

02-1535-CD.  
MARJORIE S. BURNETT -vs- BI LO MARKET

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

MARJORIE S. BURNETT,

Plaintiff

vs.

BI LO MARKET,

Defendant

CIVIL ACTION

No. 00 - 1535 - CD

COMPLAINT

Filed on behalf of:

Plaintiff, MARJORIE S.  
BURNETT

Counsel of Record for  
Said Party:

PAUL COLAVECCHI, ESQUIRE  
PA I.D. 83274

COLAVECCHI RYAN & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

**FILED**

DEC 11 2000

**William A. Shaw**  
Prothonotary

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

MARJORIE S. BURNETT, :  
Plaintiff : No. 00 - - CD  
Vs. :  
BI LO MARKET, :  
Defendant :

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
Second and Market Streets  
Clearfield, PA 16830  
Phone 814/765-2641 Ex. 5982

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

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

MARJORIE S. BURNETT, :  
Plaintiff :  
vs. : No. 00 - - CD  
BI LO MARKET :  
Defendant :

C O M P L A I N T

1. Plaintiff is Marjorie S. Burnett, an individual, having a mailing address of P.O. Box 175, Morrisdale, Pennsylvania, 16858.

2. Defendant is Bi Lo Market, a corporation, having a branch at Rt. 322 West, Philipsburg, Pennsylvania, 16866.

3. At all times relevant hereto, Defendant was in exclusive custody, possession, and control of said area hereinafter described as "premises", and it was the duty of Defendant to keep and maintain said premises in a reasonably safe condition for those persons lawfully thereon.

4. Notwithstanding its duties, the Defendant did on September 25, 2000, carelessly, recklessly and negligently allow to permit and remain on said premises a dangerous condition; to-wit, a moveable red carpet in front of the entrance and left in such a state as to create a dangerous condition.

5. On or about September 25, 2000 at approximately 11:00 a.m., Plaintiff was walking into the main entrance of Bi Lo Market in Philipsburg, Pennsylvania.

6. A moveable red carpet was left in front of the entrance and caused Plaintiff to slip and fall to the ground, resulting in a broken leg.

7. At the time of the incident, Defendant did, or should have had both notice and knowledge of the aforesaid dangerous condition, being the moveable red carpet left in front of the entrance which made it easy for someone lawfully on the premises to slip and fall to the ground.

8. The injuries and damages which are hereinafter set forth were caused solely by and with the direct proximate result of negligence of the Defendant in any or all of the following respects:

a. In failing to keep the premises in a safe condition for persons lawfully using the same;

b. In permitting a dangerous condition to be and remain on the premises when the Defendant knew, or in the exercise of reasonable care, should have known the danger involved;

c. In failing to warn Plaintiff of the various condition created by the above-described hazard;

d. In failing to cover, blockade, or otherwise remove the dangerous condition of which Defendant knew, or in the exercise of reasonable care, should have known;

e. Permitting persons, in particular, the Plaintiff, to traverse the premises when Defendant knew, or in the exercise of reasonable care, should have known it was dangerous to do so and involved a reasonable risk of harm in persons in so doing;

f. In failing to notify or warn the Plaintiff of the dangerous condition so that the hazard involved could have been avoided;

g. Maintain the premises in such a manner as to constitute a danger to persons lawfully thereon;

h. In failing to provide persons lawfully using the premises with a safe area to traverse; and

I. In failing to inspect the premises to discover the dangerous condition.

9. Solely as a result of the negligence of the Defendant as aforesaid, Plaintiff sustained a broken leg, shock, and injury to her nerves and nervous system which may be of a permanent nature.

10. As a result of the aforesaid injuries, Plaintiff has sustained the following damages:

a. Plaintiff has suffered and will continue to suffer great pain, inconvenience, embarrassment, mental anguish, and loss of the enjoyment of life;

b. Plaintiff has expended and will be required to expend sums of money for medical and surgical attention, hospitalization, medical supplies, surgical supplies, medicines and attendant services; and

c. Plaintiff's general health, strength and vitality have been impaired.

WHEREFORE, Plaintiff brings this action against Defendant to recover damages in excess of the jurisdiction of the Board of Arbitrators of this Court and in excess of Twenty Thousand (\$20,000) Dollars.

Paul Colavecchi  
PAUL COLAVECCHI, ESQUIRE  
Attorney for Plaintiff

VERIFICATION

I verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. 4904, relating to unsworn falsification to authorities.

  
MARJORIE S. BURNETT



IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
CIVIL DIVISION

No. 00 - - CD

MARJORIE S. BURNETT,  
Plaintiff

**vs.**

BI LO MARKET,  
Defendant

## COMPLAINT

## NOTICE TO DEFENDANT:

YOU are hereby notified that you are required to file an Answer to the within Complaint within twenty (20) days after service upon you or judgment may be entered against you.

*Paul Colavecchi*  
PAUL COLAVECCHI, ESQUIRE  
Attorney for Plaintiff

COLAVECCHI  
RYAN & COLAVECCHI

ATTORNEYS AT LAW  
221 EAST MARKET STREET  
(ACROSS FROM COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA 16830

FILED  
DEC 11 2000  
9/10/00  
3 cc  
Atty

**William A. Shaw,  
Prothonotary**

MARJORIE S. BURNETT,  
Plaintiff

vs.

BI LO MARKET,  
Defendant

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

:  
: No. 00-1535 C.D.  
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: **ENTRY OF APPEARANCE**  
:

: Counsel of Record for Filing Party:  
:

: DENNIS M. McGLYNN, ESQUIRE  
: 969 Eisenhower Boulevard  
: Johnstown, PA 15904  
: (814) 262-0812  
:

: Supreme Court I.D. No. 19855

**FILED**

DEC 29 2000

01/12/01  
William A. Shaw  
Prothonotary

no c/c

9/18/

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

MARJORIE S. BURNETT,  
Plaintiff

vs.

BI LO MARKET,  
Defendant

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: No. 00-1535 CD  
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**ENTRY OF APPEARANCE**

Enter my appearance for Defendant, Bi Lo Market, in the above captioned case. Papers may be served at the address stated below.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 1007.1 of the Pennsylvania Rules of Civil Procedure, as amended, a Jury Trial is demanded on all issues raised by the pleadings in the above captioned case.

We certify that this Entry of Appearance and Demand for Jury Trial shall be served forthwith by ordinary mail upon all parties herein.

Dated: December 28, 2000



DENNIS M. McGLYNN, ESQUIRE  
ATTORNEY FOR DEFENDANT  
969 Eisenhower Boulevard  
Johnstown, PA 15904  
I.D. No. 19855

cc: Paul Colavecchi, Esquire

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

Sheriff Docket # 10486

BURNETT, MARJORIE S.

00-1535-CD

VS.

BI LO MARKET

COMPLAINT

**SHERIFF RETURNS**

NOW DECEMBER 21, 2000 AT 10:40 AM EST SERVED THE WITHIN COMPLAINT  
ON BI-LO MARKET, DEFENDANT AT EMPLOYMENT, PHILIPSBURG BI-LO, AMES  
PLAZA PARKING LOT, PHILIPSBURG, CLEARFIELD COUNTY, PENNSYLVANIA BY  
HANDING TO PAT BENNETT, STORE MGR. A TRUE AND ATTESTED COPY OF THE  
ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.  
SERVED BY: NEVLING/RYEN

**Return Costs**

Cost	Description
26.65	SHFF. HAWKINS PAID BY: ATTY.
10.00	SURCHARGE PAID BY: ATTY.

**FILED**


JAN 15 2001  
m 10:00  
William A. Shaw  
Prothonotary

Sworn to Before Me This

15th Day Of January 2001  


WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2002  
Clearfield Co. Clearfield, PA.

So Answers,

  
by Marlynn Hamer  
Chester A. Hawkins  
Sheriff

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

MARJORIE S. BURNETT,  
Plaintiff

vs.

BI LO MARKET,  
Defendant

No. 00-1535 CD

FILED

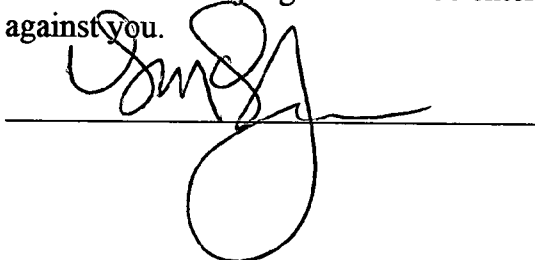
JAN 31 2001

William A. Shaw  
Prothonotary

**ANSWER AND NEW MATTER**

TO THE WITHIN NAMED PARTIES:

You are hereby notified to  
plead to the enclosed New Matter within  
twenty (20) days from the date of service  
hereof or default judgment will be entered  
against you.



Counsel of record for filing party:

DENNIS M. McGLYNN, ESQUIRE  
969 Eisenhower Boulevard  
Suite I  
Johnstown, PA 15904  
(814) 262-0812  
I.D. No. 19855

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

MARJORIE S. BURNETT,  
Plaintiff

vs.

BI LO MARKET,  
Defendant

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: No. 00-1535 CD  
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**DEFENDANT'S ANSWER AND NEW MATTER**

AND NOW comes the Defendant, Bi Lo Market, by and through its attorney, Dennis M. McGlynn, Esquire, and files the following Answer and New Matter:

1. Admitted.
2. Denied. To the contrary, the proper party defendant is The Penn Traffic Company, a Delaware corporation, who maintains its principal place of business at 1200 State Fair Boulevard, Syracuse, NY 13221.
3. Admitted.
4. Denied. It is specifically denied that the Defendant was careless, reckless, or negligent in any fashion concerning its premises on September 25, 2000, as is alleged by the Plaintiff. To the contrary, the premises was in a perfectly safe and reasonable condition and if it were otherwise, the Defendant had no notice or knowledge of any such condition.

5. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averment and therefore, proof is required.

6. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averment and therefore, proof is required.

7. Denied. To the contrary, the Defendant did not have any notice, actual or otherwise, of any dangerous conditions in its premises. To the contrary, the premises of the Defendant was in a reasonable and safe condition at all times and the allegations made by the Plaintiff are specifically denied to that effect.

8. Denied. To the contrary, any injuries or damages claimed by the Plaintiff are beyond the scope of information available to the Defendant and are specifically denied and strict proof is hereby demanded. Furthermore, it is specifically denied that any action or negligence on the part of the Defendant was the proximate cause of any alleged injuries and particularly, pursuant to PA R.C.P. 1029(e), the allegations of subparagraph a. through i. are denied.

9. Denied. It is denied the Defendant was negligent in any fashion. As to the remainder of the allegation, after reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averment and therefore, proof is required.

10. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averment and therefore, proof is required.

Wherefore, Defendant Bi Lo Market prays for judgment in its behalf.

**NEW MATTER**

By way of further answer, Defendant avers as follows:

11. The Defendant, Bi Lo Market, is informed, believes, and therefore avers that the Plaintiff is contributorily and/or comparatively negligent and Plaintiff is thus barred from recovery of any damages under the terms of the Pennsylvania Comparative Negligence Act. Act No. July 9, 1976 Pl. 855 No. 152 and the Act of April 28, 1978 Pl. 202 No. 53 Section 10(89), 42 Pa. CSA Section 7102A, effective as to the causes of action arising on or after September 7, 1976 as the Plaintiff's causal negligence is greater than the negligence, if any, of the Defendant.

12. In the alternative, pursuant to the aforesaid provisions of the Pennsylvania Comparative Negligence Act. 42 Pa. CSA §7102A any damage which the Plaintiff may have legally suffered and can prove at trial and which are not otherwise barred by any of the defenses asserted in this Answer and New Matter should be diminished in proportion to the amount of negligence attributed to the Plaintiff.



13. Plaintiff was contributorily negligent and/or assumed the risk of her actions by fully understanding the risk, voluntarily choosing to encounter it and under circumstances that manifest a willingness to accept it.

Wherefore, Defendant Bi Lo Market prays for judgment in its behalf.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dennis M. McGlynn", written over a horizontal line.

DENNIS M. McGLYNN, ESQUIRE  
ATTORNEY FOR DEFENDANT  
I.D. No. 19855

**VERIFICATION**

I, Tabitha A. Mayf state that I am the General Liability Claims Adjuster of Bi Lo Market, the Defendant herein, that I am authorized to make this affidavit on its behalf and that the facts set forth in the foregoing Answer and New Matter are true upon my personal knowledge, information and belief.

I understand that my statements are made subject to 18 Pa. Con. Stat. §4904 providing for criminal penalties for unsworn falsification to authorities.

Tabitha A. Mayf

Date 1/22/01

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

MARJORIE S. BURNETT,  
Plaintiff

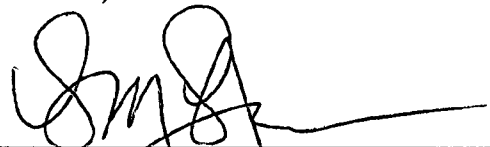
vs.

BI LO MARKET,  
Defendant

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: No. 00-1535 CD  
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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the foregoing Answer and New Matter on behalf of Defendant, Bi Lo Market, was forwarded on the 30th day of January, 2001, by U.S. Mail, postage prepaid, to all counsel of record, addressed as follows:



DENNIS M. McGLYNN, ESQUIRE  
ATTORNEY FOR DEFENDANT  
I.D. No. 19855

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARJORIE S. BURNETT,  
Plaintiff

vs.

BI LO MARKET,  
Defendant

: CIVIL DIVISION

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: NO. 00-1535-CD

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: REPLY TO NEW MATTER

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: Filed on Behalf of:

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: Plaintiff

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: Counsel of Record For This  
: Party:

:

: PAUL COLAVECCHI, ESQUIRE

: Pa. I. D. #83274

:

: Colavecchi, Ryan & Colavecchi

: 221 East Market Street

: P. O. Box 131

: Clearfield, PA 16830

:

: 814/765-1566

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

**FILED**

FEB 02 2001

William A. Shaw  
Prothonotary

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

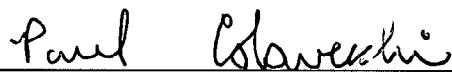
MARJORIE S. BURNETT, :  
Plaintiff :  
vs. : NO. 00-1535-CD  
BI LO MARKET, :  
Defendant :

REPLY TO NEW MATTER

AND NOW, comes the Plaintiff, Marjorie S. Burnett, by her attorney, Paul Colavecchi, Esquire, and files the following reply to New Matter filed by Defendant as follows:

11. Denied for the reasons set forth in the Complaint.
12. Denied for the reasons set forth in the Complaint.
13. Denied for the reasons set forth in the Complaint.

WHEREFORE, Plaintiff respectfully requests that judgment be entered in her favor and against the Defendant.

  
PAUL COLAVECCHI, ESQUIRE  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
NO. 00-1535-CD

MARJORIE S. BURNETT,  
Plaintiff

vs.

BI LO MARKET,  
Defendant

REPLY TO NEW MATTER

FILED

01/10/15  
FEB 02 2001

William A. Shaw  
Prothonotary

COLAVECCHI  
RYAN & COLAVECCHI

ATTORNEYS AT LAW  
221 EAST MARKET STREET  
(ACROSS FROM COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA 16830

MARJORIE S. BURNETT,  
Plaintiff

vs.

BI LO MARKET,  
Defendant

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

:  
: No. 00-1535 CD  
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:  
: **Notice of Service of Interrogatories/  
: Request for Production of Documents**  
:

: Counsel of Record for Filing Party:  
:

: DENNIS M. McGLYNN, ESQUIRE  
: 969 Eisenhower Boulevard  
: Johnstown, PA 15904  
: (814) 262-0812  
:

: Supreme Court I.D. No. 19855

FILED

FEB 02 2001  
m/l/25/noc  
William A. Shaw  
Prothonotary  
826

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

MARJORIE S. BURNETT,  
Plaintiff

vs.

BI LO MARKET,  
Defendant

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: No. 00-1535 CD  
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**NOTICE OF SERVICE OF INTERROGATORIES/  
REQUEST FOR PRODUCTION OF DOCUMENTS**

TO: Prothonotary, Clearfield County

Defendant, Bi Lo Market, by its attorney, Dennis M. McGlynn, Esquire,  
hereby notifies the Court that Interrogatories/Request for Production of Documents have  
been served upon the Plaintiff, Marjorie S. Burnett, by mailing an original and one copy  
of same to her counsel, Paul Colavecchi, Esquire, at 221 E. Market St., P.O. Box 131,  
Clearfield, Pennsylvania 16830 on this 31<sup>st</sup> day of January, 2001.



DENNIS M. McGLYNN, ESQUIRE  
ATTORNEY FOR DEFENDANT  
I.D. No. 19855



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARJORIE S. BURNETT,  
Plaintiff

vs.

BI LO MARKET,  
Defendant

CIVIL DIVISION

No. 00 - 1535 - CD

PRAECIPE FOR DISCONTINUANCE

Filed on Behalf of:

Plaintiff, MARJORIE S. BURNETT

Counsel of Record for This  
Party:

PAUL COLAVECCHI, ESQUIRE  
Pa. I.D. #83274

COLAVECCHI RYAN & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

814/765-1566

**FILED**

**AUG 31 2001**

William A. Shaw  
Prothonotary

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

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

MARJORIE S. BURNETT,  
Plaintiff

vs.

BI LO MARKET,  
Defendant

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: No. 00-1535 CD  
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**PRAECIPE FOR DISCONTINUANCE**

Please mark the above captioned case ended, settled, and forever  
discontinued.

Paul Colavecchi  
PAUL COLAVECCHI, ESQUIRE  
ATTORNEY FOR PLAINTIFF

**FILED**

AUG 31 2001  
OFFICE OF THE CLERK  
William A. Shaw  
Prothonotary  
2nd Copy CA  
WAS

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

CIVIL DIVISION

Marjorie S. Burnett

Vs.  
Bi Lo Market

No. 2000-01535-CD

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on August 31, 2001 marked:

Ended, Settled and Forever Discontinued.

Record costs in the sum of \$80.00 have been paid in full by Paul Colavecchi, Esquire.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 31st day of August A.D. 2001.



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William A. Shaw, Prothonotary