 Birth date: 6/11/70*

We reserve the right to obtain copies of radiology films using this subpoena after we have had an opportunity to review any records or radiology reports that are received in response to this request.

at: *McQuaide Blasko Law Offices, 811 University Drive, State College, PA 16801*

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ADDRESS: *811 University Drive, State College, PA 16801*  
TELEPHONE: *(814) 238-4926*  
SUPREME CT ID# *91381*  
ATTORNEY FOR: *Defendant*

BY THE COURT:

  
\_\_\_\_\_  
William Shaw, Prothonotary/Clerk

Civil Division

[Seal of the Court]

Dated: *October 25, 2007*

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

ANDREW VOLCHKO and TERESA VOLCHKO, husband and wife, and SHELBY VOLCHKO, a minor, by and through her parents, ANDREW VOLCHKO and TERESA VOLCHKO, : :  
Plaintiffs, : :  
v. : :  
CHERYL JOHNSTON, : :  
Defendant. : :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of a Certificate Prerequisite to Service of Subpoenas Directed to Dr. Tamara Price-Wetterman, DuBois Hospital, Dr. Toss Moses, Dr. Alex Kalenak, and State Farm Insurance Company in the above-referenced matter was mailed by U.S. First Class Mail, postage paid, this 13<sup>th</sup> day of November, 2007, to the attorney of record:

Evan E. Lloyd, Esquire  
Suite LL 400-445  
Ft. Pitt Blvd.  
Pittsburgh, PA 15219

McQUAIDE, BLASKO,  
FLEMING & FAULKNER, INC.

By: 

Dominick J. Muracco  
Attorneys for Defendant

**FILED**

NOV 19 2007

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANDREW VOLCHKO and THERESA VOLCHKO, husband and wife, and SHELBY VOLCHKO, a minor, by and through her parents, ANDREW VOLCHKO and THEREAS VOLCHKO,

Plaintiffs,  
vs.  
CHERYL JOHNSTON,  
Defendant.

CIVIL DIVISION

No. 2006-01168-CD

PRAECIPE TO SETTLE  
AND DISCONTINUE

FILED *(initials)*

MAY 05 2008  
*ml 12:15 PM*  
William A. Shaw  
Prothonotary/Clerk of Courts  
*no C/C*

Filed on Behalf of Plaintiffs,  
Andrew Volchko, Theresa  
Volchko and Shelby Volchko, a  
Minor

Counsel of Record for This  
Party:

Evan E. Lloyd, Esq.  
PA ID #10481

Suite LL400-Fort Pitt Commons  
445 Fort Pitt Boulevard  
Pittsburgh, PA 15219  
(412) 471-6898

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ANDREW VOLCHKO, et al ) CIVIL DIVISION  
)  
Plaintiffs, ) No. 2006-01168-CD  
)  
v. )  
)  
CHERYL JOHNSTON, )  
)  
Defendant. )

PRAECIPE TO SETTLE AND DISCONTINUE

TO THE PROTHONOTARY

Please settle and discontinue the above captioned case and mark it off the docket, or satisfy the lien, Verdict, Award or Judgment.

  
Evan E. Lloyd, Esq.

(x) Attorney for Plaintiff	( ) Certificate
( ) Attorney for Defendant	( ) Equity
( ) Attorney for Crossclaim	( ) Awards from Arbitration
( ) Sheriff Due	( ) Plaintiff's Bill
( ) Secretary of Commonwealth	( ) Witness Bill
( ) Sheriff Mileage	( ) Judgment on Verdict
( ) Prothonotary S&D w/ Issue Costs	( ) M.L.
( ) County Verdict	( ) D.S.B.
( ) Orders	( ) Execution-Sat.or S & D
( ) Case & Counterclaim/Crossclaim	( ) Garnishes Fees

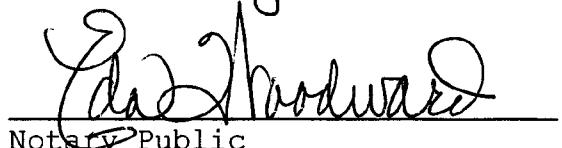
Date: \_\_\_\_\_

Sworn to and subscribed before

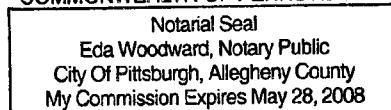
Pro. Costs \_\_\_\_\_

me this 2nd day of

May, 2008.

  
Eda Woodward  
Notary Public

COMMONWEALTH OF PENNSYLVANIA



Member, Pennsylvania Association Of Notaries

