

02-741-CD
PENN MUTUAL INSURANCE COMPANY et al -vs- JAMES FOLEY

Date: 12/26/2003

Clearfield County Court of Common Pleas

User: BANDERSON

Time: 01:12 PM

ROA Report

Page 1 of 1

Case: 2002-00741-CD

Current Judge: John K. Reilly Jr.

Penn Mutual Insurance Company, Marianne Cimino vs. James Foley

Civil Other

Date	Judge
05/09/2002	Filing: Praeclipe/Writ of Summons Paid by: Walker, Brian J. Esq (attorney for Cimino, Marianne) Receipt number: 1842321 Dated: 05/09/2002 Amount: \$80.00 (Check) One CC and Writ to Sheriff One CC Attorney No Judge ✓
08/07/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Judge ✓
09/03/2002	Filing: Complaint and verification filed by Plaintiff by Attorney Walker. Two No Judge ✓ CC to Atty. Walker
10/22/2002	Answer To Plaintiffs' Complaint. filed by s/Anthony S. Guido, Esq. Verification s/James Foley 2 cc to Atty No Judge ✓
10/24/2002	Certificate of Service, Answer to Plaintiffs' Complaint upon BRIAN J. WALKER, ESQ. s/Anthony S. Guido, Esq. no cc No Judge ✓
11/22/2002	Certificate of Service, Complaint upon Defendant's Counsel: ANTHONY S. GUIDO, ESQ. filed by s/Brian J. Walker, Esquire no cc No Judge ✓
08/04/2003	Praeclipe To Have Matter Scheduled For A Non-Jury Trial. filed by s/Brian J. Walker, Esquire no cc Copy to C/A No Judge ✓
08/15/2003	Motion to Strike Case from Trial List, filed by Atty. Guido 1 Cert. to Atty. No Judge ✓
09/04/2003	Notice of Service, First Set of Discovery Materials upon: Brian J. Walker, John K. Reilly Jr. Esq. filed by s/Anthony S. Guido no cc No Judge ✓
09/29/2003	Praeclipe to Discontinue filed by Atty. Walker. 1 CC & Cert. to Atty. John K. Reilly Jr. ✓

Brian J. Walker, Esquire
O'Brien & Hennessy
142 W. Market Street
West Chester, PA 19382
610-431-2727

Attorney I.D. # 71927

Attorney for Plaintiff

Penn Mutual Insurance Company : In The Court of Common Pleas
A/S/O Marianne Cimino
17 East Gay Street, PO Box 659 : Clearfield County, Pennsylvania
West Chester, PA 19381-0659
And : Civil Action-Law
Marianne Cimino
RD #2, Box 42 : No: 02-741-cd
Dubois, PA 15801

vs.

James Foley
Kyle Run Road
Brookville, PA 15825

Praecipe

Prothonotary:

Please issue a Writ of Summons to the Defendant on the above captioned action.

Please forward to Sheriff office.



Brian J. Walker, Esquire
O'Brien & Hennessy

FILED

MAY 09 2002

William A. Shaw
Prothonotary

FILED

CC & Writs to Sheriff

5/11/02
MAY 09 2002

Atty

1 cc Atty
Atty pd. 80.00

2
William A. Shaw
Prothonotary

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

COPY

SUMMONS

**Penn Mutual Insurance Company
Marianne Cimino**

Vs.

NO.: 2002-00741-CD

James Foley

TO: **JAMES FOLEY**

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

Date: 05/09/2002

**William A. Shaw
Prothonotary**

Issuing Attorney:

**Brian J. Walker Esq
142 West Market Street
West Chester, PA 19382**

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12514

PENN MUTUAL INSURANCE COMPANY

02-741-CD

VS.
FOLEY, JAMES

PRAECIPE & SUMMONS

SHERIFF RETURNS

NOW MYAY 15, 2002, THOMAS DEMKO, SHERIFF OF JEFFERSON COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PRAECIPE & SUMMONS ON JAMES FOLEY, DEFENDANT.

NOW JUNE 10, 2002 SERVED THE WITHIN PRAECIPE & SUMMONS ON JAMES FOLEY, DEFENDANT BY DEPUTIZING THE SHERIFF OF JEFFERSON COUNTY. THE RETURN OF SHERIFF DEMKO IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED BRENDA ENGLISH, ADULT AT RESIDENCE.

Return Costs

Cost	Description
27.68	SHFF. HAWKINS PAID BY: ATTY.
33.64	SHFF. DEMKO PAID BY: ATTY.
10.00	SURCHARGE PAID BY: ATTY.

FILED

AUG 07 2002
014:00 am
William A. Shaw
Prothonotary

Sworn to Before Me This

9 Day Of Aug, 2002


WILLIAM A. SHAW
Prothonotary
Commission Expires
in Jan. 2006
Clearfield, PA

So Answers,



Chester A. Hawkins
Sheriff

No. 02-741-CD

Personally appeared before me, Kirk Brudnock, Deputy for Thomas A. Demko, Sheriff of Jefferson County, Pennsylvania, who according to law deposes and says that on June 10, 2002 at 10:40 o'clock A.M. served the Summons upon JAMES FOLEY, Defendant, at Kyle Run Road, Falls Creek, township of Washington, County of Jefferson, Stat of Pennsylvania, by handing to Brenda English, girl-friend and adult person in charge at time of service, a true and attested copy of the Summons and by making known to her the contents thereof.

Advance Costs Received:	\$125.00
My Costs:	\$ 31.64 Paid
Prothy:	\$ 2.00
Total Costs:	\$ 33.64
Refunded:	\$ 91.36

Sworn and subscribed

to before me this 14
day of June 2002
By **Richard D. Beck**

RICHARD D. BECK, DISTRICT JUSTICE

Magisterial District Court 54-3-03
Jefferson County Courthouse
Brookville, PA 15825
My Commission Expires First Mon. Jan. 2006

So Answers,

Deputy

Kirk Brudnock
Sheriff
JEFFERSON COUNTY, PENNSYLVANIA

Brian J. Walker, Esquire
O'Brien & Hennessy
142 West Market Street, Suite 2
West Chester, PA 19382
610-431-2727
Attorney I.D. 71927

Penn Mutual Insurance Company
A/S/O Marianne & Eugene Cimino
and
Marianne & Eugene Cimino

vs.

James Foley

: In The Court of Common Pleas
: Clearfield County, Pennsylvania
: Civil Action Law
: No: 02-741-CD

FILED

SEP 03 2002

William A. Shaw
Prothonotary

NOTICE

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

You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

David S. Meholick, Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
814-765-2641

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentir una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Se avisa que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

Lleva esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por teléfono a la oficina cuya dirección se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

David S. Meholick, Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
814-765-2641

Brian J. Walker, Esquire, AIC
O'Brien & Hennessy
142 W. Market Street
West Chester, PA 19382
610-431-2727
Attorney I.D. 71927

Attorney for Plaintiffs

Penn Mutual Insurance Company : In The Court of Common Pleas
A/S/O Marianne & Eugene Cimino
PO Box 659 : Clearfield County, Pennsylvania
West Chester, PA 19382
AND : Civil Action Law
Marianne & Eugene Cimino
R.D. #8, Box 42 : No: 02-741-CD
Dubois, PA 15801

VS.

James Foley
Kyle Run Road
Brooksville, PA 15825

COMPLAINT

1. Plaintiff Penn Mutual Insurance Company is an insurance carrier
licensed and authorized to conduct business in the Commonwealth of Pennsylvania
and having as one of its principal places of business the above captioned address.

2. Plaintiffs Marianne & Eugene Cimino, h/w are adult individuals
residing at the above captioned address.

3. Defendant James Foley is and adult
individual residing at the above captioned address.

4. On or about 2/28/01, Plaintiff Penn Mutual Insurance
Company insured Plaintiffs Cimino with a homeowners policy,
policy number DP 0135689-0805, said policy covering Plaintiff's home and rental

property located at RD #8 Box 42, Dubois, PA 15801, said policy

carrying structure and contents coverages with same.

5. On or about 2/28/01 Defendant James Foley was a tenant, renters, occupants and/or in exclusive possession and control the aforesaid aforesaid property, specifically the bedroom area..

6. On or about 2/28/01, Defendant James Foley, acting individually, jointly, and or by and through persons under their custody and control, and or in concert with one another, while in exclusive possession and control of the aforesaid bedroom area, did negligently, carelessly and/or recklessly cause and/or to allow a fire to erupt at the property resulting in extensive property damages to same including damages to the structure and contents.

7. The negligence of Defendants consisted of:

- a) failing to exercise to due care;
- b) being inattentive;
- c) failing to promptly notify fire officials so as to avoid the spread of said fire;
- d) leaving a lit flame unattended;
- e) failing to properly monitor an open fire;
- f) failing to give due regard to the rights, safety point and position of Plaintiff's property;
- g) leaving a lit cigarette on or around combustible materials;
- h) failing to properly extinguish a cigarette prior to falling asleep;
- i) failing to properly discard smoking materials;
- j) other such negligence as may be developed through discovery..

8. The aforesaid fire resulted solely from the negligent acts and/or omissions on part of Defendant named herein and were due in no manner whatsoever to any act and/or failure to act on part of Plaintiffs.

9. As a result of the aforesaid fire, Plaintiff's property sustained extensive

smoke, fire and water damages to same.

10. Pursuant to the aforesaid policy of insurance, Plaintiff Penn Mutual settled the first party homeowners claim of Plaintiffs Cimino in the amount of \$59,233.75 (said figure includes Plaintiff Cimino's deductible) representing fair and reasonable reimbursement for the damages sustained.

11. Pursuant to the aforesaid policy of insurance Plaintiff Penn Mutual Insurance Company is subrogated to Plaintiff Cimino for this loss.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally in the amount of \$59,233.75 together plus costs, interest and such other relief this court finds equitable and just.



Brian J. Walker, Esquire, AIC
O'Brien & Hennessy

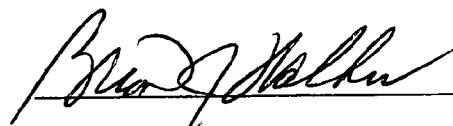
COMMONWEALTH OF PENNSYLVANIA :

COUNTY OF CHESTER : ss.

The undersigned verifies that the facts contained herein are true and correct. The undersigned understands that false statements herein are made subject to the penalties of 19 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

If applicable, this affidavit is made on behalf of the Plaintiff(s); that the said Plaintiff(s) is/are unable and unavailable to make this verification on its/his/her own behalf within the time allotted for filing of this pleading, and the facts set forth in the foregoing pleading are true and correct to the best of counsel's knowledge, information and belief.

This verification is made pursuant to Pa. R.C.P. 1024 and is based on interviews, conferences, reports, records and other investigative material in the file.



Dated: August 27, 2002

FILED

BA
MWB:49/65
2 CC
SEP 03 2002
Atty Walker

William A. Shaw
Prothonotary

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

PENN MUTUAL INSURANCE
COMPANY, A/S/O MARIANNE
AND EUGENE CIMINO and
MARIANNE AND EUGENE
CIMINO,

Plaintiffs

vs.

JAMES FOLEY,

Defendant

No. 02-741 - CD

Type of pleading

**ANSWER TO PLAINTIFFS'
COMPLAINT**

Filed on behalf of:

DEFENDANT

Counsel of record for
this party:

Anthony S. Guido, Esq.
Supreme Court No. 05877
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801
(814) 371-7768

FILED

OCT 22 2002

11:25 AM
William A. Shaw
Prothonotary

2 CERT TO ATTY

E
SST

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

PENN MUTUAL INSURANCE :
COMPANY, A/S/O MARIANNE :
AND EUGENE CIMINO and :
MARIANNE AND EUGENE :
CIMINO, : No. 02-741-CD
Plaintiffs :
vs. :
JAMES FOLEY, :
Defendant :
.

ANSWER TO PLAINTIFFS' COMPLAINT

AND NOW, comes the Defendant, JAMES FOLEY, and by
his Attorney, ANTHONY S. GUIDO, ESQ., files this Answer to the
Complaint filed by Plaintiffs in the above entitled action as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Denied. Although it is admitted that the Defendant,

JAMES FOLEY, had exclusive possession and control of the aforesaid
bedroom area, it is denied that the Defendant, JAMES FOLEY,
negligently, carelessly and recklessly caused or allowed a fire to erupt
on the property alleging resulting in damage to the property.

7. Denied. Defendant, JAMES FOLEY, denies allegations set forth in Paragraph 7(a) through 7(j). Proof thereof is demanded at trial of this case.

8. Denied. Defendant, JAMES FOLEY, denies that the fire resulted in any negligent acts or omissions on his part, and it is further averred that JAMES FOLEY did nothing to cause said fire or damage.

9. Admitted.

10. Admitted.

11. Admitted.

WHEREFORE, Defendant, JAMES FOLEY, demands that said cause of action and Complaint be dismissed.



Anthony S. Guido
Attorney for Defendant

VERIFICATION

I, JAMES FOLEY, do hereby verify that I have read the foregoing ANSWER. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

Date: 1



James Foley

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

PENN MUTUAL INSURANCE
COMPANY, A/S/O MARIANNE
AND EUGENE CIMINO and
MARIANNE AND EUGENE
CIMINO,

Plaintiffs

vs.

JAMES FOLEY,

Defendant

No. 02-741 - CD

Type of pleading

**CERTIFICATE OF
SERVICE**

Filed on behalf of:

DEFENDANT

Counsel of record for
this party:

Anthony S. Guido, Esq.
Supreme Court No. 05877
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801
(814) 371-7768

FILED

OCT 24 2002

William A. Shaw
Prothonotary

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

PENN MUTUAL INSURANCE :
COMPANY, A/S/O MARIANNE :
AND EUGENE CIMINO and :
MARIANNE AND EUGENE :
CIMINO, : No. 02-741-CD
Plaintiffs :
vs. :
JAMES FOLEY, :
Defendant :
.

CERTIFICATE OF SERVICE

I do hereby certify that on the 23rd day of October, 2002,
I mailed a copy of Answer to Plaintiffs' Complaint, by first class mail,
postage prepaid, to:

Brian J. Walker, Esq.
142 W. Market Street
West Chester, PA 19382

Anthony S. Guido

Anthony S. Guido
Attorney for Plaintiff

FILED NO
m 10:39 AM 2002
OCT 24 2002
E
HKL

William A. Shaw
Prothonotary

Brian J. Walker, Esquire
O'Brien & Hennessy
142 W. Market Street
West Chester, PA 19382
610-431-2727
Attorney I.D. 71927

Attorney for Plaintiff

Penn Mutual Insurance Company
A/S/O Marianne & Eugene Cimino
AND
Marianne & Eugene Cimino

: In The Court of Common Pleas
: Clearfield County, Pennsylvania
: Civil Action Law
: No: 02-741-CD

vs.

James Foley

CERTIFICATION OF SERVICE

I hereby certify that I have served a true and correct copy of the Complaint filed in the above captioned action upon the Defendant's counsel on September 5, 2002, by First Class United States mail, addressed as follows:

Anthony S. Guido, Esquire
PO Box 487
DuBois, PA 15801


Brian J. Walker, Esquire, AIC
O'Brien & Hennessy

FILED

NOV 22 2002

William A. Shaw
Prothonotary

FILED

No
cc

NOV 22 2002

William A. Shaw
Prothonotary

W.A.S.

Brian J. Walker, Esquire, AIC
O'Brien & Hennessy
142 W. Market Street
West Chester, PA 19382
610-431-2727
Attorney I.D. 71927

Attorney for Plaintiffs

Penn Mutual Insurance Company : In The Court of Common Pleas
A/S/O Marianne & Eugene Cimino
AND : Clearfield County, Pennsylvania
Marianne & Eugene Cimino : Civil Action Law
vs. : No: 02-741-CD

James Foley

PRAECIPE

To the Prothonotary:

Please have the above matter scheduled for a non-jury trial.



Brian J. Walker, Esquire, AIC
O'Brien & Hennessy

FILED

AUG 04 2003

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

PENN MUTUAL INSURANCE
COMPANY, A/S/O MARIANNE
AND EUGENE CIMINO and
MARIANNE AND EUGENE
CIMINO,

Plaintiffs

vs.

JAMES FOLEY,

Defendant

CIVIL ACTION - LAW

No. 02-741 - CD

Type of pleading

**MOTION TO STRIKE CASE
FROM TRIAL LIST**

Filed on behalf of:

DEFENDANT

Counsel of record for
this party:

Anthony S. Guido, Esq.
Supreme Court No. 05877
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801
(814) 371-7768

FILED

AUG 15 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

PENN MUTUAL INSURANCE :
COMPANY, A/S/O MARIANNE :
AND EUGENE CIMINO and :
MARIANNE AND EUGENE :
CIMINO, :
Plaintiffs :
vs. :
JAMES FOLEY, :
Defendant :
No. 02-741-CD

MOTION TO STRIKE CASE FROM TRIAL LIST

AND NOW, comes the Defendant, JAMES FOLEY, and by his Attorney, ANTHONY S. GUIDO, files this Motion to strike the instant case from the trial list for the following reasons.

1. Letter dated August 8, 2003, was received on August 12, 2003, by Anthony S. Guido, Attorney for Defendant, James Foley.
2. Clearfield County Rule 212.2(4)(b) provides in part that any party objecting to the case being on the trial list shall file his motion to strike the case from the trial list within seven days after receiving notice of the praecipe from the other party.
3. The Praecipe to place the case on the trial list, a copy of which is enclosed, fails to comply with Rule 212.2(a)(1) which provides that the praecipe shall provide that no motions are outstanding, and that discovery has been completed, and that the case is ready for trial.

4. Discovery has not been completed in this case and, therefore, the case is not ready for trial.

WHEREFORE, for the above stated reason, Defendant, James Foley, by his Attorney, Anthony S. Guido, respectfully requests that the above entitled case be stricken from the trial list.



Anthony S. Guido
Attorney for Defendant

Brian J. Walker, Esquire, AIC
O'Brien & Hennessy
142 W. Market Street
West Chester, PA 19382
610-431-2727
Attorney I.D. 71927

Attorney for Plaintiffs

Penn Mutual Insurance Company : In The Court of Common Pleas
A/S/O Marianne & Eugene Cimino
AND : Clearfield County, Pennsylvania
Marianne & Eugene Cimino : Civil Action Law
vs. : No: 02-741-CD

James Foley

PRAECIPE

To the Prothonotary:

Please have the above matter scheduled for a non-jury trial.


Brian J. Walker, Esquire, AIC
O'Brien & Hennessy

FILED
2:41
AUG 04 2003
William A. Shaw
Prothonotary/Clerk of Courts

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

PENN MUTUAL INSURANCE :
COMPANY, A/S/O MARIANNE :
AND EUGENE CIMINO and :
MARIANNE AND EUGENE :
CIMINO, :
Plaintiffs :
vs. :
JAMES FOLEY, :
Defendant :
No. 02-741-CD

ORDER

AND NOW, this ____ day of _____, 2003, in
consideration of the foregoing Motion, the entitled case is stricken
from the trial list.

BY THE COURT:

CERTIFICATE OF SERVICE

I do hereby certify that on the 14th day of August,
2003, I mailed a copy of MOTION TO STRIKE CASE FROM TRIAL
LIST, by first class mail, postage prepaid, to:

Brian J. Walker, Esq.
O'Brien & Hennessy
142 W. Market Street
West Chester, PA 19382

Am L

Anthony S. Guido
Attorney for Defendant

FILED
M 11:20 AM
AUG 15 2003
Atty Gaido

cc
William A. Shaw
Prothonotary/Clerk of Courts

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

PENN MUTUAL INSURANCE COMPANY, A/S/O MARIANNE AND EUGENE CIMINO and MARIANNE AND EUGENE CIMINO, Plaintiffs	:	No. 02-741-CD
vs.	:	Type of Case:
JAMES FOLEY, Defendant	:	Civil Action
	:	Type of Pleading:
	:	Notice of Service
	:	Filed on Behalf of:
	:	Defendant
	:	Counsel of Record for This Party:
	:	Anthony S. Guido, Esq. Supreme Court No. 05877 Hanak, Guido and Taladay 498 Jeffers Street P. O. Box 487 DuBois, PA 15801 (814) 371-7768

FILED

SEP 04 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

PENN MUTUAL INSURANCE	:	
COMPANY, A/S/O MARIANNE	:	
AND EUGENE CIMINO and	:	
MARIANNE AND EUGENE	:	
CIMINO,	:	
Plaintiffs	:	No. 02-741-CD
vs.	:	
JAMES FOLEY,	:	
Defendant	:	

NOTICE OF SERVICE

I, Anthony S. Guido, of Hanak, Guido and Taladay, being
counsel of record for Defendant, do hereby certify that I propounded
on Plaintiffs, via United States mail, first class, postage pre-paid, this
3rd day of September, 2003, Defendant's FIRST SET OF DISCOVERY
MATERIALS to the below indicated person, at said address, being
counsel of record for the Plaintiff:

Brian J. Walker, Esq.
142 W. Market Street
West Chester, PA 19382

Anthony S. Guido
Anthony S. Guido
Attorney for Defendant

Brian J. Walker, Esquire, AIC
O'Brien & Hennessy
142 W. Market Street
West Chester, PA 19382
610-431-2727
Attorney I.D. 71927

Attorney for Plaintiffs

Penn Mutual Insurance Company : In The Court of Common Pleas
A/S/O Marianne & Eugene Cimino
AND : Clearfield County, Pennsylvania
Marianne & Eugene Cimino : Civil Action Law
vs. : No: 02-741-CD
James Foley

PRAECIPE

To the Prothonotary:

Please mark the above action as Dismissed Without Prejudice.



Brian J. Walker, Esquire, AIC
O'Brien & Hennessy

FILED
M 2.03 BA JCC + Court
to atty
SEP 29 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Penn Mutual Insurance Company
Marianne Cimino

Vs.
James Foley

No. 2002-00741-CD

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on September 29, 2003, marked:

Discontinued, settled and ended.

Record costs in the sum of \$151.32 have been paid in full by Attorney.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 29th day of September A.D. 2003.

William A. Shaw, Prothonotary