

01-216-CD
COUNTRYWIDE HOME LOANS, INC. -vs- MARY E. CAPUANO-YATES et al

FEDERMAN AND PHELAN, LLP
By: FRANK FEDERMAN, ESQUIRE
IDENTIFICATION NO. 12248
ONE PENN CENTER AT SUBURBAN STATION
1617 JOHN F. KENNEDY BOULEVARD
SUITE 1400
PHILADELPHIA, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF

COUNTRYWIDE HOME LOANS, INC.
6400 LEGACY DRIVE
PLANO, TX 72024

COURT OF COMMON PLEAS
CIVIL DIVISION

TERM

Plaintiff

NO. 2001-216-CO

v.

CLEARFIELD COUNTY

MARY E. CAPUANO-YATES
JOHN W. YATES
2 DOGWOOD TERRACE
PENACOOK, NH 03303

Defendant(s)

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

NOTICE

****THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY AND THIS DEBT WAS NOT REAFFIRMED, THIS CORRESPONDENCE IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY ENFORCEMENT OF A LIEN AGAINST PROPERTY. ****

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.

CLEARFIELD COUNTY
DAVID S. MEHOLICK, COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
(814) 765-2641

Loan #: 4041268

FILED

FEB 13 2001

William A. Shaw
Prothonotary

M 12:45 / W

1 COPY TO SHAW

1 COPY TO ATT

1. Plaintiff is

COUNTRYWIDE HOME LOANS, INC.
6400 LEGACY DRIVE
PLANO, TX 72024

2. The name(s) and last known address(es) of the Defendant(s) are:

MARY E. CAPUANO-YATES
JOHN W. YATES
2 DOGWOOD TERRACE
PENACOOK, NH 03303

who is/are the mortgagor(s) and real owner(s) of the property hereinafter described.

3. On 5/10/96 mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to TOWNE AND COUNTRY MORTGAGE CORPORATION which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Book No. 1758, Page 9. By Assignment of Mortgage recorded 5/14/96 the mortgage was assigned to INTEGRA MORTGAGE COMPANY which Assignment is recorded in Assignment of Mortgage Book No. 1758, Page 18. By Assignment of Mortgage recorded 4/25/97 the mortgage was assigned to NATIONAL CITY MORTGAGE COMPANY which Assignment is recorded in Assignment of Mortgage Book No. 1836, Page 279. By Assignment of Mortgage recorded 4/25/97 the mortgage was assigned to PLAINTIFF which Assignment is recorded in Assignment of Mortgage Book No. 1836, Page 281.
4. The premises subject to said mortgage is described as attached.
5. The mortgage is in default because monthly payments of principal and interest upon said mortgage due 9/1/00 and each month thereafter are due and unpaid, and by the terms of said mortgage, upon default in such payments for a period of one month, the entire principal balance and all interest due thereon are collectible forthwith.

6. The following amounts are due on the mortgage:

Principal Balance	\$68,589.81
Interest	2,954.45
8/1/00 through 2/1/01 (Per Diem \$15.97)	
Attorney's Fees	3,429.00
Cumulative Late Charges	239.52
5/10/96 to 2/1/01	
Cost of Suit and Title Search	<u>550.00</u>
Subtotal	\$75,762.78
Escrow	
Credit	0.00
Deficit	<u>529.36</u>
Subtotal	<u>\$ 529.36</u>
TOTAL	\$76,292.14

7. The attorney's fees set forth above are in conformity with the Mortgage documents and Pennsylvania Law, and will be collected in the event of a third party purchaser at Sheriff's Sale. If the Mortgage is reinstated prior to the Sale, reasonable attorney's fees will be charged.
8. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.00.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$76,292.14, together with interest from 2/1/01 at the rate of \$15.97 per diem to the date of Judgment, and other costs and charges collectible under the mortgage and for the foreclosure and sale of the mortgaged property.



/s/ Frank Federman

FRANK FEDERMAN, ESQUIRE
Attorney for Plaintiff

LEGAL DESCRIPTION

All that certain lot or piece of ground with the buildings and improvements thereon erected, being known as 785 TREASURE LAKE, TOWNSHIP OF SANDY, COUNTY OF CLEARFIELD, and being further described on that certain Deed dated 5/8/96 and recorded on 5/14/96 in the Office of the Recorder of Deeds in CLEARFIELD County in Deed Book No. 1758, Page 5.

Parcel No. 128-D2-01-34-21

BEING known as 785 TREASURE LAKE, DUBOIS, PA 15801

VERIFICATION

FRANK FEDERMAN, ESQUIRE hereby states that he is attorney for Plaintiff in this matter, that Plaintiff is outside the jurisdiction of the court and/or the verification could not be obtained within the time allowed for the filing of the pleading, that he is authorized to make this verification, and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are true and correct to the best of his knowledge, information and belief. Furthermore, it is counsel's intention to substitute a verification from Plaintiff as soon as it is received by counsel. The undersigned understands that this statement is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.

Frank Federman

DATE: 2/12/01

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket #

10690

COUNTRYWIDE HOME LOANS INC.

01-216-CD

VS.

CAPUANO-YATES, MARY E. and JOHN W.

COMPLAINT IN MORTGAGE FORECLOSURE

SHERIFF RETURNS

NOW MARCH 14, 2001 RETURN THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE "NOT SERVED, TIME EXPIRED" AS TO MARY E. CAPUANO-YATES AND JOHN W. YATES, DEFENDANTS. NEVER RECEIVED ADDITIONAL SURCHARGE OR COMPLAINT FOR SERVICE.

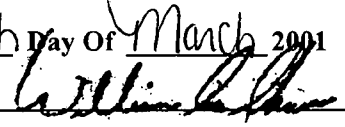
Return Costs

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

FILED

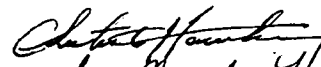
MAR 14 2001
01:25:22 pm
William A. Shaw
Prothonotary

Sworn to Before Me This

14th Day Of March 2001


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

So Answers,


by Marilyn Harris
Chester A. Hawkins
Sheriff

FEDERMAN AND PHELAN, LLP
By: FRANK FEDERMAN, ESQUIRE
IDENTIFICATION NO. 12248
ONE PENN CENTER AT SUBURBAN STATION
1617 JOHN F. KENNEDY BOULEVARD
SUITE 1400
PHILADELPHIA, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF

COUNTRYWIDE HOME LOANS, INC.
6400 LEGACY DRIVE
PLANO, TX 72024

COURT OF COMMON PLEAS
CIVIL DIVISION

TERM

NO. 2001-216-00

CLEARFIELD COUNTY

Plaintiff

v.

MARY E. CAPUANO-YATES
JOHN W. YATES
2 DOGWOOD TERRACE
PENACOOK, NH 03303

Defendant(s)

CIVIL ACTION - LAW
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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.

**We hereby certify the
within to be a true and
correct copy of the
original filed of record
FEDERMAN AND PHELAN**

CLEARFIELD COUNTY
DAVID S. MEHOLICK, COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
(814) 765-2641

I hereby certify that the foregoing is a true and correct copy of the original statement filed in Case No. 2001-216-00.

FEB 13 2001

Attest.

William R. Shaw
Prothonotary

Loan #: 4041268

1. Plaintiff is

COUNTRYWIDE HOME LOANS, INC.
6400 LEGACY DRIVE
PLANO, TX 72024

2. The name(s) and last known address(es) of the Defendant(s) are:

MARY E. CAPUANO-YATES
JOHN W. YATES
2 DOGWOOD TERRACE
PENACOOK, NH 03303

who is/are the mortgagor(s) and real owner(s) of the property hereinafter described.

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/s/ Frank Federman
FRANK FEDERMAN, ESQUIRE
Attorney for Plaintiff

LEGAL DESCRIPTION

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Parcel No. 128-D2-01-34-21

BEING known as 785 TREASURE LAKE, DUBOIS, PA 15801

VERIFICATION

FRANK FEDERMAN, ESQUIRE hereby states that he is attorney for Plaintiff in this matter, that Plaintiff is outside the jurisdiction of the court and/or the verification could not be obtained within the time allowed for the filing of the pleading, that he is authorized to make this verification, and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are true and correct to the best of his knowledge, information and belief. Furthermore, it is counsel's intention to substitute a verification from Plaintiff as soon as it is received by counsel. The undersigned understands that this statement is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.

Frank Federman

DATE: 2/12/01

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

FEB 13 2001 2nd

Attest.

William A. Shaw
Prothonotary

Notice of Proposed Termination of Court Case

October 5, 2007

RE: 2001-00216-CD

Countrywide Home Loans, Inc.

Vs.

Mary E. Capuano-Yates
John W. Yates

FILED

OCT 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

Blad

Dear Frank Federman, Esq:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **December 4, 2007**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

Daniel J. Nelson

Daniel J. Nelson
Court Administrator

Notice of Proposed Termination of Court Case

October 5, 2007

RE: 2001-00216-CD

Countrywide Home Loans, Inc.

Vs.

Mary E. Capuano-Yates
John W. Yates

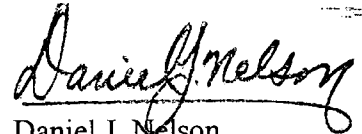
Dear Mary E. Capuano-Yates:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **December 4, 2007**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

A handwritten signature in cursive script that reads "Daniel J. Nelson". The signature is written in dark ink and is positioned above the printed name and title.

Daniel J. Nelson
Court Administrator

Notice of Proposed Termination of Court Case

October 5, 2007

RE: 2001-00216-CD

Countrywide Home Loans, Inc.

Vs.

Mary E. Capuano-Yates
John W. Yates

Dear John W. Yates:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

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If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

A handwritten signature in black ink, appearing to read "Daniel J. Nelson", written over a horizontal line.

Daniel J. Nelson
Court Administrator

Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division

Countrywide Home Loans, Inc.

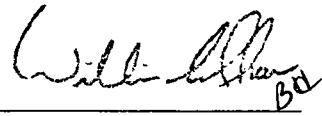
Vs.

2001-00216-CD

Mary E. Capuano-Yates
John W. Yates


Termination of Inactive Case

This case is hereby terminated with prejudice this
November 30, 2007, as per Rule 230.2



William A. Shaw
Prothonotary

FILED
09:00 AM
DEC 05 2007



William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

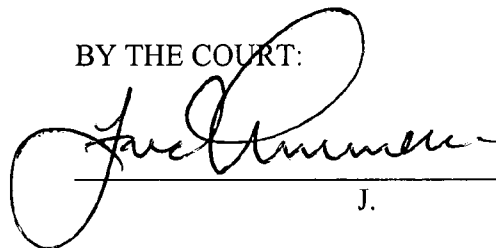
Countrywide Home Loans, Inc.	:	Court of Common Pleas
Plaintiff	:	
	:	Civil Division
vs.	:	
	:	Clearfield County
Mary E. Capuano-Yates	:	
John W. Yates	:	No. 2001-216-CD
Defendants	:	

ORDER

AND NOW, this 31 day of December, 2007, upon consideration of Plaintiff's Motion to Reinstate the Case and Defendants' response thereto, if any, it is hereby:

ORDERED and **DECREED** that the above-referenced case is reopened and reinstated, the Termination of Inactive Case is vacated and the case is marked discontinued and ended without prejudice.

BY THE COURT:


J.

FILED

01/30/08
JAN 02 2008

William A. Shaw
Prothonotary/Clerk of Courts

ICC
Any Srivastava

LM
GK

FILED

JAN 02 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/2/08

☒ You are responsible for serving all appropriate parties.

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

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

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

FILED

DEC 20 2007

m/12-10/11

William A. Shaw
Prothonotary/Clerk of Courts

No CFMT Copy

PHELAN HALLINAN & SCHMIEG, LLP

By: Vivek Srivastava, Esquire

Identification No. 202331

Attorney for Plaintiff

One Penn Center at Suburban Station

1617 J.F.K. Blvd., Suite 1400

Philadelphia, PA 19103-1814

(215) 563-7000

Countrywide Home Loans, Inc.
Plaintiff

Court of Common Pleas

vs.

Civil Division

Clearfield County

Mary E. Capuano-Yates

John W. Yates

Defendants

No. 2001-216-CD

PLAINTIFF'S MOTION TO REINSTATE CASE

COMES NOW, Plaintiff, Countrywide Home Loans, Inc. (hereinafter "Plaintiff"), by and through its attorneys, Phelan Hallinan & Schmieg, LLP, and files this its Motion to Reinstate Case for the limited purpose of filing its Praecipe to Discontinue and End, and in support thereof avers as follows:

1. Plaintiff filed its Complaint in mortgage foreclosure on February 13, 2001.
2. On or about February 28, 2001, Plaintiff was advised to place its foreclosure file on hold since Defendants entered into a repayment plan.

3. On or about December 10, 2007, Plaintiff received a Termination of Inactive Case decree issued by the Court. A true and correct copy of the Court's Termination of Inactive Case is attached hereto, made part hereof, and marked as Exhibit A.

4. Upon receipt of the notice of the Court's intent to terminate case, Plaintiff filed a Praecipe to Discontinue and End.

5. Pursuant to Pa.R.C.P. 230.2(a)(1) and (d)(2), if an action has been terminated pursuant to Rule 230.2 for inactivity, an aggrieved party may petition the court to reinstate the action. If the petition has been filed within thirty (30) days after the entry of the order of termination on the docket, the court shall grant the motion and reinstate the action.

6. Plaintiff therefore respectfully requests that the Honorable Court vacate its Termination of Inactive Case and reinstate the instant action.

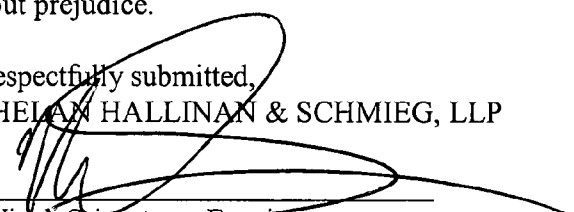
7. Plaintiff further requests that the attached Order be entered marking the case discontinued and ended without prejudice.

8. Plaintiff will be prejudiced should this action not be reopened and the Termination of Inactive Case vacated since the action has been dismissed with prejudice. In the event the Defendants again default on the mortgage loan, Plaintiff will be unable to foreclose to recoup its unjust losses.

WHEREFORE, Plaintiff respectfully requests that the Honorable Court vacate its Termination of Inactive Case, reinstate the above referenced matter and enter the attached Order marking the case discontinued and ended without prejudice.

Date: 12/19/07

Respectfully submitted,
PHELAN HALLINAN & SCHMIEG, LLP

By: 
Vivek Srivastava, Esquire
Attorney for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP

By: Vivek Srivastava, Esquire

Identification No. 202331

Attorney for Plaintiff

One Penn Center at Suburban Station

1617 J.F.K. Blvd., Suite 1400

Philadelphia, PA 19103-1814

(215) 563-7000

Countrywide Home Loans, Inc.
Plaintiff

Court of Common Pleas

Civil Division

vs.

Clearfield County

Mary E. Capuano-Yates

John W. Yates

No. 2001-216-CD

Defendants

PLAINTIFF'S BRIEF IN SUPPORT OF ITS MOTION TO REINSTATE CASE

Plaintiff filed its Complaint in mortgage foreclosure on February 13, 2001. On or about February 28, 2001, Plaintiff was advised to place its foreclosure file on hold since Defendants entered into a repayment plan. On or about December 10, 2007, Plaintiff received a Termination of Inactive Case decree issued by the Court. A true and correct copy of the Court's Termination of Inactive Case is attached hereto, made part hereof, and marked as Exhibit A. Upon receipt of the notice of the Court's intent to terminate case, Plaintiff filed a Praecipe to Discontinue and End. Pursuant to Pa.R.C.P. 230.2(a)(1) and (d)(2), if an action has been terminated pursuant to Rule 230.2 for inactivity, an aggrieved party may petition the court to reinstate the action. If the petition has been filed within thirty (30) days after the entry of the order of termination on the

docket, the court shall grant the motion and reinstate the action. Plaintiff therefore respectfully requests that the Honorable Court vacate its Termination of Inactive Case and reinstate the instant action. Plaintiff further requests that the attached Order be entered marking the case discontinued and ended without prejudice. Plaintiff will be prejudiced should this action not be reopened and the Termination of Inactive Case vacated since the action has been dismissed with prejudice. In the event the Defendants again default on the mortgage loan, Plaintiff will be unable to foreclose to recoup its unjust losses.

WHEREFORE, Plaintiff respectfully requests that the Honorable Court vacate its Termination of Inactive Case, reinstate the above referenced matter and enter the attached Order marking the case discontinued and ended without prejudice.

Date: 12/19/07

Respectfully submitted,
PHELAN HALLINAN & SCHMIEG, LLP

By: 

Vivek Srivastava, Esquire
Attorney for Plaintiff

EXHIBIT A

Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division

Countrywide Home Loans, Inc.

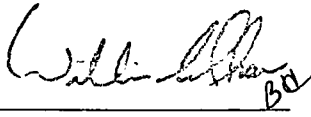
Vs.

2001-00216-CD

Mary E. Capuano-Yates
John W. Yates

Termination of Inactive Case

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November 30, 2007, as per Rule 230.2



William A. Shaw
Prothonotary

VERIFICATION

Vivek Srivastava, hereby states that he is the attorney for the Plaintiff in this action, that he is authorized to make this Verification, and that the statements made in the foregoing Motion to Reinstate Case are true and correct to the best of his knowledge, information and belief. The undersigned understands that the statement made herein is subject to the penalties of 18 Pa.C.S. Sec. 4904 relating to unsworn falsification to authorities.

Date: _____

12/19/07

PHELAN HALLINAN & SCHMIEG, LLP

By: _____

Vivek Srivastava, Esquire
Attorney for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP

By: Vivek Srivastava, Esquire

Identification No. 202331

Attorney for Plaintiff

One Penn Center at Suburban Station

1617 J.F.K. Blvd., Suite 1400

Philadelphia, PA 19103-1814

(215) 563-7000

Countrywide Home Loans, Inc.

Plaintiff

: Court of Common Pleas

: Civil Division

vs.

: Clearfield County

Mary E. Capuano-Yates

John W. Yates

Defendants

: No. 2001-216-CD

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of Plaintiff's Motion to Reinstate Case, Brief in Support thereof, proposed Order and Verification was sent via regular mail to the Defendants on the date listed below:

Mary E. Capuano-Yates

785 Treasure Lake

Dubois, PA 15801

John W. Yates

785 Treasure Lake

Dubois, PA 15801

Date: 12/19/07

By: 

Vivek Srivastava, Esquire

Attorney for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP

By: Vivek Srivastava, Esquire

Identification No. 202331

Attorney for Plaintiff

One Penn Center at Suburban Station

1617 J.F.K. Blvd., Suite 1400

Philadelphia, PA 19103-1814

(215) 563-7000

Countrywide Home Loans, Inc.
Plaintiff

vs.

Mary E. Capuano-Yates

John W. Yates

Defendants

Court of Common Pleas

Civil Division

Clearfield County

No. 2001-216-CD

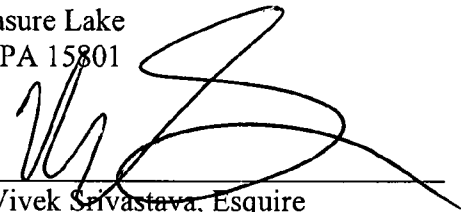
CERTIFICATION OF SERVICE

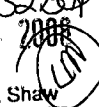
I hereby certify that a true and correct copy of the December 31, 2007 Order granting Plaintiff's Motion to Reinstate Case was served on the Defendants by regular mail on the date indicated below:

Mary E. Capuano-Yates
785 Treasure Lake
Dubois, PA 15801

John W. Yates
785 Treasure Lake
Dubois, PA 15801

Date: 01/09/08

By: 
Vivek Srivastava, Esquire
Attorney for Plaintiff

FILED *NO CC*
111-3234
JAN 14 2008

William A. Shaw
Prothonotary/Clerk of Courts