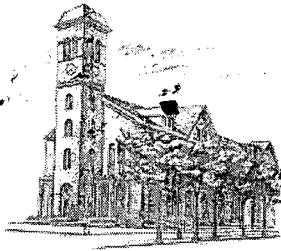


DAVID NEARHOOD et al -vs- OFFICER TODD LOMBARDI et al



## Clearfield County Office of the Prothonotary and Clerk of Courts

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

**Jacki Kendrick**  
Deputy Prothonotary/Clerk of Courts

**Bonnie Hudson**  
Administrative Assistant

**David S. Ammerman**  
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ [www.clearfieldco.org](http://www.clearfieldco.org)

March 6, 2008

Superior Court of Pennsylvania  
Office of the Prothonotary  
600 Grant Building  
Pittsburgh, PA 15219

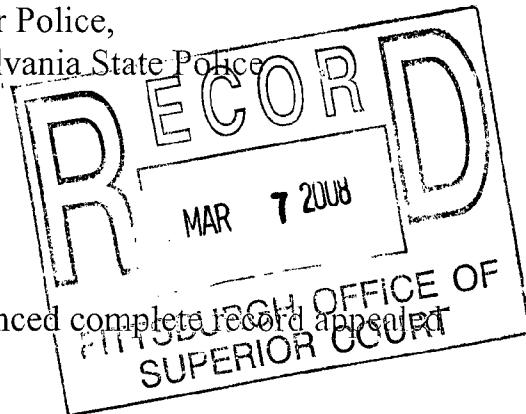
RE: David Nearhood and Joshua Nearhood

vs

Officer Todd Lombardo, Morris-Cooper Police,  
Trooper Thomas Granville, and Pennsylvania State Police  
No. 01-1715-CD  
Superior Court No. 254 WDA 2008

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office, March 6, 2008.



Sincerely,

William A. Shaw  
Prothonotary

Record Part  
Letter from J. Ammerman  
(no opinion)



JUDGE'S CHAMBERS.  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA  
CLEARFIELD COUNTY  
230 EAST MARKET STREET  
CLEARFIELD, PENNSYLVANIA 16830

FREDRIC J. AMMERMAN  
PRESIDENT JUDGE

PAUL E. CHERRY  
JUDGE

JOHN K. REILLY, JR.  
SENIOR JUDGE

February 12, 2008

Eleanor R. Valecko  
Deputy Prothonotary  
Superior Court of Pennsylvania  
310 Grant Street, Suite 600  
Pittsburgh, PA 15219-2297

Re: *David L. Nearhood Joshua Nearhood v Officer Todd  
Lombardo, et al  
No. 254 WDA 2008  
No. 01-1715-CD (Court of Common Pleas)*

Dear Ms. Valecko:

You will find enclosed the original record in the above-captioned appeal.  
I will not be submitting an Opinion to the Superior Court in this matter.

Sincerely,



Fredric J. Ammerman  
President Judge

cc: W. Shaw – Prothonotary

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

David Lee Nearhood Joshua Nearhood

Vs.

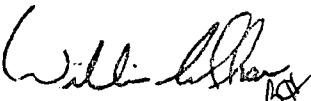
Case No. 2001-01715-CD

Todd Lombardo  
Morris-Cooper Police  
Thomas Granville  
PA State Police

CERTIFICATE OF CONTENTS

NOW, this March 6, 2008, the undersigned, Prothonotary or Deputy Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, the said Court of record, does hereby certify that attached is the original record of the case currently on Appeal.

An additional copy of this Certificate is enclosed with the original hereof and the Clerk or Prothonotary of the Superior Court is hereby directed to acknowledge receipt of the Appeal Record by executing such copy at the place indicated by forthwith returning the same to this Court.

By:   
William A. Shaw, Prothonotary

Record, Etc. Received:

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

\_\_\_\_\_  
(Signature & Title)

## Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 254 WDA 2008

Page 1 of 4

February 8, 2008



David L. Nearhood  
 Joshua Nearhood, Appellants  
 V.  
 Officer Todd Lombardo  
 Morris-Cooper Police  
 Trooper Thomas Granville  
 Pennsylvania State Police

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: February 8, 2008

Awaiting Original Record

FILED  
 FEB 11 2008  
 m/12/2008  
 William A. Shaw  
 Prothonotary/Clerk of Courts

Journal Number:

Case Category: Civil

Case Type: Other

Consolidated Docket Nos.:

Related Docket Nos.:

## SCHEDULED EVENT

Next Event Type: Case Initiation

Next Event Due Date: February 8, 2008

Next Event Type: Receive Docketing Statement

Next Event Due Date: February 22, 2008

Next Event Type: Original Record Received

Next Event Due Date: April 8, 2008



**Appeal Docket Sheet****Superior Court of Pennsylvania****Docket Number:** 254 WDA 2008**Page 2 of 4****February 8, 2008****COUNSEL INFORMATION****Appellant** Nearhood, David LPro Se: ProSe  Appoint Counsel Status: IFP Status: No **Appellant Attorney Information:**Attorney: Nearhood, David L. Bar No.:  Law Firm: Address: 1223 Oak Grove Road  
Morrisdale, PA 16858 Phone No.: (814)342-7464  Fax No.: Receive Mail: Yes E-Mail Address: Receive E-Mail: No **Appellant** Nearhood, JoshuaPro Se: ProSe  Appoint Counsel Status: IFP Status: **Appellant Attorney Information:**Attorney: Nearhood, David L. Bar No.:  Law Firm: Address: 1223 Oak Grove Road  
Morrisdale, PA 16858 Phone No.: (814)342-7464  Fax No.: Receive Mail: Yes E-Mail Address: Receive E-Mail: No **Appellee** Lombardo, Officer ToddPro Se:  Appoint Counsel Status: IFP Status: **Appellee Attorney Information:**Attorney: Krepps, Paul Daniel Bar No.: 73038  Law Firm: Marshall, Dennehey, Warner, Coleman & Goggin, P.C. Address: 600 Grant St Ste 2900  
Pittsburgh, PA 15219 Phone No.: (412)803-1149  Fax No.: (412)803-1188 Receive Mail: Yes E-Mail Address: Receive E-Mail: No **Appellee** Morris-Cooper PolicePro Se:  Appoint Counsel Status: IFP Status: **Appellee Attorney Information:**



**Appeal Docket Sheet****Docket Number: 254 WDA 2008****Page 4 of 4****February 8, 2008****Superior Court of Pennsylvania****DOCKET ENTRIES**

Filed Date	Docket Entry/Document Name	Party Type	Filed By
February 8, 2008	Notice of Appeal Filed	Appellant Appellant	Nearhood, David L Nearhood, Joshua
February 8, 2008	Docketing Statement Exited (Civil)		Western District Filing Office

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA  
RULE OF APPELLATE PROCEDURE 1931(c)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

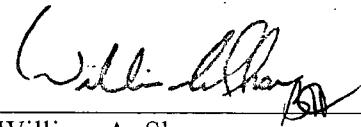
THE UNDERSIGNED, Clerk (or Prothonotary) of the Court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

**David Nearhood and Joshua Nearhood**  
**VS.**  
**Officer Todd Lombardo, Morris-Cooper Police,**  
**Trooper Thomas Granville, and Pennsylvania State Police**  
**01-1715-CD**

In compliance with Pa. R.A.P. 1931 (c).

The documents compromising the record have been numbered from No. 1 to 23, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is  
March 6, 2008.

  
\_\_\_\_\_  
William A. Shaw  
Prothonotary/Clerk of Courts

(seal)

Date: 3/6/2008  
Time: 02:28 PM

Page 1 of 2

Garfield County Court of Common Pleas  
ROA Report

User: BHUDSON

Case: 2001-01715-CD

Current Judge: No Judge

David Lee Nearhood, Joshua Nearhood vs. Todd Lombardo, Morris-Cooper Police, Thomas Granville, PA State Police

Civil Other

Date		Judge
10/12/2001	Filing: Civil Complaint Paid by: Nearhood, David (plaintiff) Receipt number: 1832818 Dated: 10/12/2001 Amount: \$80.00 (Check) Four CC Plaintiff	No Judge
10/17/2001	Declaration of Service, Complaint upon Parties of Record. Filed by s/David Nearhood 1 cc Plaintiff Nearhood	No Judge
10/18/2001	Declaration of Service to a Civil Complaint, upon Parties of Record. Served by s/Jeremy Howell Filed by s/David Nearhood 2 cc to Plaintiff	No Judge
11/2/2001	Notice of Filing Petition For Removal. Filed by s/Paul D. Krepps, Esq. Cert of Svc no cc	No Judge
11/9/2001	Notice of Intention to File Praeclipe for Entry of Judgment of Default. Filed by s/David Nearhood	No Judge
11/13/2001	PROTEST. filed by s/David Nearhood, Pro Se no cc (Removal) PROTEST. filed by s/David Nearhood, Pro Se no cc (Rules of Procedure) Motion for Enlargement of Time, filed by s/Thomas G. Eddy, Deputy Attorney General One CC Attorney	No Judge No Judge No Judge
11/16/2001	PROTEST, Filed by David Nearhood 1 Cert. to Plaintiff (Your Honor)	No Judge
10/18/2007	Notice of Proposed Termination of Court Case, mailed to parties (see Original), filed.	No Judge
12/14/2007	Statement of Intention to Proceed, filed by s/David L. Nearhood Four CC Plaintiff	No Judge
12/21/2007	Important Notice of Intent to file Praeclipe For Entry of Judgment by Default, filed by s/David L. Nearhood, Joshua Nearhood, Plaintiffs. 3CC to Atty.	No Judge
12/26/2007	NOTE: CASE PLACED ON INACTIVE CASE IN ERROR. CASE WAS REMOVED TO DISTRICT COURT NOVEMBER 2, 2001.	No Judge
1/2/2008	Praeclipe of Plaintiff For Entry of Judgment by Default Against Defendant, Morris Cooper Police, filed 5 Cert. to Plaintiff (Judgment not entered) Praeclipe of Plaintiff for Entry of Judgment by Default Against the Defendant, Trooper Thomas Granville, filed 5 Cert. to Plaintiff. (Judgment not entered) Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Pennsylvania State Police, filed. (Judgment not entered) Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Officer Todd Lombardo, filed. (Judgment not entered)	No Judge No Judge No Judge No Judge
1/8/2008	Order, filed cert. to Plaintiff, Atty. Krepps, Atty. Eddy and Atty. Friedline NOW, this 7th day of January, 2008, Order of this Court that Plaintiffs' Praeclipes for Entry of Default Judgment be and are hereby dismissed; and Plaintiffs' Complaint filed in this case is dismissed, with prejudice, based upon the doctrine of res judicata	Fredric Joseph Ammerman
1/28/2008	Motion for Reconsideration of Prior Court Order of January 7, 2008, for Dismissing Plaintiff's Praeclipes for Entry of Default Judgment and Dismissing Plaintiff's Complaint with Prejudice, filed by Plaintiff 7 Cert. to Plaintiff.	No Judge

Date: 3/6/2008  
Time: 02:28 PM

Page 2 of 2

Garfield County Court of Common Pleas

ROA Report

Case: 2001-01715-CD

Current Judge: No Judge

David Lee Nearhood, Joshua Nearhood vs. Todd Lombardo, Morris-Cooper Police, Thomas Granville, PA State Police

Civil Other

Date	Judge	
1/30/2008	Order, this 29th day of Jan., 2008, upon receipt and review of the Plaintiffs' Motion for Reconsideration of Prior Court Order of Jan. 7, 2008, Dismissing Plaintiffs' Praecipes for Entry of Default Judgment and Dismissing Plaintiffs' Complaint with Prejudice, it is Ordered that said Motion is Denied. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff; 1CC Attys: Eddy, Krepps	Fredric Joseph Ammerman
2/4/2008	Filing: Notice to Appeal to Superior Court Paid by: Dave's Drywall Receipt number: 1922501 Dated: 02/04/2008 Amount: \$50.00 (Check) filed by s/David L. Nearhood 8 CC Plaintiff One CC and check for \$60.00 to Superior Court Statement Regarding Request for Transcript, filed by s/David L. Nearhood 9 CC Plaintiff	No Judge
2/11/2008	Appeal Docket Sheet from Superior Court, filed. Docket Number 254 WDA 2008	No Judge
3/6/2008	March 6, 2008, Appeal Mailed to Superior Court. March 6, 2008, Letters, Re: Notification of mailing appeal mailed to David and Joshua Nearhood; Paul D. Krepps, Esq.; and Thomas G. Eddy, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	No Judge

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

MAR 06 2008

Attest.

  
William L. Hudson  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

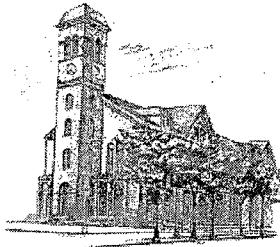
No. 01-1715-CD

David Nearhood and Joshua Nearhood

Vs.

Officer Todd Lombardo, Morris-Cooper Police,  
Trooper Thomas Granville, and Pennsylvania State Police

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	10/12/01	Civil Complaint	06
02	10/17/01	Declaration of Service, Complaint upon parties of record	01
03	10/18/01	Declaration of Service to a Civil Complaint	03
04	11/2/01	Notice of Filing Petition for Removal	12
05	11/09/01	Notice of Intention to File Praeclipe for Entry of Judgment of Default	01
06	11/13/01	Protest (Removal)	01
07	11/13/01	Protest (Rules of Procedure)	07
08	11/13/01	Motion for Enlargement of Time	05
09	11/16/01	Protest	02
10	10/18/07	Notice of Proposed Termination of Court Case	04
11	12/14/07	Statement of Intention to Proceed	02
12	12/21/07	Import Notice of Intent to File Praeclipe for Entry of Judgment	02
13	01/02/08	Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Morris Cooper Police (Judgment not entered)	07
14	01/02/08	Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Trooper Thomas Granville (Judgment not entered)	07
15	01/02/08	Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Pennsylvania State Police (Judgment not entered)	07
16	01/02/08	Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Officer Todd Lombardo (Judgment not entered)	07
17	01/08/08	Order, Re: Plaintiffs' Praeclipes for Entry of Default Judgment are dismissed; Plaintiffs' Complaint filed in this case is dismissed with prejudice based upon the doctrine of res judicata	14
18	01/28/08	Motion for Reconsideration of Prior Court Order of January 7, 2008	21
19	01/30/08	Order, Re: Motion for Reconsideration Denied	01
20	02/04/08	Notice of Appeal to Superior Court	18
21	02/04/08	Statement Regarding Request for Transcript	03
22	02/11/08	Appeal Docket Sheet, 254 WDA 2008	04
23	03/06/08	Letters, Re: Notification of mailing appeal mailed to David and Joshua Nearhood; Paul D. Krepps, Esq.; and Thomas G. Eddy, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	04



## Clearfield County Office of the Prothonotary and Clerk of Courts

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

**Jacki Kendrick**  
Deputy Prothonotary/Clerk of Courts

**Bonnie Hudson**  
Administrative Assistant

**David S. Ammerman**  
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ [www.clearfieldco.org](http://www.clearfieldco.org)

OPY

Fredric J. Ammerman, P.J.  
Court of Common Pleas  
230 E. Market Street  
Clearfield, PA 16830

David L. Nearhood  
Joshua Nearhood  
1223 Oak Grove Road  
Morrisdale, PA 16858

Paul D. Krepps, Esq.  
USX Tower, Ste. 2900  
600 Grant Street  
Pittsburgh, PA 15219

Thomas G. Eddy, Esq.  
5<sup>th</sup> Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219

David Nearhood and Joshua Nearhood  
Vs.  
Officer Todd Lombardo, Morris-Cooper Police,  
Trooper Thomas Granville, and Pennsylvania State Police

Court No. 01-1715-CD; Superior Court No. 254 WDA 2008

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on March 6, 2008.

Sincerely,

William A. Shaw  
Prothonotary/Clerk of Courts

FILED  
03/06/2008  
MAR 06 2008

William A. Shaw  
Prothonotary/Clerk of Courts

223

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 01-1715-CD

David Nearhood and Joshua Nearhood

vs.

Officer Todd Lombardo, Morris-Cooper Police,  
Trooper Thomas Granville, and Pennsylvania State Police

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
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08	11/13/01	Motion for Enlargement of Time	05
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19	01/30/08	Order, Re: Motion for Reconsideration Denied	01
20	02/04/08	Notice of Appeal to Superior Court	18
21	02/04/08	Statement Regarding Request for Transcript	03
22	02/11/08	Appeal Docket Sheet, 254 WDA 2008	04

Date: 3/6/2008  
Time: 02:19 PM  
Page 1 of 2

Jefferson County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2001-01715-CD

Current Judge: No Judge

David Lee Nearhood, Joshua Nearhood vs. Todd Lombardo, Morris-Cooper Police, Thomas Granville, PA State Police

Civil Other

Date	Judge	
10/12/2001	Filing: Civil Complaint Paid by: Nearhood, David (plaintiff) Receipt number: 1832818 Dated: 10/12/2001 Amount: \$80.00 (Check) Four CC Plaintiff	No Judge
10/17/2001	Declaration of Service, Complaint upon Parties of Record. Filed by s/David Nearhood 1 cc Plaintiff Nearhood	No Judge
10/18/2001	Declaration of Service to a Civil Complaint, upon Parties of Record. Served by s/Jeremy Howell Filed by s/David Nearhood 2 cc to Plaintiff	No Judge
11/2/2001	Notice of Filing Petition For Removal. Filed by s/Paul D. Krepps, Esq. Cert of Svc no cc	No Judge
11/9/2001	Notice of Intention to File Praecept for Entry of Judgment of Default. Filed by s/David Nearhood	No Judge
11/13/2001	PROTEST. filed by s/David Nearhood, Pro Se no cc (Removal)	No Judge
	PROTEST. filed by s/David Nearhood, Pro Se no cc (Rules of Procedure)	No Judge
	Motion for Enlargement of Time, filed by s/Thomas G. Eddy, Deputy Attorney General One CC Attorney	No Judge
11/16/2001	PROTEST, Filed by David Nearhood 1 Cert. to Plaintiff (Your Honor)	No Judge
10/18/2007	Notice of Proposed Termination of Court Case, mailed to parties (see Original), filed.	No Judge
12/14/2007	Statement of Intention to Proceed, filed by s/David L. Nearhood Four CC Plaintiff	No Judge
12/21/2007	Important Notice of Intent to file Praecept For Entry of Judgment by Default, filed by s/David L. Nearhood, Joshua Nearhood, Plaintiffs. 3CC to Atty.	No Judge
12/26/2007	NOTE: CASE PLACED ON INACTIVE CASE IN ERROR. CASE WAS REMOVED TO DISTRICT COURT NOVEMBER 2, 2001.	No Judge
1/2/2008	Praecept of Plaintiff For Entry of Judgment by Default Against Defendant, Morris Cooper Police, filed 5 Cert. to Plaintiff (Judgment not entered)	No Judge
	Praecept of Plaintiff for Entry of Judgment by Default Against the Defendant, Trooper Thomas Granville, filed 5 Cert. to Plaintiff. (Judgment not entered)	No Judge
	Praecept of Plaintiff for Entry of Judgment by Default against Defendant, Pennsylvania State Police, filed. (Judgment not entered)	No Judge
	Praecept of Plaintiff for Entry of Judgment by Default against Defendant, Officer Todd Lombardo, filed. (Judgment not entered)	No Judge
1/8/2008	Order, filed cert. to Plaintiff, Atty. Krepps, Atty. Eddy and Atty. Friedline NOW, this 7th day of January, 2008, Order of this Court that Plaintiffs' Praeceptes for Entry of Default Judgment be and are hereby dismissed; and Plaintiffs' Complaint filed in this case is dismissed, with prejudice, based upon the doctrine of res judicata	Fredric Joseph Ammerman
1/28/2008	Motion for Reconsideration of Prior Court Order of January 7, 2008, for Dismissing Plaintiff's Praeceptes for Entry of Default Judgment and Dismissing Plaintiff's Complaint with Prejudice, filed by Plaintiff 7 Cert. to Plaintiff.	No Judge

Date: 3/6/2008  
Time: 02:19 PM

Page 2 of 2

Jefferson County Court of Common Pleas  
ROA Report

User: BHUDSON

Case: 2001-01715-CD

Current Judge: No Judge

David Lee Nearhood, Joshua Nearhood vs. Todd Lombardo, Morris-Cooper Police, Thomas Granville, PA State Police

Civil Other

Date		Judge
1/30/2008	Order, this 29th day of Jan., 2008, upon receipt and review of the Plaintiffs' Motion for Reconsideration of Prior Court Order of Jan. 7, 2008, Dismissing Plaintiffs' Praecipes for Entry of Default Judgment and Dismissing Plaintiffs' Complaint with Prejudice, it is Ordered that said Motion is Denied. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff; 1CC Attys: Eddy, Krepps	Fredric Joseph Ammerman
2/4/2008	Filing: Notice to Appeal to Superior Court Paid by: Dave's Drywall Receipt number: 1922501 Dated: 02/04/2008 Amount: \$50.00 (Check) filed by s/David L. Nearhood 8 CC Plaintiff One CC and check for \$60.00 to Superior Court  Statement Regarding Request for Transcript, filed by s/David L. Nearhood 9 CC Plaintiff	No Judge
2/11/2008	Appeal Docket Sheet from Superior Court, filed. Docket Number 254 WDA 2008	No Judge

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

MAR 06 2008

Attest.

  
William L. Hudson  
Prothonotary/  
Clerk of Courts

## Appeal Docket Sheet

Docket Number: 254 WDA 2008

Page 1 of 4

February 8, 2008

Superior Court of Pennsylvania



David L. Nearhood  
 Joshua Nearhood, Appellants  
 v.  
 Officer Todd Lombardo  
 Morris-Cooper Police  
 Trooper Thomas Granville  
 Pennsylvania State Police

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: February 8, 2008

Awaiting Original Record

 2/22. 2008  
 William A. Shaw  
 Prothonotary/Clerk of Courts

Journal Number:

Case Category: Civil

Case Type: Other

Consolidated Docket Nos.:

Related Docket Nos.:

## SCHEDULED EVENT

Next Event Type: Case Initiation

Next Event Due Date: February 8, 2008

Next Event Type: Receive Docketing Statement

Next Event Due Date: February 22, 2008

Next Event Type: Original Record Received

Next Event Due Date: April 8, 2008

## Appeal Docket Sheet

Docket Number: 254 WDA 2008

Page 2 of 4

February 8, 2008

## Superior Court of Pennsylvania



## COUNSEL INFORMATION

Appellant Nearhood, David L

Pro Se: ProSe Appoint Counsel Status:

IFP Status: No

## Appellant Attorney Information:

Attorney: Nearhood, David L.

Bar No.: Law Firm:

Address: 1223 Oak Grove Road  
Morrisdale, PA 16858

Phone No.: (814)342-7464 Fax No.:

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellant Nearhood, Joshua

Pro Se: ProSe Appoint Counsel Status:

IFP Status:

## Appellant Attorney Information:

Attorney: Nearhood, David L.

Bar No.: Law Firm:

Address: 1223 Oak Grove Road  
Morrisdale, PA 16858

Phone No.: (814)342-7464 Fax No.:

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee Lombardo, Officer Todd

Pro Se: Appoint Counsel Status:

IFP Status:

## Appellee Attorney Information:

Attorney: Krepps, Paul Daniel

Bar No.: 73038 Law Firm: Marshall, Dennehey, Warner, Coleman &amp; Goggin, P.C.

Address: 600 Grant St Ste 2900  
Pittsburgh, PA 15219

Phone No.: (412)803-1149 Fax No.: (412)803-1188

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee Morris-Cooper Police

Pro Se: Appoint Counsel Status:

IFP Status:

## Appellee Attorney Information:

## Appeal Docket Sheet

## Superior Court of Pennsylvania

Docket Number: 254 WDA 2008

Page 3 of 4

February 8, 2008



Attorney: Krepps, Paul Daniel  
 Bar No.: 73038 Law Firm: Marshall, Dennehey, Warner, Coleman & Goggin, P.C.  
 Address: 600 Grant St Ste 2900  
 Pittsburgh, PA 15219  
 Phone No.: (412)803-1149 Fax No.: (412)803-1188  
 Receive Mail: No  
 E-Mail Address:  
 Receive E-Mail: No

Appellee: Granville, Trooper Thomas  
 Pro Se: Appoint Counsel Status:  
 IFP Status:

**Appellee Attorney Information:**  
 Attorney: Eddy, Thomas G.  
 Bar No.: 42915 Law Firm: PA Office of Attorney General  
 Address: Manor Building 5th Floor  
 564 Forbes Ave  
 Pittsburgh, PA 15219  
 Phone No.: (412)565-3578 Fax No.: (412)565-3028  
 Receive Mail: Yes  
 E-Mail Address:  
 Receive E-Mail: No

## FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
2/4/08	Notice of Appeal	60.00	60.00	2008SPRWD000137

## TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas  
 County: Clearfield Division: Civil  
 Date of OrderAppealed From: January 7, 2008 Judicial District: 46  
 Date Documents Received: February 8, 2008 Date Notice of Appeal Filed: February 4, 2008  
 Order Type: Order OTN:  
 Judge: Ammerman, Fredric J. Lower Court Docket No.: No 2001-01715-CD  
 President Judge

## ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description
----------------------	------------	---------------------

Date of Remand of Record:

## BRIEFS

## Appeal Docket Sheet

Docket Number: 254 WDA 2008

Page 4 of 4

February 8, 2008

Superior Court of Pennsylvania



## DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
February 8, 2008	Notice of Appeal Filed	Appellant Appellant	Nearhood, David L Nearhood, Joshua
February 8, 2008	Docketing Statement Exited (Civil)		Western District Filing Office

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

:

:

:

:

: CASE NO.: 2001-01715-CD

:

:

: Pa.R.App.P., Rule 1701, et seq.

: Pa.R.App.P., Rule 1911, et seq.

: Pa.R.App.P., Rule 901, et seq.

:

:

Defendants

**STATEMENT REGARDING REQUEST FOR TRANSCRIPT**

I, David L. Nearhood, and Joshua Nearhood, the Plaintiffs above named, in the above captioned case, pursuant to Pa.R.App.P., Rule 904(c) and Rule 1911, hereby certify that there is no verbatim record of the proceedings currently in existence as of the time of the taking of this appeal. Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I hereby further declare that the facts set forth in this **STATEMENT REGARDING REQUEST FOR TRANSCRIPT**, are true and correct to the best of my knowledge and good faith belief.

Respectfully submitted,

Dated: Feb. 4, 2008

by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood, via David L. Nearhood  
Plaintiffs  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

FILED <sup>9cc</sup>  
09/14/08  
FEB 04 2008 Piff

William A. Shaw  
Prothonotary/Clerk of Courts

401

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

Plaintiffs

vs

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

Defendants

: CIVIL ACTION - LAW  
:  
:  
:  
:  
: CASE NO.: 2001-01715-CD  
:  
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:  
: Pa.R.App.P., Rule 1701, et seq.  
: Pa.R.App.P., Rule 1911, et seq.  
: Pa.R.App.P., Rule 901, et seq.  
:  
:

**CERTIFICATE OF SERVICE**

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I, David L. Nearhood, hereby certify that I caused to be served on Feb. 4, 2008, a copy of the foregoing STATEMENT REGARDING REQUEST FOR TRANSCRIPT by personal service\* where indicated by an "", or otherwise by depositing a true and correct copy in the U.S. Mail, 1st class postage prepaid, to:

**Marshall, Dennehey, Warner, Coleman & Goggin**  
Attorney for Defendants  
Paul D. Krepps #73038  
600 Grant Street  
2900 USX Tower  
Pittsburg, PA 15219  
Telephone: (412) 803-1140

**Office of Attorney General**  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 565-3578

**Clearfield County Court Administration\***  
Daniel J. Nelson  
Court Administrator  
230 E. Market Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641, Ext. 5982

**Official Court Reporter\***  
Clearfield County Courthouse  
Thomas Snyder, RPR  
230 E. Market Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641, Ext. 1305

**Clearfield County Judge's Chambers\***  
Fredric J. Ammerman  
President Judge  
230 E. Market Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641

**Clearfield County Court of Common Pleas\***  
William A. Shaw  
Office of the Prothonotary  
230 E. Market Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641, Ext. 1331

Respectfully submitted,

Dated: Feb. 4, 2008

by David L. Nearhood  
**David L. Nearhood, *in propria persona***  
**Joshua Nearhood, via David L. Nearhood, Plaintiffs**  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

**Plaintiffs**

vs

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

**Defendants**

: CIVIL ACTION - LAW

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: CASE NO.: 2001-01715-CD

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: Pa.R.App.P., Rule 1701, et seq.

: Pa.R.App.P., Rule 1911, et seq.

: Pa.R.App.P., Rule 901, et seq.

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**NOTICE OF APPEAL**

**NOTICE** is hereby given that David L. Nearhood and Joshua Nearhood, the Plaintiffs above named, hereby appeal to the Superior Court of Pennsylvania from the Order entered in this matter on the 7th day of January, 2008.

This Order has been entered in the docket as evidenced by the attached copy of the docket entry.

Respectfully submitted,

Dated: Feb. 4, 2008

by David L. Nearhood

David L. Nearhood, *in propria persona*  
Joshua Nearhood, via David L. Nearhood  
Plaintiffs

1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

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FEB 04 2008 Piff pd \$50.00

William A. Shaw  
Honorary Clerk of Courts  
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600 Pto Superior Court

H20

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

DAVID NEARHOOD  
JOSHUA NEARHOOD,  
Plaintiffs

vs.

OFFICER TODD LOMBARDO, MORRIS-COOPER  
POLICE, TROOPER THOMAS GRANVILLE  
and PENNSYLVANIA STATE POLICE,  
Defendants

\* \* \* \* \*  
NO. 01-1715-CD

ORDER

NOW, this 7<sup>th</sup> day of January, 2008, the Court having reviewed the Prothonotary's docket and file in the above-captioned case, the Court notes and Orders as follows:

1. Pennsylvania Rule of Civil Procedure 400 requires original service of process to be made by the Sheriff;
2. Plaintiff David Nearhood's "Declaration of Service" documents filed on October 17 and 18, 2001 do not effectuate service on the Defendants;
3. In any event, Defendants Officer Todd Lombardo and the Morris-Cooper Police Department filed a Notice of Removal of the case to Federal Court on November 2, 2001. By Memorandum and Order dated February 27, 2003 (certified copy of same attached) the Federal Court dismissed Plaintiffs' Complaint;
4. Plaintiff David Nearhood filed on January 2, 2008 a separate Praeclipe for Entry of Judgment by Default against each of the four listed Defendants;
5. Default Judgment can not be entered against a defendant who was not appropriately served or who is no longer in the case;

6. Accordingly, it is the ORDER of this Court that the Plaintiffs' Praecipes for Entry of Default Judgment be and are hereby dismissed; and
7. The Plaintiffs' Complaint filed in this case is dismissed, with prejudice, based upon the doctrine of *res judicata*.

BY THE COURT,

**/S/ Fredric J Ammerman**

---

FREDRIC J. AMMERMAN  
President Judge

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

JAN 08 2008

Attest.



William L. Ammerman  
Prothonotary/  
Clerk of Courts

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

(29)

DAVID NEARHOOD and  
JOSHUA NEARHOOD,

Plaintiffs,

vs.

OFFICER TODD LOMBARDO,  
THE MORRIS-COOPER POLICE  
DEPARTMENT, TROOPER THOMAS  
GRANVILLE and THE  
PENNSYLVANIA STATE POLICE,

Defendants.

) CIVIL ACTION NO. 01-339J

CASE CLOSED

**MEMORANDUM  
AND  
ORDER OF COURT**

Plaintiffs commenced this action in the Court of Common Pleas of Clearfield County, Pennsylvania. Defendants removed the case on the basis of federal question jurisdiction. Presently before the court are defendants' renewed motions to dismiss. For the reasons set forth below, the motions will be granted.

Plaintiffs' complaint challenges the actions of various law enforcement officers following an incident wherein David Nearhood's son, Joshua Nearhood, was involved in an altercation with Dillen Leigey. Dillen was six and Joshua was four years of age at the time. The two children were playing together at the Nearhood's residence. Dillen apparently shot Joshua in the eye with a toy gun that shoots rubber-tipped darts and thereafter jumped on him. David Nearhood then apparently attempted to discipline Dillen, and an altercation ensued between David and Dillen's mother, Laura Leigey. David went to the Morris-Cooper Police Department, filed an affidavit, and requested that Dillen be prosecuted for intentional child endangerment, assault and defiant

trespass. He also requested that Laura be prosecuted for defendant trespass. Pennsylvania State Trooper Thomas Granville investigated the matter and brought a harassment charge against David based upon his treatment of Dillen after the incident between Dillen and Joshua.

On September 4, 2001, a hearing was held before District Justice Michael Rudella in Kylertown, Pennsylvania, on the harassment charge filed by Trooper Granville. District Justice Rudella found David Nearhood guilty of harassment and imposed a \$100.50 fine. See Exhibits to Doc. 16.

After removing the action on the basis that the complaint asserted violations of federal law, defendants moved to dismiss the complaint on the ground that it failed to state a claim upon which relief can be granted. On July 16, 2002, a memorandum opinion and order was entered on defendants' motions to dismiss. After construing plaintiffs' complaint under the applicable principles of law the court erred on the side of caution and concluded that the complaint could be interpreted as attempting to present two grounds for relief: (1) failure to prosecute the Leigeys and (2) a claim for selective or malicious prosecution. See Memorandum Opinion and Order of June 16, 2002 (Doc. No. 15). Defendants' motions were granted with respect to plaintiff's claim for failure to prosecute and for all claims against the Pennsylvania State Police. Id. Plaintiffs were directed to file an amended complaint to the extent they sought to assert a cause of action for selective or malicious prosecution in violation of § 1983. Any amended complaint was to indicate the following:

The charges brought against Mr. Nearhood, the date that prosecution commenced, whether the prosecution was terminated in his favor, how plaintiffs were harmed by the prosecution, the relief sought and, if alleging selective prosecution, explain which similarly situated persons were treated differently and the unjustifiable standard for the differential treatment (whether it was plaintiff's race, religion, etc.).

Id. Plaintiff filed a response to the order which contained a section entitled "specific details." See Response to Judge's Order (Doc. No. 16). On August 2, 2002, this court entered an order indicating that "these documents may be construed as an amended complaint alleging a Section 1983 malicious prosecution claim" and directing defendants to file a response to plaintiffs' amended complaint. The remaining defendants responded by filing the motions to dismiss currently pending before the court.

It is well-settled that in reviewing a motion to dismiss under Federal Rule of Civil Procedure 12(b) (6) "[t]he applicable standard of review requires the court to accept as true all allegations in the complaint and all reasonable inferences that can be drawn therefrom, and view them in the light most favorable to the non-moving party." Rocks v. City of Philadelphia, 868 F.2d 644, 645 (3d Cir. 1989). Dismissal of a complaint is proper only where "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957); Langford v. City of Atlantic City, 235 F.3d 845, 847 (3d Cir. 2000) (citing Nami v. Fauver, 82 F.3d 63, 65 (3d Cir. 1996)). The question is not whether the plaintiff will ultimately prevail; instead, it is whether the plaintiff can prove any set of facts consistent with the averments of the complaint which would show the plaintiff is entitled to relief. Jordan v. Fox, Rothschild, O'Brien & Frankel, 20 F.3d 1250, 1261 (3d Cir. 1994). Under this standard a complaint will be deemed sufficient if it adequately puts the defendant on notice of the essential elements of a cause of action. Nami, 82 F.3d at 66.

While all factual allegations and reasonable inferences to be drawn therefrom are to be accepted as true, "a court need not credit a complaint's 'bald assertions' or 'legal conclusions' when deciding a motion to dismiss." Morse v. Lower Merion School District, 132 F.3d 902, 906 (3d Cir. 1997) (citations omitted). In ruling on a 12(b)(6) motion courts consistently have

rejected “legal conclusions,” “unsupported conclusions,” “unwarranted inferences,” “unwarranted deductions,” “footless conclusions of law” or “sweeping legal conclusions cast in the form of factual allegations.” Id. at n.8 (citing in support Charles Allen Wright & Arthur R. Miller, FEDERAL PRACTICE AND PROCEDURE § 1357 (2d ed. 1997), Leeds v. Meltz, 85 F.2d 51, 53 (2d Cir. 1996) (“while the pleading standard is a liberal one, bald assertions and conclusions of law will not suffice”) and Fernandez-Montes v. Allied Pilots Ass’n, 987 F.2d 278, 284 (5<sup>th</sup> Cir. 1993) (“Conclusory allegations or legal conclusions masquerading as factual conclusions will not suffice to prevent a motion to dismiss.”)).

Furthermore, although the focus in assessing a motion to dismiss is on the allegations set forth in the pleadings, “matters of public record, orders [and] exhibits attached to the complaint” also may be considered. Oshiver v. Levin, Fishbein, Sedran & Berman, 38 F.3d 1380, 1384 n.2 (3d Cir. 1994) (citing 5A Wright & Miller, FEDERAL PRACTICE & PROCEDURE: CIVIL 2D, § 1357; Chester County Intermediate Unit v. Pennsylvania Blue Shield, 896 F.2d 808, 812 (3d Cir. 1990)). It is well established that courts are permitted to consider matters of which they may take judicial notice, including records and reports of administrative bodies, Barron v. Reich, 13 F.3d 1370, 1377 (9th Cir. 1994), and publicly available records and transcripts from judicial proceedings “in related or underlying cases which have a direct relation to the matters at issue.” In re American Continental/Lincoln Sav. & Loan Securities Litigation, 102 F.3d 1524, 1537 (9th Cir. 1996) (citing, inter alia, Henson v. CSC Credit Services, 29 F.3d 280, 284 (7th Cir. 1994) ); accord Pension Benefit Guaranty Corp. v. White Consolidated Industries, 998 F.2d 1192, 1196-97 (3d Cir. 1993), cert. denied, 510 U.S. 1042 (1994); Kauffman v. Moss, 420 F.2d 1270, 1274 (3d Cir.); cert. denied, 400 U.S. 846 (1970).

A § 1983 claim for malicious prosecution has several elements. First, a plaintiff must be able to satisfy the traditional common law elements of the claim, which are: (1) the defendant initiated a criminal proceeding, (2) which ended in plaintiff's favor and (3) which was initiated without probable cause, and (4) the defendant acted with actual malicious purpose or for a purpose other than bringing the individual to justice. Lee v. Mihalich, 847 F.2d 66, 70 (3d Cir. 1988). In addition, the plaintiff must identify conduct that violates an explicit provision of the constitution. Torres v. McLaughlin, 163 F.3d 169, 173 (3d Cir. 1998). And "if a section 1983 plaintiff seeks to recover damages for an unconstitutional conviction, imprisonment, or other harm caused by actions whose unlawfulness would render the conviction or sentence unlawful, the plaintiff must prove that the conviction or sentence has been reversed, expunged, or declared invalid." Id. (citing Heck v. Humphrey, 512 U.S. 477, 486-87 (1994)).

Here, plaintiffs' amended complaint fails to state a claim against the remaining defendants for a number of reasons. First, plaintiffs' submissions indicate that David Nearhood was not prosecuted by Officer Lombardo or the Morris-Cooper Police Department. Instead, David Nearhood was prosecuted by State Trooper Granville, who initially investigated the incident and authored the citation charging David Nearhood with harassment. See Specific Details (Doc. No. 16) at ¶ 5. Thus, plaintiffs cannot satisfy the first element of a common law claim for malicious prosecution against defendants Lombardo and the Morris-Cooper Police Department, nor can they identify any provision of the constitution which these two defendants purportedly violated. It follows that plaintiffs' malicious prosecution claim against these two defendants must be dismissed.

Moreover, plaintiffs' malicious prosecution claim fails against all defendants because plaintiffs essentially seek through their malicious prosecution claim to recover damages for an

unconstitutional conviction. Plaintiffs admit that the prosecution for harassment has been upheld in the state court system. See Specific Details at ¶ 6. The teachings of Heck v. Humphrey thus preclude any further proceedings on plaintiffs' § 1983 malicious prosecution claim until David Nearhood's conviction for harassment has been reversed, expunged or declared invalid.

For the reasons set forth above as well as those set forth in the memorandum opinion and order of July 16, 2002, defendants' motions to dismiss must be granted. Accordingly, the following order is appropriate.

ORDER OF COURT

AND NOW, this 27 day of February, 2003, for the reasons set forth in the memorandum above, IT IS ORDERED that defendants' motions to dismiss (Doc. Nos. 19 & 21) be, and the same hereby are granted and plaintiffs' complaint as amended is dismissed in its entirety. The clerk shall close this action.

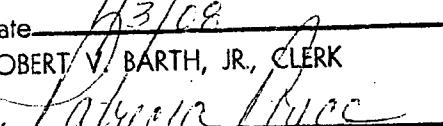
D.S. Cercone

David Stewart Cercone  
United States District Judge

cc: Thomas G. Eddy  
Deputy Attorney General  
Office of the Attorney General  
5<sup>th</sup> Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219

David Nearhood  
R.R. 2, Box 160  
Morrisdale, PA 16858

Paul D. Krepps, Esq.  
600 Grant Street  
US Steel Tower  
Suite 2900  
Pittsburgh, PA 15219

CERTIFIED FROM THE RECORD	
Date	11/3/08
ROBERT V. BARTH, JR., CLERK	
By	
Deputy Clerk	

CLOSED

**U.S. District Court**  
**Western District of Pennsylvania (Johnstown)**  
**CIVIL DOCKET FOR CASE #: 3:01-cv-00339-DSC**  
**Internal Use Only**

NEARHOOD, et al v. OFFICER LOMBARDO, et al  
Assigned to: Judge David S. Cercone  
Demand: \$700,000  
Case in other court: Clearfield County, 01-01715-CD  
Cause: 42:1983 Civil Rights Act

Date Filed: 11/01/2001  
Date Terminated: 02/27/2003  
Jury Demand: None  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff****DAVID NEARHOOD**

represented by **DAVID NEARHOOD**  
1223 Oak Grove Road  
Morrisdale, PA 16858  
PRO SE

**Plaintiff****JOSHUA NEARHOOD**

V.

**Defendant****OFFICER TODD LOMBARDO**

represented by **Paul D. Krepps**  
Marshall, Dennehey, Warner, Coleman  
& Goggin  
600 Grant Street, USX Tower  
Suite 2900  
Pittsburgh, PA 15219  
(412) 803-1140  
Email: [pdkrepps@mdwcg.com](mailto:pdkrepps@mdwcg.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant****MORRIS-COOPER POLICE**

represented by **Paul D. Krepps**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant****TROOPER THOMAS GRANVILLE**

represented by **Thomas G. Eddy**  
Metropolitan Life Insurance Company  
of New York  
210 Sixth Avenue

One Oliver Plaza, Suite 3000  
 Pittsburgh, PA 15222  
 (412) 992-2678  
 Email: [teddy1@metlife.com](mailto:teddy1@metlife.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**PENNSYLVANIA STATE POLICE**  
**TERMINATED: 07/16/2002**

represented by **Thomas G. Eddy**  
 (See above for address)  
**TERMINATED: 07/16/2002**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
11/01/2001	1	NOTICE OF REMOVAL by OFFICER LOMBARDO, MORRIS-COOPER POLICE from Court of Common Pleas of Clearfield County with copy of Complaint attached. FILING FEE \$ 150.00 RECEIPT # 594 (jjg) (Entered: 11/02/2001)
11/01/2001		(Court only) **Case assigned to Category # 4 (jjg) (Entered: 11/02/2001)
11/01/2001	2	MOTION by OFFICER LOMBARDO, MORRIS-COOPER POLICE to Extend Time to respond to complaint with Proposed Order. (jjg) (Entered: 11/02/2001)
11/06/2001	3	ORDER granting [2-1] motion to Extend Time to respond to complaint, reset Motion Filing deadline to 11/28/01 (signed by Judge D. B. Smith on 11/6/01) CM all parties of record. (dlg) (Entered: 11/08/2001)
11/14/2001	4	MOTION by TROOPER GRANVILLE to Extend Time to file a response to plaintiff's Complaint with Proposed Order. (dlg) (Entered: 11/14/2001)
11/14/2001		(Court only) **Added for TROOPER GRANVILLE, attorney Thomas G. Eddy (jjg) (Entered: 11/14/2001)
11/19/2001	5	ORDER granting in part [4-1] motion to Extend Time to file a response to plaintiff's Complaint, set Motion Filing deadline to 11/28/01; and as more fully stated in said Order (signed by Judge D. B. Smith on 11/19/01) CM all parties of record. (dlg) (Entered: 11/19/2001)
11/20/2001	6	MOTION by OFFICER LOMBARDO, MORRIS-COOPER POLICE to Dismiss Pursuant to Rule 12(b)(6) with Proposed Order. (dlg) (Entered: 11/21/2001)
11/20/2001	7	BRIEF by OFFICER LOMBARDO, MORRIS-COOPER POLICE in support of [6-1] motion to Dismiss Pursuant to Rule 12(b)(6) by MORRIS-COOPER POLICE, OFFICER LOMBARDO (dlg) (Entered: 11/21/2001)
11/28/2001	8	MOTION by TROOPER GRANVILLE, PENNSYLVANIA STATE to

		Dismiss with Proposed Order. (Attorney: Thomas G. Eddy) (dlg) (Entered: 11/29/2001)
11/28/2001	9	BRIEF by TROOPER GRANVILLE, PENNSYLVANIA STATE in support of [8-1] motion to Dismiss by PENNSYLVANIA STATE, TROOPER GRANVILLE (dlg) (Entered: 11/29/2001)
12/04/2001	10	NOTICE to counsel from CRD setting briefing schedule for disposition of motions. Defendants' have filed Motions to Dismiss in this action. Plaintiff shall file a response to the motions not later than 12/28/01. (dlg) (Entered: 12/05/2001)
12/04/2001		Deadline updated; Response to Motion set to 12/28/01 for [8-1] motion to Dismiss, set to 12/28/01 for [6-1] motion to Dismiss Pursuant to Rule 12(b)(6) (dlg) (Entered: 12/05/2001)
12/21/2001	11	EX PARTE MOTION by DAVID NEARHOOD to Change Venue (dlg) (Entered: 12/21/2001)
01/04/2002	12	ORDER denying [11-1] motion to Change Venue; Response to Motion set to 1/11/02 for [8-1] motion to Dismiss, set to 1/11/02 for [6-1] motion to Dismiss Pursuant to Rule 12(b)(6) ; and as further stated in said Order (signed by Judge D. B. Smith on 1/4/02) CM all parties of record. (dlg) (Entered: 01/04/2002)
01/10/2002	13	NOTICE to Restore Honor by Way of W.D.PA.LR7.2 by DAVID NEARHOOD (dlg) (Entered: 01/10/2002)
01/10/2002	14	RESPONSE by DAVID NEARHOOD to [8-1] motion to Dismiss by PENNSYLVANIA STATE, TROOPER GRANVILLE, [6-1] motion to Dismiss Pursuant to Rule 12(b)(6) by MORRIS-COOPER POLICE, OFFICER LOMBARDO (dlg) (Entered: 01/10/2002)
07/16/2002	15	ORDER granting in part, denying in part [6-1] motion to Dismiss Pursuant to Rule 12(b)(6); granting in part, denying in part [8-1] motion to Dismiss ; Granted in part with respect to plaintiffs' claim for failure to prosecute and all claims against the Pennsylvania State Police and Denied in part, to the extent that plaintiff is asserting a claim for malicious or selective prosecution against Lombardo, Granville and the Morris-Cooper Police Department; further Ordered and Directed that the Pennsylvania State Police shall be terminated as a party to this proceeding; plaintiffs shall file an amended complaint if they intend to assert a cause of action for selective or malicious prosecution in violation on Section 1983; set Amended Complaint deadline to 7/31/02 ; if plaintiffs fail to file an amended complaint specifically detailing a count of selective or malicious prosecution by 7/31/02, this action shall be dismissed in its entirety for failure to state a claim under Fed.R.Civ.P.12 (b)(6); and as more fully stated in said Memorandum Opinion and Order (signed by Judge D. B. Smith on 7/16/02) CM all parties of record. (dlg) (Entered: 07/16/2002)
07/16/2002		(Court only) **Terminated party PENNSYLVANIA STATE POLICE (dlg) (Entered: 07/16/2002)

07/29/2002	16	RESPONSE by DAVID NEARHOOD and JOSHUA NEARHOOD to [15-1] order dated July 16, 2002 (dlg) (Entered: 07/30/2002)
08/02/2002	17	ORDER that defendants file a response to plaintiffs' amended complaint; set Answer deadline to 8/21/02 for TROOPER GRANVILLE, MORRIS-COOPER POLICE, and OFFICER LOMBARDO ; and as further stated in said Order (signed by Judge D. B. Smith on 8/1/02) CM all parties of record. (dlg) (Entered: 08/02/2002)
08/07/2002	18	MOTION by OFFICER LOMBARDO, MORRIS-COOPER POLICE and TROOPER GRANVILLE to Extend Time to respond to plaintiff's amended complaint with Proposed Order. (dlg) (Entered: 08/15/2002)
08/14/2002		ORDER upon motion granting [18-1] motion to Extend Time to respond to plaintiff's amended complaint, reset Answer deadline to 9/21/02 for TROOPER GRANVILLE, MORRIS-COOPER POLICE and OFFICER LOMBARDO (signed by Judge D. B. Smith on 8/14/02) CM all parties of record. (dlg) (Entered: 08/15/2002)
08/20/2002	19	MOTION by OFFICER LOMBARDO and MORRIS-COOPER POLICE to Dismiss Plaintiff's Amended Complaint with Proposed Order. (dlg) (Entered: 08/21/2002)
08/20/2002	20	BRIEF by OFFICER LOMBARDO and MORRIS-COOPER POLICE in support of [19-1] motion to Dismiss Plaintiff's Amended Complaint by MORRIS-COOPER POLICE and OFFICER LOMBARDO (dlg) (Entered: 08/21/2002)
09/23/2002	21	MOTION by TROOPER GRANVILLE to Dismiss Amended Complaint Pursuant to F.R.C.P. 12(b)(6) with Proposed Order. (dlg) (Entered: 09/23/2002)
09/23/2002	22	BRIEF by TROOPER GRANVILLE in support of [21-1] motion to Dismiss Amended Complaint Pursuant to F.R.C.P. 12(b)(6) by TROOPER GRANVILLE (dlg) (Entered: 09/23/2002)
10/09/2002	23	ORDER that this case is reassigned to Judge Cercone for all further proceedings (signed by Chief Judge Donetta W. Ambrose on 10/9/02). CM all parties of record. (dlg) (Entered: 10/15/2002)
10/09/2002		CASE reassigned to Judge David S. Cercone. (dlg) (Entered: 10/15/2002)
10/17/2002		Notice of Change of Address of David Nearhood to R.R. 2, Box 1223, Oak Grove Road, Morrisdale, PA 16858 (dlg) (Entered: 10/22/2002)
10/23/2002	24	ORDER, Response in Opposition set for 11/15/02 for [19-1] motion to Dismiss Plaintiff's Amended Complaint, [20-1] support brief, [21-1] motion to Dismiss Amended Complaint Pursuant to F.R.C.P. 12(b)(6), and [22-1] support brief ; the failure to submit a response in opposition will result in the dismissal of this action (signed by Judge David S. Cercone on 10/23/02). CM all parties of record. (dlg) (Entered: 10/24/2002)
11/14/2002	25	MOTION by DAVID NEARHOOD and JOSHUA NEARHOOD to

		Change Venue (dlg) (Entered: 11/14/2002)
11/14/2002	26	NOTICE of advancing this case in the U.S. Supreme Court for better understanding by DAVID NEARHOOD and JOSHUA NEARHOOD (dlg) (Entered: 11/14/2002)
11/14/2002	27	MOTION by DAVID NEARHOOD and JOSHUA NEARHOOD to Change Venue , and to Stay with Proposed Orders. (dlg) (Entered: 11/14/2002)
11/14/2002		RESPONSE by DAVID NEARHOOD, JOSHUA NEARHOOD to [21-1] motion to Dismiss Amended Complaint Pursuant to F.R.C.P. 12(b)(6) by TROOPER GRANVILLE, [19-1] motion to Dismiss Plaintiff's Amended Complaint by MORRIS-COOPER POLICE, OFFICER LOMBARDO (with Document #27). (dlg) (Entered: 11/14/2002)
01/30/2003	28	Correspondence from the Supreme Court of U.S. advising that an order was entered denying the petition for a writ of mandamus and/or prohibition. (dlg) (Entered: 01/31/2003)
02/27/2003	29	MEMORANDUM of Judge Cercone on Defendants' Motions to Dismiss, with attached Order; and as more fully stated in said Memorandum. CM all parties of record. (dlg) (Entered: 02/28/2003)
02/27/2003		ORDER granting [19-1] motion to Dismiss Plaintiff's Amended Complaint; granting [21-1] motion to Dismiss Amended Complaint Pursuant to F.R.C.P. 12(b)(6) and that plaintiff's complaint is dismissed in its entirety; Clerk shall mark case closed (signed by Judge David S. Cercone on 2/27/03), with Document No. 29. CM all parties of record. (dlg) (Entered: 02/28/2003)
02/27/2003		Case closed. (dlg) (Entered: 02/28/2003)

Date: 1/28/2008

## Clearfield County Court of Common Pleas

User: BILLSHAW

Time: 09:03 AM

## ROA Report

Page 1 of 1

Case: 2001-01715-CD

Current Judge: No Judge

David Lee Nearhood, Joshua Nearhood vs. Todd Lombardo, Morris-Cooper Police, Thomas Granville, PA State Police

## Civil Other

Date	Judge	
10/12/2001	Filing: Civil Complaint Paid by: Nearhood, David (plaintiff) Receipt number: 1832818 Dated: 10/12/2001 Amount: \$80.00 (Check) Four CC Plaintiff	No Judge
10/17/2001	Declaration of Service, Complaint upon Parties of Record. Filed by s/David Nearhood 1 cc Plaintiff Nearhood	No Judge
10/18/2001	Declaration of Service to a Civil Complaint, upon Parties of Record. Served by s/Jeremy Howell Filed by s/David Nearhood 2 cc to Plaintiff	No Judge
11/2/2001	Notice of Filing Petition For Removal. Filed by s/Paul D. Krepps, Esq. Cert of Svc no cc	No Judge
11/9/2001	Notice of Intention to File Praecipe for Entry of Judgment of Default. Filed by s/David Nearhood	No Judge
11/13/2001	PROTEST. filed by s/David Nearhood. Pro Se no cc (Removal)	No Judge
	PROTEST. filed by s/David Nearhood, Pro Se no cc (Rules of Procedure)	No Judge
	Motion for Enlargement of Time, filed by s/Thomas G. Eddy, Deputy Attorney General One CC Attorney	No Judge
11/16/2001	PROTEST, Filed by David Nearhood 1 Cert. to Plaintiff (Your Honor)	No Judge
10/18/2007	Notice of Proposed Termination of Court Case, mailed to parties (see Original), filed.	No Judge
12/14/2007	Statement of Intention to Proceed, filed by s/David L. Nearhood Four CC Plaintiff	No Judge
12/21/2007	Important Notice of Intent to file Praecipe For entry of Judgment by Default, filed by s/David L. Nearhood, Joshua Nearhood, Plaintiffs. 3CC to Atty.	No Judge
12/26/2007	NOTE: CASE PLACED ON INACTIVE CASE IN ERROR. CASE WAS REMOVED TO DISTRICT COURT NOVEMBER 2, 2001.	No Judge
1/2/2008	Praecipe of Plaintiff For Entry of Judgment by Default Against Defendant, Morris cooper Police, filed 5 Cert. to Plaintiff (Judgment not entered)	No Judge
	Praecipe of Plaintiff for Entry of Juddment by Default Against the Defendant, Trooper Thomas Granville, filed 5 Cert. to Plaintiff. (Judgment not entered)	No Judge
	Praecipe of Plaintiff for Entry of Judgment by Default against Defendant, Pennsylvania State Police, filed. (Judgment not entered)	No Judge
	Praecipe of Plaintiff for Entry of Judgment by Default against Defendant, Officer Todd Laombardo, filed. (Judgment not entered)	No Judge
1/8/2008	Order, filed cert. to Plaintiff, Atty. Krepps, Atty. Eddy and Atty. Friedline NOW, this 7th day of January, 2008, Order of this Court that Plaintiffs' Praecipes for Entry of Default Judgment be and are hereby dismissed; and Plaintiffs' Complaint filed in this case is dismissed, with prejudice, based upon the doctrine of resjudicata	Fredric Joseph Ammerman
1/28/2008	Motion for Reconsideration of Prior Court Order of January 7, 2008, for Dismissing Plaintiff's Praecipes for Entry of Default Judgemnt and Dismissing Plaintiff's Complaint with Prejudice, filed by Plaintiff 7 Cert. to Plaintiff.	No Judge

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

JAN 28 2008

Attest:


  
Prothonotary/  
Clerk of Courts

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

**DAVID L. NEARHOOD  
JOSHUA NEARHOOD**

## **: CIVIL ACTION – LAW**

2

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10

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: CASE NO.: 2001-01715-CD

2

2

**: Pa.R.App.P., Rule 1701, et seq.**

: Pa.R.App.P., Rule 1911, et seq.

**Pa.R.App.P., Rule 901, et seq.**

2

2

## **Plaintiffs**

VS

**OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE**

## **CERTIFICATE OF SERVICE**

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I, David L. Nearhood, hereby certify that I caused to be served on Feb. 4, 2008, a copy of the foregoing NOTICE OF APPEAL, and the attached copy of the ORDER and DOCKET ENTRY, by personal service\* where indicated by an "\*", or otherwise by depositing a true and correct copy in the U.S. Mail, 1st class postage prepaid, to:

**Marshall, Dennehey, Warner, Coleman & Goggin**  
Attorney for Defendants  
Paul D. Krepps #73038  
600 Grant Street  
2900 USX Tower  
Pittsburg, PA 15219  
Telephone: (412) 803-1140

**Office of Attorney General**  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 565-3578

**Clearfield County Court Administration\***  
Daniel J. Nelson  
Court Administrator  
230 E. Market Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641, Ext. 5982

**Official Court Reporter\***  
Clearfield County Courthouse  
Thomas Snyder, RPR  
230 E. Market Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641, I

**Clearfield County Judge's Chambers\***  
Fredric J. Ammerman  
President Judge  
230 E. Market Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641

**Clearfield County Court of Common Pleas\***  
William A. Shaw  
Office of the Prothonotary  
230 E. Market Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641, Ext. 1331

Respectfully submitted,

Dated: Feb. 4, 2008

by

David L. Nearhood  
**David L. Nearhood, *in propria persona***  
**Joshua Nearhood, via David L. Nearhood, Plaintiffs**  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

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

DAVID L. NEARHOOD  
JOSHUA NEARHOOD  
Plaintiffs

vs.

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE  
Defendants

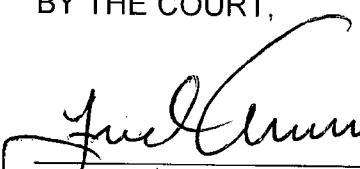
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NO. 01-1715-CD

ORDER

NOW, this 29<sup>th</sup> day of January, 2008, upon receipt and review of the Plaintiffs' Motion for Reconsideration of Prior Court Order of January 7, 2008, Dismissing Plaintiffs' Praecipes for Entry of Default Judgment and Dismissing Plaintiffs' Complaint with Prejudice, it is the ORDER of this Court that said Motion be and is hereby DENIED.

BY THE COURT,

  
FREDRIC J. AMMERMAN  
President Judge

FILED  
01/30/2008  
JAN 30 2008  
1CC Atty Eddy  
1CC Atty Krepps

William A. Shaw  
Prothonotary/Clerk of Courts

GR

#19

FILED

JAN 30 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 1/30/08

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  Other

Special Instructions:

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

FILED

JAN 28 2008

0/8:45/08  
William A. Shaw  
Prothonotary/Clerk of Courts

12/28/08  
#18

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

Plaintiffs

:  
:  
:  
:  
:

vs

: CASE NO.: 2001-01715-CD

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

:  
:  
:  
:  
:  
:

Defendants

**MOTION FOR RECONSIDERATION OF PRIOR COURT ORDER OF JANUARY 7,  
2008, DISMISSING PLAINTIFF'S PRAECIPES FOR ENTRY OF DEFAULT  
JUDGMENT AND DISMISSING PLAINTIFF'S COMPLAINT WITH PREJUDICE**

COMES NOW, the Plaintiff, David L. Nearhood, and hereby humbly makes application and petition and moves this Honorable Court with his Motion for Reconsideration of the Court's Prior Order of January 7, 2008, dismissing Plaintiff's Praecipes for Entry of Default Judgment and Dismissing Plaintiff's Complaint with Prejudice, on grounds that he hereby avers and makes solemn oath, declaration and legal argument as follows:

1. Plaintiff is asking that the Court take another look at the case that is before it, Number 2001-01715 CD, since Plaintiff believes that due process was denied him and that his case has been prejudiced by actions of this Court, and by virtue of three Protests that were denied generally, as lodged on the Certified Docket Report, 01/08/2008, Exhibit C.
2. Pennsylvania Rule of Civil Procedure, Rule 400, requiring original service of process to be made by the Sheriff, was originally waived by the Defendants and by the Court, as proceedings were had and responses were filed by all 4 Defendants on this Court Docket

(Notice of Filing Petition for Removal by Defendants Todd Lombardo and Morris Cooper Police, and Motion for Enlargement of Time by Defendants Thomas Granville and Pennsylvania State Police);

3. Further, no one objected to any alleged lack of proper service for several years but instead, all parties acknowledged the service by Plaintiff and proceeded to defend in the Federal Court, albeit in an improper venue and in the wrong jurisdiction, and took action in the Common Pleas Court other than filing a proper answer to the Complaint during all this time in the case, in effect, effectuating service on the Defendants, and thereby waiving any defect of service.
4. Defendants Todd Lombardo and the Morris Cooper Police filed their Notice of Filing Petition for Removal on 11/02/2001.
5. The Federal Court did indeed dismiss Plaintiff's Complaint for the Defendants Todd Lombardo and the Morris Cooper Police, by Memorandum and Order of the Federal Court on February 27, 2003, but such dismissal was improper and the Federal Court lacked jurisdiction over the case because such removal to the Federal Court was also never accomplished or not properly accomplished by this Court of Common Pleas, nor by the said Defendants properly attaching an Order to its Notice of Filing Petition for such removal of the civil action, as stated and required by Local Court Rule 205.2(a)(6).
6. There was and is no Order of Removal by this Court nor by the above Defendants in their Notice of Filing Petition to Remove the Docket to the Federal Court. (See Certified Docket Report, 01/08/2008, attached as Exhibit C).
7. The case was never removed or properly removed to the Federal Court because the Prothonotary and the Trial Judge had and still has possession of the complete original

copy file stamped case file in its offices as of 01/08/2008, as witnessed first hand knowledge by Plaintiff David L. Nearhood.

8. The case was also never removed or properly removed to the Federal Court, because in conjunction with the facts in Paragraph 6 above, the Plaintiff went and contacted the Federal District Court, asked questions of the Federal Clerk of Court, and investigated the Federal Court Docket Report (See Certified Federal Court Docket Report, 12/14/2007, attached as Exhibit D) and got copies of the Petition for Removal, and it shows that there is/was no Order attached to the Petition for Removal from the Common Pleas Court on the Federal Docket showing that they removed the case to Federal Court.
9. There is no docket entry on the Certified Federal Court Docket Report showing receipt of the transferred case file record from the Common Pleas Court, and the Federal Clerk of Court stated to Plaintiff David L. Nearhood that there wasn't one.
10. The Clerk, after investigating, also stated to Plaintiff that they had no such Order or case file transferred from the Common Pleas Court either in the Chambers of the Federal Judge's possession who presided over the case, nor anywhere in the Court or on the docket or case file archives, whatsoever.
11. There was and is no Order on the Federal Court Docket Report (See Certified Federal Court Docket Report, 12/14/2007, attached as Exhibit D) granting the removal by the Federal Court District Judge, and the Federal Court Docket Report record shows that the Petition for Removal was NEVER granted by the Federal Court.
12. The Memorandum and Order of the Federal Court on February 27, 2003, dismissing the Complaint, nor any other pleading or Order filed on the Federal Docket by the Federal Judge, DOES NOT show that the Defendant's Petition for Removal was ever granted by

the Federal Court, therefore the Federal Court lacked jurisdiction to dismiss the Complaint or to proceed in any fashion with the case.

13. The case was thus never removed and could not be removed properly by the Federal Court because the Common Pleas Court NEVER transferred the file record to the Federal Court nor did the Federal Court ever issue an Order granting Defendant's Lombardo and Morris Cooper Police Petition for Removal.
14. Defendants Thomas Granville and the Pennsylvania State Police filed their Motion for Enlargement of Time on 11/13/2001, and DID NOT join and WERE NOT joined to the Petition of Defendants Todd Lombardo and the Morris Cooper Police for their Notice of Filing Petition for Removal on 11/02/2001.
15. The Federal Court did indeed dismiss Plaintiff's Complaint for the Defendants Thomas Granville, by Memorandum and Order of the Federal Court on February 27, 2003, and the Federal Court spontaneously terminated the party Pennsylvania State Police on 07/16/2002 (See Exhibit D), but such dismissal and termination was improper and the Federal Court lacked jurisdiction over the case and improperly joined Granville and improperly terminated the Pennsylvania State Police, because such removal and transfer of the case was also never done or not properly done by this Court of Common Pleas.
16. Since Defendants Thomas Granville and the Pennsylvania State Police DID NOT join and WERE NOT joined to the Petition of Defendants Todd Lombardo and the Morris Cooper Police for their Notice of Filing Petition for Removal on 11/02/2001, and because said Defendants Thomas Granville and the Pennsylvania State Police NEVER filed their own Petition for Removal either, they each lacked Standing as a party to any removal proceedings in the Federal Court or in the State Common Pleas Court.

17. Further, the Defendant's Thomas Granville and the Pennsylvania State Police since they were represented by a different attorney and were not represented by the attorney for the Defendants Todd Lombardo and the Morris Cooper Police in their Petition for Removal, and since their attorney failed to join, and DID NOT join and they WERE NOT joined to the Petition of Defendants Todd Lombardo and the Morris Cooper Police, they thus also WERE NOT removed at all from the Common Pleas Court and therefore remain and should lawfully remain as Defendants in the Common Pleas Court action.

18. The Plaintiff David L. Nearhood filed on 01/02/2008 a separate Praeclipe for Entry of Judgment by Default against each of the 4 listed Defendants.

19. This Court has improperly and prematurely dismissed Plaintiff's Praecipes for Entry of Judgment by Default and the Plaintiff's Complaint, since the case was either improperly removed or not removed at all for each of the 4 Defendants.

20. Default judgment can and should be entered against each of the 4 Defendants because Plaintiff has shown that each was appropriately and effectually served as they all waived any improper service or any alleged defect of service, as shown in Paragraphs 2 and 3, *supra*.

21. The Prothonotary/Clerk of Court had a legal duty to act and enter the default judgment immediately, per Pa.R.C.P., Rule 236(a)(2) and Rule 205.2, but failed to do so in violation of the above statutes, and was instead acting outside of his authority and beyond the scope of his duties, in refusing to enter the default judgment, since he was acting as an attorney making legal determinations for the Plaintiff, which only the Court itself is authorized to do so under certain circumstances.

22. Further, if there were a controversy or question, the Prothonotary had a duty not to

question or make legal determinations, but only to file the papers, enter the judgment, and forward the papers to the Court, and where the Defendants, and not the Prothonotary or the Court *sua sponte*, would have the duty and obligation to challenge any improper praecipe for entry of default judgment under Pa.R.C.P., Rule 237.3.

23. Further, Default Judgments can be entered against these Defendants because as Plaintiff has shown in Paragraphs 1-20 above, they were each appropriately and effectually served since they waived any alleged defect of service, they each willingly and voluntarily participated in the case with Plaintiff for 2 years, and each Defendant has also been shown above by Plaintiff to still be in the case in the Court of Common Pleas in spite of what they may have done in the Federal Court, because it has also been shown by Plaintiff above that this Court never transferred or removed, or never properly transferred or removed the case to the Federal Court.

24. The Doctrine of *res judicata* would therefore not apply in this case.

25. The Docket Report of the Common Pleas Court, dated 01/03/2008 (See Certified Docket Report, 01/03/2008, attached as Exhibit A), shows that the entry of 12/26/2007 entitled "NOTE: CASE PLACED ON INACTIVE CASE IN ERROR. CASE WAS REMOVED TO DISTRICT COURT NOVEMBER 2, 2001", was most highly likely placed on the Docket Report on or between about sometime in the afternoon 01/02/2008 and 9:55 AM on 01/03/2008; and it had not yet been placed on the Docket, as of 01/02/2008, until AFTER Plaintiff had filed his Praecipes of Plaintiff on 01/02/2008, as Plaintiff was lead to believe by the Prothonotary the Docket Report on 01/02/2008 had nothing new on it the day he filed the Praecipes; and Plaintiff was lead to believe by the Prothonotary this 12/26/07 entry was thus not on the docket either then on 01/02/2008 at the Prothonotary's

office, but was apparently placed on the Docket sometime between the afternoon on 01/02/2008 after Plaintiff had filed his Praecipes and 9:55 AM on 01/03/2008 the following day when Plaintiff obtained his new docket report, and the entry for the Praecipes apparently show they were backdated by someone as having been placed there on 12/26/2007.

26. Furthermore, the Docket Report of the Common Pleas Court, dated 01/07/2008 (See Certified Docket Report, 01/07/2008, attached as Exhibit B), shows that the Praecipes of Plaintiff that he filed on 01/02/2008 had not yet been placed on the Docket, as of 12:15 PM on 01/07/2008, but the Docket Report of the Common Pleas Court, dated 01/08/2008 as of 2:58 PM (See Certified Docket Report, 01/08/2008, attached as Exhibit C), shows that the Docket Entries for the 4 Praecipes were placed on the Docket sometime between 12:15 PM on 01/07/2008 and 2:58 PM on 01/08/2008, and backdated by someone as having been placed there on 01/02/2008.

WHEREFORE, the Plaintiff, David L. Nearhood, would respectfully move this Honorable Court for a hearing on the Motion for Reconsideration to consider reversing its Order of 01/07/2008 Dismissing Plaintiff's Praecipes and to allow the Prothonotary to enter Default Judgment against the Defendants, and to consider reversal of its Order Dismissing with Prejudice the Plaintiff's Complaint.

Respectfully submitted,

Dated: Jan. 28, 2008

by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood, via David L. Nearhood  
Plaintiffs

**VERIFICATION AFFIDAVIT**

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I hereby declare that the facts set forth in the foregoing MOTION FOR RECONSIDERATION OF PRIOR COURT ORDER OF JANUARY 7, 2008, DISMISSING PLAINTIFF'S PRAECIPES FOR ENTRY OF DEFAULT JUDGMENT AND DISMISSING PLAINTIFF'S COMPLAINT WITH PREJUDICE, are true and correct to the best of my knowledge and good faith belief.

Prayerfully and Respectfully submitted,

"Without Prejudice"

L.S. Seal

Dated: Jan. 28, 2008

by David L. Nearhood  
David L. Nearhood, *sui juris*  
Plaintiff / Petitioner, *in propria persona*,

**Exhibit A**

**Certified Docket Report**

**01/03/2008**

**A**

Date: 1/3/2008  
Time: 09:55 AM  
Page 1 of 1

Champaign County Court of Common Pleas  
ROA Report

User: GLKNISLEY

Case: 2001-01715-CD  
Current Judge: No Judge

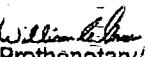
David Lee Nearhood, Joshua Nearhood vs. Todd Lombardo, Morris-Cooper Police, Thomas Granville, PA State Police

Civil Other

Date	Judge	
10/12/2001	Filing: Civil Complaint Paid by: Nearhood, David (plaintiff) Receipt number: 1832818 Dated: 10/12/2001 Amount: \$80.00 (Check) Four CC Plaintiff	No Judge
10/17/2001	Declaration of Service, Complaint upon Parties of Record. Filed by s/David Nearhood 1 cc Plaintiff Nearhood	No Judge
10/18/2001	Declaration of Service to a Civil Complaint, upon Parties of Record. Served by s/Jeremy Howell Filed by s/David Nearhood 2 cc to Plaintiff	No Judge
11/2/2001	Notice of Filing Petition For Removal. Filed by s/Paul D. Krepps, Esq. Cert of Svc no cc	No Judge
11/9/2001	Notice of Intention to File Praecept for Entry of Judgment of Default. Filed by s/David Nearhood	No Judge
11/13/2001	PROTEST. filed by s/David Nearhood, Pro Se no cc (Removal) PROTEST. filed by s/David Nearhood, Pro Se no cc (Rules of Procedure) Motion for Enlargement of Time, filed by s/Thomas G. Eddy, Deputy Attorney General One CC Attorney	No Judge
11/16/2001	PROTEST, Filed by David Nearhood 1 Cert. to Plaintiff (Your Honor)	No Judge
10/18/2007	Notice of Proposed Termination of Court Case, mailed to parties (see Original), filed.	No Judge
12/14/2007	Statement of Intention to Proceed, filed by s/David L. Nearhood Four CC Plaintiff	No Judge
12/21/2007	Important Notice of Intent to file Praecept For entry of Judgment by Default, filed by s/David L. Nearhood, Joshua Nearhood, Plaintiffs. 3CC to Atty.	No Judge
12/26/2007	NOTE: CASE PLACED ON INACTIVE CASE IN ERROR. CASE WAS REMOVED TO DISTRICT COURT NOVEMBER 2, 2001.	No Judge

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

Attest,

  
William L. Nisley  
Prothonotary/  
Clerk of Courts

**Exhibit B**

**Certified Docket Report**

**01/07/2008**

**B**

Date: 01/07/2008

Time: 12:15 PM

Page 1 of 1

Cuyahoga County Court of Common Pleas

ROA Report

User: PUBLIC

Case: 2001-01715-CD

Current Judge: No Judge

David Lee Nearhood, Joshua Nearhood vs. Todd Lombardo, Morris-Cooper Police, Thomas Granville, PA State Police

Civil Other

Date		Judge
10/12/2001	Filing: Civil Complaint Paid by: Nearhood, David (plaintiff) Receipt number: 1832818 Dated: 10/12/2001 Amount: \$80.00 (Check) Four CC Plaintiff	No Judge
10/17/2001	Declaration of Service, Complaint upon Parties of Record. Filed by s/David Nearhood 1 cc Plaintiff Nearhood	No Judge
10/18/2001	Declaration of Service to a Civil Complaint, upon Parties of Record. Served by s/Jeremy Howell Filed by s/David Nearhood 2 cc to Plaintiff	No Judge
11/02/2001	Notice of Filing Petition For Removal. Filed by s/Paul D. Krepps, Esq. Cert of Svc no cc	No Judge
11/09/2001	Notice of Intention to File Praecipe for Entry of Judgment of Default. Filed by s/David Nearhood	No Judge
11/13/2001	PROTEST. filed by s/David Nearhood, Pro Se no cc (Removal)	No Judge
	PROTEST. filed by s/David Nearhood, Pro Se no cc (Rules of Procedure)	No Judge
	Motion for Enlargement of Time, filed by s/Thomas G. Eddy, Deputy Attorney General One CC Attorney	No Judge
11/16/2001	PROTEST, Filed by David Nearhood 1 Cert. to Plaintiff (Your Honor)	No Judge
10/18/2007	Notice of Proposed Termination of Court Case, mailed to parties (see Original), filed.	No Judge
12/14/2007	Statement of Intention to Proceed, filed by s/David L. Nearhood Four CC Plaintiff	No Judge
12/21/2007	Important Notice of Intent to file Praecipe For entry of Judgment by Default, filed by s/David L. Nearhood, Joshua Nearhood, Plaintiffs. 3CC to Atty.	No Judge
12/26/2007	NOTE: CASE PLACED ON INACTIVE CASE IN ERROR. CASE WAS REMOVED TO DISTRICT COURT NOVEMBER 2, 2001.	No Judge

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

JAN 07 2008

Attest.

*William L. Brown*  
Prothonotary/  
Clerk of Courts

**Exhibit C**

**Certified Docket Report**

**01/08/2008**

Date: 01/08/2008  
Time: 02:58 PM  
Page 1 of 1

Cuyahoga County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2001-01715-CD

Current Judge: No Judge

David Lee Nearhood, Joshua Nearhood vs. Todd Lombardo, Morris-Cooper Police, Thomas Granville, PA State Police

Civil Other

Date	Judge	
10/12/2001	Filing: Civil Complaint Paid by: Nearhood, David (plaintiff) Receipt number: 1832818 Dated: 10/12/2001 Amount: \$80.00 (Check) Four CC Plaintiff	No Judge
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10/18/2001	Declaration of Service to a Civil Complaint, upon Parties of Record. Served by s/Jeremy Howell Filed by s/David Nearhood 2 cc to Plaintiff	No Judge
11/02/2001	Notice of Filing Petition For Removal. Filed by s/Paul D. Krepps, Esq. Cert of Svc no cc	No Judge
11/09/2001	Notice of Intention to File Praeclipe for Entry of Judgment of Default. Filed by s/David Nearhood	No Judge
11/13/2001	PROTEST. filed by s/David Nearhood, Pro Se no cc (Removal) PROTEST. filed by s/David Nearhood, Pro Se no cc (Rules of Procedure) Motion for Enlargement of Time, filed by s/Thomas G. Eddy, Deputy Attorney General One CC Attorney	No Judge
11/16/2001	PROTEST, Filed by David Nearhood 1 Cert. to Plaintiff (Your Honor)	No Judge
10/18/2007	Notice of Proposed Termination of Court Case, mailed to parties (see Original), filed.	No Judge
12/14/2007	Statement of Intention to Proceed, filed by s/David L. Nearhood Four CC Plaintiff	No Judge
12/21/2007	Important Notice of Intent to file Praeclipe For entry of Judgment by Default, filed by s/David L. Nearhood, Joshua Nearhood, Plaintiffs. 3CC to Atty.	No Judge
12/26/2007	NOTE: CASE PLACED ON INACTIVE CASE IN ERROR. CASE WAS REMOVED TO DISTRICT COURT NOVEMBER 2, 2001.	No Judge
01/02/2008	Praeclipe of Plaintiff For Entry of Judgment by Default Against Defendant, Morris cooper Police, filed 5 Cert. to Plaintiff (Judgment not entered) Praeclipe of Plaintiff for Entry of Juddment by Default Against the Defendant, Trooper Thomas Granville, filed 5 Cert. to Plaintiff. (Judgment not entered) Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Pennsylvania State Police, filed. (Judgment not entered) Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Officer Todd Laombardo, filed. (Judgment not entered)	No Judge
01/08/2008	Order, filed cert. to Plaintiff, Atty. Krepps, Atty. Eddy and Atty. Friedline NOW, this 7th day of January, 2008, Order of this Court that Plaintiffs' Praeclipes for Entry of Default Judgment be and are hereby dismissed; and Plaintiffs' Complaint filed in this case is dismissed, with prejudice, based upon the doctrine of resjudicata	Fredric Joseph Ammerman I hereby certify this to be a true and attested copy of the original statement filed in this case.

JAN 08 2008

Attest,

William L. Brown  
Prothonotary

**Exhibit D**

**Certified Federal Court Docket Report**

**12/14/2007**

CLOSED

**U.S. District Court**  
**Western District of Pennsylvania (Johnstown)**  
**CIVIL DOCKET FOR CASE #: 3:01-cv-00339-DSC**  
**Internal Use Only**

NEARHOOD, et al v. OFFICER LOMBARDO, et al  
Assigned to: Judge David S. Cercone  
Demand: \$700,000  
Case in other court: Clearfield County, 01-01715-CD  
Cause: 42:1983 Civil Rights Act

Date Filed: 11/01/2001  
Date Terminated: 02/27/2003  
Jury Demand: None  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff****DAVID NEARHOOD**

represented by **DAVID NEARHOOD**  
1223 Oak Grove Road  
Morrisdale, PA 16858  
PRO SE

**Plaintiff****JOSHUA NEARHOOD**

V.

**Defendant****OFFICER TODD LOMBARDO**

represented by **Paul D. Krepps**  
Marshall, Dennehey, Warner, Coleman  
& Goggin  
600 Grant Street, USX Tower  
Suite 2900  
Pittsburgh, PA 15219  
(412) 803-1140  
Email: pdkrekps@mdwcg.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant****MORRIS-COOPER POLICE**

represented by **Paul D. Krepps**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant****TROOPER THOMAS GRANVILLE**

represented by **Thomas G. Eddy**  
Metropolitan Life Insurance Company  
of New York  
210 Sixth Avenue

One Oliver Plaza, Suite 3000  
 Pittsburgh, PA 15222  
 (412) 992-2678  
 Email: [teddy1@metlife.com](mailto:teddy1@metlife.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**PENNSYLVANIA STATE POLICE**  
**TERMINATED: 07/16/2002**

represented by **Thomas G. Eddy**  
 (See above for address)  
**TERMINATED: 07/16/2002**  
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01/30/2003	28	Correspondence from the Supreme Court of U.S. advising that an order was entered denying the petition for a writ of mandamus and/or prohibition. (dlg) (Entered: 01/31/2003)
02/27/2003	29	MEMORANDUM of Judge Cercone on Defendants' Motions to Dismiss, with attached Order; and as more fully stated in said Memorandum. CM all parties of record. (dlg) (Entered: 02/28/2003)
02/27/2003		ORDER granting [19-1] motion to Dismiss Plaintiff's Amended Complaint; granting [21-1] motion to Dismiss Amended Complaint Pursuant to F.R.C.P. 12(b)(6) and that plaintiff's complaint is dismissed in its entirety; Clerk shall mark case closed (signed by Judge David S. Cercone on 2/27/03), with Document No. 29. CM all parties of record. (dlg) (Entered: 02/28/2003)
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IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

:

:

Plaintiffs

:

:

vs

: CASE NO.: 2001-01715-CD

:

:

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

:

:

:

:

Defendants

:

:

CERTIFICATE OF SERVICE

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I, David L. Nearhood, hereby certify that I served on JAN. 28, 2008, a copy of the attached MOTION FOR RECONSIDERATION OF PRIOR COURT ORDER OF JANUARY 7, 2008, DISMISSING PLAINTIFF'S PRAECIPES FOR ENTRY OF DEFAULT JUDGMENT AND DISMISSING PLAINTIFF'S COMPLAINT WITH PREJUDICE, by depositing a true and correct copy in the U.S. Mail, 1st class postage prepaid, to:

Marshall, Dennehey, Warner, Coleman & Goggin  
Attorney for Defendants  
Paul D. Krepps #73038  
600 Grant Street  
2900 USX Tower  
Pittsburg, PA 15219  
Telephone: (412) 803-1140

Office of Attorney General  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 565-3578

Respectfully submitted,

Dated: JAN. 28, 2008

by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood, via David L. Nearhood, Plaintiffs  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

CA

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

DAVID NEARHOOD  
JOSHUA NEARHOOD,  
Plaintiffs

vs.

OFFICER TODD LOMBARDO, MORRIS-COOPER  
POLICE, TROOPER THOMAS GRANVILLE  
and PENNSYLVANIA STATE POLICE,  
Defendants

NO. 01-1715-CD

FILED  
01/08/08  
JAN 08 2008

ORDER

William A. Shaw  
Prothonotary/Clerk of Courts  
COPIES - See reverse

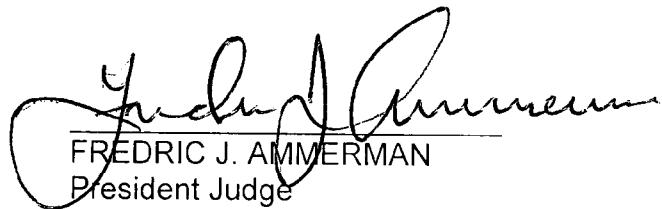
NOW, this 7<sup>th</sup> day of January, 2008, the Court having reviewed the Prothonotary's docket and file in the above-captioned case, the Court notes and Orders as follows:

1. Pennsylvania Rule of Civil Procedure 400 requires original service of process to be made by the Sheriff;
2. Plaintiff David Nearhood's "Declaration of Service" documents filed on October 17 and 18, 2001 do not effectuate service on the Defendants;
3. In any event, Defendants Officer Todd Lombardo and the Morris-Cooper Police Department filed a Notice of Removal of the case to Federal Court on November 2, 2001. By Memorandum and Order dated February 27, 2003 (certified copy of same attached) the Federal Court dismissed Plaintiffs' Complaint;
4. Plaintiff David Nearhood filed on January 2, 2008 a separate Praeclipe for Entry of Judgment by Default against each of the four listed Defendants;
5. Default Judgment can not be entered against a defendant who was not appropriately served or who is no longer in the case;

#17

6. Accordingly, it is the ORDER of this Court that the Plaintiffs' Praecipes for Entry of Default Judgment be and are hereby dismissed; and
7. The Plaintiffs' Complaint filed in this case is dismissed, with prejudice, based upon the doctrine of *res judicata*.

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

CLOSED

**U.S. District Court  
Western District of Pennsylvania (Johnstown)  
CIVIL DOCKET FOR CASE #: 3:01-cv-00339-DSC  
Internal Use Only**

NEARHOOD, et al v. OFFICER LOMBARDO, et al  
Assigned to: Judge David S. Cercone  
Demand: \$700,000  
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represented by **DAVID NEARHOOD**  
1223 Oak Grove Road  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

29 day

DAVID NEARHOOD and )  
JOSHUA NEARHOOD, )  
Plaintiffs, )  
vs. ) CIVIL ACTION NO. 01-339J  
OFFICER TODD LOMBARDO, )  
THE MORRIS-COOPER POLICE )  
DEPARTMENT, TROOPER THOMAS )  
GRANVILLE and THE )  
PENNSYLVANIA STATE POLICE, )  
Defendants. )

**CASE CLOSED**

**MEMORANDUM  
AND  
ORDER OF COURT**

Plaintiffs commenced this action in the Court of Common Pleas of Clearfield County, Pennsylvania. Defendants removed the case on the basis of federal question jurisdiction. Presently before the court are defendants' renewed motions to dismiss. For the reasons set forth below, the motions will be granted.

Plaintiffs' complaint challenges the actions of various law enforcement officers following an incident wherein David Nearhood's son, Joshua Nearhood, was involved in an altercation with Dillen Leigey. Dillen was six and Joshua was four years of age at the time. The two children were playing together at the Nearhood's residence. Dillen apparently shot Joshua in the eye with a toy gun that shoots rubber-tipped darts and thereafter jumped on him. David Nearhood then apparently attempted to discipline Dillen, and an altercation ensued between David and Dillen's mother, Laura Leigey. David went to the Morris-Cooper Police Department, filed an affidavit, and requested that Dillen be prosecuted for intentional child endangerment, assault and defiant

trespass. He also requested that Laura be prosecuted for defiant trespass. Pennsylvania State Trooper Thomas Granville investigated the matter and brought a harassment charge against David based upon his treatment of Dillen after the incident between Dillen and Joshua.

On September 4, 2001, a hearing was held before District Justice Michael Rudella in Kylertown, Pennsylvania, on the harassment charge filed by Trooper Granville. District Justice Rudella found David Nearhood guilty of harassment and imposed a \$100.50 fine. See Exhibits to Doc. 16.

After removing the action on the basis that the complaint asserted violations of federal law, defendants moved to dismiss the complaint on the ground that it failed to state a claim upon which relief can be granted. On July 16, 2002, a memorandum opinion and order was entered on defendants' motions to dismiss. After construing plaintiffs' complaint under the applicable principles of law the court erred on the side of caution and concluded that the complaint could be interpreted as attempting to present two grounds for relief: (1) failure to prosecute the Leiges and (2) a claim for selective or malicious prosecution. See Memorandum Opinion and Order of June 16, 2002 (Doc. No. 15). Defendants' motions were granted with respect to plaintiff's claim for failure to prosecute and for all claims against the Pennsylvania State Police. Id. Plaintiffs were directed to file an amended complaint to the extent they sought to assert a cause of action for selective or malicious prosecution in violation of § 1983. Any amended complaint was to indicate the following:

The charges brought against Mr. Nearhood, the date that prosecution commenced, whether the prosecution was terminated in his favor, how plaintiffs were harmed by the prosecution, the relief sought and, if alleging selective prosecution, explain which similarly situated persons were treated differently and the unjustifiable standard for the differential treatment (whether it was plaintiff's race, religion, etc.).

Id. Plaintiff filed a response to the order which contained a section entitled "specific details." See Response to Judge's Order (Doc. No. 16). On August 2, 2002, this court entered an order indicating that "these documents may be construed as an amended complaint alleging a Section 1983 malicious prosecution claim" and directing defendants to file a response to plaintiffs' amended complaint. The remaining defendants responded by filing the motions to dismiss currently pending before the court.

It is well-settled that in reviewing a motion to dismiss under Federal Rule of Civil Procedure 12(b) (6) "[t]he applicable standard of review requires the court to accept as true all allegations in the complaint and all reasonable inferences that can be drawn therefrom, and view them in the light most favorable to the non-moving party." Rocks v. City of Philadelphia, 868 F.2d 644, 645 (3d Cir. 1989). Dismissal of a complaint is proper only where "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957); Langford v. City of Atlantic City, 235 F.3d 845, 847 (3d Cir. 2000) (citing Nami v. Fauver, 82 F.3d 63, 65 (3d Cir. 1996)). The question is not whether the plaintiff will ultimately prevail; instead, it is whether the plaintiff can prove any set of facts consistent with the averments of the complaint which would show the plaintiff is entitled to relief. Jordan v. Fox, Rothschild, O'Brien & Frankel, 20 F.3d 1250, 1261 (3d Cir. 1994). Under this standard a complaint will be deemed sufficient if it adequately puts the defendant on notice of the essential elements of a cause of action. Nami, 82 F.3d at 66.

While all factual allegations and reasonable inferences to be drawn therefrom are to be accepted as true, "a court need not credit a complaint's 'bald assertions' or 'legal conclusions' when deciding a motion to dismiss." Morse v. Lower Merion School District, 132 F.3d 902, 906 (3d Cir. 1997) (citations omitted). In ruling on a 12(b)(6) motion courts consistently have

rejected “legal conclusions,” “unsupported conclusions,” “unwarranted inferences,” “unwarranted deductions,” “footless conclusions of law” or “sweeping legal conclusions cast in the form of factual allegations.” Id. at n.8 (citing in support Charles Allen Wright & Arthur R. Miller, FEDERAL PRACTICE AND PROCEDURE § 1357 (2d ed. 1997), Leeds v. Meltz, 85 F.2d 51, 53 (2d Cir. 1996) (“while the pleading standard is a liberal one, bald assertions and conclusions of law will not suffice”) and Fernandez-Montes v. Allied Pilots Ass’n, 987 F.2d 278, 284 (5<sup>th</sup> Cir. 1993) (“Conclusory allegations or legal conclusions masquerading as factual conclusions will not suffice to prevent a motion to dismiss.”)).

Furthermore, although the focus in assessing a motion to dismiss is on the allegations set forth in the pleadings, “matters of public record, orders [and] exhibits attached to the complaint” also may be considered. Oshiver v. Levin, Fishbein, Sedran & Berman, 38 F.3d 1380, 1384 n.2 (3d Cir. 1994) (citing 5A Wright & Miller, FEDERAL PRACTICE & PROCEDURE: CIVIL 2D, § 1357; Chester County Intermediate Unit v. Pennsylvania Blue Shield, 896 F.2d 808, 812 (3d Cir. 1990)). It is well established that courts are permitted to consider matters of which they may take judicial notice, including records and reports of administrative bodies, Barron v. Reich, 13 F.3d 1370, 1377 (9th Cir. 1994), and publicly available records and transcripts from judicial proceedings “in related or underlying cases which have a direct relation to the matters at issue.” In re American Continental/Lincoln Sav. & Loan Securities Litigation, 102 F.3d 1524, 1537 (9th Cir. 1996) (citing, inter alia, Henson v. CSC Credit Services, 29 F.3d 280, 284 (7th Cir. 1994) ); accord Pension Benefit Guarantee Corp. v. White Consolidated Industries, 998 F.2d 1192, 1196-97 (3d Cir. 1993), cert. denied, 510 U.S. 1042 (1994); Kauffman v. Moss, 420 F.2d 1270, 1274 (3d Cir.); cert. denied, 400 U.S. 846 (1970).

A § 1983 claim for malicious prosecution has several elements. First, a plaintiff must be able to satisfy the traditional common law elements of the claim, which are: (1) the defendant initiated a criminal proceeding, (2) which ended in plaintiff's favor and (3) which was initiated without probable cause, and (4) the defendant acted with actual malicious purpose or for a purpose other than bringing the individual to justice. Lee v. Mihalich, 847 F.2d 66, 70 (3d Cir. 1988). In addition, the plaintiff must identify conduct that violates an explicit provision of the constitution. Torres v. McLaughlin, 163 F.3d 169, 173 (3d Cir. 1998). And "if a section 1983 plaintiff seeks to recover damages for an unconstitutional conviction, imprisonment, or other harm caused by actions whose unlawfulness would render the conviction or sentence unlawful, the plaintiff must prove that the conviction or sentence has been reversed, expunged, or declared invalid." Id. (citing Heck v. Humphrey, 512 U.S. 477, 486-87 (1994)).

Here, plaintiffs' amended complaint fails to state a claim against the remaining defendants for a number of reasons. First, plaintiffs' submissions indicate that David Nearhood was not prosecuted by Officer Lombardo or the Morris-Cooper Police Department. Instead, David Nearhood was prosecuted by State Trooper Granville, who initially investigated the incident and authored the citation charging David Nearhood with harassment. See Specific Details (Doc. No. 16) at ¶ 5. Thus, plaintiffs cannot satisfy the first element of a common law claim for malicious prosecution against defendants Lombardo and the Morris-Cooper Police Department, nor can they identify any provision of the constitution which these two defendants purportedly violated. It follows that plaintiffs' malicious prosecution claim against these two defendants must be dismissed.

Moreover, plaintiffs' malicious prosecution claim fails against all defendants because plaintiffs essentially seek through their malicious prosecution claim to recover damages for an

unconstitutional conviction. Plaintiffs admit that the prosecution for harassment has been upheld in the state court system. See Specific Details at ¶ 6. The teachings of Heck v. Humphrey thus preclude any further proceedings on plaintiffs' § 1983 malicious prosecution claim until David Nearhood's conviction for harassment has been reversed, expunged or declared invalid.

For the reasons set forth above as well as those set forth in the memorandum opinion and order of July 16, 2002, defendants' motions to dismiss must be granted. Accordingly, the following order is appropriate.

ORDER OF COURT

AND NOW, this 27 day of February, 2003, for the reasons set forth in the memorandum above, IT IS ORDERED that defendants' motions to dismiss (Doc. Nos. 19 & 21) be, and the same hereby are granted and plaintiffs' complaint as amended is dismissed in its entirety. The clerk shall close this action.

D.S. Cercone

David Stewart Cercone  
United States District Judge

cc: Thomas G. Eddy  
Deputy Attorney General  
Office of the Attorney General  
5<sup>th</sup> Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219

David Nearhood  
R.R. 2, Box 160  
Morrisdale, PA 16858

Paul D. Krepps, Esq.  
600 Grant Street  
US Steel Tower  
Suite 2900  
Pittsburgh, PA 15219

CERTIFIED FROM THE RECORD	
Date	11/3/08
ROBERT V. BARTH, JR., CLERK	
By	<u>Patricia Price</u>
Deputy Clerk	

# FILED

JAN 08 2008

DATE: 11/8/08

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:

1CC with exhibits and memo -  
David L. Neashow  
1203 Oak Grove Road  
Morrisdale, PA 16658

1CC without exhibits and  
with memo -

Atty Krepps  
Atty Eddy  
Atty Friedline

1CC - courtesy copy without  
exhibits and without memo  
Atty Friedline

David L. Nearhood and Joshua Nearhood  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
(814) 342-7464

Plaintiffs

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

FILED

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

JAN 02 2008

9/8/08

William A. Shaw

Prothonotary/Clerk of Courts

5 Cents To

PLA

Plaintiffs

:

vs

: CASE NO.: 2001-01715-CD

:

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

:

:

:

:

:

Defendants

:

**PRAECIPE OF PLAINTIFF FOR ENTRY OF JUDGMENT BY DEFAULT  
AGAINST DEFENDANT**

TO: Prothonotary of Clearfield County

Kindly enter a default judgment in favor of Plaintiffs, David L. Nearhood and Joshua Nearhood, and against the Defendant, Officer Todd Lombardo:

(a) in the amount of \$350,000.00, together with interest (at 5% per year; \$47.95 per diem) from October 12, 2001 forward, plus reasonable costs and fees, as shown on the attached hereto Exhibit "A" (to be added); for Plaintiff David L. Nearhood; for damages, and

(b) in the amount of \$250,000.00, together with interest (at 5% per year; \$34.25 per diem) from October 12, 2001 forward, plus reasonable costs and fees, as shown on the attached hereto Exhibit "A" (to be added); for Plaintiff Joshua Nearhood; for damages, and

for Defendants' failure to file an answer within 20 days from the date of service of the Complaint.

**Certification**

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, Plaintiff hereby certifies that a true and correct copy of the Notice of Intention to File Praeclipe for Entry of Judgment of Default, was previously mailed to and served upon Defendant on December 21, 2001, and is attached hereto as Exhibit "B", and that the statements made in this Praeclipe are true and correct to the best of his knowledge and good faith belief.

by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood, via David L. Nearhood, Plaintiffs

4116

**EXHIBIT A**

**DAMAGES AGAINST DEFENDANT(S) FROM COMPLAINT**

**DAMAGES AGAINST DEFENDANT(S) FROM COMPLAINT**

**DAVID NEARHOOD**

Amount claimed by Plaintiff	\$ 350,000.00
Interest from 10/12/01 at 5% per year, \$47.95 per diem	\$ 107,551.85 (thru 1/2/2008)
Record Costs	\$ 80.00
Entry of Judgment	\$ 29.50
Postal Costs	\$ 26.34
Printing Costs	\$ 205.00
Legal Books	\$ 77.00
<b>TOTAL DUE</b>	<b>\$ 457,969.69 (thru 1/2/2008)</b>

**JOSHUA NEARHOOD**

Amount claimed by Plaintiff	\$ 250,000.00
Interest from 10/12/01 at 5% per year, \$34.25 per diem	\$ 76,777.89 (thru 1/2/2008)
Record Costs	\$ 0.00
Entry of Judgment	\$ 29.50
<b>TOTAL DUE</b>	<b>\$ 326,807.39 (thru 1/2/2008)</b>

**EXHIBIT B**

**(Notice of Intention to File Praeclipe for Entry of Judgment of Default)**

David L. Nearhood and  Joshua Nearhood  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
(814) 342-7464

Plaintiffs

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

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DEC 21 2007

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

: Attest.

*William L. Prothonotary*  
Clerk of Cc

Plaintiffs

: CASE NO.: 2001-01715-CD

vs

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

:

:

:

:

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Defendants

:

**IMPORTANT NOTICE OF INTENT TO FILE PRAECIPE FOR ENTRY OF  
JUDGMENT BY DEFAULT**

DATE OF NOTICE: December 21, 2007

TO: Marshall, Dennehey, Warner, Coleman & Goggin  
Paul D. Krepps #73038  
Attorney for Defendants  
600 Grant Street  
2900 USX Tower  
Pittsburgh, PA 15219

Office of Attorney General  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN  
APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE  
COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU.  
UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT  
MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR  
MONEY OR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO A 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  
230 East Market & North Second Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641, Ext. 5982

by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood via David L. Nearhood Plaintiffs

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

**DAVID L. NEARHOOD  
JOSHUA NEARHOOD**

: CIVIL ACTION - LAW

:

:

**Plaintiffs**

:

:

**vs**

: **CASE NO.: 2001-01715-CD**

:

:

**OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE**

:

:

:

:

**Defendants**

:

**CERTIFICATE OF SERVICE**

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I, David L. Nearhood, hereby certify that I served on Dec. 21, 2007, a copy of the attached **IMPORTANT NOTICE OF INTENT TO FILE PRAECIPE FOR ENTRY OF JUDGMENT BY DEFAULT**, by depositing a true and correct copy in the U.S. Mail, 1st class postage prepaid, Certified Mail, return receipt requested, to:

Marshall, Dennehey, Warner, Coleman & Goggin  
Attorney for Defendants  
Paul D. Krepps #73038  
600 Grant Street  
2900 USX Tower  
Pittsburg, PA 15219  
Telephone: (412) 803-1140

Office of Attorney General  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 565-3578

**Respectfully submitted,**

Dated: Dec. 21, 2007

by David L. Nearhood  
**David L. Nearhood, in propria persona**  
**Joshua Nearhood, via David L. Nearhood, Plaintiffs**  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION – LAW

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: CASE NO.: 2001-01715-CD

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OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

Defendants

CERTIFICATE OF SERVICE

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I, David L. Nearhood, hereby certify that I served on Jan. 2, 2008, a copy of the attached **PRAECIPE OF PLAINTIFF FOR ENTRY OF JUDGMENT BY DEFAULT AGAINST DEFENDANT**, by depositing a true and correct copy in the U.S. Mail, 1st class postage prepaid, Certified Mail, return receipt requested, to:

Marshall, Dennehey, Warner, Coleman & Goggin  
via **Paul D. Krepps #73038**  
Attorney for Defendant Officer Todd Lombardo  
600 Grant Street  
2900 USX Tower  
Pittsburg, PA 15219  
Telephone: (412) 803-1140

Office of Attorney General  
**Thomas G. Eddy #42915**  
Deputy Attorney General  
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Pittsburgh, PA 15219  
Telephone: (412) 565-3578

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Dated: Jan. 2, 2008

by David L. Nearhood  
**David L. Nearhood, in propria persona**  
**Joshua Nearhood, via David L. Nearhood, Plaintiffs**  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

David L. Nearhood and Chua Nearhood  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
(814) 342-7464

Plaintiffs

**FILED**

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JAN 02 2000

0/8/2000

William A. Shaw

Prothonotary/Clerk of Courts

**DAVID L. NEARHOOD**  
**JOSHUA NEARHOOD**

: CIVIL ACTION - LAW

5

1/8/2000 to 1/8/2000

**Plaintiffs**

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:  
vs : **CASE NO.: 2001-01715-CD**

:

**OFFICER TODD LOMBARDO**  
**MORRIS COOPER POLICE**  
**TROOPER THOMAS GRANVILLE**  
**PENNSYLVANIA STATE POLICE**

:

:

:

**Defendants**

:

**PRAECIPE OF PLAINTIFF FOR ENTRY OF JUDGMENT BY DEFAULT  
AGAINST DEFENDANT**

TO: **Prothonotary of Clearfield County**

Kindly enter a default judgment in favor of Plaintiffs, **David L. Nearhood** and **Joshua Nearhood**, and against the Defendant, **Pennsylvania State Police**:

(a) in the amount of **\$350,000.00**, together with interest (at 5% per year; \$47.95 per diem) from October 12, 2001 forward, plus reasonable costs and fees, as shown on the attached hereto Exhibit "A" (to be added); for Plaintiff David L. Nearhood; for damages, and

(b) in the amount of **\$250,000.00**, together with interest (at 5% per year; \$34.25 per diem) from October 12, 2001 forward, plus reasonable costs and fees, as shown on the attached hereto Exhibit "A" (to be added); for Plaintiff Joshua Nearhood; for damages, and

for Defendants' failure to file an answer within 20 days from the date of service of the Complaint.

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Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, Plaintiff hereby certifies that a true and correct copy of the Notice of Intention to File Praeclipe for Entry of Judgment of Default, was previously mailed to and served upon Defendant on December 21, 2001, and is attached hereto as Exhibit "B", and that the statements made in this Praeclipe are true and correct to the best of his knowledge and good faith belief.

by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood, via David L. Nearhood, Plaintiffs

#15

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**DAMAGES AGAINST DEFENDANT(S) FROM COMPLAINT**

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David L. Nearhood and Joshua Nearhood  
1223 Oak Grove Road  
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(814) 342-7464

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IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DEC 21 2007

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

: Attest.

*William L. Eddy*  
Prothonotary  
Clerk of Court

Plaintiffs

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vs

: CASE NO.: 2001-01715-CD

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

:

Defendants

:

**IMPORTANT NOTICE OF INTENT TO FILE PRAECIPE FOR ENTRY OF  
JUDGMENT BY DEFAULT**

DATE OF NOTICE: December 21, 2007

TO: Marshall, Dennehey, Warner, Coleman & Goggin  
Paul D. Krepps #73038  
Attorney for Defendants  
600 Grant Street  
2900 USX Tower  
Pittsburgh, PA 15219

Office of Attorney General  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
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by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood via David L. Nearhood Plaintiffs

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

:

Plaintiffs

:

vs

: CASE NO.: 2001-01715-CD

:

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

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Defendants

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Office of Attorney General  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 565-3578

Respectfully submitted,

Dated: Dec. 21, 2007

by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood, via David L. Nearhood, Plaintiffs  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

:

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Plaintiffs

:

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vs

: CASE NO.: 2001-01715-CD

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OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

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Defendants

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Office of Attorney General  
via **Thomas G. Eddy #42915**  
Deputy Attorney General for Pennsylvania State Police  
5th Floor, Manor Complex  
2900 USX Tower  
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Marshall, Dennehey, Warner, Coleman & Goggin  
via **Paul D. Krepps #73038**  
Attorney for Defendants  
600 Grant Street  
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Pittsburgh, PA 15219  
Telephone: (412) 565-3578

Respectfully submitted,

Dated: Jan. 2, 2008

by David L. Nearhood  
**David L. Nearhood, in propria persona**  
**Joshua Nearhood, via David L. Nearhood, Plaintiffs**  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

David L. Nearhood and Joshua Nearhood  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
(814) 342-7464

Plaintiffs

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

FILED

JAN 02 2008  
5/8/08 ( )

William A. Shaw  
Prothonotary/Clerk of Courts

S CIVIL TO PFC

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

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: CASE NO.: 2001-01715-CD

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for Defendants' failure to file an answer within 20 days from the date of service of the Complaint.

Certification

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, Plaintiff hereby certifies that a true and correct copy of the Notice of Intention to File Praeclipe for Entry of Judgment of Default, was previously mailed to and served upon Defendant on December 21, 2001, and is attached hereto as Exhibit "B", and that the statements made in this Praeclipe are true and correct to the best of his knowledge and good faith belief.

by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood, via David L. Nearhood, Plaintiffs

(#14)

**EXHIBIT A**

**DAMAGES AGAINST DEFENDANT(S) FROM COMPLAINT**

**DAMAGES AGAINST DEFENDANT(S) FROM COMPLAINT**

**DAVID NEARHOOD**

Amount claimed by Plaintiff	\$ 350,000.00
Interest from 10/12/01 at 5% per year, \$47.95 per diem	\$ 107,551.85 (thru 1/2/2008)
Record Costs	\$ 80.00
Entry of Judgment	\$ 29.50
Postal Costs	\$ 26.34
Printing Costs	\$ 205.00
Legal Books	\$ 77.00
<b>TOTAL DUE</b>	<b>\$ 457,969.69 (thru 1/2/2008)</b>

**JOSHUA NEARHOOD**

Amount claimed by Plaintiff	\$ 250,000.00
Interest from 10/12/01 at 5% per year, \$34.25 per diem	\$ 76,777.89 (thru 1/2/2008)
Record Costs	\$ 0.00
Entry of Judgment	\$ 29.50
<b>TOTAL DUE</b>	<b>\$ 326,807.39 (thru 1/2/2008)</b>

**EXHIBIT B**

**(Notice of Intention to File Praeclipe for Entry of Judgment of Default)**

David L. Nearhood and Chua Nearhood  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
(814) 342-7464

Plaintiffs

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

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DEC 21 2007

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

: Attest.

*William L. Prothonotary*  
Clerk of Co

Plaintiffs

vs

: CASE NO.: 2001-01715-CD

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

Defendants

:

**IMPORTANT NOTICE OF INTENT TO FILE PRAECIPE FOR ENTRY OF  
JUDGMENT BY DEFAULT**

DATE OF NOTICE: December 21, 2007

TO: Marshall, Dennehey, Warner, Coleman & Goggin  
Paul D. Krepps #73038  
Attorney for Defendants  
600 Grant Street  
2900 USX Tower  
Pittsburgh, PA 15219

Office of Attorney General  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN  
APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE  
COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU.  
UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT  
MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR  
MONEY OR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO A 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  
230 East Market & North Second Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641, Ext. 5982

by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood via David L. Nearhood Plaintiffs

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

**DAVID L. NEARHOOD**  
**JOSHUA NEARHOOD**

: CIVIL ACTION - LAW

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: **CASE NO.: 2001-01715-CD**

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**OFFICER TODD LOMBARDO**  
**MORRIS COOPER POLICE**  
**TROOPER THOMAS GRANVILLE**  
**PENNSYLVANIA STATE POLICE**

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**Defendants**

**CERTIFICATE OF SERVICE**

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I, David L. Nearhood, hereby certify that I served on Dec. 21, 2007, a copy of the attached **IMPORTANT NOTICE OF INTENT TO FILE PRAECIPE FOR ENTRY OF JUDGMENT BY DEFAULT**, by depositing a true and correct copy in the U.S. Mail, 1st class postage prepaid, Certified Mail, return receipt requested, to:

Marshall, Dennehey, Warner, Coleman & Goggin  
Attorney for Defendants  
Paul D. Krepps #73038  
600 Grant Street  
2900 USX Tower  
Pittsburg, PA 15219  
Telephone: (412) 803-1140

Office of Attorney General  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 565-3578

**Respectfully submitted,**

Dated: Dec. 21, 2007

by David L. Nearhood  
**David L. Nearhood, in propria persona**  
**Joshua Nearhood, via David L. Nearhood, Plaintiffs**  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION – LAW

:

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Plaintiffs

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vs

: CASE NO.: 2001-01715-CD

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:

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

:

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Defendants

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CERTIFICATE OF SERVICE

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I,  
David L. Nearhood, hereby certify that I served on Jan. 2, 2008, a copy of the  
attached **PRAECIPE OF PLAINTIFF FOR ENTRY OF JUDGMENT BY DEFAULT  
AGAINST DEFENDANT**, by depositing a true and correct copy in the U.S. Mail, 1st class  
postage prepaid, Certified Mail, return receipt requested, to:

Office of Attorney General  
via **Thomas G. Eddy #42915**  
Deputy Attorney General for Trooper Thomas Granville  
5th Floor, Manor Complex  
2900 USX Tower  
Pittsburg, PA 15219  
Telephone: (412) 803-1140

Marshall, Dennehey, Warner, Coleman & Goggin  
via **Paul D. Krepps #73038**  
Attorney for Defendants  
600 Grant Street  
564 Forbes Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 565-3578

Respectfully submitted,

Dated: Jan. 2, 2008

by David L. Nearhood  
**David L. Nearhood, in propria persona**  
**Joshua Nearhood, via David L. Nearhood, Plaintiffs**  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

David L. Nearhood and Joshua Nearhood  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
(814) 342-7464

Plaintiffs

**FILED**

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

JAN 02 2008

01/02/08

William A. Shaw  
Prothonotary/Clerk of Courts

**DAVID L. NEARHOOD  
JOSHUA NEARHOOD**

**: CIVIL ACTION - LAW 5 CIVIL - TO FILE**

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**Plaintiffs**

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**vs**

**: CASE NO.: 2001-01715-CD**

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**OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE**

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**Defendants**

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**PRAECIPE OF PLAINTIFF FOR ENTRY OF JUDGMENT BY DEFAULT  
AGAINST DEFENDANT**

TO: **Prothonotary of Clearfield County**

**Kindly enter a default judgment in favor of Plaintiffs, David L. Nearhood and Joshua Nearhood, and against the Defendant, Morris Cooper Police:**

**(a) in the amount of \$350,000.00, together with interest (at 5% per year; \$47.95 per diem) from October 12, 2001 forward, plus reasonable costs and fees, as shown on the attached hereto Exhibit "A" (to be added); for Plaintiff David L. Nearhood; for damages, and**

**(b) in the amount of \$250,000.00, together with interest (at 5% per year; \$34.25 per diem) from October 12, 2001 forward, plus reasonable costs and fees, as shown on the attached hereto Exhibit "A" (to be added); for Plaintiff Joshua Nearhood; for damages, and**

**for Defendants' failure to file an answer within 20 days from the date of service of the Complaint.**

**Certification**

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, Plaintiff hereby certifies that a true and correct copy of the Notice of Intention to File Praeclipe for Entry of Judgment of Default, was previously mailed to and served upon Defendant on December 21, 2001, and is attached hereto as Exhibit "B", and that the statements made in this Praeclipe are true and correct to the best of his knowledge and good faith belief.

by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood, via David L. Nearhood, Plaintiffs

**EXHIBIT A**

**DAMAGES AGAINST DEFENDANT(S) FROM COMPLAINT**

**DAMAGES AGAINST DEFENDANT(S) FROM COMPLAINT**

**DAVID NEARHOOD**

Amount claimed by Plaintiff	\$ 350,000.00
Interest from 10/12/01 at 5% per year, \$47.95 per diem	\$ 107,551.85 (thru 1/2/2008)
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<b>TOTAL DUE</b>	<b>\$ 457,969.69 (thru 1/2/2008)</b>

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Amount claimed by Plaintiff	\$ 250,000.00
Interest from 10/12/01 at 5% per year, \$34.25 per diem	\$ 76,777.89 (thru 1/2/2008)
Record Costs	\$ 0.00
Entry of Judgment	\$ 29.50
<b>TOTAL DUE</b>	<b>\$ 326,807.39 (thru 1/2/2008)</b>

**EXHIBIT B**

**(Notice of Intention to File Praeclipe for Entry of Judgment of Default)**

David L. Nearhood and Joshua Nearhood  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
(814) 342-7464

Plaintiffs

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

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DEC 21 2007

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

: Attest.

*William L. Prothonotary*  
Clerk of Co

Plaintiffs

vs

: CASE NO.: 2001-01715-CD

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

Defendants

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**IMPORTANT NOTICE OF INTENT TO FILE PRAECIPE FOR ENTRY OF  
JUDGMENT BY DEFAULT**

DATE OF NOTICE: December 21, 2007

TO: Marshall, Dennehey, Warner, Coleman & Goggin  
Paul D. Krepps #73038  
Attorney for Defendants  
600 Grant Street  
2900 USX Tower  
Pittsburgh, PA 15219

Office of Attorney General  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN  
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Court Administrator  
Clearfield County Courthouse  
230 East Market & North Second Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641, Ext. 5982

by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood via David L. Nearhood Plaintiffs

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

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: CASE NO.: 2001-01715-CD

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OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

Defendants

CERTIFICATE OF SERVICE

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I, David L. Nearhood, hereby certify that I served on Dec. 21, 2007, a copy of the attached **IMPORTANT NOTICE OF INTENT TO FILE PRAECIPE FOR ENTRY OF JUDGMENT BY DEFAULT**, by depositing a true and correct copy in the U.S. Mail, 1st class postage prepaid, Certified Mail, return receipt requested, to:

Marshall, Dennehey, Warner, Coleman & Goggin  
Attorney for Defendants  
Paul D. Krepps #73038  
600 Grant Street  
2900 USX Tower  
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Telephone: (412) 803-1140

Office of Attorney General  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 565-3578

Respectfully submitted,

Dated: Dec. 21, 2007

by David L. Nearhood  
David L. Nearhood, in propria persona  
Joshua Nearhood, via David L. Nearhood, Plaintiffs  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

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: CASE NO.: 2001-01715-CD

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OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

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Defendants

CERTIFICATE OF SERVICE

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**PRAECIPE OF PLAINTIFF FOR ENTRY OF JUDGMENT BY DEFAULT  
AGAINST DEFENDANT**, by depositing a true and correct copy in the U.S. Mail, 1st class  
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via **Paul D. Krepps #73038**  
Attorney for Defendant Morris Cooper Police  
600 Grant Street  
2900 USX Tower  
Pittsburg, PA 15219  
Telephone: (412) 803-1140

Office of Attorney General  
**Thomas G. Eddy #42915**  
Deputy Attorney General  
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Telephone: (412) 565-3578

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Dated: Jan. 2, 2008

by David L. Nearhood  
**David L. Nearhood, *in propria persona***  
**Joshua Nearhood, via David L. Nearhood, Plaintiffs**  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

David L. Nearhood and Joshua Nearhood  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
(814) 342-7464

Plaintiffs

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

FILED

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

DEC 21 2007

6/11:30 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
3 CERT to Party

Plaintiffs

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vs

: CASE NO.: 2001-01715-CD

OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

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Defendants

**IMPORTANT NOTICE OF INTENT TO FILE PRAECIPE FOR ENTRY OF  
JUDGMENT BY DEFAULT**

DATE OF NOTICE: December 21, 2007

TO: Marshall, Dennehey, Warner, Coleman & Goggin  
Paul D. Krepps #73038  
Attorney for Defendants  
600 Grant Street  
2900 USX Tower  
Pittsburgh, PA 15219

Office of Attorney General  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219

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Court Administrator  
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230 East Market & North Second Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641, Ext. 5982

by David L. Nearhood

David L. Nearhood, *in propria persona*

Joshua Nearhood via David L. Nearhood Plaintiffs

#12

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

**DAVID L. NEARHOOD**  
**JOSHUA NEARHOOD**

: CIVIL ACTION - LAW

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: CASE NO.: 2001-01715-CD

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**OFFICER TODD LOMBARDO**  
**MORRIS COOPER POLICE**  
**TROOPER THOMAS GRANVILLE**  
**PENNSYLVANIA STATE POLICE**

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**Defendants**

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**CERTIFICATE OF SERVICE**

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I, David L. Nearhood, hereby certify that I served on Dec. 21, 2007, a copy of the attached **IMPORTANT NOTICE OF INTENT TO FILE PRAECIPE FOR ENTRY OF JUDGMENT BY DEFAULT**, by depositing a true and correct copy in the U.S. Mail, 1st class postage prepaid, to:

Marshall, Dennehey, Warner, Coleman & Goggin  
Attorney for Defendants  
Paul D. Krepps #73038  
600 Grant Street  
2900 USX Tower  
Pittsburg, PA 15219  
Telephone: (412) 803-1140

Office of Attorney General  
Thomas G. Eddy #42915  
Deputy Attorney General  
5th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 565-3578

**Respectfully submitted,**

Dated: Dec. 21, 2007

by David L. Nearhood  
**David L. Nearhood, *in propria persona***  
**Joshua Nearhood, via David L. Nearhood, Plaintiffs**  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID L. NEARHOOD  
JOSHUA NEARHOOD

: CIVIL ACTION - LAW

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: CASE NO.: 2001-01715-CD

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OFFICER TODD LOMBARDO  
MORRIS COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

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Defendants

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**STATEMENT OF INTENTION TO PROCEED**

**To the Court:**

David L. Nearhood and Joshua Nearhood, Plaintiffs, intends to proceed with the above captioned matter.

Respectfully submitted,

Dated: Dec. 14, 2007

by David L. Nearhood  
David L. Nearhood, *in propria persona*  
Joshua Nearhood, via David L. Nearhood  
Plaintiffs

FILED 400  
09/3764 PHF  
DEC 14 2007

William A. Shaw  
Prothonotary/Clerk of Courts  
#11

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

**DAVID L. NEARHOOD**  
**JOSHUA NEARHOOD**

: CIVIL ACTION - LAW

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**Plaintiffs**

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**vs**

: **CASE NO.: 2001-01715-CD**

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:

**OFFICER TODD LOMBARDO**  
**MORRIS COOPER POLICE**  
**TROOPER THOMAS GRANVILLE**  
**PENNSYLVANIA STATE POLICE**

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**Defendants**

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**CERTIFICATE OF SERVICE**

Under penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I, David L. Nearhood, hereby certify that I served on Dec. 14, 2007, a copy of the attached **STATEMENT OF INTENTION TO PROCEED**, by depositing a true and correct copy in the U.S. Mail, 1st class postage prepaid, to:

Marshall, Dennehey, Warner, Coleman & Goggin  
Attorney for Defendants  
Paul D. Krepps #73038  
600 Grant Street  
2900 USX Tower  
Pittsburgh, PA 15219  
Telephone: (412) 803-1140

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**Respectfully submitted,**

Dated: Dec. 14, 2007

by David L. Nearhood  
David L. Nearhood, in propria persona  
Joshua Nearhood, via David L. Nearhood, Plaintiffs  
1223 Oak Grove Road  
Morrisdale, Pennsylvania 16858  
Telephone: (814) 342-7464

## Notice of Proposed Termination of Court Case

October 18, 2007

RE: 2001-01715-CD

David Lee Nearhood  
Joshua Nearhood

Vs.

Todd Lombardo  
Morris-Cooper Police  
Thomas Granville  
PA State Police

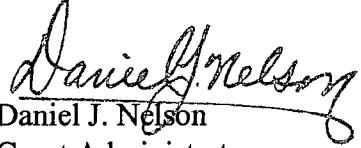
Dear David Nearhood:

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 17, 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  
Court Administrator

FILED  
OCT 18 2007  
  
William A. Shaw  
Prothonotary/Clerk of Courts

#10

## **Notice of Proposed Termination of Court Case**

October 18, 2007

RE: 2001-01715-CD

David Lee Nearhood  
Joshua Nearhood

Vs.

Todd Lombardo  
Morris-Cooper Police  
Thomas Granville  
PA State Police

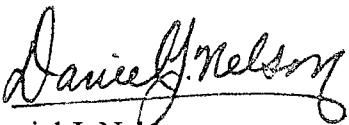
Dear Joshua Nearhood:

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 17, 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  
Court Administrator

## **Notice of Proposed Termination of Court Case**

October 18, 2007

RE: 2001-01715-CD

David Lee Nearhood  
Joshua Nearhood

Vs.

Todd Lombardo  
Morris-Cooper Police  
Thomas Granville  
PA State Police

Dear Paul D. Krepps, 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 17, 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  
Court Administrator

## **Notice of Proposed Termination of Court Case**

October 18, 2007

RE: 2001-01715-CD

David Lee Nearhood  
Joshua Nearhood

Vs.

Todd Lombardo  
Morris-Cooper Police  
Thomas Granville  
PA State Police

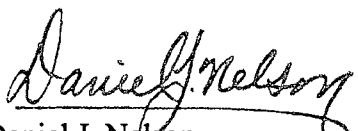
Dear Thomas G. Eddy, Esq:

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 17, 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  
Court Administrator

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

DAVID NEARHOOD  
JOSHUA NEARHOOD

Plaintiffs

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vs.

NO. 01-1715-CD

OFFICER TODD LOMBARDO  
MORRIS-COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

Defendants

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FILED

NOV 16 2001

William A. ~~Shaw~~  
Prothonotary

Your Honor,

PROTEST

The conspiracies against me are continuing and expanding in the gravity of situations. And the authorities involved. Please grant me a meeting with your honor. And I also respectfully request at your discretion that the defendants and their attorneys are invited.

This has to do with a civil case #01-1715CD in the civil division of the Common Pleas Court of Clearfield County, Pennsylvania.

I have received a NOTICE OF FILING PETITION FOR REMOVAL that is not valid. Also a PETITION FOR REMOVAL OF CIVIL ACTION authorized by 28 U.S.C. § 1441 (a) - (b). Which is not credible in light of the facts I reported in my earlier PROTEST. The latter was filed in the U.S. Western District Court of Penn.

I have also received an ENLARGEMENT OF TIME MOTION. Filed in the U.S. District Court for Western Pennsylvania. This has an order attached to it with the Civil Division No. 01-1715-CD which is the number for the Clearfield

49

Common Pleas Court. I don't believe this is correct. The CERTIFICATE OF SERVICE certifies that it is true. I believe this is a crime. This was served by mail dated Oct. 31, 2001 by Paul Krepps from the Law firm of Marshall, Dennehey, Warner, Coleman, & Goggin.

Your Honor, I have also received a Motion for ENLARGEMENT OF TIME without a notice of the motion. The motion is dated the 8th of Nov. on the front and the back. Post marked the 8th of Nov. and it is certified with a CERTIFICATE OF SERVICE by mail to have been done Nov. 7, 2001. I believe that was the deadline. I believe these to be prejudice to the Plaintiffs, myself and my son Joshua.

This was done by the Deputy Attorney General, Thomas G. Eddy, Chief Deputy Attorney General, Susan J. Forney & Attorney General D. Michael Fisher. Signed by Thomas G. Eddy Deputy Attorney General.

I will be seeking criminal charges against those joining in the conspiracies against us. I would also like to add them on to our complaint.

I am having a hard time acting as Pro Per in this court with all the problems that have been put upon us. I will be having to deal with this court and possibly the defendants and their attorneys in the future. How am I to be dealt with, without prejudice. Please help.

Sincerely,

*David L. Nearhood*

David L. Nearhood

Dated: 11-16-01

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID NEARHOOD,  
JOSHUA NEARHOOD,

CIVIL DIVISION

Plaintiff

NO. 01-1715 CD

vs

**MOTION FOR ENLARGEMENT OF TIME**

OFFICER TODD LOMBARDO, et al.,

ISSUE NO:

Defendants.

CODE:

FILED ON BEHALF OF  
DEFENDANTS

COUNSEL OF RECORD FOR  
THIS PARTY:

Thomas G. Eddy  
DEPUTY ATTORNEY GENERAL  
PA ID NO. 42915

OFFICE OF ATTORNEY GENERAL  
5<sup>th</sup> FLOOR, MANOR COMPLEX  
564 FORBES AVENUE  
PITTSBURGH, PA 15219  
(412) 565-3578

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10781  
cc  
Andy

Shaw  
William A. Shaw  
Prothonotary

(#8)

MOTION FOR ENLARGEMENT OF TIME

Defendants, Granville and the Pennsylvania State Police, by their attorneys, D. Michael Fisher, Attorney General, Thomas G. Eddy, Deputy Attorney General, and Susan J. Forney, Chief Deputy Attorney General, Chief, Litigation Section, and respectfully request an enlargement of time to file a response to plaintiff's complaint in this case for the following reasons:

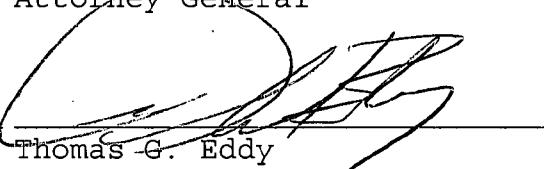
1. A response to Plaintiff's complaint was due on or about November 7, 2001.
2. Due to unanticipated litigation responsibilities, counsel will be unable to conduct the necessary legal research in order to timely respond.
3. Defendants' counsel is in the process of obtaining required state records necessary to respond to the complaint, and additional time is needed to receive and review such. Moreover, Defendants' counsel must interview appropriate parties in order to adequately respond to the complaint.
4. This request for additional time is not intended to prejudice the plaintiff's interests nor is it believed that such prejudice will result.

WHEREFORE, it is respectfully requested that defendants be granted an additional thirty days to respond to plaintiff's complaint.

Respectfully submitted:

D. MICHAEL FISHER  
Attorney General

By:

  
Thomas G. Eddy  
Deputy Attorney General  
PA. I.D. No. 42915

Susan J. Forney  
Chief Deputy Attorney General  
Litigation Section

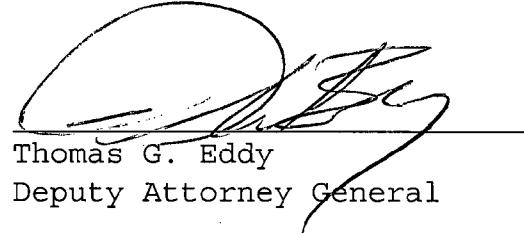
OFFICE OF ATTORNEY GENERAL  
5<sup>th</sup> Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219

Date: November 8, 2001

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the  
within **Motion for Enlargement of Time** was served upon the following  
individual via first-class mail on November 7, 2001:

David Nearhood  
R.R. 2, Box 160  
Morrisdale, PA 16858



Thomas G. Eddy  
Deputy Attorney General

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

**ORDER OF COURT**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2001, upon  
consideration of the within motion for enlargement of time, it is  
hereby **ORDERED** that an additional period of time until December 7,  
2001, is **GRANTED** to file defendants' response to plaintiff's  
complaint.

By the Court:

J.

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

DAVID NEARHOOD  
JOSHUA NEARHOOD

Plaintiffs

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vs.

NO. 01-1715-CD

OFFICER TODD LOMBARDO  
MORRIS-COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE

Defendants

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**PROTEST**

According to 1§ 35.23 protest generally of the RULES OF PROCEDURE. I attempted to enter the attached praecipe with the prothonotary on Nov. 13, 2001 at approximately 8:40 A.M. which would not be accepted. He insisted on me following a Rule 236 which only applies to JUDGEMENT BY CONFESSION. I have received no valid or legal response from any of the defendants. Please help.

Filed By:

David Nearhood  
RR#2 Box 160  
Morrisdale, PA. 16858  
(814)342-7464

*David Nearhood*  
DAVID NEARHOOD

Pro Per

**FILED**

NOV 13 2001

01/12/2014 ws

William A. Shaw

Prothonotary

No Court Copies

*ED*  
*#7*

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

**DAVID NEARHOOD  
JOSHUA NEARHOOD**

Plaintiffs

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vs.

**NO. 01-1715-CD**

**OFFICER TODD LOMBARDO  
MORRIS-COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE**

Defendants

\*

**NOTICE OF ENTRY OF DEFAULT JUDGMENT**

Pursuant to Pa. Rule of Civil Procedure 236, you are hereby notified that a JUDGMENT BY DEFAULT has been entered against you in the above proceedings. Which does not apply according to rule 236.2.(c)

---

PROTHONOTARY

It is certified that a written notice to file this praecipe was mailed to the Defendants against whom judgment is to be entered or to their attorneys of record, if any, after the default occurred.

David Nearhood

MR. DAVID NEARHOOD, PLAINTIFF

PROPER

DATE: 11-13-01

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

**DAVID NEARHOOD**  
**JOSHUA NEARHOOD**  
Plaintiffs

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vs.

**NO. 01-1715-CD**

**OFFICER TODD LOMBARDO**  
**MORRIS-COOPER POLICE**  
**TROOPER THOMAS GRANVILLE**  
**PENNSYLVANIA STATE POLICE**  
Defendants

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**PRAECIPE FOR ENTRY OF JUDGMENT OF DEFAULT**

TO WILLIAM A. SHAW, PROTHONOTARY:

Please enter judgment in favor of the Plaintiffs and against the Defendants,  
**OFFICER TODD LOMBARDO, MORRIS-COOPER POLICE, TROOPER THOMAS**  
**GRANVILLE, PENNSYLVANIA STATE POLICE**, in the above captioned matter for  
failure to file an Answer to Plaintiffs' Complaint.

1. Please move on this **JUDGMENT OF DEFAULT** to make it absolute  
according to Title § 211. (c) (1) of the **LOCAL COURT RULES**. Cited as 46 J. D. R. C.  
**P. 255 § 211. (c) (1).**
2. Please secure the just, speedy, and inexpensive determination of this  
applicable action. Securing that the Plaintiffs substantial rights are protected as in  
Pa. R. C. P. No. 231 Rule 126. **BUSINESS OF COURTS.**

3. The defendants at this time are not known to have filed any legal papers concerning the above captioned.

**DAVID NEARHOOD**

Amount claimed by Plaintiff	\$ 350,000.00
Interest from 10/12/01 at 5% per year	\$ 1400.00
Record costs	\$ 80.00
Entry of Judgment	\$ 9.50
Postal Costs	\$ 26.34
Printing Costs	\$ 205.00
Legal Books	\$ 77.07
<b>TOTAL DUE</b>	<hr/> <b>\$ 351,797.91</b>

**JOSHUA NEARHOOD**

Amount claimed by Plaintiff	\$ 250,000.00
Interest from 10/12/01 at 5% per year	\$ 1000.00
Record costs	\$ 0.00
Entry of Judgment	\$ 9.50
<b>TOTAL DUE</b>	<hr/> <b>\$ 251,009.50</b>

DATE: 11-13-01

David Nearhood

DAVID NEARHOOD, PLAINTIFF  
PRO PER

**VERIFICATION**

Plaintiff verifies that the statements made in this complaint are true and correct. Plaintiff understands that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

David Nearhood

DAVID NEARHOOD

Pro Per

DATED: 11-13-01

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

**DAVID NEARHOOD**  
**JOSHUA NEARHOOD**  
Plaintiffs

vs.

**OFFICER TODD LOMBARDO**  
**MORRIS-COOPER POLICE**  
**TROOPER THOMAS GRANVILLE**  
**PENNSYLVANIA STATE POLICE**  
Defendants

NO. 01-1715-CD

FILED

NOV 13 2001

A. Shaw

...notary

**PROTEST**

This protest action is as cited in 1§ 35.23 of Civil Procedure.

The Defendants by their attorney file a PETITION FOR REMOVAL with action pursuant to and authorized by 28 U.S.C. § 1441 (a) (b), which begins reading: "(a) Except as otherwise expressly provided by Act of Congress,"

Pennsylvania Constitutional Convention of 1967 under JUDICIAL DISTRICTS § 5.3.3. Common Pleas Courts. 4th Paragraph: "From the constitutional and statutory provisions noted above it seems safe to characterize common pleas courts as trial courts of original and virtually unlimited jurisdiction in civil and equitable matters."

It is the privilege of this common Pleas Court to exercise this Judicial Canon 3. Constitutional Obligations. ABA

Also Judicial Canon 2

The Public Interest

This make all else in the removal invalid. Making the United States District Court for the Western District of Pennsylvania a de facto court Please make the Petition for removal invalid so action can be made absolute.

Filed By:

David Nearhood

RR#2 Box 160  
Morrisondale, PA, 16858  
(814) 342-7464

David Nearhood  
DAVID NEARHOOD

Pro Per

GR  
#6

IN THE COURT OF COMMON PLEAS, CLEARFIELD  
COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 01-1715-CD

DAVID NEARHOOD

JOSHUA NEARHOOD, Plaintiffs

vs.

OFFICER TODD LOMBARDO

MORRIS-COOPER POLICE

TROOPER THOMAS GRANVILLE

PENNSYLVANIA STATE POLICE, Defendants

INTENTION TO FILE PRAECIPE FOR ENTRY OF  
JUDGMENT OF DEFAULT

It is my intention to file this praecipe  
in the above caption matter for failure  
to file an Answer to Plaintiff's Complaint.

Date: 11-9-01

FILED

NOV-09 2001

Maasie C. Pyle  
William A. Shaw  
Prothonotary

Filed By:

David Nearhood  
RR #2 Box 160

Morrisdale, PA. 16858  
(814) 342-7464

David Nearhood

#15

IN THE CONTEXT OF COMMON WEALTH COUNTRIES  
COUNTRY COMMONWEALTH

CIVIL DIVISION

SG 01-1512 NO

DAVID NEARHEAD

ZORAH NEARHEAD, Plaintiff

.cv

OFFICE OF TODD LOWBASCO

MSRS - COBES 501CE

TRUCKER THOMAS GRANVILLE

PERINZAVANIA STATE POLICE, Plaintiff

INITIATION TO FILE PRELIMINARY  
DOCUMENT OF DEFECT

claiming right of action against you as well as  
plaintiff for violation of your rights and  
injunctions against you to prevent you from

being held  
in custody

DEF

10-1-11 1st

Car 6 59

WPA 60 444

Def. At, Plaintiff

10-1-11 1st

PLS-54 (101)

10-1-11 1st

Def. At, Plaintiff

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID NEARHOOD and JOSHUA  
NEARHOOD,

01-1715 CD

Plaintiffs,

vs.

OFFICER TODD LOMBARDO, THE  
MORRIS-COOPER POLICE DEPARTMENT,  
TROOPER THOMAS GRANVILLE, and THE  
PENNSYLVANIA STATE POLICE,

Defendants.

**NOTICE OF FILING PETITION FOR  
REMOVAL**

Filed on Behalf of Defendants,  
Officer Todd Lombardo and The Morris-  
Cooper Police Department

Counsel of Record for this Party:  
Paul D. Krepps  
PA I.D. #73038

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN  
600 Grant Street  
2900 USX Tower  
Pittsburgh, Pennsylvania 15219  
(412) 803-1140

**FILED**

NOV 02 2001

01/03/2001 noc

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

DAVID NEARHOOD and JOSHUA  
NEARHOOD,

01-1715 CD

Plaintiffs,

vs.

OFFICER TODD LOMBARDO, THE  
MORRIS-COOPER POLICE DEPARTMENT,  
TROOPER THOMAS GRANVILLE, and THE  
PENNSYLVANIA STATE POLICE,

Defendants.

**NOTICE OF FILING PETITION FOR REMOVAL**

Pursuant to 28 U.S.C. §1446, you are hereby notified that the Defendants in the above-captioned action have on this date filed a Petition for Removal of this action from the Court of Common Pleas of Clearfield County, Pennsylvania, to the United States District Court for the Western District of Pennsylvania (Johnstown). A copy of the Petition for Removal is attached.

Respectfully submitted,

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

By:

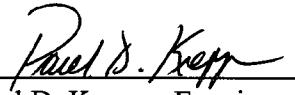
  
Paul D. Krepps, Esquire  
PA. I.D. #73038  
2900 USX Tower  
Pittsburgh, PA 15219  
(412) 803-1140

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within **NOTICE OF FILING  
PETITION FOR REMOVAL** was served upon all parties listed below, by first class United States Mail, postage prepaid, this 31 day of Oct., 2001, addressed as follows:

David Nearhood  
R.R. #2, Box 160  
Morrisdale, PA 16858  
(pro se Plaintiff)

MARSHALL, DENNEHEY, WARNER  
COLEMAN & GOGGIN

  
\_\_\_\_\_  
Paul D. Krepps, Esquire

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVID NEARHOOD and JOSHUA  
NEARHOOD,

Plaintiffs,

vs.

OFFICER TODD LOMBARDO, THE  
MORRIS-COOPER POLICE DEPARTMENT,  
TROOPER THOMAS GRANVILLE, and THE  
PENNSYLVANIA STATE POLICE,

Defendants.

Civil Division

No.

**PETITION FOR REMOVAL OF CIVIL ACTION**

Defendants, Todd Lombardo and The Morris-Cooper Police Department, hereby petition for the removal of the above-captioned action from the Court of Common Pleas of Clearfield County, Pennsylvania, to the United States District Court for the Western District of Pennsylvania, representing as follows:

1. The above-captioned action was commenced by the filing of a Complaint in the civil division of the Court of Common Pleas of Clearfield County, Pennsylvania, on October 12, 2001 at No. 01-1715. (A true and correct copy of the Complaint is attached hereto as Exhibit "A").

2. The Defendants were served with the Complaint on or about October 17, 2001.

3. Plaintiffs' claims are based upon Defendants' alleged violation of rights as guaranteed by the United States Constitution, specifically Plaintiffs claim violation of

Civil Rights, Due Process, Discrimination, Conspiracy to Deprive and Conspiracy to Insure a Conviction.

4. This Court has original jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §1331 and §1343, and the action is thereby removed to this Court pursuant to the procedures authorized by 28 U.S.C. §1441 (a)-(b).

5. Notice of removal has been provided this same day to the Plaintiff and to the Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania.

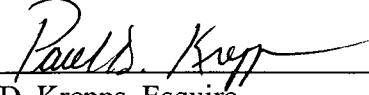
6. No other process, pleadings or Orders have been served upon the Defendants in this action.

WHEREFORE, Defendants, Todd Lombardo and The Morris-Cooper Police Department, respectfully request that this Honorable Court remove the above-captioned action pending in the Court of Common Pleas of Clearfield County, Pennsylvania at No. 01-1715 to the United States District Court for the Western District of Pennsylvania. (Johnstown).

Respectfully submitted,

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

By:

  
Paul D. Krepps, Esquire  
PA. I.D. #73038  
2900 USX Tower  
Pittsburgh, PA 15219  
(412) 803-1140

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

DAVID NEARHOOD  
JOSHUA NEARHOOD  
Plaintiffs

vs.

OFFICER TODD LOMBARDO  
MORRIS-COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE  
Defendants

no. 01-1715-CO

Type of pleading:  
COMPLAINT

Filed on behalf of Plaintiffs:  
PRO PER

Filed by:  
David Nearhood  
RR# 2 Box 160  
Morrисdale, PA 16858  
Phone: (814) 342-7464

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

OCT 12 2001

Attest

*Wm. J. Nearhood*  
Prothonotary



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

**DAVID NEARHOOD**  
**JOSHUA NEARHOOD**  
Plaintiffs

vs.

**OFFICER TODD LOMBARDO**  
**MORRIS-COOPER POLICE**  
**TROOPER THOMAS GRANVILLE**  
**PENNSYLVANIA STATE POLICE**  
Defendants

**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 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 and for any 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  
North Second Street  
Clearfield, PA 16830  
(814) 765-2641

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

**DAVID NEARHOOD**  
**JOSHUA NEARHOOD**  
Plaintiffs

vs.

**OFFICER TODD LOMBARDO**  
**MORRIS-COOPER POLICE**  
**TROOPER THOMAS GRANVILLE**  
**PENNSYLVANIA STATE POLICE**  
Defendants

**COMPLAINT**

1. Plaintiff DAVID NEARHOOD is an adult and father of JOSHUA NEARHOOD residing at R.R. #2, Box 160, Morrisdale, Clearfield County, PA, 16858.
2. Plaintiff JOSHUA NEARHOOD is a child of 4 years of age, son of DAVID NEARHOOD, residing at Tony Hill Rd., P.O. Box 136, Winburne, Clearfield County, PA, 16879.
3. Defendant TODD LOMBARDO is an adult and officer of law enforcement known to be last employed by Morris-Cooper Police, P.O. Box 186, Allport, Clearfield County, 16821.
4. MORRIS-COOPER POLICE is a department of law enforcement that resides at P.O. Box 186, Allport, Clearfield County, 16821.

5. Defendant THOMAS GRANVILLE is an adult and officer of law enforcement known to be last employed by Pennsylvania State Police, R. D. #2 Box 314, Woodland, Clearfield County, PA, 16881.

6. Defendant PENNSYLVANIA STATE POLICE a department of law enforcement that resides at R. D. #2 Box 314, Woodland, Clearfield County, PA, 16881.

7. On or about June 17, 2001 at approximately 5:00pm and 7:00pm at my residence we had two incidents with DILLON LEIGEY and his mother LORA LEIGEY.

8. I filed charges with Morris-Cooper Police officer TODD LOMBARDO.

9. On September 4, 2001 at approximately 10:00am we went to court at Magistrate Michael Rudella's office in Kylertown, Clearfield County, PA.

10. At the hearing I found out that my charges against DILLON LEIGEY for intentional child endangerment, assault, defiant trespassing, and against LORA LEIGEY for defiant trespassing were not completed and filed.

11. Trooper THOMAS GRANVILLE informed me at the hearing that he and Officer TODD LOMBARDO discussed the incidents and decided to file charges for the Leigey's only.

12. Therefore I am asking for disciplinary actions against Officer TODD LOMBARDO and the MORRIS-COOPER POLICE DEPARTMENT. And against Trooper THOMAS GRANVILLE and the PENNSYLVANIA STATE POLICE of the Woodland police barracks.

13. I am asking for damages estimated in the amount of \$100,000.00 in loss wages for these conspiracies against me.

14. Also I am asking for punitive damages for myself and my son JOSHUA NEARHOOD for the violation of our civil rights: Under Color of Law, Due Process, Petition for Redress of Grievance, Discrimination. Also for Negligence, Conspiracy to Deprive, and Conspiracy to Insure a Conviction.

15. I am asking for the total amount of \$350,000.00 plus interest for DAVID NEARHOOD.

16. I am also asking for the amount of \$250,000.00 plus interest for my son JOSHUA NEARHOOD.

*David L. Nearhood*

VERIFICATION

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



David Nearhood

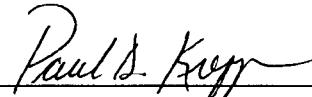
DATE: October 12, 2001

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within **PETITION FOR REMOVAL OF CIVIL ACTION** was served upon all parties listed below, by first class United States Mail, postage prepaid, this 31 day of Oct -, 2001, addressed as follows:

David Nearhood  
R.R. #2, Box 160  
Morrisdale, PA 16858  
(pro se Plaintiff)

MARSHALL, DENNEHEY, WARNER  
COLEMAN & GOGGIN

  
\_\_\_\_\_  
Paul D. Krepps, Esquire

\12\_A\LIAB\CWM\LLPG\197444\MBC\16260\00260

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

**DAVID NEARHOOD**  
**JOSHUA NEARHOOD**  
Plaintiffs

\*  
\*  
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\*  
\*  
\*

vs.

**NO. 01-1715-CD**

**OFFICER TODD LOMBARDO**  
**MORRIS-COOPER POLICE**  
**TROOPER THOMAS GRANVILLE**  
**PENNSYLVANIA STATE POLICE**  
Defendants

**DECLARATION OF SERVICE TO  
A CIVIL COMPLAINT**

Filed on behalf of Plaintiffs:  
PRO PER

Filed by:  
**DAVID NEARHOOD**  
R.R. #2 Box 160  
Morrisdale, PA 16858  
Phone (814) 342-7464

**FILED**

OCT 18 2001

William A. Shaw  
Prothonotary

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

DAVID NEARHOOD  
JOSHUA NEARHOOD  
Plaintiffs

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\*  
\*

vs.

NO. 01-1715-CD

OFFICER TODD LOMBARDO  
MORRIS-COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE  
Defendants

\*  
\*  
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\*  
\*

**DECLARATION OF SERVICE**

Mr. Jeremy Howell, hereby declares:

I am a citizen of the United States, I am not a party to the within action. On OCTOBER 17, 2001, at the direction of **DAVID NEARHOOD**, Plaintiff in Pro Per, I served the within **COMPLAINT** on the following interested parties, a true copy thereof to:

1. **OFFICER TODD LOMBARDO** accepted by **TODD LOMBARDO** at RT 322, Mineral Springs, Pennsylvania, at his home, in person 9:41 AM, OCTOBER 17, 2001.
  
2. Refused service at **STATE POLICE BARRACKS**, Woodland, Pennsylvania by Officer Bacher 9:52 AM, OCTOBER 17, 2001

3. **TROOPER THOMAS GRANVILLE** accepted by Officer Bacher at Woodland, Pennsylvania, State Police Barracks in person 10:02 AM, OCTOBER 17, 2001 second attempt to serve.

4. **PENNSYLVANIA STATE POLICE** accepted by Officer Bacher at Woodland, Pennsylvania, State Police Barracks in person 10:02 AM, OCTOBER 17, 2001 second attempt to serve.

5. **MORRIS-COOPER POLICE** accepted by Joyce Van Dyke, PSO at Oak Grove Road, Morris Township, Pennsylvania, Morris-Cooper Police station 10:33 AM, OCTOBER 17, 2001

Date: October 18, 2001

Served By: Jeremy Hawel

Filed By: David G. Umhoefer

**FILED**

**OCT 18 2001**

**01/12/01 p.m.**

**William A. Shaw**

**Prothonotary**

**2 cc to Ray Goff**

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

**DAVID NEARHOD  
JOSHUA NEARHOOD  
Plaintiffs**

**vs.**

**OFFICER TODD LOMBARDO  
MORRIS-COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE  
Defendants**

**NO. 01-1715-CD**

**FILED**

**OCT 17 2001**

**William A. Shaw  
Prothonotary**

**DECLARATION OF SERVICE**

Mr. Jeremy Howell, the undersigned, hereby declares:

I am a citizen of the United States, I am 22 years old and not a party to the within action. On October 17, 2001, at the direction of David Nearhood, Plaintiff in Pro Per, I served the within COMPLAINT ~~on~~ on the following interested parties in person, a true copy thereof to:

Officer Todd Lombardo accepted by Todd Lombardo at RT 322, Mineral Springs, PA, his home in person 9:41 AM.

Morris-Cooper Police accepted by Joyce Van Dyke at Oak Grove Road, Morris Township, PA in person 10:33 AM PSO.

Trooper Thomas Granville accepted by officer Bacher at Woodland, PA Police Barracks in person 10:02 AM.

Pennsylvania State Police accepted by Officer Bacher at Woodland, PA Police Barracks in person 10:02 AM.

I declare verification under penalty of perjury that the foregoing is true and correct and are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: October 17, 2001

Served by:  
*Jeremy Howell*

Filed by:  
David Nearhood  
RR #2 Box 160  
Morrisdale, PA 16858  
Phone 814-342-7464

*David Nearhood*

(#2)

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

DAVID NEARHOOD  
JOSHUA NEARHOOD  
Plaintiffs

No. 01-1715-CD

vs.

OFFICER TODD LOMBARDO  
MORRIS-COOPER POLICE  
TROOPER THOMAS GRANVILLE  
PENNSYLVANIA STATE POLICE  
Defendants

Type of pleading:  
COMPLAINT

Filed on behalf of Plaintiffs:  
PRO PER

Filed By  
David Nearhood  
RR #2 Box 160  
Morrisdale, PA. 16858  
Phone: (814) 342-7464

FILED

OCT 12 2001

William A. Shaw  
Prothonotary

(#1)

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

**DAVID NEARHOOD**  
**JOSHUA NEARHOOD**  
Plaintiffs

\*  
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\*

vs.

**OFFICER TODD LOMBARDO**  
**MORRIS-COOPER POLICE**  
**TROOPER THOMAS GRANVILLE**  
**PENNSYLVANIA STATE POLICE**  
Defendants

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**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 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 and for any 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  
North Second Street  
Clearfield, PA 16830  
(814) 765-2641

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

**DAVID NEARHOOD**  
**JOSHUA NEARHOOD**  
Plaintiffs

\*

\*

\*

\*

\*

VS.

\*

\*

\*

**OFFICER TODD LOMBARDO**  
**MORRIS-COOPER POLICE**  
**TROOPER THOMAS GRANVILLE**  
**PENNSYLVANIA STATE POLICE**  
Defendants

\*

\*

\*

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\*

**COMPLAINT**

1. Plaintiff DAVID NEARHOOD is an adult and father of JOSHUA NEARHOOD residing at R.R. #2, Box 160, Morrisdale, Clearfield County, PA, 16858.
2. Plaintiff JOSHUA NEARHOOD is a child of 4 years of age, son of DAVID NEARHOOD, residing at Tony Hill Rd., P.O. Box 136, Winburne, Clearfield County, PA, 16879.
3. Defendant TODD LOMBARDO is an adult and officer of law enforcement known to be last employed by Morris-Cooper Police, P.O. Box 186, Allport, Clearfield County, 16821.
4. MORRIS-COOPER POLICE is a department of law enforcement that resides at P.O. Box 186, Allport, Clearfield County, 16821.

5. Defendant THOMAS GRANVILLE is an adult and officer of law enforcement known to be last employed by Pennsylvania State Police, R. D. #2 Box 314, Woodland, Clearfield County, PA, 16881.

6. Defendant PENNSYLVANIA STATE POLICE a department of law enforcement that resides at R. D. #2 Box 314, Woodland, Clearfield County, PA, 16881.

7. On or about June 17, 2001 at approximately 5:00pm and 7:00pm at my residence we had two incidents with DILLON LEIGEY and his mother LORA LEIGEY.

8. I filed charges with Morris-Cooper Police officer TODD LOMBARDO.

9. On September 4, 2001 at approximately 10:00am we went to court at Magistrate Michael Rudella's office in Kylertown, Clearfield County, PA.

10. At the hearing I found out that my charges against DILLON LEIGEY for intentional child endangerment, assault, defiant trespassing, and against LORA LEIGEY for defiant trespassing were not completed and filed.

11. Trooper THOMAS GRANVILLE informed me at the hearing that he and Officer TODD LOMBARDO discussed the incidents and decided to file charges for the Leigey's only.

12. Therefore I am asking for disciplinary actions against Officer TODD LOMBARDO and the MORRIS-COOPER POLICE DEPARTMENT. And against Trooper THOMAS GRANVILLE and the PENNSYLVANIA STATE POLICE of the Woodland police barracks.

13. I am asking for damages estimated in the amount of \$100,000.00 in loss wages for these conspiracies against me.

14. Also I am asking for punitive damages for myself and my son JOSHUA NEARHOOD for the violation of our civil rights: Under Color of Law, Due Process, Petition for Redress of Grievance, Discrimination. Also for Negligence, Conspiracy to Deprive, and Conspiracy to Insure a Conviction.

15. I am asking for the total amount of \$350,000.00 plus interest for DAVID NEARHOOD.

16. I am also asking for the amount of \$250,000.00 plus interest for my son JOSHUA NEARHOOD.

*David Nearhood*

VERIFICATION

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

DATE: October 12, 2001

David Nearhood

David Nearhood

DEJW

THIS IS

THE ATTACHED  
VISITOR

IS A

**FILED**

OCT 12 2001

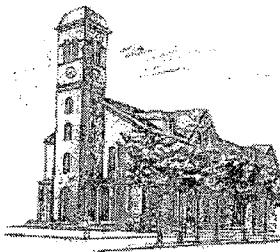
0/2:55/6

William A. Shaw

Prothonotary

PD  
80-  
80-

4 CENT TO PLFF



## Clearfield County Office of the Prothonotary and Clerk of Courts

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

**Jacki Kendrick**  
Deputy Prothonotary/Clerk of Courts

**Bonnie Hudson**  
Administrative Assistant

**David S. Ammerman**  
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ [www.clearfieldco.org](http://www.clearfieldco.org)

March 6, 2008

*COPIED*

Superior Court of Pennsylvania  
Office of the Prothonotary  
600 Grant Building  
Pittsburgh, PA 15219

RE: David Nearhood and Joshua Nearhood  
vs  
Officer Todd Lombardo, Morris-Cooper Police,  
Trooper Thomas Granville, and Pennsylvania State Police  
No. 01-1715-CD  
Superior Court No. 254 WDA 2008

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office, March 6, 2008.

Sincerely,

William A. Shaw  
Prothonotary

**FILED**  
12:40 PM  
MAR 06 2008

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

COOPY

David Lee Nearhood Joshua Nearhood

Vs.

Case No. 2001-01715-CD

Todd Lombardo  
Morris-Cooper Police  
Thomas Granville  
PA State Police

FILED

MAR 10 2008  
MAR 11 2008  
William A. Shaw  
Prothonotary/Clerk of Courts  
(6P)

CERTIFICATE OF CONTENTS

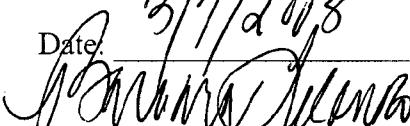
NOW, this March 6, 2008, the undersigned, Prothonotary or Deputy Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, the said Court of record, does hereby certify that attached is the original record of the case currently on Appeal.

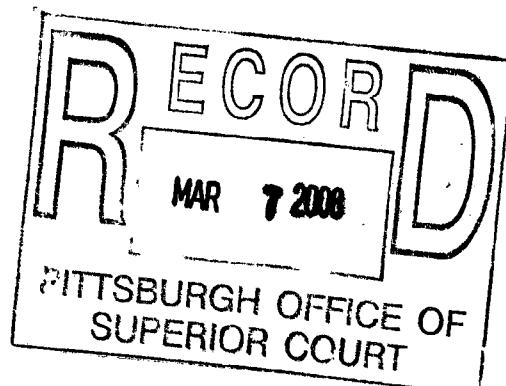
An additional copy of this Certificate is enclosed with the original hereof and the Clerk or Prothonotary of the Superior Court is hereby directed to acknowledge receipt of the Appeal Record by executing such copy at the place indicated by forthwith returning the same to this Court.

By:

  
William A. Shaw, Prothonotary

Record, Etc. Received:

  
Date: 3/7/2008  
(Signature & Title)





## Supreme Court of Pennsylvania

John A. Vaskov, Esq.  
Deputy Prothonotary  
Patricia A. Nicola  
Chief Clerk

Western District  
October 15, 2008

801 City-County Building  
Pittsburgh, PA 15219  
412-565-2816  
www.aopc.org

Mr. William A. Shaw  
Prothonotary  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

01-1715-CD

RE: David L. Nearhood, Joshua Nearhood, Petitioner  
v.  
Officer Todd Lombardo, Morris-Cooper Police  
Trooper Thomas Granville, Pennsylvania State Police, Respondents  
Superior Docket Number - 254 WDA 2008

Trial Court/Agency Dkt. Number: 01-1715-CD

No. 495 WAL 2008

Appeal Docket No.:

Date Petition for Allowance of Appeal Filed: October 14, 2008

Disposition:

Date:

Reargument/Reconsideration Disposition:

Reargument/Reconsideration

Disposition Date:

/kao

5  
FILED  
10/17/2008  
OCT 17 2008  
S  
William A. Shaw  
Prothonotary/Clerk of Courts

1



Supreme Court of Pennsylvania

John A. Vaskov, Esq.  
Deputy Prothonotary  
Patricia A. Nicola  
Chief Clerk

Western District  
January 29, 2009

FILED

FEB 02 2009

12:35 PM 610

William A. Shaw  
Prothonotary/Clerk of Courts

801 City-County Building  
Pittsburgh, PA 15219  
412-565-2816  
[www.aopc.org](http://www.aopc.org)

Mr. William A. Shaw  
Prothonotary  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

RE: David L. Nearhood, Joshua Nearhood, Petitioners  
v.  
Officer Todd Lombardo, Morris-Cooper Police  
Trooper Thomas Granville, Pennsylvania State Police, Respondents  
Superior Docket Number - 254 WDA 2008

Trial Court/Agency Dkt. Number: 01-1715-CD  
No. 495 WAL 2008

Appeal Docket No.:

Date Petition for Allowance of Appeal Filed: October 14, 2008

Disposition: Order Denying Petition for Allowance of Appeal  
Date: January 12, 2009

Reargument/Reconsideration Disposition:  
Reargument/Reconsideration  
Disposition Date:

/kao

IN THE SUPREME COURT OF PENNSYLVANIA  
WESTERN DISTRICT

DAVID L. NEARHOOD, JOSHUA NEARHOOD,	:	No. 495 WAL 2008
	:	
	:	
Petitioners	:	
	:	Petition for Allowance of Appeal from the
	:	Order of the Superior Court
v.	:	
	:	
	:	
OFFICER TODD LOMBARDO, MORRIS- COOPER POLICE TROOPER THOMAS GRANVILLE, PENNSYLVANIA STATE POLICE,	:	
	:	
	:	
Respondents	:	
	:	
	:	

**ORDER**

PER CURIAM

AND NOW, this 12<sup>th</sup> day of January, 2009, the Petition for Allowance of Appeal is  
hereby denied.

A True Copy Patricia Nicola

As of: January 12, 2009

Attest: *Patricia Nicola*  
Chief Clerk

Supreme Court of Pennsylvania

The Superior Court of Pennsylvania  
Sitting at Pittsburgh

Suite 600, Grant Bldg.  
310 Grant Street  
Pittsburgh, Pennsylvania  
15219

FILED

FEB 11 2009

5  
m/12/09/c  
William A. Shaw  
Prothonotary/Clerk of Courts

copy to Supreme  
Court

610

CERTIFICATE OF CONTENTS OF REMANDED RECORD  
AND NOTICE OF REMAND

under

PENNSYLVANIA RULES OF APPELLATE PROCEDURE 2571 AND 2572

THE UNDERSIGNED, Prothonotary (or Deputy Prothonotary) of the Superior Court of Pennsylvania, the said court of record, does hereby certify that annexed to the original hereof, is a true and correct copy of the entire record.

**Original Record, Superior Court decision, Supreme Court  
Allocatur Data Sheet**

As remanded from said court in the following matter:

In Re: David Nearhood, et al., Appellants v. Officer Todd Lombardo  
Et al  
No 254 WDA 2008

Court of Common Pleas, Civil Div of Clearfield Co at No 2001-01715-CD

In compliance with Pennsylvania Rules of Appellate Procedure 2571.

The date of which the record is remanded is FEBRUARY 9, 2009

An additional copy of this certificate is enclosed with the original hereof and the clerk or prothonotary of the lower court or the head, chairman, deputy, or the secretary of the other government unit is hereby directed to acknowledge receipt of the remanded record by executing such copy at the place indicated by forthwith returning the same to this court.

*Eleanor R. Valecko*  
DEPUTY PROTHONOTARY

RECORD, ETC. RECEIVED:

DATE: 2-11-09

*LR*  
(Signature & Title)

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

FILED

FEB 11 2009

William A. Shaw  
Prothonotary/Clerk of Courts

WILLIAM A. SHAW  
Prothonotary  
W.A. Shaw, Clerk of Courts, 5010  
Chestnut Street, Philadelphia, PA

DAVID L. NEARHOOD,  
JOSHUA NEARHOOD,

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

Appellants

v.

OFFICER TODD LOMBARDO,  
MORRIS-COOPER POLICE,  
TROOPER THOMAS GRANVILLE,  
PENNSYLVANIA STATE POLICE,

Appellees

No. 254 WDA 2008

Appeal from the Order January 7, 2008,  
In the Court of Common Pleas of Clearfield County,  
Civil Division at No. 2001-01715-CD.

BEFORE: KLEIN, POPOVICH, and FITZGERALD, JJ.

**O R D E R**

After review of Appellees Officer Todd Lombardo and Morris-Cooper Police's motion to quash and of the certified record, we find that the case in which Appellant David L. Nearhood attempts to appeal to this Court had been transferred to the Western Pennsylvania District Court of the United States on November 2, 2001, and, subsequently, was dismissed in 2003.

**Nearhood, et al. v. Lombardo, et al.**, #:3:01-cv-00339-DSC (W.D.Pa.) (case closed 2/27/2003). The trial court was divested of its jurisdiction over the case following the November 2<sup>nd</sup> transfer. 28 U.S.C. § 1446(d); **Fessler v. Hannagan**, 601 A.2d 462, 464 (Pa. Commw. 1991) (upon removal from state to federal court, federal court acquires exclusive subject matter jurisdiction over litigation). The trial court could not proceed unless and

**FILED**  
FEB 11 2009  
S m/12/09 (C) (610)  
William A. Shaw  
Prothonotary/Clerk of Courts

J. A30020/08

until the case was remanded from the federal district court. 28 U.S.C. § 1446(d); **Fessler**, 601 A.2d at 464 ("[A]ny further state court proceedings are 'a nullity until there has been a remand by the federal court.'"). As the case was not remanded to the Court of Common Pleas, Clearfield County, the trial court never regained subject matter jurisdiction. Accordingly, we GRANT Appellees' motion to quash, and we QUASH the appeal in its entirety. Further, we DISMISS as moot Appellant Nearhood's application for relief.

Appellees' motion to quash granted.

Appeal quashed.

Appellant's application for relief dismissed.

DATE: September 12, 2008



Supreme Court of Pennsylvania

John A. Vaskov, Esq.  
Deputy Prothonotary  
Patricia A. Nicola  
Chief Clerk

Western District  
January 29, 2009

FILED  
FEB 11 2009  
S-412-0564 (61)  
William A. Shaw  
Prothonotary/Clerk of Courts  
801 City County Building  
Pittsburgh, PA 15219  
412-565-2816  
www.aopc.org

Ms. Eleanor R. Valecko  
Deputy Prothonotary  
310 Grant Street, Suite 600  
Pittsburgh, PA 15219-2297

RE: David L. Nearhood, Joshua Nearhood, Petitioners  
v.  
Officer Todd Lombardo, Morris-Cooper Police  
Trooper Thomas Granville, Pennsylvania State Police, Respondents  
Superior Docket Number - 254 WDA 2008

Trial Court/Agency Dkt. Number: 01-1715-CD  
No. 495 WAL 2008

Appeal Docket No.:

Date Petition for Allowance of Appeal Filed: October 14, 2008

Disposition: Order Denying Petition for Allowance of Appeal  
Date: January 12, 2009

Reargument/Reconsideration Disposition:  
Reargument/Reconsideration  
Disposition Date:

/kao

IN THE SUPREME COURT OF PENNSYLVANIA  
WESTERN DISTRICT

DAVID L. NEARHOOD, JOSHUA  
NEARHOOD,

: No. 495 WAL 2008

Petitioners

: Petition for Allowance of Appeal from the  
: Order of the Superior Court

v.

OFFICER TODD LOMBARDO, MORRIS-  
COOPER POLICE TROOPER THOMAS  
GRANVILLE, PENNSYLVANIA STATE  
POLICE,

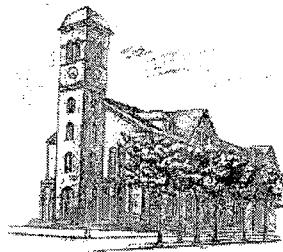
Respondents

ORDER

PER CURIAM

AND NOW, this 12<sup>th</sup> day of January, 2009, the Petition for Allowance of Appeal is  
hereby denied.

A True Copy Patricia Nicola  
As of: January 12, 2009  
Attest: *Patricia Nicola*  
Chief Clerk  
Supreme Court of Pennsylvania



## Clearfield County Office of the Prothonotary and Clerk of Courts

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

**Jacki Kendrick**  
Deputy Prothonotary/Clerk of Courts

**Bonnie Hudson**  
Administrative Assistant

**David S. Ammerman**  
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ [www.clearfieldco.org](http://www.clearfieldco.org)

Fredric J. Ammerman, P.J.  
Court of Common Pleas  
230 E. Market Street  
Clearfield, PA 16830

David L. Nearhood  
Joshua Nearhood  
1223 Oak Grove Road  
Morrisdale, PA 16858

Paul D. Krepps, Esq.  
USX Tower, Ste. 2900  
600 Grant Street  
Pittsburgh, PA 15219

Thomas G. Eddy, Esq.  
5<sup>th</sup> Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, PA 15219

**COPY**

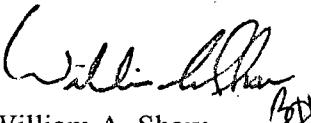
David Nearhood and Joshua Nearhood  
Vs.  
Officer Todd Lombardo, Morris-Cooper Police,  
Trooper Thomas Granville, and Pennsylvania State Police

Court No. 01-1715-CD; Superior Court No. 254 WDA 2008

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on March 6, 2008.

Sincerely,

  
William A. Shaw  
Prothonotary/Clerk of Courts

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

**No. 01-1715-CD**

**David Nearhood and Joshua Nearhood**

**Vs.**

**Officer Todd Lombardo, Morris-Cooper Police,  
Trooper Thomas Granville, and Pennsylvania State Police**

<b>ITEM NO.</b>	<b>DATE OF FILING</b>	<b>NAME OF DOCUMENT</b>	<b>NO. OF PAGES</b>
01	10/12/01	Civil Complaint	06
02	10/17/01	Declaration of Service, Complaint upon parties of record	01
03	10/18/01	Declaration of Service to a Civil Complaint	03
04	11/2/01	Notice of Filing Petition for Removal	12
05	11/09/01	Notice of Intention to File Praeclipe for Entry of Judgment of Default	01
06	11/13/01	Protest (Removal)	01
07	11/13/01	Protest (Rules of Procedure)	07
08	11/13/01	Motion for Enlargement of Time	05
09	11/16/01	Protest	02
10	10/18/07	Notice of Proposed Termination of Court Case	04
11	12/14/07	Statement of Intention to Proceed	02
12	12/21/07	Import Notice of Intent to File Praeclipe for Entry of Judgment	02
13	01/02/08	Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Morris Cooper Police (Judgment not entered)	07
14	01/02/08	Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Trooper Thomas Granville (Judgment not entered)	07
15	01/02/08	Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Pennsylvania State Police (Judgment not entered)	07
16	01/02/08	Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Officer Todd Lombardo (Judgment not entered)	07
17	01/08/08	Order, Re: Plaintiffs' Praeclipes for Entry of Default Judgment are dismissed; Plaintiffs' Complaint filed in this case is dismissed with prejudice based upon the doctrine of res judicata	14
18	01/28/08	Motion for Reconsideration of Prior Court Order of January 7, 2008	21
19	01/30/08	Order, Re: Motion for Reconsideration Denied	01
20	02/04/08	Notice of Appeal to Superior Court	18
21	02/04/08	Statement Regarding Request for Transcript	03
22	02/11/08	Appeal Docket Sheet, 254 WDA 2008	04

Date: 3/6/2008  
Time: 02:19 PM  
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Clearfield County Court of Common Pleas  
ROA Report  
Case: 2001-01715-CD  
Current Judge: No Judge

David Lee Nearhood, Joshua Nearhood vs. Todd Lombardo, Morris-Cooper Police, Thomas Granville, PA State Police

Civil Other

Date	Judge	
10/12/2001	Filing: Civil Complaint Paid by: Nearhood, David (plaintiff) Receipt number: 1832818 Dated: 10/12/2001 Amount: \$80.00 (Check) Four CC Plaintiff	No Judge
10/17/2001	Declaration of Service, Complaint upon Parties of Record. Filed by s/David Nearhood 1 cc Plaintiff Nearhood	No Judge
10/18/2001	Declaration of Service to a Civil Complaint, upon Parties of Record. Served by s/Jeremy Howell Filed by s/David Nearhood 2 cc to Plaintiff	No Judge
11/2/2001	Notice of Filing Petition For Removal. Filed by s/Paul D. Krepps, Esq. Cert of Svc no cc	No Judge
11/9/2001	Notice of Intention to File Praeclipe for Entry of Judgment of Default. Filed by s/David Nearhood	No Judge
11/13/2001	PROTEST. filed by s/David Nearhood, Pro Se no cc (Removal) PROTEST. filed by s/David Nearhood, Pro Se no cc (Rules of Procedure) Motion for Enlargement of Time, filed by s/Thomas G. Eddy, Deputy Attorney General One CC Attorney	No Judge
11/16/2001	PROTEST, Filed by David Nearhood 1 Cert. to Plaintiff (Your Honor)	No Judge
10/18/2007	Notice of Proposed Termination of Court Case, mailed to parties (see Original), filed.	No Judge
12/14/2007	Statement of Intention to Proceed, filed by s/David L. Nearhood Four CC Plaintiff	No Judge
12/21/2007	Important Notice of Intent to file Praeclipe For Entry of Judgment by Default, filed by s/David L. Nearhood, Joshua Nearhood, Plaintiffs. 3CC to Atty.	No Judge
12/26/2007	NOTE: CASE PLACED ON INACTIVE CASE IN ERROR. CASE WAS REMOVED TO DISTRICT COURT NOVEMBER 2, 2001.	No Judge
1/2/2008	Praeclipe of Plaintiff For Entry of Judgment by Default Against Defendant, Morris Cooper Police, filed 5 Cert. to Plaintiff (Judgment not entered) Praeclipe of Plaintiff for Entry of Judgment by Default Against the Defendant, Trooper Thomas Granville, filed 5 Cert. to Plaintiff. (Judgment not entered) Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Pennsylvania State Police, filed. (Judgment not entered) Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, Officer Todd Lombardo, filed. (Judgment not entered)	No Judge
1/8/2008	Order, filed cert. to Plaintiff, Atty. Krepps, Atty. Eddy and Atty. Friedline NOW, this 7th day of January, 2008, Order of this Court that Plaintiffs' Praeclipes for Entry of Default Judgment be and are hereby dismissed; and Plaintiffs' Complaint filed in this case is dismissed, with prejudice, based upon the doctrine of res judicata	Fredric Joseph Ammerman
1/28/2008	Motion for Reconsideration of Prior Court Order of January 7, 2008, for Dismissing Plaintiff's Praeclipes for Entry of Default Judgment and Dismissing Plaintiff's Complaint with Prejudice, filed by Plaintiff 7 Cert. to Plaintiff.	No Judge

Date: 3/6/2008  
Time: 02:19 PM  
Page 2 of 2

**Clearfield County Court of Common Pleas**  
**ROA Report**  
**Case: 2001-01715-CD**  
**Current Judge: No Judge**

User: BHUDSON

David Lee Nearhood, Joshua Nearhood vs. Todd Lombardo, Morris-Cooper Police, Thomas Granville, PA State Police

**Civil Other**

Date	Judge	
1/30/2008	Order, this 29th day of Jan., 2008, upon receipt and review of the Plaintiffs' Motion for Reconsideration of Prior Court Order of Jan. 7, 2008, Dismissing Plaintiffs' Praecipes for Entry of Default Judgment and Dismissing Plaintiffs' Complaint with Prejudice, it is Ordered that said Motion is Denied. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff; 1CC Atty: Eddy, Krepps	Fredric Joseph Ammerman
2/4/2008	Filing: Notice to Appeal to Superior Court Paid by: Dave's Drywall Receipt number: 1922501 Dated: 02/04/2008 Amount: \$50.00 (Check) filed by s/David L. Nearhood 8 CC Plaintiff One CC and check for \$60.00 to Superior Court  Statement Regarding Request for Transcript, filed by s/David L. Nearhood No Judge 9 CC Plaintiff	No Judge
2/11/2008	Appeal Docket Sheet from Superior Court, filed. Docket Number 254 WDA 2008	No Judge

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

**MAR 06 2008**

Attest.

*William L. Brown*  
Prothonotary/  
Clerk of Courts



**COPY**

JUDGE'S CHAMBERS  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA  
CLEARFIELD COUNTY  
230 EAST MARKET STREET  
CLEARFIELD, PENNSYLVANIA 16830

FREDRIC J. AMMERMAN  
PRESIDENT JUDGE

PAUL E. CHERRY  
JUDGE

JOHN K. REILLY, JR.  
SENIOR JUDGE

February 12, 2008

Eleanor R. Valecko  
Deputy Prothonotary  
Superior Court of Pennsylvania  
310 Grant Street, Suite 600  
Pittsburgh, PA 15219-2297

Re: *David L. Nearhood Joshua Nearhood v Officer Todd Lombardo, et al  
No. 254 WDA 2008  
No. 01-1715-CD (Court of Common Pleas)*

Dear Ms. Valecko:

You will find enclosed the original record in the above-captioned appeal.  
I will not be submitting an Opinion to the Superior Court in this matter.

Sincerely,

Fredric J. Ammerman  
President Judge

cc: W. Shaw – Prothonotary

Date: 3/3/2008  
Time: 10:06 AM  
Page 1 of 2

**Clearfield County Court of Common Pleas**

User: GLKNISLEY

**ROA Report**

Case: 2001-01715-CD

Current Judge: No Judge

David Lee Nearhood, Joshua Nearhood vs. Todd Lombardo, Morris-Cooper Police, Thomas Granville, PA State Police

**Civil Other**

Date	Judge
10/12/2001	
① Filing: Civil Complaint Paid by: Nearhood, David (plaintiff) Receipt number: 1832818 Dated: 10/12/2001 Amount: \$80.00 (Check) Four CC ↗ Plaintiff	No Judge
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② Declaration of Service, Complaint upon Parties of Record. Filed by s/David ↗ Nearhood 1 cc Plaintiff Nearhood	No Judge
10/18/2001	
③ Declaration of Service to a Civil Complaint, upon Parties of Record. Served ↗ by s/Jeremy Howell Filed by s/David Nearhood 2 cc to Plaintiff	No Judge
11/2/2001	
④ Notice of Filing Petition For Removal. Filed by s/Paul D. Krepps, Esq. ↗ Cert of Svc no cc	No Judge
11/9/2001	
⑤ Notice of Intention to File Praeclipe for Entry of Judgment of Default. Filed ↗ by s/David Nearhood	No Judge
11/13/2001	
⑥ PROTEST. filed by s/David Nearhood, Pro Se no cc (Removal) ↗ ⑦ PROTEST. filed by s/David Nearhood, Pro Se no cc (Rules of Procedure) ↗ ⑧ Motion for Enlargement of Time, filed by s/Thomas G. Eddy, Deputy ↗ Attorney General One CC Attorney	No Judge
11/16/2001	
⑨ PROTEST, Filed by David Nearhood 1 Cert. to Plaintiff (Your Honor)	2 No Judge
10/18/2007	
⑩ Notice of Proposed Termination of Court Case, mailed to parties (see Original), filed.	4 No Judge
12/14/2007	
⑪ Statement of Intention to Proceed, filed by s/David L. Nearhood Four CC ↗ Plaintiff	No Judge
12/21/2007	
⑫ Important Notice of Intent to file Praeclipe For ↗ entry of Judgment by Default, ↗ filed by s/David L. Nearhood, Joshua Nearhood, Plaintiffs. 3CC to Atty.	No Judge
12/26/2007	
NOTE: CASE PLACED ON INACTIVE CASE IN ERROR. CASE WAS REMOVED TO DISTRICT COURT NOVEMBER 2, 2001.	No Judge
1/2/2008	
⑬ Praeclipe of Plaintiff For Entry of Judgment by Default Against Defendant, ↗ Morris Cooper Police, filed 5 Cert. to Plaintiff (Judgment not entered)	No Judge
⑭ Praeclipe of Plaintiff for Entry of Judgment by Default Against the ↗ Defendant, Trooper Thomas Granville, filed 5 Cert. to Plaintiff. (Judgment not entered)	No Judge
⑮ Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, ↗ Pennsylvania State Police, filed. (Judgment not entered)	No Judge
⑯ Praeclipe of Plaintiff for Entry of Judgment by Default against Defendant, ↗ Officer Todd Lombardo, filed. (Judgment not entered)	No Judge
1/8/2008	
Order, filed cert. to Plaintiff, Atty. Krepps, Atty. Eddy and Atty. Friedline ↗ NOW, this 7th day of January, 2008, Order of this Court that Plaintiffs' Praeclipes for Entry of Default Judgment be and are hereby dismissed; and Plaintiffs' Complaint filed in this case is dismissed, with prejudice, based upon the doctrine of resjudicata	14 Fredric Joseph Ammerman
1/28/2008	
⑰ Motion for Reconsideration of Prior Court Order of January 7, 2008, for ↗ Dismissing Plaintiff's Praeclipes for Entry of Default Judgment and Dismissing Plaintiff's Complaint with Prejudice, filed by Plaintiff 7 Cert. to Plaintiff.	No Judge

Date: 3/3/2008  
Time: 10:06 AM  
Page 2 of 2

**Clearfield County Court of Common Pleas**

User: GLKNISLEY

**ROA Report**

Case: 2001-01715-CD

Current Judge: No Judge

David Lee Nearhood, Joshua Nearhood vs. Todd Lombardo, Morris-Cooper Police, Thomas Granville, PA State Police

**Civil Other**

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2/11/2008 ⑯	Statement Regarding Request for Transcript, filed by s/David L. Nearhood ⑯ 9 CC Plaintiff