

DOCKET NO. 173

NUMBER	TERM	YEAR
263	February	1961

John Loweranitis

VERSUS

Murray J. Ball

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN LOWERANITIS :
VS : No. 263 February Term, 1961
MURRAY J. BALL : Trespass

PRAECIPE FOR SATISFACTION

TO: WILLIAM T. HAGERTY, PROTHONOTARY

SIR:

Payment of the amount of the verdict having been received in full, you are hereby authorized and directed to mark the records satisfied upon payment of costs by the defendant.

Gleason, Cherry & Cherry

By: Edward V. Cherry
Attorneys for the Plaintiff

Dated:

IN THE COURT OF COMMON PLEAS OF CHARGEFIELD COUNTY, PENNSYLVANIA

JOHN LOVERNITIS

AS : NO. 263 Deposition Term, 1961

MURRAY L. BATT : Trespass

PRIVILEGE FOR SATISFACTION

TO: WILLIAM T. HAGERTY, PROTHONOTARY

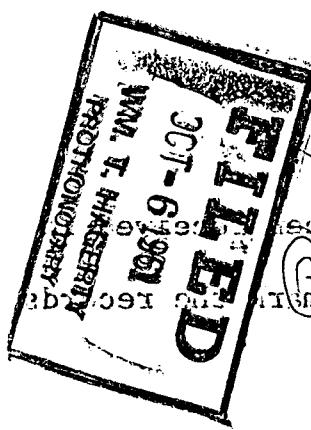
SIR:

Payment of the amount of the verdict having been made, you are hereby directed to pay to the plaintiff, John L. Batt, the sum of \$100.00, as a satisfaction upon his costs as defendant.

Season, Haggerty & Haggerty

BA: William L. Haggerty
ACQUISITION FOR THE PIASTITUTE

Date:



In the Court of Common Pleas Clearfield County.
John Lawrence Of Feb Term, 1961
No. 263 Plaintiff is Bill of Costs
VERSUS At Term, 1961
Murray J. Ball

CLEARFIELD COUNTY, SS:

PROTHONOTARY

Personally appeared before me Matthew A. Hurd, who being duly sworn, saith the above Bill of Costs is correct, that the witnesses named were subpoenaed, necessary, material, and in attendance as above stated, and that the mileage is correct as he believes.

Sworn to and subscribed before me this

of, Sept, A. D. 1961.

Anthony J. Guido

PROTHONOTARY
My Commission Expires
1st Monday Jan. 1962

John D. Dill
John D. Dill
19-82-60

No. 19-82-60 Term, 19

Versus

Attorney

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

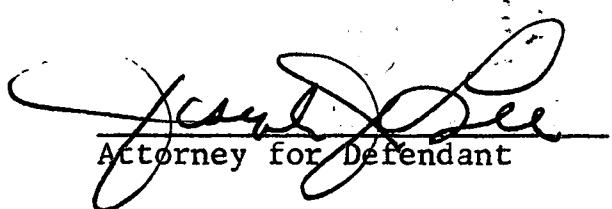
JOHN LOWERANITIS : :

VS : No. 263 February Term, 1961

MURRAY J. BALL : In Trespass

JOHN LOWERANITIS
VS
MURRAY J. BALL
TO WILLIAM T. HAGERTY, PROTHONOTARY
SIR:
Please place the above case on the trial list for the
coming term of Court.

P R A E C I P E


Attorney for Defendant

Dated: June 15, 1961

RECEIVED
JULY 15 1961
CLEARFIELD COUNTY, PENNSYLVANIA
THE COURT OF COMMON PLEAS

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 263 February Term, 1961
In Trespass

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN LOWERANITIS

AS : No. 563 February Term, 1961

MURRAY J. BALT : In Trespass

PRAECLARAE CYPE

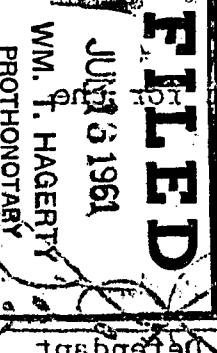
MR. MURRAY J. BALT : MURRAY J. HAGERTY, PROTHONOTARY

PRAECLARAE CYPE

JOHN LOWERANITIS

complaint for removal of Court.

base of the spouse case on the first filing



Date: June 5, 1961

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN LOWERANITIS,
Plaintiff

VS.

MURRAY J. BALL,
Defendant

NO. 263 Feb. TERM, 1961

IN TRESPASS

C O M P L A I N T

And now, comes JOHN LOWERANITIS and by his Attorneys, Gleason, Cherry & Cherry files this complaint in trespass against MURRAY J. BALL, Defendant, of which the following is a statement:

1. That JOHN LOWERANITIS, Plaintiff, is an individual who resides at 19½ Pentz Run Avenue, Sandy Township, Clearfield County, Pennsylvania.
2. That MURRAY J. BALL, Defendant, is an individual who resides at 8 Arminta Street, DuBois, Clearfield County, Pennsylvania.
3. On the 15th day of October, 1960, at or about 3:00 P.M. E.D.S.T., the Defendant, MURRAY J. BALL, was the owner and operator of a 1955 Chevrolet Sedan and was operating said Chevrolet Sedan in a Northeasterly direction on Maple Avenue, in the City of DuBois, Clearfield County, Pennsylvania.
4. At said time and place the Plaintiff, JOHN LOWERANITIS, was a passenger in said vehicle then and there being operated by the Defendant, MURRAY J. BALL, and said Plaintiff had no control directly or indirectly over the management and operation of said vehicle.
5. When said vehicle being so operated by the Defendant, MURRAY J. BALL, attempted to negotiate a curve on said Maple Avenue, at or near the residence of Harry E. Reasinger, 224 Maple

Avenue, said Defendant lost control of said vehicle, striking the curb along right side of said Maple Avenue with the right front wheel of said vehicle, then continued along said curb for approximately 67 feet; then drove up over said curb and violently struck a tree with the front of said vehicle.

6. The Plaintiff, JOHN LOWERANITIS, at the time and as a result of the collision aforesaid, was hurled and forcibly thrown, cast, twisted and jerked about the interior of said Chevrolet Sedan and against portions of said vehicle, as a result of which he was severely, permanently and painfully injured as hereinafter set forth.

7. The Defendant, MURRAY J. BALL, was negligent at said time and place, as follows:

(a) In failing to have said Chevrolet vehicle under proper control;

(b) In operating his Chevrolet vehicle at a rate of speed which was excessive under the circumstances.

(c) In failing to bring his vehicle to a stop before colliding with said curb and tree.

(d) In otherwise operating his vehicle in such manner as to endanger the rights and safety of other users of the highway, particularly those of the Plaintiff, JOHN LOWERANITIS.

8. As a result of said collision and injuries, Plaintiff, JOHN LOWERANITIS, sustained numerous bruises and contusions of the chest, legs, neck, face and arms; lacerations of the left arm; fractures of ribs (7, 8, & 9) in the right posterior axillary line; and hemoptysis; as a result of which he has suffered and does and probably will in the future, continue to suffer great pain and suffering, and has been and probably will be in the future hindered and prevented from attending his usual duties, to his great damage and loss.

9. As a result of said collision and injuries, Plaintiff,

JOHN LOWERANITIS, has incurred or expended the following obligations or sums of money for medicine, medical attention and hospitalization in and about endeavoring to treat and cure himself of his injuries, to his financial damage and loss:

Maple Avenue Hospital, DuBois, Pa.	\$197.65
B. C. Cochran, M.D., DuBois, Pa.	60.00

10. That the amount of damages claimed by the Plaintiff, JOHN LOWERANITIS, exceeds the amount requiring arbitration referral by local Rules of Court and that the unliquidated damages so claimed are in excess of the sum of \$5,000.00.

WHEREFORE, for the damages and loss above set forth, together with interest and costs of suit, Plaintiff, JOHN LOWERANITIS, brings this Complaint against the Defendant, MURRAY J. BALL.

GLEASON, CHERRY & CHERRY

By Anthony J. Guido
Attorneys for Plaintiff

COMMONWEALTH OF PENNSYLVANIA : : SS.
COUNTY OF CLEARFIELD : :

Personally appeared before the undersigned, a Notary Public, in and for the County and State aforesaid, JOHN LOWERANITIS, who, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

John Loweranitis

Sworn to and subscribed before me this 6th day of March, 1961.

Josephine M. Healy
Notary Public
My Commission expires January 7, 1963.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
NO. 163 ~~Sept.~~ TERM, 1961
IN TRESPASS

4.50
JOHN LOWERANTIS,
Plaintiff

VS.

MURRAY J. BALL,
Defendant

COMPLAINT

TO WITHIN NAMED DEFENDANT:

You are hereby notified
to plead to the enclosed Com-
plaint within twenty (20)
days from the service hereof.

GLEASON, CHERRY & CHERRY
Attorneys for Plaintiff

By W.M. T. HAGERTY

FILED
MARK 4 1962
WM. T. HAGERTY
PROTHOMAS, OFFICES
GLEASON, CHERRY & CHERRY
7-10 DAMUS BUILDING
DU BOIS, PENNSYLVANIA

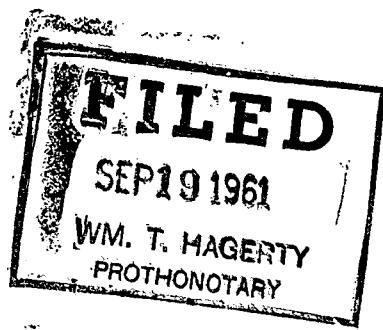
109 N. BRADY STREET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN LOWERANITIS :
VS : No. 263 February Term, 1961
MURRAY J. BALL : Trespass

DEPOSITION OF MURRAY J. BALL

Fee: Mrs. Dorothy H. Hile - \$6.30



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN LOWERANITIS, :
Plaintiff :
VS : 'No. 263 February Term, 1961
MURRAY J. BALL, : Trespass
Defendant :
:

D E P O S I T I O N

Deposition of Murray J. Ball, taken at the home of Mr. Ball, 'No. 8
Arminta Street, DuBois, Pennsylvania, before Mrs. Dorothy H. Hile, a
Notary Public in and for the County of Clearfield, pursuant to notice
of taking of deposition and stipulation of counsel in connection with
the same.

MURRAY J. BALL, being duly sworn, testified in question and answer
form as follows:

BY MR. LEE:

Q. Your name is Murray J. Ball?

A. Yeh.

Q. Mr. Ball, you are the defendant in this action that was
commenced against you by John Loweranitis?

A. Yes.

Q. In the Complaint it is averred that there was an accident
which occurred on October 15, 1960 at 3:00 o'clock in the afternoon
in the City of DuBois, and that you were the operator of the motor
vehicle involved in that accident - do you recall that accident?

A. Yes.

Q. Will you state which direction you were travelling?

A. Northwesterly direction.

Q. On what street?

A. On Park Avenue. Park and corner of Maple.

Q. In the City of DuBois?

A. Yes.

Q. Is Park Avenue at the point where this accident occurred a straight highway or is it a curve?

A. No curve there, only I was turning off the street.

Q. Were you going to turn onto Maple Avenue?

A. I was turning left off of Park onto Maple.

Q. How fast were you going prior to the accident?

A. No over twentyfive.

Q. Was the highway crowded?

A. No.

Q. The road conditions wet?

A. No, good.

Q. What happened as you were making this left turn?

A. The only thing I could say, I was taking my foot off the gas and I must have missed the brake and hit the gas and run over the curb.

Q. You weren't forced off?

A. No.

Q. Where did the car come to rest?

A. Against the tree?

Q. Who was in that car?

A. Blake Smith and John Loweranitis.

Q. Where had you intended to go?

A. Going to Rockton to a camp.

Q. Whose camp?

A. Mine.

Q. Does John Loweranitis own any part of that camp?

A. No.

Q. Does John Loweranitis live in the vicinity of this camp?

A. No.

Q. He lives in DuBois?

A. Yes. Sandy Township.

Q. Was Mr. Loweranitis injured in this accident?

A. Yes.

Q. Did you see that he went to the hospital?

A. I don't remember a thing after we hit the tree.

Q. Did it knock you out?

A. I don't know, but I didn't know anything until 8:00 o'clock that night.

Q. Where did you wake up?

A. In bed.

Q. At home?

A. Yes.

Q. You don't know how you got there?

A. No.

Q. Had you driven this road many times before the accident?

A. Yes.

Q. At the area where you went over the curb, is the curb very high?

A. No, I don't think so.

Q. Where was Mr. Loweranitis sitting in the -

A. In the middle.

Q. Of the front seat?

A. Yes.

Q. Mr. Blake Smith was on the right?

A. On the right, yes.

Q. Mr. Ball, are you under a doctor's care?

A. Yes.

Q. For how long?

A. Two years.

Q. Are you able to work?

A. No.

BY ANTHONY GUIDO, ESQ.

Object, I object to these questions as being irrelevant; as to health and working as being irrelevant.

BY MR. LEE, continuing with Mr. Ball:

Q. What is the nature of your illness?

BY ANTHONY GUIDO, ESQ.

I object to all questions as to physical condition.

MR. BALL, Continuing with the answer: -

A. Diabetic.

Q. Have you been advised by a doctor concerning whether or not you should appear in Court in Clearfield at the trial of this case?

BY MR. GUIDO:

I object to that question as being hearsay.

MR. BALL, continuing with the answer: -

A. I haven't consulted a doctor about it.

Q. Have I requested you to consult one?

A. Yes.

Q. Is it your intention so to do?

A. Yes.

Q. If your doctor advises you that you can appear in Clearfield then you will be able to appear in Court, is that correct?

A. If he advised it I don't believe my condition would let me anyhow.

Q. Mr. Ball, what is your condition which would prohibit you from appearing?

A. A couple of reasons, I get - my back, I have to lay down every hour or so and I don't believe I could go.

Q. What is another reason?

A. Diarrhea.

CROSS-EXAMINATION BY MR. GUIDO:

Q. Mr. Ball, how long have you lived in the City of DuBois?

A. 42 years.

Q. Therefore, you are quite familiar with the intersection of

Park Avenue and Maple Avenue?

A. Yes.

Q. Have you driven at that point many times in the past?

A. Yes.

Q. Mr. Ball, when you struck the curb what happened, did it go directly over the curb?

A. I don't remember.

Q. How did you say this accident occurred?

A. The only thing I can figure out is I must have taken my foot off the gas and tried to put it on the brakes and put it on the gas.

Q. Then what happened?

A. Then I went over the curb and hit a tree.

Q. Was your car damaged?

A. Yes.

Q. How extensively?

A. Total.

I have read the foregoing Deposition consisting of six typewritten pages, and the same is true and correct.

Murray J. Ball
(Murray J. Ball)

I hereby certify that the foregoing is a true and correct transposition of the Deposition of Murray J. Ball taken at DuBois, Pennsylvania on Thursday, September 14, 1961.

Mrs. Dorothy H. Hile
Notary Public

MRS. DOROTHY H. HILE, Notary Public
CLEARFIELD, CLEARFIELD CO., PA.
My Commission Expires Dec. 3, 1962

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN LOWERANITIS : :

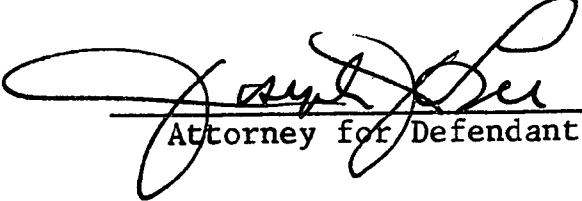
VS : No. 263 February Term, 1961

MURRAY J. BALL : Trespass

POINT FOR BINDING INSTRUCTIONS

COMES NOW, the defendant, and by counsel, at the conclusion of the testimony moves the Court to issue a point for binding instructions as follows:

(1). Under all of the evidence and testimony of the case the jury is directed to find in favor of the defendant.


Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN LOWERANITIS

:

VS.

: NO. 263 FEBRUARY TERM, 1961

MURRAY J. BALL

:

TRESPASS

PLAINTIFF'S REQUEST FOR CHARGE

The Plaintiff requests to charge as follows:

1. Any person driving a vehicle on a highway shall drive the same at a careful and prudent speed, not greater than that is reasonable and proper, having due regard to the traffic surface, and width of the highway, and of any other restrictions or conditions then and there existing.
2. No person shall drive any vehicle, upon a highway at such speed as to endanger life, limb, or property of any person, nor at a speed greater than will permit him to bring to a stop within the assured clear distance ahead.
3. An operator of a vehicle has the duty to exercise reasonable care for safety of guest passengers.
4. Under all of the laws and evidence in this case, the verdict of the jury must be for the Plaintiff.
5. There is no evidence in this case that JOHN LOWERANITIS, the Plaintiff, was negligent.
6. Where an automobile, on a clear, dry day leaves the highway and strikes a tree, the driver is *prima facie* negligent.
7. Motorist making a turn at City Street intersection has duty to keep automobile under such control as to be able to stop it on the shortest possible notice under circumstances which would reasonably be likely to arise.

GLEASON, CHERRY & CHERRY

By Anthony J. Gile

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
NO. 263 FEBRUARY TERM, 1961
TRESPASS

JOHN LOWERANITIS

VS.

MURRAY J. BALL

PLAINTIFF'S REQUEST FOR CHARGE

LAW OFFICES
GLEASON, CHERRY & CHERRY
7-10 DAMUS BUILDING
DU BOIS, PENNSYLVANIA

109 N. BRADY STREET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

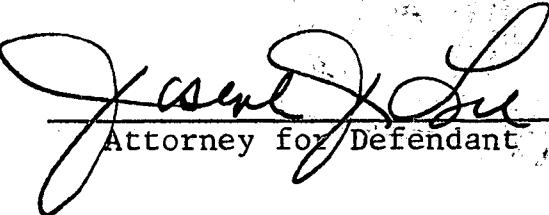
JOHN LOWERANITIS :
VS : No. 263 February Term, 1961
MURRAY J. BALL : In Trespass

P R A E C I P E

TO WILLIAM T. HAGERTY, PROTHONOTARY

SIR:

Please enter my appearance for the defendant in the above
entitled case.



Joseph J. Lee
Attorney for Defendant

March 31, 1961

In the Court of Common Pleas of Clearfield County, Pa.

John Loweranits
vs
Murry Ball

No. 263 Feb Term 1961.

Complaint In Trespass.

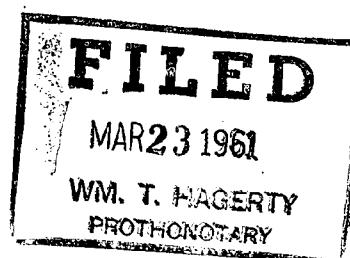
Now, March 15, 1961, at 2:30 O'Clock P.M. served the within
Complaint In Trespass on Murry Ball 8, Arminta St, Du Bois, Pa
Place of Residence, by handing to him personally a true and
attested copy of the original Complaint In Trespass and made
known to him the contents thereof.

Costs; Sheriff Ammerman; \$1160
(Paid by Attys G.C.C.)

So Answers,
Charles G Ammerman,
Sheriff,

Sworn to before me this 16th
day of March A.D. 1961.

Wm. D. Neely
Prothomotary.



No. 263 Feb Term, 19 6/

Tower and

VERSUS

Ball

VERDICT

Filed..... 19.....

Prothonotary

John D. Cutler et al.) IN THE COURT OF COMMON PLEAS
VERSUS) OF THE COUNTY OF CLEARFIELD, PA.

No. 263 - Ref Term, 19-61

Murray Ball

VERDICT

And now to wit: -

September 21, 1961, we, the Jurors

empanelled in the above entitled case, find A Verdict in Favor

~~of the Plaintiff~~

~~Dr. Peter J. Gremantowicz et al. et al.~~

John D. Cutler Foreman

NO. 263

TERM Feb

DATE

9/20/61

YEAR 1961

PLAINTIFF

John Sovernatis

vs.

DEFENDANT

Messay J. Ball

JURY CALLED AND SWEORN:

9/21/61 - 9:35

JURORS:

1. Violet Hurd
2. Carl V. L. Haymaker
3. Pearl O'Farrell
4. Margaret J. Lang
5. Gertie Bloom
6. John McLeans
7. Beatrice H. Jeery
8. Ella J. Gough
9. Helen Burns
10. Catherine L. Brown
11. Clarence Baumgardner
12. Bernard B. Eisenlaender

PLAINTIFF WITNESSES:

Joe Velox
John Sovernatis
Dr. Grace Cochrane

DEFENDANT WITNESSES:

Dr. Grace Cochrane

PLAINTIFF'S ATTY Peeds

DEFT. ATTY. Lee

ADDRESS TO JURY: 10:46

ADDRESS TO JURY: 10:43

JUDGE: ADDRESS TO JURY: 10:52

JURY OUT 11:05 JURY RETURN: 11:05

VERDICT:

For Plaintiff in the sum \$13.65

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

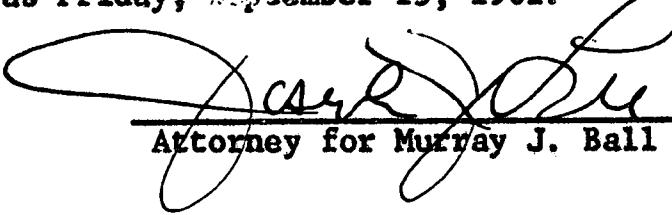
JOHN LOWERANITIS :
VS : No. 263 February Term, 1961
MURRAY J. BALL : Trespass

NOTICE OF TAKING OF
DEPOSITIONS

TO: JOHN LOWERANITIS
c/o Gleason, Cherry & Cherry, his attorneys
Damus Building
DuBois, Pennsylvania

Notice is given herewith that pursuant to Pennsylvania
Rule of Civil Procedure No. 4003 the deposition of Murray J.
Ball will be taken on oral examination at the residence of the
deponent, 8 Arminta Street, in the City of DuBois, Clearfield
County, Pennsylvania, on Thursday, September 14, 1961, at 11:00
o'clock A.M. DST (10:00 o'clock A.M. EST), and at any and all
adjournments thereof.

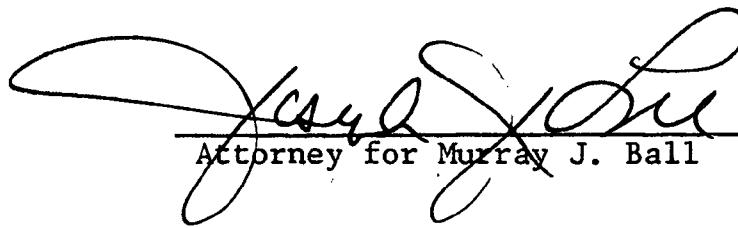
This notice supersedes notice given under date of September
7, 1961 wherein the date was Friday, September 15, 1961.



Attorney for Murray J. Ball

Dated: September 11, 1961

This is to certify that the foregoing is a true and
correct copy of a Notice of Taking of Depositions served on
Anthony Guido, Esq., of the law firm of Gleason, Cherry & Cherry,
attorneys for John Loweranitis, in the Court House at Clearfield
on September 11, 1961.



Attorney for Murray J. Ball

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN SCHERMANIUS : TO:

AB : NO. 263 SEPTEMBER TERM, 1961

Telephone : MURRAY L. BALT

NOTICE OF TAKING OF
DEPOSITIONS

TO: JOHN SCHERMANIUS

c/o Giacomo, Gentry & Gentry, Attn: Scherman
Demco, Pittsburgh
Duluth, Pennsylvania

Motion of given necessary space for name of party

Basis of City proceeding No. 4003 and deposition of Mr.

Balt will be taken on oral examination as to his knowledge of the

deposition, 8 Harrison Street, in the City of Dayton, Ohio

County, Pennsylvania, on Thursday, September 14, 1961, at 11:00

A.M. (ET), and at such time as

adjournments occur.

This notice constitutes notice given under date of 20th instant

7, 1961, whereon the date was fixed, September 15, 1961.

Attest: MURRAY L. BALT

Date: September 11, 1961

This is to certify that the foregoing is a true and

correct copy of a Notice of Taking of Deposition served on

Anthony Giacomo, Esq., of the law firm of Giacomo, Gentry & Gentry,

attorneys for John Schermaniis, in the Court House at Clearfield

on September 11, 1961.

Attest: MURRAY L. BALT