

02-1687-CD  
CLEARFIELD COUNTY GRANGE MUTUAL FIRE INS. COMPANY  
vs. RICHARD D. McCracken, Allstate Insurance

Date: 07/28/2004

Clearfield County Court of Common Pleas

User: ASELFRIIDGE

Time: 09:50 AM

ROA Report

Page 1 of 1

Case: 2002-01687-CD

Current Judge: Fredric Joseph Ammerman

Clearfield County Grange Mutual Fire Insurance Co. vs. Richard D. McCracken

Civil Other

Date		Judge
10/28/2002	<input checked="" type="checkbox"/> Filing: Complaint for Declaratory Judgment Paid by: Gearhart, R. Denning (attorney for Clearfield County Grange Mutual Fire Insurance Co.) Receipt number: 1850416 Dated: 10/28/2002 Amount: \$80.00 (Check) Three CC to Atty.	No Judge
	<input checked="" type="checkbox"/> Filing: Certificate of Service of Complaint for Declaratory Judgment. No CC.	No Judge
10/30/2002	<input checked="" type="checkbox"/> Praeipce To Correct Caption, DELETE ALLSTATE INSURANCE CO. as a DEFENDANT. filed by s/R. Denning Gearhart, Esq. no cc	No Judge
11/12/2002	<input checked="" type="checkbox"/> Answer to Complaint, New Matter and Counterclaim, filed by Atty. Steele No Cert. Copies.	No Judge
02/10/2003	<input checked="" type="checkbox"/> Defendant's Motion for Summary Judgment, filed by s/Karen L. Steele, Esq. One CC Attorney	No Judge
03/26/2003	<input checked="" type="checkbox"/> Praeipce For Argument Court. s/Karen L. Steele, Esq. Certificate of Service	John K. Reilly Jr.
05/22/2003	<input checked="" type="checkbox"/> OPINION AND ORDER, NOW, this 22nd day of May, 2003, re: Motion For Summary Judgment is hereby DISMISSED w/o prejudice to the Defendant to raise the issue again upon completion of discovery. by the Court, s/JKR, JR., P.J. 1 cc Atty Gearhart, Atty Karen Steele, & Mikesell	John K. Reilly Jr.
04/08/2004	<input checked="" type="checkbox"/> Praeipce to Change Caption filed by Atty. Gearhart. No cc.	Fredric Joseph Ammerman
04/19/2004	<input checked="" type="checkbox"/> Defendant's Renewed Motion for Summary Judgment, filed by s/Karen L. Steele, Esq. No CC	John K. Reilly Jr.
	<input checked="" type="checkbox"/> Supplement Record in Support of Defendant's Renewed Motion for Summary Judgment, filed by s/Karen L. Steele, Esq. No CC	John K. Reilly Jr.
	<input checked="" type="checkbox"/> Certificate of Service, Supplemental Record in Support of Defendant's Renewed Motion for Summary Judgment upon R. Denning Gearhart, Esq., filed by s/Karen L. Steele, Esq. No CC	John K. Reilly Jr.
04/30/2004	<input checked="" type="checkbox"/> ORDER, AND NOW, this 30th day of April, 2004, re: Argument on Motion For Summary Judgment scheduled for the 10th day of May 2004, at 10:30 a.m. in Courtroom No. 1. by the Court, s/FJA, P.J. 2 cc Att Steele w/memo re: service	Fredric Joseph Ammerman
	<input checked="" type="checkbox"/> Praeipce For Argument Court. filed by, s/Karen L. Steele, Esquire Certificate of Service no cc	Fredric Joseph Ammerman
05/11/2004	<input checked="" type="checkbox"/> ORDER, NOW, this 10th day of May, 2004, re: Counsel for Clearfield County Grange Mutual Fire Insurance Company to have no more than 10 days from this date in which to submit appropriate Breif to this Court. Counsel for Richard D. McCracken shall have no more than 5 days following receipt of the insurance company's Brief to respond. by the Court, s/FJA, P.J. cc to Atty Steele, Gearhart	Fredric Joseph Ammerman
	<input checked="" type="checkbox"/> Certificate of Service, Scheduling Order For Defendants Renewed Motion For Summary Judgment. filed by, s/Karen L. Steele, Esq. Certificate of Service 1 cc to Atty	Fredric Joseph Ammerman
	<input checked="" type="checkbox"/> ORDER, NOW, this 10th day of May, 2004, re: Motion to Consolidate Cases is GRANTED. All future filings shall be to the case with Richard D. McCracken as Plaintiff, bearing No. 02-1662-CD. by the Court, s/FJA, P.J. cc to Atty Steele, Gearhart	Fredric Joseph Ammerman

CONTRACT NUMBER	FILE NUMBER	DATE	LESSEE	LOCATION	PURPOSE
L-45923		12-01-61	Bell Telephone Co. of Pennsylvania	Lucerne Junction, PA	Mine Line
L-46587		10-01-67	Bell Telephone Co. of Pennsylvania	Chambersville, PA	Mine Line
L-49317		04-01-66	Bell Telephone Co. of Pennsylvania	Bradford, PA	Mine Line
L-50581		02-01-68	Bell Telephone Co. of Pennsylvania	J. M. Junction, PA	Mine Line/\$15.80 Annually
L-51894		11-01-69	Bell Telephone Co. of Pennsylvania	Clarksburg, PA	Mine Line/\$15.00 Annually
L-52493		10-01-70	Bell Telephone Co. of Pennsylvania	Kimmel, PA	Mine Line
L-53017		01-01-70	Bell Telephone Co. of Pennsylvania	Indiana, PA	Mine Line
L-53396		02-01-72	Bell Telephone Co. of Pennsylvania	C&M Junction, PA	Mine Line/\$15.00 Annual Rent
L-53578		05-01-72	Bell Telephone Co. of Pennsylvania	Lucerne, PA	Mine Line/\$15.00 Annually
L-59072		11-08-49	Bell Telephone Co. of Pennsylvania	Haelin, PA	Mine Line/\$2.00 Annual Rent
L-59115		12-29-43	Bell Telephone Co. of Pennsylvania	Haelin, PA	Mine Line/\$3.00 Annual Rent
L-59128		09-26-60	Bell Telephone Co. of Pennsylvania	Sergeant, PA	Mine Line
L-97613		08-28-84	Bell Telephone Co. of Pennsylvania	Eideneu, PA	Mine Line
L-98105		02-20-86	Bell Telephone Co. of Pennsylvania	Clarksburg, PA	Mine Line
L-98106		02-21-86	Bell Telephone Co. of Pennsylvania	Clarksburg, PA	Mine Line
L-22567		03-16-06	Bell Telephone Company	East Hamburg, NY	Mine Lines (40)
L-22569		08-28-06	Bell Telephone Company	Springville, NY	Mine Lines
L-55192		03-01-74	Benjamin Coal Company	Locust, PA	Land Lease/\$200.00 Annually
L-21267		02-24-26	Bennett, M. & Sons	White, PA	Cattle Pass
L-22417		11-09-10	Big Run Milling Company	Big Run, PA	Water Pipeline
L-56695		02-05-79	Big Run Telephone Company	Big Run, PA	Mine Line
L-22499		04-16-04	Bloom, J. Miller & Redding, James	Center Station, PA	Sewer Pipeline
L-29144		05-01-77	Bloss & Son, Watson	Punxsutawney, PA	Land Lease/\$360.00 Annual Rent
L-22647		09-20-11	Boston Valley Telephone Company	Colden, NY	Mine Line
L-23308		11-10-16	Boston Valley Telephone Company	Colden, NY	Gas Pipeline
L-2570		03-15-07	Bower & Son, R. M.	Butler, PA	Water Pipeline
L-54991		11-15-73	Boyd & Shriner	Savan, PA	Gas Line/\$25.00 Annually
L-57135		08-29-77	Boyd & Shriner Gas Company	Savan, PA	Gas Line/\$25.00 Annually
L-59127		01-04-02	Boyd Fuel Company, The	Sergeant, PA	Gas Pipeline
L-22191		01-03-22	Bradford Brick & Tile Company	Lewis Run, PA	Tunnel Construction
L-22190		07-03-20	Bradford Brick Company	Lewis Run, PA	Water Pipelines (2)
L-22448		09-04-09	Bradford Brick Company	Bradford, PA	Tunnel Construction
L-43051		07-01-58	Bradford City Water Authority	Bradford, PA	Water Pipeline
L-53285		09-01-71	Bradford City Water Authority	Bradford, PA	Water Pipeline/\$15.00 Annual Rent
L-22254		09-16-17	Bradford Electric Light & Power Co.	Bradford, PA	Mine Line
L-23510		08-20-14	Bradford Fireproofing Company	Bradford, PA	Water Pipeline

CONFIDENTIAL

EXHIBIT-NEWBUFF3-NEWB3QRY

June 1, 1988

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

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,  
Plaintiff

VS.

RICHARD D. McCRACKEN,  
ALLSTATE INSURANCE CO.,  
Defendants

NO. 02- 1687 -CD

CASE NUMBER: 02- -CD

TYPE OF CASE: Civil

TYPE OF PLEADING: COMPLAINT FOR DECLARATORY JUDGMENT

FILED ON BEHALF OF: Plaintiff

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court I.D. #26540  
215 East Locust Street  
Clearfield, PA 16830  
(814) 765-1581

**FILED**

OCT 28 2002

William A. Shaw  
Prothonotary

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

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,  
Plaintiff

VS.

NO. 02- -CD

RICHARD D. McCracken,  
ALLSTATE INSURANCE CO.,  
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 or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

Court Administrator's Office  
Clearfield County Courthouse  
Clearfield, PA 16830  
814-765-2641 Ext. 50-51

4. That on July 4, 2002 the above-referenced premises was destroyed by fire, causing certain damage (an exact description which is not relevant here) to property – real and personal – titled in the name of the Defendant.

5. That absent extenuating circumstances, the premises and the loss thereto, would be covered by the insurance policy referenced in Exhibit A.

6. However, there are extenuating circumstances, which are described below, which Plaintiff argues absolves it from any responsibility under said policy.

7. The cause of the fire has been ruled arson, with the primary suspect being the Defendant's girlfriend, Pamela Vaux. Said policy provides as follows: "Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring:... (b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days."

8. That on August 14, 2002, the Defendant did give a statement to Ed Yocum of E.L. Braid Claims Services, a copy of which is attached as Exhibit B. On page 10 of said statement stated that, because of a pending incarceration, he left for the State of Arizona and then Colorado, where he resided.

9. That the Defendant therefore was out of the state from February, 2002, and continued until he returned to the Commonwealth of Pennsylvania on or "at least a month, month and maybe a couple weeks" (page 10 - Exhibit 'B') before the fire. That upon his return, he states that he and his girlfriend did reside in a camper upon his father's property.

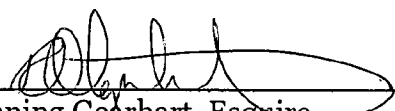
10. He advises that while all the utilities had been shut off, he did make arrangements shortly before the fire to have the electric turned on, with the bill coming under his sister's name.

11. Then on pages 12 and 13, he indicates that he was in the process of making the premises habitable, with his intention to rent it ostensibly to his girlfriend, Pamela Vaux, with her receiving funds from the U.S. Department of Housing and Urban Development. That while he states that he did reside at the premises for three or four nights, such is not enough to establish residency in the premises and the premises remained vacant.

12. Because of said vacancy, the Plaintiff is not responsible to the Defendant for the damages done on July 4, 2002.

**WHEREFORE**, Plaintiff prays your Honorable Court to find that they are not responsible under the terms of the policy, dated August 12, 1999, and can deny the claim of the Defendant.

Respectfully submitted,

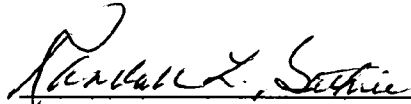
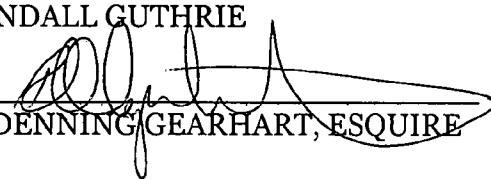
  
\_\_\_\_\_  
R. Denning Gearhart, Esquire

V:\02FILES\GRANGEMU.INS\GR-MCCRA.RIC\PLEADING\COMPLAIN.WPD

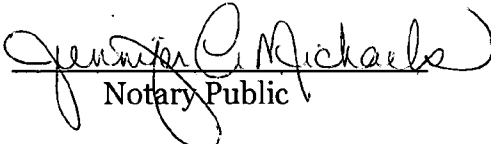
COMMONWEALTH OF PENNSYLVANIA :  
: SS:  
COUNTY OF CLEARFIELD :

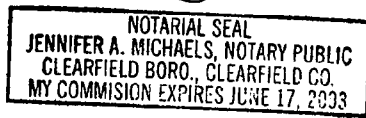
**AFFIDAVIT**

Before me, the undersigned officer, personally appeared, RANDALL GUTHRIE and R. DENNING GEARHART, ESQUIRE who being duly sworn according to law deposes and says that the facts set forth in the foregoing Complaint are true and correct to the best of their knowledge, information, and belief.

  
RANDALL GUTHRIE  
  
R. DENNING GEARHART, ESQUIRE

Sworn to and subscribed  
before me this 28<sup>th</sup> day  
of October, 2002.

  
Notary Public



**DIRECTIONS TO LOCATE PROPERTY:**

W. Side of Chatham St.  
500' West of Rt. 53

**INSTRUCTIONS TO AGENTS**

Read Carefully

Where there is more than one building insured, draw a sketch showing distance from one building to the other.



**QUESTIONS TO BE ANSWERED BY AGENTS**

- Have you examined the property on which insurance is wanted? *Yes*
- If not, on what do you base your approval?
- Is it in bad repair for any cause? *No*
- Are valuations fair or excessive? *Not*
- Has any other company rejected it? *No*
- If so, why?
- Are all the facts material to the case made known?
- Do you fully recommend the risk? *Yes*
- Are all the answers of the applicant correct as far as you can discern? *Yes*

Address *Martin (L&S)* Agent

No applicant will be accepted unless the above questions are answered and signed by the Agent.

No. <i>32334</i>	APPLICATION OF <i>Richard J. McCracken</i>
<i>7/4</i>	<i>7/5/02</i>
<i>7/4/02</i>	<i>TIRE</i>
- TO -	
Clearfield County Grange Mutual Fire Insurance Co.	
Amount - \$ <i>50,000</i>	
Premiums - \$ <i>196.00</i>	
Reins <i>Aug 12, 1999</i>	
Expires <i>Aug 12, 2002</i>	
Policy to be sent to	
P. O. <i>Agent Martin (L&amp;S)</i>	

G. M. Form No. 2 Rev. (10-97)

Exhibit 'A'

# Clearfield County Grange Mutual Fire Insurance Company

## THIS IS AN ASSESSABLE POLICY

(See Mutual Provisions Page 3)

1214 OLD TOWN ROAD - SUITE #3, CLEARFIELD, PENNSYLVANIA

Named Insured

Location

City or Town

County

State

Term Years, Inception Expiration

Policy No.

Coverage Amount

Annual

Premium

Perils	Coverage	Amount of Insurance	Rate	Estimated annual premium
Fire, Lightning and Extended Coverage	A. Dwelling	\$	\$	\$
	B.	\$	\$	\$
	C. Household furniture	\$	\$	\$
	D. Equipment and livestock	\$	\$	\$
	E.	\$	\$	\$
	F.	\$	\$	\$
	G.	\$	\$	\$
	H.	\$	\$	\$

IN CONSIDERATION OF THE PROVISIONS AND STIPULATIONS HEREIN OR ADDED HERETO AND THE PAYMENT OF ASSESSMENTS AS PROVIDED BY THE BY-LAWS AND OF the policy fee above specified, this Company, for the term of years specified above from inception date shown above At Noon (Standard Time) to expiration date shown above At Noon (Standard Time) at location of property involved, to an amount not exceeding the amount(s) above specified, does insure the insured named above and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described herein while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized Agent of this Company at the agency hereinbefore mentioned.

Secretary

President

# STANDARD FIRE INSURANCE POLICY OF THE STATE OF PENNSYLVANIA

1 **Concealment** This entire policy shall be void if, whether  
2 **fraud.** before or after a loss, the insured has will-  
3 fully concealed or misrepresented any ma-  
4 **terial fact or circumstance** concerning this insurance or the  
5 **subject thereof, or the interest of the insured therein, or in case**  
6 **of any fraud or false swearing by the insured relating thereto.**  
7 **Uninsurable** This policy shall not cover accounts, bills,  
8 **and** currency, deeds, evidences of debt, money of  
9 **excepted property.** securities; nor, unless specifically named  
10 hereon in writing, bullion or manuscripts.  
11 **Perils not** This Company shall not be liable for loss by  
12 **included.** fire or other perils insured against in this  
13 policy caused, directly or indirectly, by: (a)  
14 **enemy attack by armed forces, including action taken by mili-**  
15 **tary, naval or air forces in resisting an actual or an immediately**  
16 **impending enemy attack; (b) invasion; (c) insurrection; (d)**  
17 **rebellion; (e) revolution; (f) civil war; (g) usurped power; (h)**  
18 **order of any civil authority except acts of destruction at the time**  
19 **of and for the purpose of preventing the spread of fire, provided**  
20 **that such fire did not originate from any of the perils excluded**  
21 **by this policy; (i) neglect of the insured to use all reasonable**  
22 **means to save and preserve the property at and after a loss, or**  
23 **when the property is endangered by fire in neighboring prem-**  
24 **ises; (j) nor shall this Company be liable for loss by theft.**  
25 **Conditions suspending or restricting insurance. Unless other-**  
26 **wise provided in writing added hereto this Company shall not**  
27 **be liable for loss occurring:**  
28 (a) while the hazard is increased by any means within the con-  
29 trol or knowledge of the insured; or  
30 (b) while a described building, whether intended for occupancy  
31 by owner or tenant, is vacant or unoccupied beyond a period of  
32 sixty consecutive days; or  
33 (c) as a result of explosion or riot, unless fire ensue, and in  
34 the event for loss by fire only; or  
35 **Other insurance.** Other insurance may be prohibited or the  
36 amount of insurance may be limited by en-  
37 **dorsement attached hereto.** Any other peril to be insured against or sub-  
38 **Other perils** ject of insurance to be covered in this policy  
39 **or subjects.** shall be by endorsement in writing hereon or  
40 added hereto.  
41 **Added provisions.** The extent of the application of insurance  
42 under this policy and of the contribution to  
43 be made by this Company in case of loss, and any other pro-  
44 vision or agreement not inconsistent with the provisions of this  
45 policy, may be provided for in writing added hereto, but no pro-  
46 vision may be waived except such as by the terms of this policy  
47 is subject to change.  
48 **Waiver** No permission affecting this insurance shall  
49 **provisions.** exist, or waiver of any provision be valid,  
50 unless granted herein or expressed in writing  
51 added hereto. No provision, stipulation or forfeiture shall be  
52 held to be waived by any requirement or proceeding on the part  
53 of this Company relating to appraisal or to any examination  
54 provided for hereon.  
55 **Cancellation** This policy shall be cancelled at any time  
56 **of policy.** at the request of the insured, in which case  
57 this Company shall, upon demand and sur-  
58 render of this policy, refund the excess of paid premium above  
59 the customary short rates for the expired time. This pol-  
60 icy may be cancelled at any time by this Company by giving  
61 to the insured a five days' written notice of cancellation with  
62 or without tender of the excess of paid premium above the pro-  
63 rata premium for the expired time, which excess, if not ten-  
64 dered, shall be refunded on demand. Notice of cancellation shall  
65 state that said excess premium (if not tendered) will be re-  
66 funded on demand.  
67 **Mortgagee** If loss hereunder is made payable, in whole  
68 **interests and** or in part, to a designated mortgagee not  
69 **obligations.** named herein as the insured, such interest in  
70 this policy may be cancelled by giving to such  
71 mortgagee a ten days' written notice of can-  
72 **cellation.**  
73 If the insured fails to tender proof of loss such mortgagee, upon  
74 notice, shall render proof of loss in the form herein specified  
75 within sixty (60) days thereafter and shall be subject to the pro-  
76 visions hereof relating to appraisal and time of payment and of  
77 bringing suit. If this Company shall claim that no liability ex-  
78 ists as to the mortgagor or owner, it shall, to the extent of pay-  
79 ment of loss to the mortgagee, be subrogated to all the mort-  
80 gagee's rights of recovery, but without impairing mortgagee's  
81 right to sue; or it may pay off the mortgage debt and require  
82 an assignment thereof and of the mortgage. Other provisions

84 relating to the interests and obligations of such mortgagee may  
85 be added hereto by agreement in writing.  
86 **Pro rata liability.** This Company shall not be liable for a greater  
87 proportion of any loss than the amount  
88 hereby insured shall bear to the whole insurance covering the  
89 property against the peril involved, whether collectible or not.  
90 **Requirements in** The insured shall give immediate written  
91 **case loss occurs.** notice to this Company of any loss, protect  
92 the property from further damage, forthwith  
93 separate the damaged and undamaged personal property, put  
94 it in the best possible order, furnish a complete inventory of  
95 the destroyed, damaged and undamaged property, showing in  
96 detail quantities, costs, actual cash value and amount of loss  
97 claimed; and within sixty days after the loss, unless such time  
98 is extended in writing by this Company, the insured shall render  
99 to this Company a proof of loss, signed and sworn to by the  
100 insured, stating the knowledge and belief of the insured as to  
101 the following: the time and origin of the loss, the interest of the  
102 insured and of all others in the property, the actual cash value of  
103 each item thereof and the amount of loss thereto, all accom-  
104 panies thereon, all other contracts of insurance, whether valid  
105 or not, covering any of said property, any changes in the title,  
106 use, occupation, location, possession or exposures of said prop-  
107 erty since the issuing of this policy, by whom and for what  
108 purpose any building herein described and the several parts  
109 thereof were occupied at the time of loss and whether or not it  
110 then stood on leased ground, and shall furnish a copy of all the  
111 descriptions and schedules in all policies and, if required, verified  
112 plans and specifications of any building, fixtures or machinery  
113 destroyed or damaged. The insured, as often as may be reason-  
114 ably required, shall exhibit to any person designated by this  
115 Company all that remains of any property herein described, and  
116 submit to examinations under oath by any person named by this  
117 Company, and subscribe the same; and, as often as may be  
118 reasonably required, shall produce for examination all books of  
119 account, bills, invoices and other vouchers, or certified copies  
120 thereof if originals be lost, at such reasonable time and place as  
121 may be designated by this Company or its representative, and  
122 shall permit extracts and copies thereof to be made.  
123 **Appraisal.** In case the insured and this Company shall  
124 fail to agree as to the actual cash value or  
125 the amount of loss, then, on the written demand of either, each  
126 shall select a competent and disinterested appraiser and notify  
127 the other of the appraiser selected within twenty days of such  
128 demand. The appraisers shall first select a competent and dis-  
129 interested umpire; and failing for fifteen days to agree upon  
130 such umpire, then, on request of the insured or this Company,  
131 such umpire shall be selected by a judge of a court of record in  
132 the state in which the property covered is located. The ap-  
133 praisers shall then appraise the loss, stating separately actual  
134 cash value and loss to each item; and, failing to agree, shall  
135 submit their differences, only, to the umpire. An award in writ-  
136 ing, so itemized, of any two when filed with this Company shall  
137 determine the amount of actual cash value and loss. Each  
138 appraiser shall be paid by the party selecting him and the ex-  
139 penses of appraisal and umpire shall be paid by the parties  
140 equally.  
141 **Company's** It shall be optional with this Company to  
142 **options.** take all, or any part, of the property at the  
143 agreed or appraised value, and also to re-  
144 pair, rebuild or replace the property destroyed or damaged with  
145 other of like kind and quality within a reasonable time, on giv-  
146 ing notice of its intention so to do within thirty days after the  
147 receipt of the proof of loss herein required.  
148 **Abandonment.** There can be no abandonment to this Com-  
149 **pany of any property.**  
150 **When loss** The amount of loss for which this Company  
151 **payable.** may be liable shall be payable sixty days  
152 after proof of loss, as herein provided, is  
153 received by this Company and ascertainment of the loss is made  
154 either by agreement between the insured and this Company ex-  
155 pressed in writing or by the filing with this Company of an  
156 award as herein provided.  
157 **Suit.** No suit or action on this policy for the recov-  
158 ery of any claim shall be sustainable in any  
159 court of law or equity unless all the requirements of this policy  
160 shall have been complied with, and unless commenced within  
161 twelve months next after inception of the loss.  
162 **Subrogation.** This Company may require from the insured  
163 an assignment of all right of recovery against  
164 any party for loss to the extent that payment therefore is made  
165 by this Company.

## MUTUAL PROVISIONS

This policy is issued by a Mutual Insurance Corporation organized and existing under the laws of the Commonwealth of Pennsylvania. All persons insuring and continuing insured by this Company shall be members thereof during the period they shall remain so insured.

The annual meeting of the members of the Company shall be held in Clearfield,

Pennsylvania or other designated place at 9:00 A.M. on the second Tuesday of March.

Assessments may be made annually or oftener, if required, provided that additional assessments in any one year shall not exceed the amount of the estimated annual premium.

**Contingent Liability:** At any time this Company's assets would not be equal to its unearned premium reserve and other liabilities, it (the Company) shall make an assessment upon its members (Policyholders). As a Policyholder, you are liable to contingent (possible) assessment to provide for such deficiency. Before such assessment is levied by the Company, it shall be approved by the Insurance Commissioner.

**Amount of Assessments:** The Company may not, in any case, assess more than twice the average annual policy cost. When the policy is cancelled prior to being in force for two years, the assessment will be limited to a prorated amount.

**Time of Assessments:** Procedures for collection of these possible assessments may be initiated up to two years from the date your policy is cancelled or expired. No assessment will be made for losses the Company incurs more than two years prior to the date of the initiation of the assessment procedure.

**Non-Applicability of Assessment Provisions:** Nothing in these provisions applies to annual or semi-annual (whichever is applicable) assessments made by the Company, whether it be on the anniversary date of the contract, on a common assessment date or at time of cancellation of this contract.

## DEDUCTIBLE CLAUSE

The sum of \$250 shall be deducted from the amount of loss to all property covered hereunder in any one occurrence resulting from the perils insured against, except, if this policy covers more than one building or structure this deductible shall apply separately to the amount of loss to each building or structure including property appertaining thereto covered hereunder.

## EXTENDED COVERAGE CLAUSE

Perils of Windstorm, Hail, Explosion, Riot, Riot attending a strike, Civil Commotion, Aircraft, Vehicles, Smoke, Except as hereinafter provided.

Subject to provisions and stipulations (hereinafter referred to as "provisions") herein and in the policy to which this Endorsement is attached, including endorsements thereon, the coverage of this policy is extended to include direct loss by Windstorm, Hail, Explosion, Riot, Riot Attending a Strike, Civil Commotion, Aircraft, Vehicles and Smoke.

This endorsement does not increase the amount or amounts of insurance provided in the policy to which it is attached.

If this policy covers on two or more items, the provisions of this Endorsement shall apply to each item separately.

**SUBSTITUTION OF TERMS:** In the application of the provisions of this policy, including endorsements (but not this Endorsement), to the perils insured against by this Extended Coverage Endorsement, wherever the word "fire" appears there shall be substituted therefor the peril involved or the loss caused thereby, as the case requires.

**APPORTIONMENT CLAUSE:** This company shall not be liable for a greater proportion of any loss less the amount of deductible, if any, from any peril or perils included in this Endorsement than (1) the amount of insurance under this policy bears to the whole amount of fire insurance covering the property, or which policy bears to the whole amount of fire insurance covering the property, whether would have covered the property except for the existence of this insurance, whether collectible or not, and whether or not such other fire insurance covers against the additional perils or perils insured hereunder, (2) nor for a greater proportion of any loss less the amount of deductible, if any, than the amount hereby insured bears to all insurance whether collectible or not, covering in any manner such loss, or which would have covered such loss except for the existence of this insurance; except if any type of insurance other than fire extended to cover additional perils or windstorm insurance applies to any loss to which this insurance also applies, or would have applied to any such loss except for the existence of this insurance, the limit of liability of each type of insurance for such loss, hereby designated as "joint loss," shall first be determined as if it were the only insurance and this type of insurance shall be liable for no greater proportion of joint loss than the limit of its liability for such loss bears to the sum of all such limits. The liability of this company (under this Endorsement) for such joint loss shall be limited to its proportionate part of the aggregate limit of this and all other insurance of the same type. The words "joint loss," as used in the foregoing, mean that portion of the loss in excess of the highest deductible, if any, to which this Endorsement and other types of insurance above referred to both apply.

**WAR RISK EXCLUSION CLAUSE:** This company shall not be liable for loss caused directly or indirectly by (a) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (1) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or (2) by military, naval or air forces; or (3) by an agent of any such government, power, authority or forces, it being understood that any discharge, explosion, or use of any weapon of war employing atomic fission or radioactive force shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces; (b) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence.

**WAIVER OF POLICY PROVISIONS:** A claim for loss from perils included in this Endorsement shall not be barred because of change of occupancy, nor because of vacancy or unoccupancy, except as herein before provided.

**PROVISIONS APPLICABLE ONLY TO WINDSTORM AND HAIL:** This company shall not be liable (1) for loss caused directly or indirectly by (a) frost or cold weather, or (b) ice (other than hail), sleet, snowstorm, waves, tide, tidal wave, high water, overflow of streams or bodies of water, or spray therefrom, all whether driven by wind or not; (2) for loss to the interior of the building(s) or the property covered therein caused by rain, snow, sand or dust, whether driven by wind or not, unless the building(s) covered or containing the property covered shall first sustain an actual damage to roof or walls by the direct force of wind or hail and then shall be liable for loss to the interior of the building(s) or the property covered therein as may be caused by rain, snow, sand or dust entering the building(s) through openings in the roof or walls made by direct action of wind or hail; (3) for loss to lawns, trees, shrubs and plants, or to out door radio and television antennas and aerials including their lead-in wiring, masts and towers; or (4) for loss by water from sprinkler equipment or other piping, unless such equipment or piping be damaged as a direct result of wind or hail.

**PROVISIONS REFERRED TO IN AND MADE PART OF THIS CLAUSE**  
Unless Liability therefor is specifically assumed by endorsement to this Extended Coverage Endorsement, this company shall not be liable for damage to the following property: (a) grain, hay, straw or other crops outside of building, or (b) windmills, windpumps or their towers, or (c) crop allos (or their contents).

**PROVISIONS APPLICABLE ONLY TO EXPLOSION:** Loss by explosion shall include direct loss resulting from the explosion of accumulated gases or uncombusted fuel within the firebox (or combustion chamber) of any fired vessel or within the flues or passages which conduct the gases of combustion therefrom. However, this company shall not be liable for loss by explosion, rupture or bursting of:

- (a) steam boilers, steam pipes, steam turbines or steam engines; or  
(b) rotating parts of machinery caused by centrifugal force; if owned by, leased by or actually operated under the control of the insured.

The following are not explosions within the intent or meaning of these provisions:

(a) Concussion unless caused by explosion,

- (a) Confusion about electricity.
- (b) Electrical arcing.
- (c) Water hammer.
- (d) Rupture or bursting of water pipes.

(d) Rupture or bursting of water pipes.  
Any other explosion clause made a part of this policy is superseded by this Endorsement.

**Endorsement.**  
**PROVISIONS APPLICABLE ONLY TO RIOT, RIOT ATTENDING A STRIKE**  
**AND CIVIL COMMOION:**

**AND CIVIL COMMOITION:**  
Loss by riot, riot attending a strike or civil commotion shall include direct loss by acts of striking employees of the owner or tenant(s) of the described building(s) while occupied by said striking employees and shall also include direct loss from pillage and looting occurring during and at the immediate place of a riot, riot attending a strike or civil commotion. Unless specifically endorsed hereon to writing this Company shall not be liable, however, for loss resulting from damage to or destruction of the described property owing to change in temperature or humidity or interruption of operations, whether or not such loss is covered by this policy as to other perils.

**PROVISIONS APPLICABLE ONLY TO LOSS BY AIRCRAFT AND VEHICLES**  
The Term "vehicles," as used in this Endorsement, means vehicles running on land or tracts but not aircraft. Loss by aircraft or by vehicles shall include only direct loss resulting from actual physical contact of an aircraft or a vehicle with the property covered hereunder or with the building containing the property covered hereunder, except that loss by aircraft includes direct loss by objects falling therefrom. This company shall not be liable, however, for loss, (a) by any vehicle owned or operated by the insured or by any tenant of the described premises; (b) by any vehicle to fences, driveways, walks or lawns; (c) to any aircraft or vehicle including contents thereof other than stocks of aircraft or vehicles in process of manufacture or for sale.

**PROVISIONS APPLICABLE ONLY TO SMOKE:** The term "smoke," as used in this Endorsement, means only smoke due to a sudden, unusual and faulty operation of any heating or cooking unit, only when such unit is connected to a chimney by a smoke pipe or by a vent, and while in or on the premises described in this policy, excluding, however, smoke from fireplaces or industrial apparatus.

Assignment of This Policy Shall Not Be Valid  
Except with the Written Consent of This Company

### ASSIGNMENT OF POLICY

Upon Actual Sale or Transfer of Title

AN ACTUAL SALE and change of title to the property herein described having taken place, FOR VALUE RECEIVED, ..... hereby transfer, assign and set over unto ..... address ..... and ..... assigns, all ..... right, title and interest in this Policy of Insurance, and all benefits and advantages to be derived therefrom; subject, nevertheless, to all terms and conditions therein mentioned and referred to.

WITNESS ..... hand, this ..... day of ....., 19.....

..... Insured under this policy

Approved, ....., 19.....

..... Secretary

No. ....

In communicating with the Company give number of Policy

**Clearfield County  
Grange Mutual Fire  
Insurance Co.**

Office: 1214 Old Town Rd., Suite #3  
Clearfield, PA 16830

To .....

Amount \$ .....

Annual  
Premium, \$ .....

Begins .....

19.....

Expires .....

**THIS IS AN  
ASSESSABLE POLICY**

This is Ed Yocum taking the recorded statement of Richard Duane McCracken at the office of Clearfield County Grange Mutual Insurance Company located along Old Town Road in Clearfield, PA. This statement is being recorded on Wednesday, August 14, 2002 at approximately 4:30pm and concerns a fire at the McCracken residence taking place on July 4, 2002.

QUESTION: Um, Mr. McCracken, do you realize I'm recording this statement?

ANSWER: Yeh

QUESTION: And, may I have your permission to record this statement?

ANSWER: Yeh

QUESTION: Could you state your full name for me please?

ANSWER: Richard Duane McCracken

QUESTION: And, your age and date of birth.

ANSWER: Uh, it's 5/3/74. I'm 28

QUESTION: Social Security number, if you know it.

ANSWER: Uh, 199-60-8041

QUESTION: Married or Single

ANSWER: Single

QUESTION: Currently employed?

ANSWER: No

QUESTION: What type of work do you do?

ANSWER: Uh, construction

QUESTION: When's the last time that you were gainfully employed by anyone in particular?

ANSWER: Uh,

QUESTION: Approximately

ANSWER: It'd been last summer up till probably October.

QUESTION: And, who were you working for then?

ANSWER: Uh, Dana Catalone

QUESTION: Out of Weedville, is that right?

ANSWER: Yeh

QUESTION: What is your current, where are you currently residing at? I know, I know the fire took place at your residence and that's been destroyed by fire, not occupyable. Um, where are you staying at now?

ANSWER: Um, three people's houses.

QUESTION: Allright, so you're just, uh, moving amongst friends and family?

ANSWER: Yeh

QUESTION: Okay. What is a number that you can be at currently?

ANSWER: Uh

QUESTION: A telephone number

ANSWER: Probably Ken Long's. It's, uh, 378-6284, I think the number is.

QUESTION: And, he was the next-door neighbor to the home.

ANSWER: Yeh

QUESTION: Okay. Well, we're today taking your statement... we've had a lengthy discussion prior to taking this statement about what we need to do here today. And, there was, um, some concern on your part because of what had happened in this, uh, scenario of the fire and a girlfriend being alleged to have been the party involved. And, I say alleged because she's not being convicted in a court setting or, uh, charges been filed that she, um, confessed it. I believe she has talked to the State Police and has confessed to the, the fire. But, again, we're going to say alleged until that has all been

ANSWER: Okay

QUESTION: concreted down I should say. Um, her name is Pamela Vaux,

ANSWER: Yeh

QUESTION: is that correct? How long have you been, um, dating or, um, been associated with Pamela?

ANSWER: Uh, probably, oh, around October or September last year.

QUESTION: Of 2001?

ANSWER: Yeh

QUESTION: So, we're looking at maybe six months to eight months somewhere in that vicinity, maybe a little longer?

ANSWER: I thought it was around nine or ten, I'm not real

QUESTION: Goinn'

ANSWER: sure

QUESTION: on a year maybe now, I guess.

ANSWER: Pretty close,

QUESTION: Okay

ANSWER: probably

QUESTION: Um, how old is Pamela, approximately?

ANSWER: Forty-two or Forty-three

QUESTION: Is she

ANSWER: Born in 59

QUESTION: Okay. Is she currently employed?

ANSWER: Yeh, she just started in a week or two ago.

QUESTION: Where at is it she works?

ANSWER: Snow Shoe Truckstop

QUESTION: Okay. Where is she currently residing?

ANSWER: At her parents

QUESTION: Okay. Where do they live?

ANSWER: Kylertown

QUESTION: Okay. Is there a number that she can be reached at?

ANSWER: Uh

QUESTION: If you know it.

ANSWER: Uh, 345-

QUESTION: Um, hum

ANSWER: 6892

QUESTION: I'd like to, first, cover, um, a little history of the home itself and then we'll go into information about the fire and, and what's taken place since then.

ANSWER: Okay

QUESTION: Um, could you tell me, first, um, approximately how long ago you bought it and what arrangements were made when you purchased it.

ANSWER: Uh, I'm not sure what year it was. It was four to five years ago. I'm not sure what year. Think it was around May, I'm not, four to five years ago.

QUESTION: Okay

ANSWER: And, uh, me and my neighbor bought it.

QUESTION: And that's Ken Long.

ANSWER: Yeh, me and Ken Long bought it at an auction. We were gonna fix it up to sell it and make a profit. But, uh, at the time I was stayin', think I was around 21 - 22 somewhere in there, and I was livin' with my dad in Brisbin. And, I just knew it was time to, you know, get out on my own and the bank gave me a first-time homeowners thing. And, uh, the monthly payment was pretty cheap, so I just talked to Ken and, you know, bought him out and kept the place for myself.

QUESTION: What was the purchase price, when you got it from the auction, approximately?

ANSWER: \$18,000.00

QUESTION: Okay. But, after you bought it, you and Ken were fixing it up. Uh, I think you associated with Ken because you worked together at one time.

ANSWER: Yeh

QUESTION: Is that right?

ANSWER: Yeh

QUESTION: Is that how you, you came about to be partners in buying the home?

ANSWER: Yeh

QUESTION: Okay

ANSWER: Yeh, we was workin' together

QUESTION: Um, after you bought it, do you have any idea approximately how much money you put into the renovations, or maybe you could tell me what type of work and improvements you made to the property.

ANSWER: Yeh, I'm not real sure on even what stuff costs. This stuff, you know, now. But, uh, when we bought it had not bathroom in it. And, uh, I did all the plumbing work, you know, just like right where it comes through the foundation couple inches. I tapped onto that, cause he only had cold water goin' to the, I think, to the furnace and up to the kitchen. And, uh, I'd put all new plumbing onto the copper in there and.

QUESTION: So, you really, really plumbed the house?

ANSWER: Yeh, I did. There was no plumbing at all in it.

QUESTION: One bathroom and, then uh

ANSWER: Yeh, one bathroom

QUESTION: kitchen appliances, kitchen sink and things like that?

ANSWER: Yeh, yeh, it had a brand new kitchen. I bought all the cabinets and stuff down here at Lezzer's and, uh, you know, put a bathroom in and then me and Ken, we put that, uh, three ton air air conditioner in there.

QUESTION: Central air

ANSWER: Central air

QUESTION: What type of heat source did you have?

ANSWER: Uh, coal. It was a boiler

QUESTION: It was there when you bought the home?

ANSWER: Yeh

QUESTION: Um, you put a new kitchen in, put a bathroom in, um, what other type of renovations did you make to it?

ANSWER: Um, it was all that lath and plaster. And, uh, I dry walled the whole downstairs, the stairway, the hallway upstairs and a bedroom and a half. And, there was two other bedrooms, you know, that weren't, you know, just left alone. Oh, and the bathroom was all new drywall.

QUESTION: And, painting of course.

ANSWER: Yeh, painting and

QUESTION: Carpeting

ANSWER: Yeh, in all the whole down, well no not the whole downstairs, the living room and the I don't know what other room you'd call it with them stairs in it.

QUESTION: Okay

ANSWER: And, carpeting up the stairs and in that hallway upstairs and one bedroom had carpeting in it.

QUESTION: What about the roof or outside work. Did you put windows, siding, anything like that to it?

ANSWER: Uh, no, no siding yet. Uh, the windows I just had to replace, you know, some, glass. They were just them single panes.

QUESTION: What about the roof?

ANSWER: Uh

QUESTION: Do you know how old it was, or

ANSWER: No, huh, uh. No

QUESTION: Shingles or rolled roofing.

ANSWER: No, it's shingles

QUESTION: Shingles

ANSWER: Yeh

QUESTION: Okay. You didn't ren, you didn't change that or upgrade that at all?

ANSWER: No, huh,uh

QUESTION: Okay

ANSWER: I'm lucky. I almost did this year.

QUESTION: Did you have to put a septic system in then, or

ANSWER: Uh

QUESTION: was there one there

ANSWER: Uh

QUESTION: that

ANSWER: Yeh, there's one there

QUESTION: Okay. So, you just tied into it

ANSWER: Yeh

QUESTION: for the new bathroom

ANSWER: Yeh. Well, there was one toilet in the basement in the corner and there's a toilet there today. I left one in there. And, I sawed the floor across and then run a pipe up the one wall. It's, that's where my drains was.

QUESTION: Okay. Any idea, approximately maybe in so far as costs or money that you invested into the home you and Ken after you bought it. You have any idea

ANSWER: Oh

QUESTION: how much you

ANSWER: I had, like, I had a, you know, alota papers and stuff on all the stuff I got from Lezzer's. And, uh,

QUESTION: Ever take time to add that up to see what kind of money you had in it?

ANSWER: No, I never, never did.

QUESTION: What was the arrangements when you, um, I take it you did all this work and then before you were ready to rent it you decided, then, that you were going to occupy it as your own place.

ANSWER: Uh, no, me and Ken had it and, uh, we were just we haven't done nothin' to it. We just started puttin' the central air in, cause that's what he does for a living. And, we were just startin' that. That was our first project, then. And, that's when I, you know, made him an offer on, you know, just, you know

QUESTION: What was the cost for you to purchase it now?

ANSWER: Uh, At the auction, we had to go \$900.00 apiece. And, then, whatever the, the, uh, air conditioner and stuff was, which I'm not even sure. I'd have to ask him.

QUESTION: So, you wrote him, you paid him back \$900.00, plus whatever the cost of the air conditioning unit was?

ANSWER: Yeh

QUESTION: Maybe some little miscellaneous money probably too?

ANSWER: Yeh,

QUESTION: Okay

ANSWER: and then, uh, the rest of it I just, you know, put into it myself.

QUESTION: Did you do most of that work, then, yourself, or?

ANSWER: Yeh, except the carpeting.

QUESTION: Okay. Who did the carpeting for ya?

ANSWER: Uh, Lowes

QUESTION: Okay

ANSWER: Out of State College. And, then, I don't have this guy's name or number anymore, uh, but I, when I hung all the drywall, I had a guy from Sandy Ridge come up and he did all the muddin' and then did the

QUESTION: Sprial, swirled ceilings

ANSWER: Yeh, yeh, he did that stuff.

QUESTION: Okay

ANSWER: I can get his name, you know, I can, you know, give it to you, cause he

QUESTION: Okay. Now, you, then, took occupancy and you lived there.

ANSWER: Yeh

QUESTION: Up until when did you live there before you ventured out west for a little while? Did you live there continuously through that period of time, or

ANSWER: Um, there was four months a couple years ago that I didn't live there. That I moved to Kentucky for a while. And, then, uh,

QUESTION: Did anyone live in the home during that time?

ANSWER: No, huh, uh. No, that's when I boarded it all up. And, then, well, I never took the boards off. I just stayed the next couple years. And, then, uh, it was the end of February or beginning of March is when I went out west and

QUESTION: Of this year, current year, 2002?

ANSWER: Yeh, I guess, guess so.

QUESTION: And you'd be just this, this year

ANSWER: Yeh

QUESTION: Okay.

ANSWER: Yeh. And, uh, was out there till, I think we spent four months out there

QUESTION: And, I believe, you told me before we took this statement that yourself, your father, and his name is

ANSWER: Uh, Dick McCracken

QUESTION: Dick McCracken and Pamela.

ANSWER: Yeh

QUESTION: The three of you went out west.

ANSWER: Yeh

QUESTION: And, I'm not gonna go into a lot of history. But, uh, somethings that prompted you to go out there was you had uh, uh, you were caught driving with a suspended license from a previous DUI and you failed to attend a court

ANSWER: Yeh, show up at the hearing

QUESTION: hearing.

ANSWER: Yeh

QUESTION: Thinking that, well, this, you weren't gonna deal with that then. You decided to go out west. We'll leave it at that.

ANSWER: Okay

QUESTION: Is that correct, though?

ANSWER: Yeh

QUESTION: Okay. So, you went out there trying to find work.

ANSWER: Yeh

QUESTION: Um, you were first in Arizona

ANSWER: Yeh, Arizona

QUESTION: Nothing panned out there

ANSWER: No, huh, uh. No, we was there for about three months and then moved to Colorado Springs

QUESTION: And, you had family or some relationship out there that

ANSWER: Yeh, a great aunt. And, uh, we stayed in her front yard. She had some hookups for a trailer. And, we stayed there for about a month. And, nothin' panned out there and, then, decided to come home cause couldn't afford it out there and

QUESTION: Do you know what date you returned back to home?

ANSWER: No, huh, uh, I can't even remember

QUESTION: How long before the 4<sup>th</sup> of July? Was it a week, or days, months?

ANSWER: It woulda been at least a month, month and maybe a couple weeks.

QUESTION: Okay. When you came back and the month or several weeks before the fire, where did you stay, then?

ANSWER: Uh, we stayed out at, uh, around Kerrmore, Gasam, out there at that property. Uh, it's like a campin' spot there.

QUESTION: Okay. Who owns that land or property?

ANSWER: Uh, my dad does.

QUESTION: Okay. Cause, I think, you said Pamela's family or someone had a motor home. Is that what you lived in out there?

ANSWER: Yeh, yeh. The first week we had a tent and then, uh, we left it set up. Used it for like storage and we, you know, just moved into her camper, her mother's camper and, uh, we were there somewhere around a month. And, you know, we started doin' a little bit a, well not very much, but a little bit of work to the house to try to get it, you know, presentable or whatever for rentin'. It needed a front porch and I started puttin' the front porch on it. That's about all the farther I go right there.

QUESTION: Okay. So, let me try to clarify some things.

ANSWER: Okay

QUESTION: When you went out west, for the approximately four months,

ANSWER: Yeh

QUESTION: and came back home to the local vicinity of Madera

ANSWER: Yeh

QUESTION: let's say. The home was boarded up, power, utilities, all shut off

ANSWER: Yeh

QUESTION: Allright.

ANSWER: Yep

QUESTION: Um, no one was in the home staying at all. There was nobody in the property.

ANSWER: No, huh, uh

QUESTION: Okay. When you moved back here, temporarily set up living arrangements at the, with the, campground space that's, um, you dad's.

ANSWER: Yeh

QUESTION: And, where in the process of making some repairs or renovations to the house to get it ready to live back into, um, now, we, we talked about, and there's nothing illegal about what you were intending to do,

ANSWER: Yeh

QUESTION: But, um, because you and Pamela aren't married and not related by blood, you were going to fix it up and actually rent it to her through what program?

ANSWER: Uh, I was lookin' into that HUD

QUESTION: HUD.

ANSWER: Yeh

QUESTION: So, she could get subsidized for, um, HUD approval and you'd be able to rent it, make the payment and, and

ANSWER: Yeh

QUESTION: work it out there. Would you have stayed there, as well, probably?

ANSWER: Uh, no

QUESTION: You would of stayed at the campground or would, do you know where you would have stayed if she would have rented the property.

ANSWER: Uh, no not really, you know.

QUESTION: You didn't have any arrangements made.

ANSWER: No, huh, uh. Cause, I mean, I'd just started workin' on the house, you know, getting' it

QUESTION: ..... really processed with HUD or anything like that yet?

ANSWER: No, huh, uh. I just got paperwork on what specs a home should be.

QUESTION: Um, hum

ANSWER: And, I just, just started and I knew it would take me a while, cause, you know, with no money it's, you know, it's. So, I just started into it and, you know, never really planned yet where I was gonna stay.

QUESTION: Okay

ANSWER: You know I

QUESTION: Was there any, um, utilities hooked back up when you moved back to the house? Or, when you came back west from the west and, and the actual house that burned down. Did any of the, where any of the utilities connected back up.

ANSWER: Uh, the electric, is that what

QUESTION: Electric

ANSWER: Yeh, just

QUESTION: or water

ANSWER: Yeh, water I haven't had there for quite a while and, uh, for because of a back bill. But, the electric I got turned on through my sister's name. She called and had it hooked up.

QUESTION: Okay. Other than that, that's the only utilities it would be?

ANSWER: Yeh

QUESTION: Cause you had coal, coal furnace

ANSWER: Yeh

QUESTION: Okay. Uh, any telephone hookup there?

ANSWER: Yeh, there's a telephone hookup, but it wasn't hooked up

QUESTION: Right, you didn't have the connection,

ANSWER: No

QUESTION: there's no phone number to the home.

ANSWER: No, I just

QUESTION: Okay, um, so, actually, leading up to then, the night of the fire, um, you weren't actually living in the house? 13

ANSWER: Uh, we did stay there probably two to three nights, you know, right before the 4<sup>th</sup> of July.

QUESTION: Hum, hum

ANSWER: You know, cause we're still at that campsite and, you know, it's getting' a little old.

QUESTION: Right

ANSWER: Cause we was in a camper the whole time out west and, you know, we stayed there a couple nights and, uh, even with no electricity we, you know, was usin' them kerosene lamps and then having the power turned on.

QUESTION: When was the power turned on? Do you know approximately how many days before the 4<sup>th</sup>?

ANSWER: I did, but now I don't. It's, I'm guessing two to three days.

QUESTION: Okay

ANSWER: Before the 4<sup>th</sup>, I'm not real sure.

QUESTION: So, the electric was turned back on. And, that was in then in your sister's name.

ANSWER: Yeh

QUESTION: Okay.

ANSWER: Yep, cause I have a bad bill with them too.

QUESTION: The, um, yeh, you got a lot a

ANSWER: Yeh

QUESTION: things hidin' in the woodwork, uh, I'll put it that way. Um, in regards then to the fire,

ANSWER: Okay

QUESTION: Uh, where were you and Pamela at the night of the 4<sup>th</sup>?

ANSWER: Uh, yeh, that, well, it started with like that day, she went off to do her family thing with her family. And, then, I went over to my cousins and did my family

thing. And, then, we were gonna meet at my friends house in Sanborn at Allen Lutz's house

QUESTION: Okay

ANSWER: Jr. So, we met there. I'm not sure what time. It was still daylight. And, he had food and drinks and stuff. We stayed there and, uh, his cousin put off a bunch of fireworks. And, I'm guessin', it was somewhere around midnight, what happened, that ice

QUESTION: This is the midnight of the 4<sup>th</sup>.

ANSWER: Yeh, the midnight of the 4<sup>th</sup>, yeh and, uh, what happened we're all just havin' fun and drinkin' and stuff and I started pickin' on my friend Allen, Jr. and I don't know, you know, I still don't even understand it today. She took it as, for some, somehow I was pickin' on her and makin' fun. Because, she blew up, off, you know, she just blew up, you know, was in some type of fightin' mood or, you know, I wasn't sure why, cause I knew I was just, you know, was nothin' dirty, no, no nothin'. I's just pickin on my friend. She blew up and, uh, she said that, you know, we were leavin'. And, I followed her down to the car and I filled up a beer and I took it down there to the car to leave and she threw it and, uh, then she went up and was yellin' for my dad, cause he was there, tellin' him, you know, to hurry up, cause we're leavin'. And, then, we just had a couple words there at the car. And, I, you know, got outta the car and said I wasn't goin' or somthin' like that. And, I just slammed the door and she took off. And, I figured she'd just go to the house and go to sleep or somethin'. So, there was a girl there, Kerry Phillips, she was gettin' on my case for havin' a fight with her and stuff. So, me and Allen decided it was a good idea to pick her some flowers. (Laughs) So, we cut some of his flowers down and, uh, about a half hour to forty minutes, somewhere in there, that Kerry Phillips and her boyfriend, Rick, gave me and dad a ride. And, we took him to Brisbin and dropped him off. And, then, we're goin' to Madera and thats when we were comin' down past the VFW and the Quick Chek we seen the smoke and we seen that the road was blocked up there and, uh, you know, I knew it was right in the area of my house. (Laughs) And, uh, we got up there and they dropped me off, probably just down the street from Ken Long's. I went walkin' up to the they were fillin' up that swimmin' pool type thing with the trucks. And, uh, the one, the one fire guy he told me to get outta there cause I wasn't, you know, a member or whatever in the fire company. And, I was like well, I said "This is my house". So, he's like "oh, you better get down there". Cause I guess that they were, I was told later that they thought somebody was in the house. So, I walked down there and, uh, you know, and then they started puttin' the water to the fire and, and that was that was about it for that night. And, then, uh, you know, we just stood around hung around for a few hours till they got it pretty much out. And, then, uh, Ken mentioned a couple times that we should go out to Gasam. And, I was like "na" I's like "she's probably on her way to Jersey or, you know

QUESTION: Did you assume,

ANSWER: out of state or something"

QUESTION: Did you assume, right then, that she did the fire or caused the fire?

ANSWER: Yeh, cause she, you know, bein' mad that night and havin' no idea what for cause it was, it wasn't a normal fight at all. It was, you know, like I said I'd could see if there was any kind of cheatin' or

QUESTION: Would you classify yourself and her more than just, um, casually drinking? Was it heavy drinking? Would you

ANSWER: Uh, I would say it was, well, it mighta hit pretty hard, cause the whole time out west we didn't drink but maybe twice. And, uh, you know, we did it like every weekend. And, we went a long time without and, then, Allen just had that party and he's like "you're gonna, you know drink". I don't know how much he had, you know, I was, I was allright cause I was at the fire. I wasn't stagerin' and fallin' around, you know.  
(Laughs)

QUESTION: Was she drinking before, was she, at her family's gathering? Do you know?

ANSWER: That I, I don't know. I'm not sure.

QUESTION: What time did she arrive to the party where you were at?

ANSWER: Uh, boy, I'm not, I'm not really sure.

QUESTION: Approximately. Was she there an hour or two or more than that or less than that?

ANSWER: I'm thinkin' I probably got there, I don't know, around 6:00, I'm just, you know, kinda guessin'. And, uh, she showed up probably twenty minutes to a half hour later.

QUESTION: Allright, so she was there most of the time you were there.

ANSWER: Yeh

QUESTION: And, up until the point, then, for whatever reason she, you know, went off in a tangent.

ANSWER: Yeh

QUESTION: Okay. Um, so, then, after you arrived there and found that the house was on fire, um, and they battled the blaze. Um, when was the fire put out or when did they the fire departments leave? Do you have any idea? Was it

ANSWER: Oh, I, they were startin' to pack up, I think, somewhere around 4:00 – 4:30, because, uh, Ken, he finally talked me into goin' out to Gasam and we went out there and everything was already burnt and, you know, pretty much burnt completely out except for a little flame on the gas tank. And, uh, well, we blew it out and then we got back to Madera and, I think, it was right around 5:00 in the morning. We got back to Madera and there was still some fire, you know, firemen around.

QUESTION: Was there any fire departments at the campsite?

ANSWER: No, huh uh, no

QUESTION: Hadn't been turned into anybody there, apparently, then. No fire department was notified.

ANSWER: Oh, no, huh uh, no

QUESTION: Okay. Um, when, then, did you have additional conversation with Pamela?

ANSWER: Um, probably

QUESTION: When's the next time you talked to her.

ANSWER: Probably, close to a week went by before I went out there.

QUESTION: How, how did you come to the realization that she set the fires. I mean, how, did you just assume that, because of the argument and the fight

ANSWER: Yeh

QUESTION: Or, did somebody come to you and say something?

ANSWER: Oh, well, I mean, just pullin' up there and seein' that my house is on fire, I, you know just figured, you know, because of that fight and then, uh

QUESTION: I was wondering if the police or the fire department said to you that was arson at the scene or did they suspect that a furnace malfunctioned or anything like that or electrical, you didn't, or did you just assume.

ANSWER: Yeh, I just, I just assumed

QUESTION: Okay

ANSWER: that, you know. And, then, uh, Carol Pernanski, my neighbor, she said that she was out in her pool that night and she's like "oh, yeh, she pulled right in and was

in there for a few minutes, or somethin' like that, and then left" and then a little bit later on she seen the flames.

QUESTION: So, it was kinda' of a just connecting the dots.

ANSWER: Yeh

QUESTION: as far, Okay.

ANSWER: Yep

QUESTION: I don't mean to put words in your mouth but

ANSWER: Yeh

QUESTION: that's, that's what I, uh, I'm gathering from what you're trying to

ANSWER: Yes

QUESTION: tell me. And, what we've known to this point.

ANSWER: Yeh

QUESTION: Uh, have learned to this point. Um, now, um, other than that fight, is there any other reason a fire would have taken place or she would have set fire to the house that you know of?

ANSWER: No, nothin', I mean, even, you know, close to a year of datin' we never had maybe two fights, you know, and it just doesn't seem.

QUESTION: Nothing to that degree, or

ANSWER: Yeh, nothing, you know

QUESTION: No physical contact or anything like that?

ANSWER: No, huh, uh, no we never, never got physical.

QUESTION: And, in, answer this question we have to ask. Do you have any involvement in this fire?

ANSWER: No, huh uh, no

QUESTION: Was the mortgage pretty much current? I think you were up to approximately the right, up to July paid. Is that right?

ANSWER: Um, I'm not real sure.

QUESTION: I know you're poor on paperwork

ANSWER: Yeh

QUESTION: I know we've talked about that already. But, you were, you, there weren't any notices of foreclosure or anything like that?

ANSWER: Oh, no, huh uh. No

QUESTION: I now you had financial problems, cause not of no employment

ANSWER: Um, hum

QUESTION: Um, and you've got some outstanding debts, be it fines what have you. Uh, but, um, you know, those are some issues that draw some concern.

ANSWER: Yes

QUESTION: An insured might have a a hand in a fire. But, you're stating that you have no knowledge or involvement of this fire.

ANSWER: No, huh, uh like my house payment's only close to \$150.00. It'll get two three months and that's not a lot, you know. I could see maybe if I was, I don't know, back years or somethin' (Laughs), you know, she'd burn somethin' down. Wasn't in that bad a shape.

QUESTION: Um, now, it, the more sensitive issue, uh, was your delay in responding to us. Um, we had sent an appointment to meet at the property. Uh, you didn't attend. Uh, multiple calls where made to numbers that you might have been able to be reached. Left numbers, messages, not only myself, but your neighbor Ken Long did as well. Um, and we've sent you multiple correspondences. In fact, a letter went out to you on Friday, the 12<sup>th</sup>, or excuse me, Monday, the 12<sup>th</sup>, which, actually you didn't even see that letter yet in your mail.

ANSWER: No, huh uh.

QUESTION: You just read it here today

ANSWER: Yeh

QUESTION: We talked about why your delay was in in contacting us. Could you just tell me briefly why that was?

ANSWER: Uh, I'm

QUESTION: I mean you can just be frank and honest.

ANSWER: Yeh

QUESTION: I mean, There's no, I'm not

ANSWER: I'm, you know, just not that great with paperwork and I just steer away from it and, uh, I just showed up today cause I was tryin' to think of what that one letter was sayin' about.

QUESTION: The duties of an insured.

ANSWER: Yeh, yeh, you know, and I had that letter for a day or two and my mail it's scattered between everybody's houses. And, when I finally do get it, and, uh, I can't couldn't find it so I come in today to see what my duties where.

QUESTION: And,,I think, to, I mean, we, we've discussed in length here today maybe some, initially some thought was , I mean, you are still with Pam, as of right now, I mean, in fact, she's in the parking lot. She brought you here today because you don't have a vehicle or license.

ANSWER: Yeh

QUESTION: Some thought was maybe, and this is what I was thinking and I think you concurred a little bit, was that, um, this is gonna be difficult on her alone with criminal charges that are probably pending and, and, um, ultimately, coming forward, uh, but the economic loss. I think, maybe, you hesitated on making a claim thinking that trying to help her out to some degree. Is that a good?

ANSWER: No, I didn't really think, you know, think a lot about that..... I don't know.  
(Laughs) I.

QUESTION: It just, do, I, I know you also talked to family and friends and, uh, we were to meet that first day and we were gonna get your statement and someone suggested to you that's not proper procedure, which, of course, I've told you that is standard procedure in any fire loss. Um, that, is that more of what caused your delay

ANSWER: Yeh

QUESTION: then anything to do with the financial end of your relationship with Pam?

ANSWER: It really wasn't anything really to do with her just, you know, listening to advise from family and friends and it just spooked me and I'm pretty easy spooked. I just try to stay away from everything.

QUESTION: Um, so right now your intentions are to proceed forward with the claim, um, and to recover your loss of dwelling and contents. Is that correct?

ANSWER: Yeh, I guess.

QUESTION: Um, I think, you know I, I, I've tried to address every issue here today, uh, as best as I can gather. Unless you feel there would be something you'd like to add. Uh, not only about the fire itself, but the home, your relationship with Pam, what have you. Is there anything that you would, uh, like to add about the whole scenario?

ANSWER: No, not nothin' I can really think of.

QUESTION: Have you understood all of my questions today?

ANSWER: What's that?

QUESTION: Have you understood all of my questions today?

ANSWER: Yes

QUESTION: And, finally, has this recording been done with your permission?

ANSWER: Oh, yeh, yeh, it was easier than I thought.

I'd like to conclude the recorded statement of Richard Duane McCracken at approximately 5:15pm on Wednesday, August 14, 2002.

Lap over margin

FILED

9/11/31  
OCT 28 2002

William A. Shaw  
Prothonotary

R. DENNING GEARHART  
ATTORNEY AT LAW  
CLEARFIELD, PA. 16830

CORPORATE PRINTING CO., CLEARFIELD, PA.

Atty. pd.

80.00

3 cc Atty Gearhart

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

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,  
Plaintiff

VS.

RICHARD D. McCracken,  
ALLSTATE INSURANCE CO.,  
Defendants

NO. 02-1687 -CD

**CERTIFICATE OF SERVICE**

That on the 28th day of October, 2002, I served a certified copy of the Complaint for Declaratory Judgment filed in this proceeding on the following and in the following manner:

**U.S. POSTAL SERVICE - FIRST CLASS MAIL - POSTAGE PREPAID**

Karen L. Steele, Esquire  
GOLDSTEIN, HESLOP, STEELE, CLAPPER, OSWALT & STOEHR  
414 N. Logan Boulevard  
Altoona, PA 16601-2749

Edard J. Yocum  
E.L. BRAID CLAIM SERVICES  
P.O. Box 946  
Clearfield, PA 16830

I certify under penalty of perjury that the foregoing is true and correct.

Dated: October 28, 2002

  
R. Denning/Gearhart, Esquire  
Attorney for Plaintiff

**FILED**

01/11:32-14 NO CC  
OCT 28 2002

William A. Shaw  
Prothonotary

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

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,  
Plaintiff

VS.

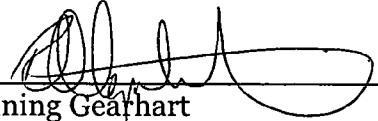
RICHARD D. McCracken,  
Defendant

NO. 02-1687-CD

**PRAECIPE TO CORRECT CAPTION**

TO THE PROTHONOTARY OF SAID COURT:

Please correct the caption in the above referenced action to delete Allstate  
Insurance Co. as a Defendant.

  
R. Denning Gearhart  
Attorney for Plaintiff

Dated: October 29, 2002

**FILED**

OCT 30 2002

William A. Shaw  
Prothonotary

FILED

019:4284  
OCT 30 2017

WJ  
cc  
KAT

William A. Shaw  
Prothonotary

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken and  
ALLSTATE INSURANCE CO.,

Defendants

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 02-1687-CD

**ANSWER TO COMPLAINT, NEW MATTER  
AND COUNTERCLAIM**

Filed on behalf of Defendant, Richard D.  
McCracken

Counsel of record for this party:

Karen L. Steele, Esquire  
Attorney I.D. #32707

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR  
414 N. Logan Boulevard  
Altoona, PA 16602

(814) 946-4391

**FILED**

NOV 12 2002

William A. Shaw  
Prothonotary

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken and  
ALLSTATE INSURANCE CO.,

Defendants

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

: CIVIL DIVISION  
:

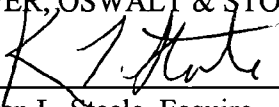
: NO. 02-1687-CD  
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**NOTICE TO PLEAD**

TO: PLAINTIFF

IN ACCORDANCE WITH RULES 1026 AND 1361 OF THE PENNSYLVANIA RULES OF  
CIVIL PROCEDURE, YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE  
ENCLOSED ANSWER TO COMPLAINT, NEW MATTER AND COUNTERCLAIM WITHIN  
TWENTY (20) DAYS FROM SERVICE HEREOF OR A DEFAULT JUDGMENT MAY BE  
ENTERED AGAINST YOU.

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By  \_\_\_\_\_

Karen L. Steele, Esquire  
Attorney for Defendant, Richard D. McCracken  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

CLEARFIELD COUNTY GRANGE	:	IN THE COURT OF COMMON PLEAS OF
MUTUAL FIRE INSURANCE COMPANY,	:	CLEARFIELD COUNTY, PENNSYLVANIA
	:	
Plaintiff	:	CIVIL DIVISION
	:	
vs.	:	NO. 02-1687-CD
	:	
RICHARD D. McCRACKEN and	:	
ALLSTATE INSURANCE CO.,	:	
	:	
Defendants	:	

**ANSWER TO COMPLAINT, NEW MATTER AND COUNTERCLAIM**

AND NOW, comes the Defendant, **RICHARD D. McCRACKEN**, through his legal counsel, Goldstein, Heslop, Steele, Clapper, Oswalt & Stoehr, and files this Answer to Complaint, New Matter and Counterclaim against the Plaintiff as follows:

**ANSWER**

1. Admitted.
2. Admitted.
3. Admitted in part and denied in part. It is admitted that the Defendant contracted with the Plaintiff for homeowners insurance coverage on said property including coverage against loss from fire. Defendant is unable to determine the authenticity of Exhibit "A" inasmuch as many of the form documents included therein remain blank. Therefore, said allegation is denied and proof thereof demanded at the trial of this action.
4. Admitted.
5. Admitted in part and denied in part. It is admitted that the fire insurance coverage provided by the Plaintiff insures the said property against loss pursuant to the terms and conditions set forth in the Policy including any conditions or exclusions set forth therein. It is denied that "extenuating circumstances" is a condition or exclusion set forth in the subject Policy.

6. The allegation in Paragraph 6 constitutes a conclusion of law to which no responsive pleading is required by the Pennsylvania Rules of Civil Procedure. By way of further answer, it is denied that "extenuating circumstances" is a defense to coverage under said Policy and it is further denied that there are any applicable conditions or exclusions precluding coverage of Defendant's fire loss under said Policy.

7. Admitted in part and denied in part. It is admitted that the fire was determined to be incendiary in origin with the suspect being Pamela Vaux. The quoted language from the subject Policy is denied as the said document is the best evidence of the content thereof.

8. Admitted in part and denied in part. It is admitted that the Defendant, at the request of the Plaintiff, did give a recorded statement to the Plaintiff's agent, Ed Yocum. It is further admitted that Exhibit "B" appears to be a true and correct transcript of said recording. The Plaintiff's conclusion as to what appears on Page 10 of Exhibit "B" is denied inasmuch as said document is the best evidence of the content thereof.

9. The Plaintiff's conclusions and quotations of portions of Exhibit "B" are denied inasmuch as the said document is the best evidence of the content thereof.

10. Admitted in part and denied in part. It is denied that Plaintiff was advised that all the utilities had been shut off. It is admitted that Plaintiff was advised and Exhibit "B" states that the electrical service had been reinstated to the property several days prior to the fire as the Defendant was living in the home at that time.

11. Admitted in part and denied in part. It is admitted that the Defendant had returned to his home and had been staying in the premises for at least three or four nights prior to the fire and that he advised the Plaintiff accordingly. The allegation in Paragraph 11 with respect to residency is a legal conclusion to which no responsive pleading is required by the Pennsylvania Rules of Civil Procedure. Therefore, said allegation is denied. Further, it is alleged that said allegation with respect to residency is irrelevant to the issues presented herein as the Policy condition upon which the Plaintiff relies to deny coverage refers only

to whether the subject building is vacant or unoccupied and nowhere refers to residency. Plaintiff's conclusions with respect to the content of Pages 12 and 13 of Exhibit "B" are denied inasmuch as Exhibit "B" is the best evidence of the content thereof. By way of further answer, the allegation with respect to renting the property "ostensibly" is impertinent, scandalous, immaterial, and irrelevant to the issues raised in the subject action.

12. The allegation in Paragraph 12 constitutes a conclusion of law to which no responsive pleading is required by the Pennsylvania Rules of Civil Procedure. By way of further answer, it is denied that the subject property was vacant when the loss occurred such that the condition upon which the Plaintiff relies in denying coverage has no application and the Plaintiff is fully liable for payment of all losses insured under said Policy.

**WHEREFORE**, Defendant respectfully requests that judgment on the Plaintiff's Complaint be entered in favor of the Defendant and against the Plaintiff.

**NEW MATTER**

13. Defendant complied with all terms and conditions set forth in the subject Policy and cooperated with the Plaintiff in the investigation of the loss including providing a recorded statement at the Plaintiff's request.

14. The Plaintiff's Complaint fails to allege facts which would exclude, suspend, or restrict coverage under said Policy or any other legal basis for Plaintiff's denial of coverage of Defendant's fire loss such that Plaintiff's Complaint fails to state a claim upon which relief can be granted.

15. It is believed and therefore averred that the Plaintiff has no factual basis to support an assertion that the subject property was not occupied on July 4, 2002, when the loss occurred such that there is no reasonable basis for Plaintiff's denial of coverage under the subject Policy.

16. The Plaintiff's apparent position that vacancy of the property for a period of 60 consecutive days prior to the loss suspends or restricts coverage when the property is occupied at the time of the loss is

clearly contrary to the express provision of the subject Policy such that the Plaintiff's position is wholly unreasonable and without factual or legal support.

**WHEREFORE**, Defendant respectfully requests that judgment on the Plaintiff's Complaint be entered in favor of the Defendant and against the Plaintiff.

**COUNTERCLAIM**

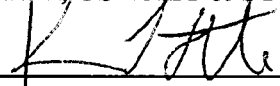
17. Defendant hereby incorporates by reference as if fully set forth at length Paragraphs 1 through 16, inclusive, of this pleading.

18. The Defendant incorporates by reference herein the Complaint captioned "Richard D. McCracken vs. Clearfield County Grange Mutual Fire Insurance Company" which the Defendant previously filed against the Plaintiff to No. 2002 - 1662 - CD, in the Court of Common Pleas of Clearfield County, Pennsylvania.

**WHEREFORE**, Defendant respectfully requests that judgment be entered in favor of the Defendant, **RICHARD D. McCRACKEN**, and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, as set forth in said Complaint.

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By

  
\_\_\_\_\_  
Karen L. Steele, Esquire  
Attorney for Defendant, Richard D. McCracken  
Attorney I.D. #32707


414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

Date:

Nov. 4, 2002

VERIFICATION OF INDIVIDUAL

I, **RICHARD D. McCRACKEN**, hereby certify that I have read the foregoing Answer to Complaint, New Matter and Counterclaim. The averments of fact made therein are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to penalty of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
Richard D. McCracken

Dated: 11/5/02\_\_\_\_\_

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken and  
ALLSTATE INSURANCE CO.,

Defendants

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

:  
: CIVIL DIVISION

:  
: NO. 02-1687-CD

**CERTIFICATE OF SERVICE**

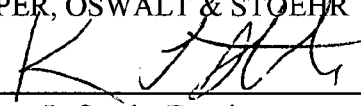
This is to certify that I, Karen L. Steele, Esquire, served a copy of the Answer to Complaint, New Matter and Counterclaim on the 8 day of Nov., 2002, via First Class United States Mail, postage prepaid and addressed to the following:

R. Denning Gearhart, Esquire  
Attorney for Plaintiff  
Attorney I.D. #26540

215 East Locust Street  
Clearfield, PA 16830  
(814) 765-1581

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By

  
\_\_\_\_\_  
Karen L. Steele, Esquire  
Attorney for Defendant, Richard D. McCracken  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

FILED NO  
cc

318:46-284  
NOV 12 2002

by

William A. Shaw  
Prothonotary

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 02-1687-CD

**DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

Filed on behalf of Defendant, Richard D.  
McCracken

Counsel of record for this party:

Karen L. Steele, Esquire  
Attorney I.D. #32707

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR  
414 N. Logan Boulevard  
Altoona, PA 16602

(814) 946-4391

**FILED**

FEB 10 2003

William A. Shaw  
Prothonotary

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

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

:  
: CIVIL DIVISION

:  
: NO. 02-1687-CD

**NOTICE TO PLEAD**

TO: PLAINTIFF, CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY  
c/o R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

IN ACCORDANCE WITH RULE 1035.3 OF THE PENNSYLVANIA RULES OF CIVIL  
PROCEDURE, YOU ARE HEREBY NOTIFIED THAT YOU ARE REQUIRED TO FILE A  
WRITTEN RESPONSE TO THE ATTACHED MOTION FOR SUMMARY JUDGMENT WITHIN  
THIRTY (30) DAYS FROM SERVICE HEREOF OR SUMMARY JUDGMENT MAY BE ENTERED  
AGAINST YOU.

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By

  
\_\_\_\_\_  
Karen L. Steele, Esquire

Attorney for Defendant, Richard D. McCracken  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

CLEARFIELD COUNTY GRANGE	:	IN THE COURT OF COMMON PLEAS OF
MUTUAL FIRE INSURANCE COMPANY,	:	CLEARFIELD COUNTY, PENNSYLVANIA
	:	
Plaintiff	:	CIVIL DIVISION
	:	
vs.	:	NO. 02-1687-CD
	:	
RICHARD D. McCRACKEN,	:	
	:	
Defendant	:	

**ORDER GRANTING DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2003, upon review of the Defendant's Motion for Summary Judgment, the Briefs of the parties, and oral argument on said Motion, it is hereby **ORDERED, DIRECTED AND DECREED** that said Motion for Summary Judgment is granted. Judgment is hereby entered in favor of the Defendant, **RICHARD D. McCRACKEN**, and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, on the Complaint and the said Complaint is dismissed. Judgment in the sum of \$39,032.80 is hereby entered in favor of the Defendant, **RICHARD D. McCRACKEN**, and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, on Count I of the Defendant's Counterclaim together with interest thereon at the legal rate from August 16, 2002, through the date of payment and costs of this action.

BY THE COURT:

\_\_\_\_\_ J.

CLEARFIELD COUNTY GRANGE	:	IN THE COURT OF COMMON PLEAS OF
MUTUAL FIRE INSURANCE COMPANY,	:	CLEARFIELD COUNTY, PENNSYLVANIA
	:	
Plaintiff	:	CIVIL DIVISION
	:	
vs.	:	NO. 02-1687-CD
	:	
RICHARD D. McCRACKEN,	:	
	:	
Defendant	:	

**DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

**AND NOW**, comes the Defendant, **RICHARD D. McCRACKEN**, through his legal counsel, Goldstein, Heslop, Steele, Clapper, Oswalt & Stoehr, and, pursuant to Pa.R.C.P. No. 1035.1, moves this Honorable Court for entry of summary judgment as follows:

1. Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, ("Grange Mutual") commenced this declaratory judgment action by filing a Complaint on October 20, 2002, requesting the Court to declare that the fire insurance policy which it issued to the Defendant, **RICHARD D. MCCRACKEN**, ("McCracken") does not provide coverage for the subject fire loss. A copy of the Complaint was thereafter mailed to Defendant's attorney on or about October 28, 2002. In the intervening period, on October 23, 2002, Defendant filed a Complaint against Grange Mutual to No. 2002-1662-CD, asserting breach of the insurance contract in Count I thereof and bad faith in Count II. McCracken is asserting a counterclaim in this action through incorporation of his Complaint filed against Grange Mutual. The parties have filed responsive pleadings to the respective Complaints such that the pleadings are now closed. Discovery has been completed.

2. Defendant McCracken's Motion is based upon the record in this action and the action filed to No. 2002-1662-CD which are incorporated by reference herein, including the pleadings (with attached exhibits) and the deposition transcript of Grange Mutual's authorized agent and claims representative, Edward J. Yocum, a complete copy of which is attached hereto as Exhibit "1".

3. The record confirms that the following facts are undisputed:

(a) On and before July 4, 2002, Defendant McCracken was the owner of real property and improvements located in Bigler Township, Madera, Clearfield County, Pennsylvania. (Complaint of Grange Mutual, Par. 2).

(b) On July 4, 2002, there was in full force and effect a fire insurance policy issued by Grange Mutual to McCracken to Policy No. 32334 providing insurance coverage of up to \$40,000.00 on the dwelling, up to \$15,000.00 on the contents and up to \$1,000.00 on an unattached masonry garage. (Complaint of Grange Mutual, Par. 3; Complaint of McCracken, Par. 4; Answer of Grange Mutual, Par. 4).

(c) On July 4, 2002, the insured property was destroyed by fire. (Complaint of Grange Mutual, Par. 4).

(d) The cause of the fire was determined to be arson committed by the girlfriend of McCracken, described by Grange Mutual's investigator as a "spite revenge" fire. (Deposition Transcript of Edward J. Yocum, p.172, Exhibit 3).

(e) McCracken promptly reported the fire loss and made a claim under the policy. (Deposition Transcript of Edward J. Yocum, p.50, Exhibits 19, 22).

(f) Grange Mutual assigned the adjustment of the claim to Edward J. Yocum, an independent adjuster employed by E.L. Braid Claim Service, Inc.. (Deposition Transcript of Edward J. Yocum, p.33, p.47, Exhibit 9).

(g) Grange Mutual also contracted with Tsikalas Investigations to complete a cause and origin investigation of the fire. (Deposition Transcript of Edward J. Yocum, Exhibit 3). As part of his investigation, on July 5, 2002, Tsikalas Investigations obtained a recorded statement of McCracken. (Deposition Transcript of Edward J. Yocum, Exhibit 6). In his statement, McCracken stated that he had been out west and had returned to the area approximately one month before the

fire. He had been staying at a campground but had returned to the subject property several days before the fire. McCracken answered the questions as follows:

- Q. I'm sure you do. Can you tell me what the circumstances were before the fire? Were you here?
- A. *Yeah, I was. I was puttin' the hand railing on the porch. I wanted to try to fix it up to try to get . . . I had a book on how to make it on certain rules or whatever for HUD - cause I thought maybe I could rent it and I didn't know about how to go about it and I got papers and it said all this stuff. So, we started on it. I put that porch on it and it just had the two concrete steps there and we was puttin' hand railings on it and I was gonna put a roof on it. That's what I was doin' for the past two days, wasn't I*

(Deposition Transcript of Edward J. Yocum, Exhibit 6, p.2).

- Q. I have to ask that question because we have to find out what's going on here. When did you come back from out west?
- A. *It's been right around a month ago and I was stayin' at this property over near Kerrmore. That's where the Harley's at, my tent and we had her parents . . .*
- Q. You have a Harley and a tent over there, correct?
- A. *Yeap.*
- Q. Do you have other personal belongings over there?
- A. *Yeap.*
- Q. Is that her house?
- A. *No, there's no house there at all. It's just a campground and we had her camper there, her parents', and we stayed in it and we just got electric turned on here on the 3<sup>rd</sup> and we stayed here for three to four nights, like a couple days before we got the electric. The day we got the electric, we stayed here.*

(Deposition Transcript of Edward J. Yocum, Exhibit 6, p.3).

- Q. What did you and Pam do that day in the house? (July 4, 2002).
- A. *I'm thinkin' we probably got up around 10:00 and started workin' on the porch and did that probably for just a few hours, workin' on the porch. Like I said, I didn't even have my power tools down here, I was just using the battery operated handsaw and we got the porch pretty much done except for the roof.*

(Deposition Transcript of Edward J. Yocum, Exhibit 6, p.4).

(h) As part of his investigation, on August 14, 2002, Edward J. Yocum also took a recorded statement of McCracken, the transcript of which is 21 pages in length. (Deposition Transcript of Edward J. Yocum, Exhibit 14). Mr. McCracken stated that he had gone out west at the end of

February or beginning of March, 2002, and spent approximately four months there before returning to Clearfield County approximately one month before the fire during which time his home was not occupied. (Deposition Transcript of Edward J. Yocum, Exhibit 14, pp.9-11). McCracken specifically stated as follows:

Q. Okay, um, so, actually, leading up to then, the night of the fire, um, you weren't actually living in the house?

A. *Ah, we did stay there probably two to three nights, you know, right before the 4<sup>th</sup> of July.*

Q. Hum, hum.

A. *You know, cause we're still at that campsite and, you know its getting a little old.*

Q. Right.

A. *Cause we was in a camper the whole time out west and, you know, we stayed there a couple nights and, ah, even with no electricity we, you know, was usin' them kerosene lamps and then having the power turned on.*

(Deposition Transcript of Edward J. Yocum, Exhibit 14, pp.13-14).

(i) By letter of August 16, 2002, McCracken was informed by Edward Yocum that Grange Mutual was denying coverage on the loss based upon the information McCracken provided in his recorded statement stating:

The question that has come to light is involving occupancy of the dwelling and the fact that you had confirmed that the property had been vacant for approximately four months **just prior to the fire** with no utilities connected except electricity that was re-established to the property two or three days prior to July 4<sup>th</sup>.

In his letter, Edward Yocum referred to the applicable policy provisions as follows:

In light of the above-stated information we want to bring to your attention and refer you to a copy of the insurance policy provided for the property, which is referred to as a standard fire insurance policy in the State of Pennsylvania specifically lines twenty-five through thirty-two where it states:

Conditions suspending or restricting insurance unless otherwise provided in writing added hereto this company shall not be liable for loss occurring:

A. While the hazard is increased by any means within the control or knowledge of the insured;

B. While a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of 60 consecutive days; or . . .

Based upon the facts confirmed during the course of your statement the above-stated exclusionary language of the policy, we must with regret deny coverage to you for the dwelling loss above and beyond the mortgage payoff with County National Bank. Meaning, no additional funds will be provided for the structure loss once the mortgage payoff has been confirmed and the payoff processed.

(Deposition Transcript of Edward J. Yocum, Exhibit 15, p.1-2).

(j) In reference to his letter of August 16, 2002, Mr. Yocum testified as follows:

Q. And at the end of that sentence, you indicate that the decision was based upon the fact that the insured revealed that the property had been vacant for approximately four months, shortly prior to the day of loss; is that correct?

A. *Yes, dealing with the statement that he had been out west and that the property had been vacant.*

Q. Shortly prior to the date of loss is the language which you use; correct?

A. *That's the language I used, yes.*

Q. Were you aware as of that time, of the existence of any facts or any witnesses who would testify or could testify that the property was not occupied on the date of the loss?

A. *Do we have any information to confirm that?*

Q. Yes.

A. *No, not from any witnesses.*

(Deposition Transcript of Edward J. Yocum, Exhibit 15, pp.115-116).

Edward Yocum further testified:

Q. . . . Okay. But you've agreed with me previously, I think, that you had no information, no facts to dispute his claim that he had been living in the property on the date of the fire and for several days before that; correct?

A. *That's correct, but I think our direction is it's not an issue of him staying in the property one or two days or three days or four days prior, but he was out of the property for an extended period of time. And that's why we felt, because of the language of the policy, to have counsel review it.*

(Deposition Transcript of Edward J. Yocum, Exhibit 15, pp.122-123).

(k) In reference to the denial based upon “While the hazard is increased by any means within the control or knowledge of the insured:” as set forth in his letter of August 16, 2002, Mr. Yocum testified as follows:

Q. And my question to you is on what facts were you relying to assert a restriction in coverage based upon increase in the hazard?

A. *Well, that's - - - whenever I quote from policy, I quote that entire section even though some parts may apply and some may not apply.*

Q. Okay. But isn't there a subparagraph C to that section also, I believe? But in any event, your answer would be that even if A didn't necessarily apply, since it was part of the same policy provision, that's why you were quoting from it there?

A. *Right. Correct.*

Q. And the basic intent was to inform the insured that you were denying coverage based upon occupancy?

A. *I say the majority of our basis and again, which we discussed with counsel, was on the occupancy issue.*

Q. Was there any other basis?

A. *I can't recall if there was any other basis. I think we would have addressed that.*

(Deposition Transcript of Edward J. Yocum, Exhibit 15, pp.126-127).

(l) Following the denial of coverage to McCracken, Grange Mutual forwarded a draft to County National Bank in payment of the balance due under McCracken's mortgage of \$15,967.20.

(Deposition Transcript of Edward J. Yocum, pp.135-136; Exhibit 19).

(m) The fire damage to the structure exceeds the limit of coverage of \$40,000.00 under the policy issued by Grange Mutual to McCracken. (Deposition Transcript of Edward J. Yocum, p.146).

(n) The fire damage to the contents also exceeded the limit of coverage of \$15,000.00 under the subject policy. (Deposition Transcript of Edward J. Yocum, pp.146-149).

(o) There was no damage to the masonry garage and there is no additional coverage provided under the policy for any additional items of loss such as debris removal or living expenses. (Deposition Transcript of Edward J. Yocum, p.149).

(p) Mr. McCracken did not change his address from the date on which he applied for the subject policy through the date of loss. (Deposition Transcript of Edward J. Yocum, pp.163-164).

(q) Edward J. Yocum testified as follows:

Q. To your knowledge, are there any documents or any facts of which you're aware that serve as a basis of the denial of coverage, other than the facts that we've discussed here today and the documents that we've reviewed?

A. *No, none that I'm aware of.*

(Deposition Transcript of Edward J. Yocum, p.168).

4. The standard fire policy issued by Grange Mutual to McCracken provides, in pertinent part, as follows:

CONDITIONS SUSPENDING OR RESTRICTING INSURANCE. Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring:

(a) While the hazard is increased by any means within the control or knowledge of the insured; or

(b) While a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; . . .

WAIVER OF POLICY PROVISIONS: A claim for loss from perils included in this Endorsement shall not be barred because of change of occupancy, nor because of vacancy or unoccupancy, except as herein before provided.

(Deposition Transcript of Edward J. Yocum, Exhibit 22; 40 P.S. §636).

5. The undisputed facts of record establish that McCracken was occupying his home on the date of loss.

6. There is no genuine issue of any material fact with respect to the application of the policy provisions at issue herein.

7. Based upon the undisputed facts of record, Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, has failed to produce sufficient evidence of facts to support its assertion that coverage was suspended as of the date of loss such that the Defendant, **RICHARD D. McCRACKEN**, is entitled to judgment as a matter of law.

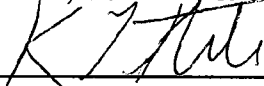
8. Grange Mutual has admitted that McCracken's loss on the structure exceeds the policy limit of \$40,000.00 and that the loss of the contents exceeds the coverage of \$15,000.00. After crediting the sum paid to County National Bank on the mortgage balance of \$15,967.20, there is a total sum due and owing to McCracken under the policy of \$39,032.80.

**WHEREFORE**, Defendant, **RICHARD D. McCRACKEN**, respectfully requests that this Honorable Court enter an Order granting summary judgment in his favor and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, on the Complaint and entering judgment in favor of the Defendant, **RICHARD D. McCRACKEN**, and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, on Count I of the Defendant's Counterclaim in the total sum of \$39,032.80 together with interest from August 16, 2002, and costs of this action.

Respectfully submitted,

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By

  
\_\_\_\_\_  
Karen L. Steele, Esquire  
Attorney for Defendant, Richard D. McCracken  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

Date: Feb 7, 2003

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

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

:  
: CIVIL DIVISION

:  
: NO. 02-1687-CD

**CERTIFICATE OF SERVICE**

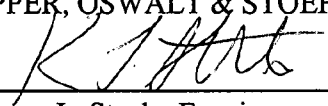
This is to certify that I, Karen L. Steele, Esquire, served a copy of the Defendant's Motion for Summary Judgment on the 7 day of Feb., 2003, via First Class United States Mail, postage prepaid and addressed to the following:

R. Denning Gearhart, Esquire  
Attorney for Plaintiff  
Attorney I.D. #26540

215 East Locust Street  
Clearfield, PA 16830  
(814) 765-1581

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By

  
\_\_\_\_\_  
Karen L. Steele, Esquire  
Attorney for Defendant, Richard D. McCracken  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

FILED

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FEB 10 1953

William A. Shaw  
Prothonotary

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 02-1687-CD

**PRAECIPE FOR ARGUMENT COURT**

Filed on behalf of Defendant

Counsel of record for this party:

Karen L. Steele, Esquire  
Attorney I.D. #32707

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER & OSWALT  
414 N. Logan Boulevard  
Altoona, PA 16602

(814) 946-4391

JURY TRIAL DEMANDED

**FILED**

MAR 26 2003

William A. Shaw  
Prothonotary

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 02-1687-CD

**PRAECIPE FOR ARGUMENT COURT**

TO THE COURT ADMINISTRATOR:

Please place the above-captioned matter upon the Argument Court List.

**Counsel for Plaintiffs:**

R. Denning Gearhart, Esquire, 215 East Locust Street, Clearfield, PA 16830

**Counsel for Defendant:**

Karen L. Steele, Esquire, 414 N. Logan Boulevard, Altoona, PA 16602

MATTER TO BE ARGUED: \_\_\_\_\_ Preliminary Objections Filed by Defendant

  X   Summary Judgment

\_\_\_\_\_ Other (Specify) \_\_\_\_\_

\*Argument Only:   X   Yes \_\_\_\_\_ No

Testimony Required: \_\_\_\_\_ Yes   X   No

\*If yes, time required for testimony: \_\_\_\_\_

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By



Karen L. Steele, Esquire  
Attorney for Defendant  
I.D. No. 32707  
414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

DATED: March 19, 2003

If you are the moving party, is your brief enclosed:   X   Yes \_\_\_\_\_ No

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

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

: CIVIL DIVISION

: NO. 02-1687-CD

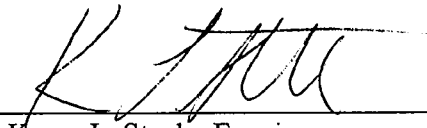
**CERTIFICATE OF SERVICE**

This is to certify that I, Karen L. Steele, served a copy of the Praecipe for Argument Court on the 24 day of March, 2003, via First Class United States Mail, postage prepaid and addressed to the following:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By

  
Karen L. Steele, Esquire  
Attorney for Defendant  
I.D. No.32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

FILED

MAR 26 2003

William A. Shaw  
Prothonotary

*WAS*

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

CLEARFIELD COUNTY GRANGE :  
MUTUAL FIRE INSURANCE COMPANY:

-vs-

No. 02 – 1687 – CD

RICHARD D. McCracken

**OPINION AND ORDER**

This matter comes before the Court on a Motion for Summary Judgment filed on behalf of Defendant above-named. It appears from argument and briefs that it is essential for Plaintiff in this declaratory judgment action to depose Pamela Vaux who is currently charged with the arson resulting in the above claim and the investigating fire marshal. Since Ms. Vaux is currently subject to these criminal proceedings, Plaintiff has not been permitted to depose her and for this reason, the Court is at this stage denying Defendant's Motion for Summary Judgment in order to provide Plaintiff the sufficient time and opportunity to properly schedule these depositions.

WHEREFORE, the Court enters the following:

**ORDER**

NOW, this 22<sup>nd</sup> day of May, 2003, following argument and briefs into Motion for Summary Judgment filed on behalf of Defendant above-named, it is the ORDER of this Court that said Motion be and is hereby dismissed without prejudice to the Defendant to raise the issue again upon completion of discovery.

By the Court.

President Judge

**FILED**

MAY 22 2003

William A. Shaw  
Prothonotary

FILED

10/3:27 PM  
MAY 22 2003

William A. Shaw  
Prothonotary

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1cc 4th Gearhart  
1cc 4th Karen Steele  
1cc 2. milesell

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

CLEARFIELD COUNTY GRANGE	:	
MUTUAL FIRE INSURANCE	:	
COMPANY,	:	
Plaintiff	:	No. 02-1687-CD
vs.	:	
RICHARD D. McCRACKEN,	:	
ALLSTATE INSURANCE CO.,	:	
Defendants	:	

CASE NUMBER:	No. 02-1687-CD
TYPE OF CASE:	Civil
TYPE OF PLEADING:	PRAECIPE TO CHANGE CAPTION
FILED ON BEHALF OF:	Plaintiff

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQ.  
Supreme Court I. D. #26540  
215 E. Locust Street  
Clearfield, PA 16830  
(814) 765-1581

FILED

APR 08 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE  
COMPANY,

Plaintiff

:  
:  
:  
:  
No. 02-1687-CD

vs.

RICHARD D. McCracken,  
ALLSTATE INSURANCE CO.,  
Defendants

PRAECIPE TO CHANGE CAPTION

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

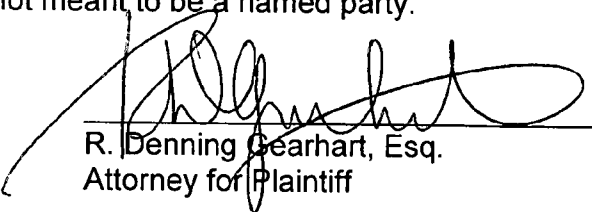
Please change the caption for the above case to read as follows:

CLEARFIELD COUNTY GRANGE MUTUAL FIRE  
INSURANCE COMPANY, Plaintiff

Vs.

RICHARD D. McCracken, Defendant

Allstate Insurance Company was not meant to be a named party.

  
R. Denning Gearhart, Esq.  
Attorney for Plaintiff

DATED: April 8, 2004

FILED NO  
cc  
APR 08 2004  
1:20 PM  
K27

William A. Shaw  
Prothonotary/Clerk of Courts

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 02-1687-CD

**DEFENDANT'S RENEWED MOTION FOR  
SUMMARY JUDGMENT**

Filed on behalf of Defendant

Counsel of record for this party:

Karen L. Steele, Esquire  
Attorney I.D. #32707

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR  
414 N. Logan Boulevard  
Altoona, PA 16602

(814) 946-4391

FILED

APR 19 2004

WILLIAM A. SHELW  
Prothonotary/Clerk of Courts

CLEARFIELD COUNTY GRANGE	:	IN THE COURT OF COMMON PLEAS OF
MUTUAL FIRE INSURANCE COMPANY,	:	CLEARFIELD COUNTY, PENNSYLVANIA
	:	
Plaintiff	:	CIVIL DIVISION
	:	
vs.	:	NO. 02-1687-CD
	:	
RICHARD D. McCracken,	:	
	:	
Defendant	:	

**ORDER GRANTING DEFENDANT'S  
RENEWED MOTION FOR SUMMARY JUDGMENT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2004, upon review of the Defendant's Renewed Motion for Summary Judgment, the record, the Briefs of the parties, and oral argument on said Motion, it is hereby **ORDERED, DIRECTED AND DECREED** that said Renewed Motion for Summary Judgment is granted. Judgment is hereby entered in favor of the Defendant, **RICHARD D. McCracken**, and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, on the Complaint and the said Complaint is dismissed. Judgment in the sum of \$39,032.80 is hereby entered in favor of the Defendant, **RICHARD D. McCracken**, and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, on Count I of the Defendant's Counterclaim together with interest thereon at the legal rate from August 16, 2002, through the date of payment and costs of this action.

BY THE COURT:

---

J.

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

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

: CIVIL DIVISION  
:

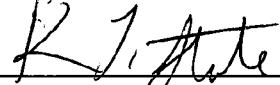
: NO. 02-1687-CD  
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**NOTICE TO PLEAD**

TO: PLAINTIFF, CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY  
c/o R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

IN ACCORDANCE WITH RULE 1035.3 OF THE PENNSYLVANIA RULES OF CIVIL  
PROCEDURE, YOU ARE HEREBY NOTIFIED THAT YOU ARE REQUIRED TO FILE A  
WRITTEN RESPONSE TO THE ATTACHED RENEWED MOTION FOR SUMMARY JUDGMENT  
WITHIN THIRTY (30) DAYS FROM SERVICE HEREOF OR SUMMARY JUDGMENT MAY BE  
ENTERED AGAINST YOU.

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By   
Karen L. Steele, Esquire  
Attorney for Defendant  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

CLEARFIELD COUNTY GRANGE	:	IN THE COURT OF COMMON PLEAS OF
MUTUAL FIRE INSURANCE COMPANY,	:	CLEARFIELD COUNTY, PENNSYLVANIA
	:	
Plaintiff	:	CIVIL DIVISION
	:	
vs.	:	NO. 02-1687-CD
	:	
RICHARD D. McCracken,	:	
	:	
Defendant	:	

**DEFENDANT'S RENEWED MOTION FOR SUMMARY JUDGMENT**

**AND NOW**, comes the Defendant, **RICHARD D. McCracken**, through his legal counsel, Goldstein, Heslop, Steele, Clapper, Oswalt & Stoehr, and, pursuant to Pa.R.C.P. No. 1035.1, moves this Honorable Court for entry of summary judgment as follows:

1. Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, ("Grange Mutual") commenced this declaratory judgment action by filing a Complaint on October 20, 2002, requesting the Court to declare that the fire insurance policy which it issued to the Defendant, **RICHARD D. MCCracken**, ("Mr. McCracken") does not provide coverage for the subject fire loss. A copy of the Complaint was thereafter mailed to Defendant's attorney on or about October 28, 2002. In the intervening period, on October 23, 2002, Mr. McCracken filed a Complaint against Grange Mutual to No. 2002-1662-CD, asserting breach of the insurance contract in Count I thereof and bad faith in Count II. Mr. McCracken is asserting a Counterclaim in this action through incorporation of his Complaint filed against Grange Mutual.

2. The above actions arise from a fire which occurred on July 4, 2002, which destroyed the home of Mr. McCracken. The fire was determined to be arson committed by the girlfriend of Mr. McCracken, Pamela Vaux. During its investigation, Mr. McCracken's fire insurance carrier, Grange Mutual, learned from Mr. McCracken that he had not been living in the home for a period of several months when he was "out west" and had returned to live in the home several days before the fire occurred. Grange Mutual then

informed Mr. McCracken, by letter of August 5, 2002, that coverage on the dwelling was being denied based upon the vacancy clause of the policy.

3. Mr. McCracken completed discovery including Interrogatories/Request for Production of Documents and the deposition of Grange Mutual's claims adjuster, Edward J. Yocum, which was completed on January 7, 2003.

4. Following completion of discovery, on or about February 10, 2003, Mr. McCracken filed a Motion for Summary Judgment asserting that the undisputed facts of record established that Mr. McCracken was occupying the home at the time of loss such that Mr. McCracken was entitled to judgment as a matter of law. Attached hereto as Exhibit "A" and incorporated by reference herein is a true and correct copy of Defendant's Motion for Summary Judgment (Exhibit "1" of said Motion, the deposition transcript of Edward J. Yocum, has not been reproduced here as a copy of the same is already part of the record).

5. In its Complaint for Declaratory Judgment, the sole basis for the denial of coverage by Grange Mutual was the vacancy clause of the standard fire policy stating as follows:

**12. Because of said vacancy, the Plaintiff is not responsible to the Defendant for the damages done on July 4, 2002.**

6. In its Letter Brief dated May 18, 2003, opposing Defendant's Motion for Summary Judgment, and at oral argument on said Motion, Grange Mutual asserted, for the first time, that it questioned whether Mr. McCracken was involved in the arson and that Grange Mutual desired to take the depositions of Pamela Vaux and the Fire Marshall although Grange Mutual had taken no action whatsoever to schedule such depositions prior to that date. Grange Mutual further asserted that it was unable to complete the deposition of Pamela Vaux due to pending criminal charges and her anticipated assertion of her Fifth Amendment rights. Based upon such assertions, by Order of this Court entered on May 22, 2003, a true

and correct copy of which is attached hereto as Exhibit "B", Defendant's Motion for Summary Judgment was denied pending completion of such depositions without prejudice to renewal of said Motion following completion of the depositions.

7. On December 18, 2003, the depositions of Pamela Vaux and Trooper Michael S. McCracken were completed. The Supplemental Record in support of Defendant's Renewed Motion for Summary Judgment filed herewith includes complete copies of the transcripts of said depositions.

8. The Supplemental Record filed herewith also includes true and correct copies of the Incident Reports completed by Trooper McCracken and produced pursuant to subpoena served by Mr. McCracken.

9. With respect to the arson, Pamela Vaux testified, in pertinent part, as follows:

- Q. Did Mr. McCracken have any prior knowledge to your damage to the house?  
Did he know ahead of time you were going to do damage to the house?
- A. Honestly, no. This was --- I mean, it wasn't planned, it wasn't set. He had no --- I didn't go there with intentions to do it.
- Q. The story we heard you got mad at him at a party; is that right?
- A. Yes.
- Q. From the time you left the party until you did this damage did you talk to Mr. McCracken at all?
- A. No. I was alone in the car. He was back at the party still.

(Supplemental Record, Exhibit "1", Deposition Transcript of Pamela Vaux, p.19).

- Q. You became angry at some point with Rick?
- A. Right. Just too much to drink.
- Q. And is that why you burned the house?
- A. Yes.
- Q. And did Rick McCracken have any prior knowledge of your intention to burn the house or any involvement whatsoever in that act?
- A. No, he didn't. He had no idea any of this was going to take place.

(Supplemental Record, Exhibit "1", Deposition Transcript of Pamela Vaux, p.26).

10. With respect to occupancy of the subject house, Pamela Vaux testified that she and Mr. McCracken had stayed in the house for several days before the fire. She stated that it was at least two

days but could have been three or four. The electricity had been turned on and they were working on the porch. Mr. McCracken had purchased some wood and was building a porch on the left side of the house. The morning of the fire, they had actually worked on the house until approximately noon and had slept in the house the night before. (Supplemental Record, Exhibit "1", Deposition Transcript of Pamela Vaux, pp.21-22).

11. The Incident Reports prepared by Trooper McCracken (Supplemental Record, Exhibit "3") indicate that he first examined the scene on July 5, 2002, at which time Mr. McCracken was present and gave permission for him to do so. He interviewed Mr. McCracken at the scene. Mr. McCracken informed him that he and his girlfriend, Pamela Vaux, had moved into the house at about the beginning of the month and the electricity was turned on on the third. Mr. McCracken and Pamela Vaux went to a fourth of July party at which time they had a fight and Ms. Vaux left the party in her car leaving him behind. He obtained a ride back to the home from a friend at which time he saw that the house was on fire and knew that Pam had set his house on fire because of the way she left the party. A neighbor saw Pam's car parked at the house immediately before she noticed the fire and contacted 911.

Trooper McCracken also interviewed Michael Hipps, the son-in-law of Pamela Vaux, who informed him that Pamela Vaux came to his home at about 3:00 a.m. on July 5, 2002, at which time she told him that she was in a lot of trouble and was going to be behind bars stating: "I burned Rick's house down and went to Gasam and set his tent and Harley on fire." Trooper McCracken interviewed Pamela Vaux later that day at which time she denied that she was anywhere near Mr. McCracken's house after she left the party. However, on July 18, 2002, Pamela Vaux consented to an interview at the barracks at which time she waived her right to be represented by counsel and admitted that she had intentionally set the fire. She explained that they both had been drinking at a party, had a fight, and she drove to his house. She stated: "I never meant to burn his house down." However, after she got there, she set the house on fire.

Ms. Vaux was charged with arson and related offenses with respect to the burning of Mr. McCracken's house and the motorcycle.

12. At his deposition, Trooper McCracken testified, in pertinent part, as follows:

Q. Once you determined it was incendiary, did you take efforts to determine who was responsible for starting it?

A. Yes, I did.

Q. And what did you determine?

A. I determined that it was Pamela Vaux. . .

Q. How did you determine that?

A. Initially that was just a suspicion and she was seen by a neighbor at the residence that night at the time of the fire and upon interviewing her she did admit to me that she set the fire.

(Supplemental Record, Exhibit "2", Deposition Transcript of Trooper McCracken, pp.11-12).

Q. My question, Trooper, is did any investigation that you conducted reveal that Richard McCracken had any part in the arson loss?

A. I never --- I don't believe so, not that was substantial enough to file charges. I basically went by Pam's confession, that she ---. Now if your asking ---.

Q. Well, I'm asking whether or not you ever obtained any evidence that would have supported a conclusion --- ?

A. I never obtained evidence that I would file any charges against him.

Q. And Pamela Vaux never implicated him?

A. No.

(Supplemental Record, Exhibit "2", Deposition Transcript of Trooper McCracken, p.34).

Q. And do you recall having that conversation with Mr. Yocum?

A. Very vaguely now I do recall that we had discussed different things.

Q. And do you recall whether Mr. Yocom asked you at any time whether or not there was any evidence that Mr. McCracken was involved?

A. I'm sure that he would have.

Q. Do you recall ever informing him that you had obtained any such evidence?

A. Other than I'm sure that I probably would have passed the information on when Pam told me that Richard --- she had reason to believe Richard was going to claim things that weren't damaged by the fire, but I don't recall ever saying that he had any active involvement.

(Supplemental Record, Exhibit "2", Deposition Transcript of Trooper McCracken, pp.37-38).

13. Trooper McCracken testified that he met with Randy Guthrie of Grange Mutual on July 5, 2002, and recommended that a cause and origin expert be retained and may have even recommended Mr. Tsikalas. Tsikalas Investigations provided copies of witness statements to Trooper McCracken including the statement of Mr. McCracken. Trooper McCracken agreed with the conclusion of Tsikalas Investigations that the fire was an arson spite revenge fire set by Pamela Vaux. (Supplemental Record, Exhibit "2", Deposition Transcript of Trooper McCracken, pp.29-30). Trooper McCracken further testified as follows:

Q. So essentially she was angry or trying to seek revenge or punish in some way?  
A. I would have to agree with that.

Q. To punish him in some way?  
A. I would have to agree with that.

(Supplemental Record, Exhibit "2", Deposition Transcript of Trooper McCracken, p.35).

14. Trooper McCracken testified that both Pamela Vaux and Richard McCracken stated that they had been living in the house for several days prior to the fire. (Supplemental Record, Exhibit "2", Deposition Transcript of Trooper McCracken, pp.12-13; 19-20).

15. The testimony of Trooper McCracken and deposition exhibits attached thereto confirm that Trooper McCracken had kept representatives of Grange Mutual informed of the results of his investigation including the absence of any evidence that Mr. McCracken was involved in the arson. (Supplemental Record, Exhibit "2", Deposition Transcript of Trooper McCracken, pp.37-38).

16. Defendant, **RICHARD D. MCCRACKEN**, incorporates by reference herein the initial Motion for Summary Judgment attached hereto as Exhibit "A" and renews said Motion as the undisputed facts of record clearly establish that the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL INSURANCE COMPANY**, cannot produce sufficient evidence of facts to support its assertion that Defendant McCracken was not occupying his home on the date of loss such that the denial of coverage on that basis must fail as a matter of law.

17. Defendant McCracken further motions this Court for summary judgment with respect to any denial of coverage by Grange Mutual on the basis of Defendant McCracken's involvement in the arson as the undisputed facts of record establish that Grange Mutual cannot produce sufficient evidence of any facts to support such an assertion such that the Defendant, **RICHARD D. McCRACKEN**, is entitled to judgment as a matter of law. Further, Defendant McCracken asserts that any denial of coverage on this basis has been waived and should be estopped as Grange Mutual was fully aware of the results of the investigations of both Tsikalas Investigations and the Fire Marshall, Trooper McCracken, prior to filing the instant action and never denied coverage on that basis.

**WHEREFORE**, Defendant, **RICHARD D. McCRACKEN**, respectfully requests that this Honorable Court enter an Order granting summary judgment in his favor and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, on the Complaint and entering judgment in favor of the Defendant, **RICHARD D. McCRACKEN**, and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, on Count I of the Defendant's Counterclaim in the total sum of \$39,032.80 together with interest from August 16, 2002, and costs of this action.

Respectfully submitted,

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By 

Karen L. Steele, Esquire  
Attorney for Defendant  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

Date: April 14, 2004



CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 02-1687-CD

**DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

Filed on behalf of Defendant, Richard D.  
McCracken

Counsel of record for this party:

Karen L. Steele, Esquire  
Attorney I.D. #32707

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR  
414 N. Logan Boulevard  
Altoona, PA 16602

(814) 946-4391

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

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

:  
: CIVIL DIVISION

:  
: NO. 02-1687-CD


**NOTICE TO PLEAD**

TO: PLAINTIFF, CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY  
c/o R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

IN ACCORDANCE WITH RULE 1035.3 OF THE PENNSYLVANIA RULES OF CIVIL  
PROCEDURE, YOU ARE HEREBY NOTIFIED THAT YOU ARE REQUIRED TO FILE A  
WRITTEN RESPONSE TO THE ATTACHED MOTION FOR SUMMARY JUDGMENT WITHIN  
THIRTY (30) DAYS FROM SERVICE HEREOF OR SUMMARY JUDGMENT MAY BE ENTERED  
AGAINST YOU.

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By

  
Karen L. Steele, Esquire

Attorney for Defendant, Richard D. McCracken  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCRACKEN,

Defendant

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

:  
: CIVIL DIVISION

:  
: NO. 02-1687-CD

**ORDER GRANTING DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2003, upon review of the Defendant's Motion for Summary Judgment, the Briefs of the parties, and oral argument on said Motion, it is hereby **ORDERED, DIRECTED AND DECREED** that said Motion for Summary Judgment is granted. Judgment is hereby entered in favor of the Defendant, **RICHARD D. McCRACKEN**, and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, on the Complaint and the said Complaint is dismissed. Judgment in the sum of \$39,032.80 is hereby entered in favor of the Defendant, **RICHARD D. McCRACKEN**, and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, on Count I of the Defendant's Counterclaim together with interest thereon at the legal rate from August 16, 2002, through the date of payment and costs of this action.

BY THE COURT:

---

J.

CLEARFIELD COUNTY GRANGE	:	IN THE COURT OF COMMON PLEAS OF
MUTUAL FIRE INSURANCE COMPANY,	:	CLEARFIELD COUNTY, PENNSYLVANIA
	:	
Plaintiff	:	CIVIL DIVISION
	:	
vs.	:	NO. 02-1687-CD
	:	
RICHARD D. McCRACKEN,	:	
	:	
Defendant	:	

**DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

AND NOW, comes the Defendant, **RICHARD D. McCRACKEN**, through his legal counsel, Goldstein, Heslop, Steele, Clapper, Oswalt & Stoehr, and, pursuant to Pa.R.C.P. No. 1035.1, moves this Honorable Court for entry of summary judgment as follows:

1. Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, ("Grange Mutual") commenced this declaratory judgment action by filing a Complaint on October 20, 2002, requesting the Court to declare that the fire insurance policy which it issued to the Defendant, **RICHARD D. MCCRACKEN**, ("McCracken") does not provide coverage for the subject fire loss. A copy of the Complaint was thereafter mailed to Defendant's attorney on or about October 28, 2002. In the intervening period, on October 23, 2002, Defendant filed a Complaint against Grange Mutual to No. 2002-1662-CD, asserting breach of the insurance contract in Count I thereof and bad faith in Count II. McCracken is asserting a counterclaim in this action through incorporation of his Complaint filed against Grange Mutual. The parties have filed responsive pleadings to the respective Complaints such that the pleadings are now closed. Discovery has been completed.

2. Defendant McCracken's Motion is based upon the record in this action and the action filed to No. 2002-1662-CD which are incorporated by reference herein, including the pleadings (with attached exhibits) and the deposition transcript of Grange Mutual's authorized agent and claims representative, Edward J. Yocum, a complete copy of which is attached hereto as Exhibit "1".

3. The record confirms that the following facts are undisputed:

(a) On and before July 4, 2002, Defendant McCracken was the owner of real property and improvements located in Bigler Township, Madera, Clearfield County, Pennsylvania. (Complaint of Grange Mutual, Par. 2).

(b) On July 4, 2002, there was in full force and effect a fire insurance policy issued by Grange Mutual to McCracken to Policy No. 32334 providing insurance coverage of up to \$40,000.00 on the dwelling, up to \$15,000.00 on the contents and up to \$1,000.00 on an unattached masonry garage. (Complaint of Grange Mutual, Par. 3; Complaint of McCracken, Par. 4; Answer of Grange Mutual, Par. 4).

(c) On July 4, 2002, the insured property was destroyed by fire. (Complaint of Grange Mutual, Par. 4).

(d) The cause of the fire was determined to be arson committed by the girlfriend of McCracken, described by Grange Mutual's investigator as a "spite revenge" fire. (Deposition Transcript of Edward J. Yocum, p.172, Exhibit 3).

(e) McCracken promptly reported the fire loss and made a claim under the policy. (Deposition Transcript of Edward J. Yocum, p.50, Exhibits 19, 22).

(f) Grange Mutual assigned the adjustment of the claim to Edward J. Yocum, an independent adjuster employed by E.L. Braid Claim Service, Inc.. (Deposition Transcript of Edward J. Yocum, p.33, p.47, Exhibit 9).

(g) Grange Mutual also contracted with Tsikalas Investigations to complete a cause and origin investigation of the fire. (Deposition Transcript of Edward J. Yocum, Exhibit 3). As part of his investigation, on July 5, 2002, Tsikalas Investigations obtained a recorded statement of McCracken. (Deposition Transcript of Edward J. Yocum, Exhibit 6). In his statement, McCracken stated that he had been out west and had returned to the area approximately one month before the

fire. He had been staying at a campground but had returned to the subject property several days before the fire. McCracken answered the questions as follows:

- Q. I'm sure you do. Can you tell me what the circumstances were before the fire?  
Were you here?
- A. *Yeah, I was. I was puttin' the hand railing on the porch. I wanted to try to fix it up to try to get . . . I had a book on how to make it on certain rules or whatever for HUD - cause I thought maybe I could rent it and I didn't know about how to go about it and I got papers and it said all this stuff. So, we started on it. I put that porch on it and it just had the two concrete steps there and we was puttin' hand railings on it and I was gonna put a roof on it. That's what I was doin' for the past two days, wasn't I*

(Deposition Transcript of Edward J. Yocum, Exhibit 6, p.2).

- Q. I have to ask that question because we have to find out what's going on here. When did you come back from out west?
- A. *It's been right around a month ago and I was stayin' at this property over near Kerrmore. That's where the Harley's at, my tent and we had her parents . . .*
- Q. You have a Harley and a tent over there, correct?
- A. *Yeap.*
- Q. Do you have other personal belongings over there?
- A. *Yeap.*
- Q. Is that her house?
- A. *No, there's no house there at all. It's just a campground and we had her camper there, her parents', and we stayed in it and we just got electric turned on here on the 3<sup>rd</sup> and we stayed here for three to four nights, like a couple days before we got the electric. The day we got the electric, we stayed here.*

(Deposition Transcript of Edward J. Yocum, Exhibit 6, p.3).

- Q. What did you and Pam do that day in the house? (July 4, 2002).
- A. *I'm thinkin' we probably got up around 10:00 and started workin' on the porch and did that probably for just a few hours, workin' on the porch. Like I said, I didn't even have my power tools down here, I was just using the battery operated handsaw and we got the porch pretty much done except for the roof.*

(Deposition Transcript of Edward J. Yocum, Exhibit 6, p.4).

(h) As part of his investigation, on August 14, 2002, Edward J. Yocum also took a recorded statement of McCracken, the transcript of which is 21 pages in length. (Deposition Transcript of Edward J. Yocum, Exhibit 14). Mr. McCracken stated that he had gone out west at the end of

February or beginning of March, 2002, and spent approximately four months there before returning to Clearfield County approximately one month before the fire during which time his home was not occupied. (Deposition Transcript of Edward J. Yocum, Exhibit 14, pp.9-11). McCracken specifically stated as follows:

Q. Okay, um, so, actually, leading up to then, the night of the fire, um, you weren't actually living in the house?

A. *Ah, we did stay there probably two to three nights, you know, right before the 4<sup>th</sup> of July.*

Q. Hum, hum.

A. *You know, cause we're still at that campsite and, you know its getting a little old.*

Q. Right.

A. *Cause we was in a camper the whole time out west and, you know, we stayed there a couple nights and, ah, even with no electricity we, you know, was usin' them kerosene lamps and then having the power turned on.*

(Deposition Transcript of Edward J. Yocum, Exhibit 14, pp.13-14).

(i) By letter of August 16, 2002, McCracken was informed by Edward Yocum that Grange Mutual was denying coverage on the loss based upon the information McCracken provided in his recorded statement stating:

The question that has come to light is involving occupancy of the dwelling and the fact that you had confirmed that the property had been vacant for approximately four months **just prior to the fire** with no utilities connected except electricity that was re-established to the property two or three days prior to July 4<sup>th</sup>.

In his letter, Edward Yocum referred to the applicable policy provisions as follows:

In light of the above-stated information we want to bring to your attention and refer you to a copy of the insurance policy provided for the property, which is referred to as a standard fire insurance policy in the State of Pennsylvania specifically lines twenty-five through thirty-two where it states:

Conditions suspending or restricting insurance unless otherwise provided in writing added hereto this company shall not be liable for loss occurring:

A. While the hazard is increased by any means within the control or knowledge of the insured;

B. While a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of 60 consecutive days; or . . .

Based upon the facts confirmed during the course of your statement the above-stated exclusionary language of the policy, we must with regret deny coverage to you for the dwelling loss above and beyond the mortgage payoff with County National Bank. Meaning, no additional funds will be provided for the structure loss once the mortgage payoff has been confirmed and the payoff processed.

(Deposition Transcript of Edward J. Yocum, Exhibit 15, p.1-2).

(j) In reference to his letter of August 16, 2002, Mr. Yocum testified as follows:

Q. And at the end of that sentence, you indicate that the decision was based upon the fact that the insured revealed that the property had been vacant for approximately four months, shortly prior to the day of loss; is that correct?

A. *Yes, dealing with the statement that he had been out west and that the property had been vacant.*

Q. Shortly prior to the date of loss is the language which you use; correct?

A. *That's the language I used, yes.*

Q. Were you aware as of that time, of the existence of any facts or any witnesses who would testify or could testify that the property was not occupied on the date of the loss?

A. *Do we have any information to confirm that?*

Q. Yes.

A. *No, not from any witnesses.*

(Deposition Transcript of Edward J. Yocum, Exhibit 15, pp.115-116).

Edward Yocum further testified:

Q. . . . Okay. But you've agreed with me previously, I think, that you had no information, no facts to dispute his claim that he had been living in the property on the date of the fire and for several days before that; correct?

A. *That's correct, but I think our direction is it's not an issue of him staying in the property one or two days or three days or four days prior, but he was out of the property for an extended period of time. And that's why we felt, because of the language of the policy, to have counsel review it.*

(Deposition Transcript of Edward J. Yocum, Exhibit 15, pp.122-123).

(k) In reference to the denial based upon "While the hazard is increased by any means within the control or knowledge of the insured:" as set forth in his letter of August 16, 2002, Mr. Yocum testified as follows:

Q. And my question to you is on what facts were you relying to assert a restriction in coverage based upon increase in the hazard?

A. *Well, that's - - - whenever I quote from policy, I quote that entire section even though some parts may apply and some may not apply.*

Q. Okay. But isn't there a subparagraph C to that section also, I believe? But in any event, your answer would be that even if A didn't necessarily apply, since it was part of the same policy provision, that's why you were quoting from it there?

A. *Right. Correct.*

Q. And the basic intent was to inform the insured that you were denying coverage based upon occupancy?

A. *I say the majority of our basis and again, which we discussed with counsel, was on the occupancy issue.*

Q. Was there any other basis?

A. *I can't recall if there was any other basis. I think we would have addressed that.*

(Deposition Transcript of Edward J. Yocum, Exhibit 15, pp.126-127).

(l) Following the denial of coverage to McCracken, Grange Mutual forwarded a draft to County National Bank in payment of the balance due under McCracken's mortgage of \$15,967.20.

(Deposition Transcript of Edward J. Yocum, pp.135-136; Exhibit 19).

(m) The fire damage to the structure exceeds the limit of coverage of \$40,000.00 under the policy issued by Grange Mutual to McCracken. (Deposition Transcript of Edward J. Yocum, p.146).

(n) The fire damage to the contents also exceeded the limit of coverage of \$15,000.00 under the subject policy. (Deposition Transcript of Edward J. Yocum, pp.146-149).

(o) There was no damage to the masonry garage and there is no additional coverage provided under the policy for any additional items of loss such as debris removal or living expenses. (Deposition Transcript of Edward J. Yocum, p.149).

(p) Mr. McCracken did not change his address from the date on which he applied for the subject policy through the date of loss. (Deposition Transcript of Edward J. Yocum, pp.163-164).

(q) Edward J. Yocum testified as follows:

Q. To your knowledge, are there any documents or any facts of which you're aware that serve as a basis of the denial of coverage, other than the facts that we've discussed here today and the documents that we've reviewed?

A. *No, none that I'm aware of.*

(Deposition Transcript of Edward J. Yocum, p.168).

4. The standard fire policy issued by Grange Mutual to McCracken provides, in pertinent part, as follows:

CONDITIONS SUSPENDING OR RESTRICTING INSURANCE. Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring:

(a) While the hazard is increased by any means within the control or knowledge of the insured; or

(b) While a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; . . .

WAIVER OF POLICY PROVISIONS: A claim for loss from perils included in this Endorsement shall not be barred because of change of occupancy, nor because of vacancy or unoccupancy, except as herein before provided.

(Deposition Transcript of Edward J. Yocum, Exhibit 22; 40 P.S. §636).

5. The undisputed facts of record establish that McCracken was occupying his home on the date of loss.

6. There is no genuine issue of any material fact with respect to the application of the policy provisions at issue herein.

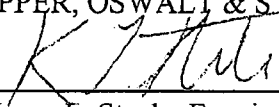
7. Based upon the undisputed facts of record, Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, has failed to produce sufficient evidence of facts to support its assertion that coverage was suspended as of the date of loss such that the Defendant, **RICHARD D. McCRACKEN**, is entitled to judgment as a matter of law.

8. Grange Mutual has admitted that McCracken's loss on the structure exceeds the policy limit of \$40,000.00 and that the loss of the contents exceeds the coverage of \$15,000.00. After crediting the sum paid to County National Bank on the mortgage balance of \$15,967.20, there is a total sum due and owing to McCracken under the policy of \$39,032.80.

**WHEREFORE**, Defendant, **RICHARD D. McCracken**, respectfully requests that this Honorable Court enter an Order granting summary judgment in his favor and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, on the Complaint and entering judgment in favor of the Defendant, **RICHARD D. McCracken**, and against the Plaintiff, **CLEARFIELD COUNTY GRANGE MUTUAL FIRE INSURANCE COMPANY**, on Count I of the Defendant's Counterclaim in the total sum of \$39,032.80 together with interest from August 16, 2002, and costs of this action.

Respectfully submitted,

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By   
Karen L. Steele, Esquire  
Attorney for Defendant, Richard D. McCracken  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

Date: Feb 7, 2003

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

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

: CIVIL DIVISION  
:

: NO. 02-1687-CD  
:  
:  
:

**CERTIFICATE OF SERVICE**

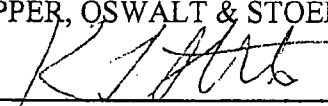
This is to certify that I, Karen L. Steele, Esquire, served a copy of the Defendant's Motion for Summary Judgment on the 7 day of Feb., 2003, via First Class United States Mail, postage prepaid and addressed to the following:

R. Denning Gearhart, Esquire  
Attorney for Plaintiff  
Attorney I.D. #26540

215 East Locust Street  
Clearfield, PA 16830  
(814) 765-1581

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By

  
\_\_\_\_\_  
Karen L. Steele, Esquire  
Attorney for Defendant, Richard D. McCracken  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391



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

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY:

-vs-

No. 02 - 1687 - CD

RICHARD D. McCracken

**OPINION AND ORDER**

This matter comes before the Court on a Motion for Summary Judgment filed on behalf of Defendant above-named. It appears from argument and briefs that it is essential for Plaintiff in this declaratory judgment action to depose Pamela Vaux who is currently charged with the arson resulting in the above claim and the investigating fire marshal. Since Ms. Vaux is currently subject to these criminal proceedings, Plaintiff has not been permitted to depose her and for this reason, the Court is at this stage denying Defendant's Motion for Summary Judgment in order to provide Plaintiff the sufficient time and opportunity to properly schedule these depositions.

WHEREFORE, the Court enters the following:

**ORDER**

NOW, this 22<sup>nd</sup> day of May, 2003, following argument and briefs into Motion for Summary Judgment filed on behalf of Defendant above-named, it is the ORDER of this Court that said Motion be and is hereby dismissed without prejudice to the Defendant to raise the issue again upon completion of discovery.

By the Court,

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

/s/ JOHN K. REILLY, JR.

MAY 22 2003

\_\_\_\_\_  
President Judge

Attest.

*William D. Shaw*  
Prothonotary/  
Clerk of Courts

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

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

: CIVIL DIVISION

: NO. 02-1687-CD

**CERTIFICATE OF SERVICE**

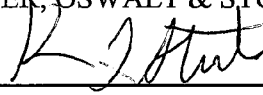
This is to certify that I, Karen L. Steele, Esquire, served a copy of the Defendant's Renewed Motion for Summary Judgment on the 16 day of April, 2004, via First Class United States Mail, postage prepaid and addressed to the following:

R. Denning Gearhart, Esquire  
Attorney for Plaintiff  
Attorney I.D. #26540

215 East Locust Street  
Clearfield, PA 16830  
(814) 765-1581

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By

  
\_\_\_\_\_  
Karen L. Steele, Esquire  
Attorney for Defendant  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

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CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 02-1687-CD

**SUPPLEMENT RECORD IN SUPPORT OF  
DEFENDANT'S RENEWED MOTION FOR  
SUMMARY JUDGMENT**

Filed on behalf of Defendant

Counsel of record for this party:

Karen L. Steele, Esquire  
Attorney I.D. #32707

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR  
414 N. Logan Boulevard  
Altoona, PA 16602

(814) 946-4391

FILED

APR 19 2004

CLERK OF COURT  
CLEARFIELD COUNTY, PA

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCRACKEN,

Defendant

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

: CIVIL DIVISION

: NO. 02-1687-CD

**SUPPLEMENTAL RECORD IN SUPPORT OF  
DEFENDANT'S RENEWED MOTION FOR SUMMARY JUDGMENT**

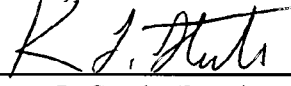
AND NOW, comes the Defendant, **RICHARD D. McCRACKEN**, through his legal counsel, Goldstein, Heslop, Steele, Clapper, Oswalt & Stoehr, and, pursuant to Pa.R.C.P. No. 1035.1, files the following documents of record in support of his Renewed Motion for Summary Judgment:

1. Attached hereto as Exhibit "1" is a complete copy of the deposition transcript of Pamela Vaux taken on December 18, 2003.
2. Attached hereto as Exhibit "2" is a complete copy of the deposition transcript of Trooper Michael S. McCracken taken on December 18, 2003.
3. Attached hereto as Exhibit "3" is a complete copy of the Incident Reports produced by Trooper Michael S. McCracken in response to a Subpoena served by the Defendant, Richard D. McCracken.

Respectfully submitted,

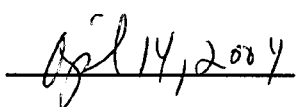
GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By

  
Karen L. Steele, Esquire  
Attorney for Defendant  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

Date:







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

\* \* \* \* \*

RICHARD D.,

MCCRACKEN,

Plaintiff

vs.

CLEARFIELD COUNTY,

GRANGE MUTUAL FIRE

INSURANCE COMPANY,

Defendant

Case No.

2002-1662 C.D.

\* \* \* \* \*

DEPOSITION OF  
PAMELA VAUX  
December 18, 2003

COPY

Any reproduction of this transcript  
is prohibited without authorization  
by the certifying agency.

## DEPOSITION

OF

PAMELA VAUX, taken on behalf of the  
Defendant herein, pursuant to the Rules  
of Civil Procedure, taken before me,  
the undersigned, Rhonda K. Lingle, a  
Court Reporter and Notary Public in and  
for the Commonwealth of Pennsylvania,  
at the Clearfield County Jail,  
Clearfield, Pennsylvania, on Thursday,  
December 18, 2003, beginning at  
2:05 p.m.

## A P P E A R A N C E S

KAREN L. STEELE, ESQUIRE

Goldstein, Heslop, Steele, Clapper,

Oswalt & Stoehr

414 N. Logan Boulevard

Altoona, PA 16602

COUNSEL FOR PLAINTIFF

R. DENNING GEARHART, ESQUIRE

215 E. Locust Street

Clearfield, PA 16830

COUNSEL FOR DEFENDANT

## I N D E X

WITNESS: PAMELA VAUX

DIRECT EXAMINATION

by Attorney Gearhart 7 - 20

CROSS EXAMINATION

by Attorney Steele 21 - 28

REDIRECT EXAMINATION

by Attorney Gearhart 28 - 30

CERTIFICATE 31

EXHIBIT PAGEPAGENUMBERDESCRIPTIONIDENTIFIED

NONE OFFERED

OBJECTION PAGEATTORNEYPAGE

NONE MADE

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## P R O C E E D I N G S

-----  
PAMELA VAUX, HAVING FIRST BEEN DULY  
SWORN, TESTIFIED AS FOLLOWS:  
-----

DIRECT EXAMINATION

BY ATTORNEY GEARHART:

Q. Pam, my name is Denning Gearhart and I represent Clearfield County Grange Mutual Insurance. This is what's called a deposition where we ask some questions that may be relevant to the case. I have a couple cautionary things. One is if you don't understand the question, if you don't understand me, don't hear the question or don't understand the intent of the question feel free to ask to have it repeated and Ms. Steele will probably tell you the same thing. Feel free to ask us to repeat it because any answer you give will be taken as knowledgeable and something you knew. In your case, too, I know that Attorney Dan Bell from the Public Defender's Office advised you

1 earlier not to talk about this and that  
2 was presentencing. And he's correct.  
3 You have a right to assert your Fifth  
4 Amendment rights and you've been  
5 sentenced already so there is nothing  
6 more that --- there are no other --- it  
7 couldn't get any worse so that, I don't  
8 know whether he called you. I talked  
9 to him yesterday, but that protections  
10 no longer available to you so if you  
11 know the answer to a question you can  
12 answer the question.

13 A. But I still haven't spoke to my  
14 lawyer since ---. I had no clue any of  
15 this was coming up so don't I have the  
16 right to speak to a lawyer before ---.

17 Q. This is not a criminal matter.  
18 You're not looking at any criminal  
19 matter here. This is only civil. I  
20 mean you're not even a party to this  
21 case.

22 A. Then if I have the right, I  
23 don't want to be here. I have nothing  
24 to say.

25 Q. I don't think you do have ---

1 you don't have memorandum rights  
2 anymore. If I got ahold of Mr. Bell,  
3 would you talk to him?

4 A. Okay.

5 ATTORNEY GEARHART:

6 My office attempted to  
7 subpoena Pamela Vaux for the  
8 deposition the same day as  
9 Trooper McCracken. We were  
10 advised by the Probation Office  
11 of what her address was. It  
12 came back for me principal not  
13 found. By coincidence, Trooper  
14 McCracken told me yesterday that  
15 she was here so I made  
16 arrangements for her to do the  
17 deposition now. She is entitled  
18 to notice. I don't have a  
19 problem with that. I was hoping  
20 that we could make it convenient  
21 for everybody and do it now  
22 otherwise we're going to have to  
23 schedule it for later. I had  
24 also received earlier, months  
25 earlier, a copy of a letter that

1 Attorney Dan Bell from the  
2 Clearfield County Public  
3 Defender's Office sent her  
4 advising her that I had made a  
5 request that I be allowed to  
6 talk to her, that he was  
7 advising her that --- he told  
8 her the criminal charges were  
9 disposed of, that she could  
10 maintain her rights under the  
11 Fifth Amendment of the  
12 Constitution. I guess I need to  
13 ask you, do you want to answer  
14 the questions now or do you want  
15 to ---?

16 A. I'll answer what I can.

17 ATTORNEY STEELE:

18 Just for the record, I  
19 would note that I did inform Ms.  
20 Vaux before the deposition with  
21 Dan that this case relates only  
22 to the civil claim that's been  
23 filed with regard to the fire  
24 loss under the Clearfield County  
25 Grange Mutual policy in which I

1 am representing Richard  
2 McCracken and Attorney Gearhart  
3 is representing Clearfield  
4 County Grange Mutual. So she  
5 understands what this claim is  
6 about before she proceeds to be  
7 questioned and I guess she's  
8 agreeing to answer the  
9 questions?

10 A. Yes.

11 BY ATTORNEY GEARHART:

12 Q. We'll try to keep this as quick  
13 as possible. Your name is?

14 A. Pamela Jo Vaux.

15 Q. And how old are you?

16 A. Forty-four (44).

17 Q. And you're presently at  
18 Clearfield County Prison but normally  
19 where do you live, what's your address  
20 before you came here?

21 A. Before I came in?

22 Q. Before you were sentenced what  
23 was your address?

24 A. It was Box 10, Brisbon, PA.

25 Q. And do you have a high school

1 diploma?

2 A. A GED.

3 Q. A GED. And have you received  
4 any other further education?

5 A. No.

6 Q. You can read and write, though?

7 A. Yes.

8 Q. You can speak English?

9 A. Yes.

10 Q. With whom did you live in  
11 Brisbon?

12 A. Rick McCracken.

13 Q. Okay. And how long have you and  
14 Mr. McCracken lived together?

15 A. I think it's been around three  
16 years.

17 Q. And how long did you two live in  
18 Brisbon?

19 A. Just a couple months.

20 Q. Prior to living in Brisbon where  
21 did you live?

22 A. P.O. Box 98, Kylertown.

23 Q. How long did you live in  
24 Kylertown?

25 A. I'm going to say roughly six or

1 eight months.

2 Q. In the interest of brevity you  
3 don't have to give me the exact address  
4 just the general area. Where did you  
5 live before you lived in Kylertown?

6 A. Arizona.

7 Q. And when did you come back from  
8 Arizona?

9 A. I think it was May, May or June.  
10 I'm not sure the exact month.

11 Q. And ---.

12 ATTORNEY STEELE:

13 Excuse me. But would  
14 that have been 2002, the same  
15 year of the fire?

16 A. Yes.

17 BY ATTORNEY GEARHART:

18 Q. And when you came back from  
19 Arizona where did you live?

20 A. In a tent in Gazzam. I'm not  
21 really sure the name of the town.

22 Q. Now you've thrown me. I don't  
23 know where Gazzam is.

24 A. Kerrmoor, it's Kerrmoor, that  
25 area.

1 Q. South of Clearfield?

2 A. Yeah.

3 Q. And was that where you were  
4 living when the fire that we're here  
5 about?

6 A. No, we were staying at Darrel's  
7 for just a couple nights in the house.

8 Q. And do you know when you left  
9 the camper for the house?

10 A. I was going to move into the  
11 house. I was going to have the  
12 electricity turned on, the phone turned  
13 on. I was trying to get water turned  
14 on. I was going to reside there with  
15 my twin boys.

16 Q. And was Rick going to live with  
17 you?

18 A. Yeah.

19 Q. Had you moved any of your  
20 belongings in?

21 A. Just my clothes.

22 Q. Did you have any other  
23 belongings?

24 A. I had quite a bit at my mother's  
25 house.

- 1 Q. Where did you mother live?
- 2 A. At P.O. Box 98, Kylertown.
- 3 Q. After the fire, excuse me, you
- 4 were charged with arson; correct?
- 5 A. Yes.
- 6 Q. And you've entered a plea of
- 7 guilty to what?
- 8 A. Reckless burning.
- 9 Q. And what was your sentence?
- 10 A. Three months and two years'
- 11 probation.
- 12 Q. Was three months the minimum?
- 13 A. Yes.
- 14 Q. And two years was the maximum?
- 15 A. I believe so. I'm not really
- 16 positive.
- 17 Q. And do you remember the date or
- 18 the approximate date you were
- 19 sentenced?
- 20 A. December 9th of this year, 2003.
- 21 Q. So you've been here a week?
- 22 A. Yeah.
- 23 Q. After the fire did you and Mr.
- 24 McCracken immediately stop continuing
- 25 to live with each other?

1 A. No, it was probably a week or so  
2 after before he contacted me.

3 Q. Where did he contact you?

4 A. At my mother's. He had heard  
5 that I was --- that I had a car  
6 accident the night of the fire and he  
7 was concerned, came to see if I was  
8 okay, if I had some keys in it that had  
9 belonged to him.

10 Q. And the two of you rekindled  
11 your relationship?

12 A. Yes.

13 Q. Do you remember driving him to  
14 Grange Mutual Insurance?

15 A. Yes.

16 Q. Do you remember when that was?

17 A. No, I don't to be honest.

18 Q. How was it that you drove him  
19 there?

20 A. He said he had to come up and  
21 speak to someone there at the insurance  
22 office and needed a ride. And I  
23 offered to drive him up.

24 Q. Did he ever talk to you about  
25 what you were to say to the police or

1 anybody that was investigating?

2 A. No. He --- I didn't speak to  
3 him. The night of the fire I didn't  
4 see or speak to him for a while  
5 afterwards and I had --- no, I didn't  
6 speak to Mr. McCracken.

7 Q. Once the two of you did start  
8 talking did he advise you to find an  
9 attorney or not?

10 A. Yes.

11 Q. When was that?

12 A. I'm not really sure when he told  
13 me that but he did.

14 Q. Before or after he made his  
15 statement? Before or after you drove  
16 him to the Grange Insurance?

17 A. I believe it was before that.

18 Q. And what was it that he advised  
19 you?

20 A. That I should find a female  
21 lawyer because they're more against  
22 men.

23 Q. Was that the extent of his  
24 advice?

25 A. Yes.

1 Q. Did he caution you not to make  
2 any statements?

3 A. No.

4 Q. Did he caution you to talk to  
5 the lawyer before you made any more  
6 statements?

7 A. No.

8 Q. During your discussions with Mr.  
9 McCracken did you ever discuss items or  
10 claims that were part of the insurance?

11 A. Yes.

12 Q. What was the nature of that  
13 discussion?

14 A. I had just spoke to him about  
15 the items that were put down and that I  
16 didn't believe were in the house and  
17 the price of the insurance claim, that  
18 I didn't feel was ---.

19 Q. Were there items claimed that  
20 you don't think were in the house?

21 A. It's possible but he had an  
22 attic and I never went up in the attic  
23 so I honestly do not know what he had  
24 up there but I know some things were  
25 like saved, they weren't damaged or

1 destroyed.

2 Q. What are some of those things?

3 A. His television, his  
4 grandfather's clock.

5 Q. Do you have specific knowledge  
6 as to whether or not they were claimed?

7 A. To be honest, I can't recall.

8 Q. Did Mr. McCracken have any prior  
9 knowledge to your damage to the house?  
10 Did he know ahead of time you were  
11 going to do damage to the house?

12 A. Honestly, no. This was --- I  
13 mean, it wasn't planned, it wasn't set.  
14 He had no --- I didn't go there with  
15 intentions to do it.

16 Q. The story we heard you got mad  
17 at him at a party; is that right?

18 A. Yes.

19 Q. From the time you left the party  
20 until you did this damage did you talk  
21 to Mr. McCracken at all?

22 A. No. I was alone in the car. He  
23 was back at the party still.

24 Q. From the time after you did the  
25 damage to the house until I think you

1 were at your mother's house in  
2 Kylertown ---

3 A. Yeah.

4 Q. --- did you speak to him at all  
5 about the house?

6 A. No, I didn't..

7 Q. You said that was approximately  
8 a week?

9 A. A little more maybe.

10 Q. By that time you had already  
11 talked to the Trooper how many times?

12 A. I think they only spoke to him  
13 once. That was the night Mr. --- the  
14 fire had taken place. Trooper  
15 McCracken had come and spoke to me a  
16 little.

17 Q. And any other conversations you  
18 had with him after you had been  
19 advised ---

20 A. Correct.

21 Q. --- to get a lawyer?

22 A. I think, yeah. I do believe.

23 ATTORNEY GEARHART:

24 I have nothing further.

25 CROSS EXAMINATION

1 BY ATTORNEY STEELE:

2 Q. Is it okay if I call you Pam?

3 A. Uh-huh (yes).

4 Q. Pam, according to your testimony  
5 you indicated that you had stayed in  
6 the house that was the subject of the  
7 fire for a couple days before the fire?

8 A. Right. I had the electricity  
9 turned on. I was calling the water  
10 company two or three days and I was ---  
11 I did call the phone company. I was  
12 going to have all the bills turned on  
13 in my name.

14 Q. Can you tell me how many days  
15 before the fire?

16 A. I'm going to say two but I  
17 believe it might have been like three  
18 or four. It was just a couple days not  
19 even a week. I know that.

20 Q. Was Mr. McCracken also staying  
21 in the house with you?

22 A. Yes.

23 Q. And I believe that the two of  
24 you had been doing some work fixing up  
25 the house; is that right?

1       A.       Yeah. He bought some wood and  
2 built a little porch on the left-hand  
3 side of the house.

4       Q.       And is it accurate that the  
5 morning of the fire that the two of you  
6 had actually worked at the house until  
7 noon?

8       A.       Yes.

9       Q.       And you were working on the  
10 porch?

11      A.       Right.

12      Q.       And you had slept in the house  
13 the night before?

14      A.       Yes.

15      Q.       Before you had the electricity  
16 turned on were you using kerosene  
17 lanterns in the house for light at  
18 night?

19      A.       Yes.

20      Q.       And so had you actually stayed  
21 in the house before the electricity was  
22 turned on?

23      A.       Oh, yes. Yes. I think the  
24 first night it was scary. It wasn't  
25 nice.

1 Q. And Mr. McCracken when he had  
2 lived in the house had lived there  
3 without utilities; is that right?

4 A. Well, he had electricity before  
5 he moved to Arizona, but other than  
6 that he didn't have anything just ---  
7 well, and he did have a telephone. I'm  
8 sorry. He had electric and a  
9 telephone. There was no water in that  
10 house whatsoever the whole time that I  
11 was gone.

12 Q. And I believe that the furnace  
13 was a coal furnace; is that right?

14 A. Yes.

15 Q. Did Mr. McCracken keep any  
16 animals at the house when the fire  
17 occurred?

18 A. He had two dogs. I think  
19 they're beagles, full-blooded beagles.  
20 He keeps them down in a pen in his  
21 yard. When we moved to Arizona he had  
22 three cats but the neighbors had let  
23 them go before we came back.

24 Q. And what happened to the dogs?

25 A. The dogs were still there. He

1 still had the dogs.

2 Q. What about when you went to  
3 Arizona, what happened to the dogs?

4 A. His neighbor, the one that let  
5 the cats go, would come over and feed  
6 and water the dogs, take care of them  
7 for him.

8 Q. Would that be Mr. Long?

9 A. Yes.

10 Q. And so the dogs remained at the  
11 house the entire time that Rick was  
12 away from the house?

13 A. When we came back and we were  
14 staying in Gazzam we had moved the two  
15 dogs out with us and we kept them out  
16 there. And then we had just brung them  
17 back. I do believe we took them back  
18 to the house and he put them back in  
19 the pens in the yard. I might be  
20 mistaken. They might have been at his  
21 dad's.

22 Q. Before you moved into the house  
23 which was the subject of the fire had  
24 you stayed in a camper also?

25 A. Yes, and a tent.

1 Q. And had the camper, I believe,  
2 belonged to your mother; is that right?

3 A. Right.

4 Q. And had she taken the camper  
5 from the camp site?

6 A. Yes.

7 Q. And that's one of the reasons  
8 why you moved into the house?

9 A. Right, because we had slept in  
10 the tent for like a night or two and  
11 then decided to move into the house  
12 because I was going to rent it from  
13 him.

14 Q. The day of the fire there was an  
15 air conditioner in the house that was  
16 being used; is that right?

17 A. Uh-huh (yes).

18 Q. According to information that  
19 we've obtained previously on the 4th of  
20 July both of you had been partying and  
21 I assume everybody was drinking  
22 alcohol; is that right?

23 A. Yes.

24 Q. And you were also?

25 A. Oh, yes.

1 Q. You became angry at some point  
2 with Rick?

3 A. Right. Just too much to drink.

4 Q. And is that why you burned the  
5 house?

6 A. Yes.

7 Q. And did Rick McCracken have any  
8 prior knowledge of your intention to  
9 burn the house or any involvement  
10 whatsoever in that act?

11 A. No, he didn't. He had no idea  
12 any of this was going to take place.

13 Q. Were you aware at any time prior  
14 to today, Pam, that anybody was trying  
15 to get in contact with you to discuss  
16 the fire loss with Clearfield County  
17 Grange Mutual?

18 A. I had received one letter like  
19 he said from my lawyer saying before I  
20 was sentenced that he wanted a  
21 deposition and he said to refuse it.  
22 That was the only time I've received  
23 anything about anything like this.

24 Q. And about when did you receive  
25 that letter?

1 A. It would have been somewhere  
2 around September, October, maybe.

3 Q. Of this year?

4 A. This year.

5 Q. And at all times after the fire  
6 up until sentencing were did you live?

7 A. At first I lived in Kylertown  
8 with my mother and then I moved into  
9 Brisbon and lived with Rick McCracken  
10 in the house, his father's old house.

11 Q. And at any time when you were  
12 living at either of those locations did  
13 anyone ever contact you by telephone to  
14 discuss this fire loss?

15 A. No.

16 Q. You gave a statement to Trooper  
17 McCracken shortly after the fire  
18 admitting your being involved in the  
19 fire; is that right?

20 A. Yes.

21 Q. And were the statements that you  
22 made to Trooper McCracken at that time  
23 true and accurate to the best of your  
24 recollection?

25 A. Yes.

1 Q. Where is Rick McCracken living  
2 now?

3 A. As far as I know he's in Brisbon  
4 or Madera. I really couldn't tell you.  
5 When I left, when I came to sentencing  
6 he was living in Brisbon.

7 Q. And who owns the home in  
8 Brisbon?

9 A. His father, Richard McCracken,  
10 owned it but they're repossessing it,  
11 the Farmers Loan Home, something like  
12 that.

13 Q. The house that was burned has  
14 never been repaired; is that right?

15 A. Never.

16 ATTORNEY STEELE:

17 That's all I have for  
18 you.

19 REDIRECT EXAMINATION

20 BY ATTORNEY GEARHART:

21 Q. You say you lived in the camper  
22 and a tent before you went to the  
23 house?

24 A. Right. We lived in a tent and I  
25 got a camper from my mother and father

1 and lived in it for a little bit and  
2 then they took the camper and we went  
3 back to the tent for just a night or  
4 two then we moved into the house.

5 Q. Now when you had this incident  
6 you also burned the tent; is that  
7 right?

8 A. Yes.

9 Q. And was there anybody staying in  
10 the tent at the time?

11 A. No.

12 Q. Why did you burn the tent?

13 A. To be honest, I don't know. I  
14 was just very furious and frustrated.

15 Q. What all was in the tent?

16 A. Just mainly his motorcycle,  
17 mainly papers and clothes that he  
18 hadn't taken to his house.

19 Q. What kind of papers?

20 A. Just letters that he had gotten  
21 from his mother, papers that his mother  
22 give him from when he was --- personal  
23 papers.

24 Q. What, you said you had the  
25 electric turned on. Who was the

1 electric provider? Would it be Penelec  
2 or would it be ---?

3 A. I think it's GPU or GUP.

4 Q. GPU. Not Unilec (phonetic).

5 All right. Did you have the electric  
6 hooked up in your name or Rick's?

7 A. I believe it was my name. No,  
8 it wasn't. I'm sorry. It was in his  
9 sister's name. I couldn't get it in my  
10 name. I owed a back bill. His sister  
11 put it in her name, Sandy Gardner. And  
12 I was going to pay it.

13 Q. Had you taken any steps to have  
14 any other utilities hooked up?

15 A. I called about a phone bill but  
16 never got it hooked up.

17 Q. How about cable?

18 A. I do believe cable is already  
19 hooked up.

20 ATTORNEY GEARHART:

21 I have nothing further.

22 ATTORNEY STEELE:

23 I have nothing further.

24 \* \* \* \* \*

25 DEPOSITION CONCLUDED AT 2:30 P.M.

1 COMMONWEALTH OF PENNSYLVANIA)

2 COUNTY OF CLEARFIELD )

3 C E R T I F I C A T E

4 I, Rhonda K. Lingle, Notary Public in and for  
5 the Commonwealth of Pennsylvania, do hereby certify:

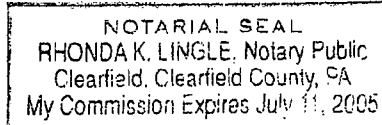
6 That the witness was hereby first duly sworn to  
7 testify to the truth, the whole truth, and nothing  
8 but the truth; that the foregoing deposition was  
9 taken at the time and place stated herein; and that  
10 the said deposition was taken in Stenotype by me and  
11 reduced to typewriting, and constitutes a true and  
12 correct record of the testimony given by the witness.

13 I further certify that the reading and signing  
14 of said depositions were (not) waived by counsel for  
15 the respective parties and by the witness.

16 I further certify that I am not a relative,  
17 employee or attorney of any of the parties, nor a  
18 relative or employee of counsel, and that I am in no  
19 way interested directly or indirectly in this action.

20 IN WITNESS WHEREOF, I have hereunto set my hand  
21 and stamp this 11 day of Mar. 2004.

22  
23 *Rhonda K. Lingle*  
24



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

\* \* \* \* \*

RICHARD D.

MCCRACKEN,

Plaintiff

vs.

CLEARFIELD COUNTY,

GRANGE MUTUAL FIRE

INSURANCE COMPANY,

Defendant

Case No.

2002-1662 CD

\* \* \* \* \*

DEPOSITION OF  
TROOPER MICHAEL S. MCCRACKEN  
December 18, 2003

COPY

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## DEPOSITION

OF

TROOPER MICHAEL S. McCracken, taken on behalf of the Defendant herein, pursuant to the Rules of Civil Procedure, taken before me, the undersigned, Rhonda K. Lingle, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at the Clearfield County Jail, Clearfield, Pennsylvania, on Thursday, December 18, 2003 beginning at 1:05 p.m.

## A P P E A R A N C E S

KAREN L. STEELE, ESQUIRE

Goldstein, Heslop, Steele, Clapper,

Oswalt & Stoehr

414 N. Logan Boulevard

Altoona, PA 16602

COUNSEL FOR PLAINTIFF

R. DENNING GEARHART, ESQUIRE

215 E. Locust Street

Clearfield, PA 16830

COUNSEL FOR DEFENDANT

## I N D E X

WITNESS: TROOPER MICHAEL S. McCRACKEN

DIRECT EXAMINATION

by Attorney Gearhart 7 - 21

CROSS EXAMINATION

by Attorney Steele 21 - 48

REDIRECT EXAMINATION

by Attorney Gearhart 48 - 49

CERTIFICATE 50

EXHIBIT PAGE

	<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>PAGE</u> <u>IDENTIFIED</u>
5	One	Letter of 07/22/02	23
6	Two	Fax dated 07/05/02	26
7	Three	Fax of Findings and	
8		Conclusion	29
9	Four	Letter of 07/10/02	31
10	Five	Letter from Ed Yocum	33
11	Six	Letter of 07/24/02	36

OBJECTION PAGEATTORNEYPAGE

Steele

16, 20

## P R O C E E D I N G S

TROOPER MICHAEL S. MCCrackEN, HAVING  
FIRST BEEN DULY SWORN, TESTIFIED AS  
FOLLOWS:

DIRECT EXAMINATION  
BY ATTORNEY GEARHART:

Q. Mike, for the record identify  
yourself.

A. I'm Trooper Michael S. McCracken  
of the Pennsylvania State Police  
stationed out of Clearfield Barracks.

Q. And how long have you been a  
state trooper?

A. Fourteen (14) years.

Q. And do you have any special area  
of expertise now?

A. I am one of the troop fire  
marshals certified as a fire  
investigator in the State of  
Pennsylvania.

Q. And was there special training  
for that?

A. Yes.

1 Q. What was that?

2 A. Initially 60-days training with  
3 another fire marshal and I've been to  
4 numerous schools, several months'  
5 worth.

6 Q. In your capacity as a fire  
7 marshal were you called to investigate  
8 a fire involving real estate belonging  
9 to a Richard McCracken?

10 A. Yes, I was.

11 Q. And when was that?

12 A. It was the 5th of July, 2002.

13 Q. Who called you to that?

14 A. Actually I would have received a  
15 call from the barracks. The fire  
16 department would have requested a fire  
17 marshal and they would have contacted  
18 our barracks and then our barracks  
19 would have contacted me.

20 Q. Do they always request a fire  
21 marshal over there?

22 A. No.

23 Q. Special circumstances?

24 A. Anytime that the fire chief  
25 can't determine the cause or if it's

1 suspicious in nature, they'll request a  
2 fire marshal.

3 Q. What were you called to  
4 investigate?

5 A. The first fire was a structure  
6 fire located on the north side of  
7 Chestnut Street in Madera. It was a  
8 two-story wood frame structure house.  
9 Then I'm not quite sure when, but  
10 sometime during the course of  
11 conducting that investigation I became  
12 aware that there was another fire that  
13 had occurred in Gazzam Run, which I  
14 believe is in Jordan Township, where a  
15 Harley Davidson and a tent were burned.

16 Q. The one in Madera, who  
17 accompanied you to that?

18 A. I believe it was Trooper Kenny  
19 Hahn.

20 Q. And what did you find when you  
21 got there?

22 A. We determined that it was ---  
23 actually I think I made a mistake on  
24 the last question. I don't believe  
25 Hahn went with me originally. He came

1 with me at a later date because I was  
2 training him at the time. I believe I  
3 was there by myself originally. But I  
4 had determined that the fire was an  
5 incendiary fire, which is an arson.

6 Q. Was the owner present whenever  
7 you ---? If you don't remember, that's  
8 okay.

9 A. I don't remember. I did speak  
10 with him but I don't remember whether  
11 it was at the time when I originally  
12 responded or not.

13 Q. You say you determined it to be  
14 incendiary. What led you to determine  
15 that?

16 A. The burn pattern. The fire had  
17 started on the second floor and I  
18 believe --- and that's why I believe  
19 there were two points of origin.  
20 During my examination I had ruled out  
21 all accidental causes and with two  
22 points of origin, the burn pattern was  
23 heavy in two second floor rooms,  
24 opposite corners of the house and  
25 examination just --- there were no

1 accidental causes.

2 Q. You're referring to a report;  
3 correct?

4 A. Yes.

5 Q. If you haven't already provided  
6 me with that report, could you provide  
7 me with that and can we share that with  
8 Attorney Steele?

9 A. Sure.

10 Q. I mean I don't need it now.

11 A. Don't let me forget that.

12 Q. Once you determined it was  
13 incendiary did you take efforts to  
14 determine who was responsible for  
15 starting it?

16 A. Yes, I did.

17 Q. And what did you determine?

18 A. I determined that it was Pamela  
19 Vaux.

20 Q. V-A-U-X?

21 A. Yes.

22 Q. How did you determine that?

23 A. Initially that was just a  
24 suspicion and she was seen by a  
25 neighbor at the residence that night at

1 the time of the fire and upon  
2 interviewing her she did admit to me  
3 that she set the fire.

4 Q. You say you interviewed her?

5 A. Yes, I did.

6 Q. Did you have a chance to  
7 interview Mr. McCracken?

8 A. Yes, I did.

9 Q. Before or after?

10 A. It would have been before I  
11 interviewed Vaux.

12 Q. Did he implicate her at all?

13 A. I believe he did.

14 Q. Would you know if you reviewed  
15 your record?

16 A. Yes, I should be able to tell  
17 you that. Would you like me to read  
18 his statement?

19 Q. Please.

20 A. Richard McCracken interviewed at  
21 the scene stated that Pam Vaux is his  
22 girlfriend. He advised that they had  
23 lived together in Colorado and Arizona  
24 for the past five months and returned  
25 to Pennsylvania to live in her parents'

1 camper. The camper was set up at  
2 McCracken's property in Gazzam. Her  
3 parents needed the camper so about the  
4 beginning of the month they moved into  
5 the house. The electric was turned on  
6 during the 3rd of the month. There was  
7 still no running water in the house so  
8 the water heater was not turned on nor  
9 was the furnace because due to the warm  
10 weather it was not needed. He and Pam  
11 went to a 4th of July party in  
12 Sandwood. At the party he was talking  
13 to some younger girls. This caused Pam  
14 to become angry. She left the party,  
15 leaving him behind. He stated that she  
16 was yelling at him as she drove away.  
17 He got a ride back to Madera with  
18 Carrie Phillips. He arrived in Madera  
19 to see all the fire trucks. He stated  
20 that at that time he knew that Pam had  
21 set the house on fire because of the  
22 way she left the party.

23 Q. I imagine you interviewed Pamela  
24 Vaux; correct?

25 A. Yes.

1 Q. Did she willingly participate in  
2 that interview?

3 A. The initial interview I received  
4 information that she was at her  
5 daughter's house in Grampian. This was  
6 right after my scene examination. I  
7 went to that residence where I did find  
8 Pam Vaux. At that time she denied  
9 setting the fires and sometime later,  
10 I'm not sure how many days, when I  
11 reinterviewed her that's when she  
12 admitted to starting the fire.

13 Q. When she denied starting the  
14 fire did she give you a reason why she  
15 didn't want to talk to you about it?  
16 Did she ever refuse to cooperate?

17 A. I would say no, not --- she  
18 never refused to talk to me, she just  
19 denied that she had set the fire  
20 initially.

21 Q. Did she ever indicate to you  
22 that she was advised not to cooperate?

23 A. Yes. In the course of a later  
24 interview, this being the one where she  
25 did come in and admit to the fire, at

1 that time she advised that her  
2 boyfriend had told her that she should  
3 get an attorney and that she should not  
4 discuss this with the police.

5 Q. That was in what, the second  
6 interview, did you say?

7 A. Probably the second interview.

8 Q. What time frame would that have  
9 occurred, a day later, two days later,  
10 a week later, a year later?

11 A. That would have been the 18th of  
12 July. And she did come in and  
13 cooperate even though she was advised  
14 not to.

15 Q. And when you say she came in, do  
16 you mean the barracks?

17 A. At my request, yes. Yes, that  
18 interview was conducted at the  
19 barracks.

20 Q. And the first interview was  
21 conducted on the 5th; is that correct,  
22 or the 6th?

23 A. The 5th, yes.

24 Q. And where was that interview?

25 A. That was at her daughter's

1 residence in Grampian.

2 Q. In Grampian. And I believe her  
3 daughter's last name is Hipps?

4 A. Yes, it is.

5 Q. How many times did she tell you  
6 she had been advised not to talk to  
7 you?

8 A. Oh, boy, I can't recall that.

9 Q. More than once?

10 ATTORNEY STEELE:

11 I'm going to object to  
12 the leading nature of the  
13 question.

14 A. I can't really remember how many  
15 times I discussed that with her.

16 ATTORNEY GEARHART:

17 Are we going to leave the  
18 objections on the record and  
19 just sort it out later?

20 ATTORNEY STEELE:

21 Yes, that's fine.

22 BY ATTORNEY GEARHART:

23 Q. You charged her; correct?

24 A. Yes, I did.

25 Q. What was she charged with?

1 A. Felony arson. I have a copy of  
2 the complaint here. She was charged  
3 arson related offenses, 3301(a)(1)(i),  
4 which is a felony of the first degree,  
5 arson and related offenses,  
6 3301(a)(1)(ii), which is a felony of  
7 the first degree, arson and related  
8 offenses, 3301(c)(2), which is a felony  
9 of the second degree, arson and related  
10 offenses, 3301(d)(2), which is a felony  
11 of the third degree, criminal mischief,  
12 3304(a)(1).

13 Q. What did she plead to?

14 A. I hope I brought that along  
15 because I just received that just a  
16 couple days ago. It might still be on  
17 my desk and I believe it is. But she  
18 --- there was a plea, and I just  
19 received notice of that. To be honest  
20 with you I don't remember what she did  
21 plead to.

22 Q. Okay. During the course of your  
23 investigation did she discuss her  
24 boyfriend's loss, Mr. McCracken's loss,  
25 with you?

1 A. Yes, she did.

2 Q. What was that discussion?

3 A. She was concerned. She knew  
4 because I had told her that she would  
5 be responsible for restitution because  
6 she set the fire. At that time she  
7 told me that she knew that he was going  
8 to claim items on the insurance that  
9 weren't really in the house at the time  
10 of the fire.

11 Q. Was she more specific?

12 A. She may have been but I didn't  
13 write it down. I don't recall the  
14 specifics of it.

15 Q. Did she say any items were in  
16 the house that were moved after the  
17 fire or how did she explain that?

18 A. Yes, she did say that some items  
19 were placed in the garage. I believe  
20 they were items in the garage that he  
21 intended to claim as a loss. And at  
22 what point they were put in the garage  
23 I don't know if they were removed by  
24 the fire department before they were  
25 damaged. I'm not sure of the specifics

1 on that. But I do recall her saying  
2 there were some things in the garage  
3 that he intended to claim.

4 Q. Would you characterize her as  
5 cooperative or not cooperative?

6 A. I would characterize her as  
7 cooperative other than the initial  
8 interview, the first encounter. After  
9 that she was very cooperative.

10 Q. Was Richard McCracken  
11 cooperative?

12 A. The initial interview with him  
13 he was cooperative and I don't recall  
14 interviewing, I'm sure that I did, but  
15 I just right now I can't recall the  
16 discussions I had with him.

17 Q. Okay. I notice on your  
18 statement, the one you read that you  
19 read for Richard McCracken, he said  
20 they lived in Colorado and they were  
21 living in a camper but they moved into  
22 the house in the beginning of the  
23 month; correct?

24 A. Yes.

25 Q. Did Pamela Vaux give you any

1 indication?

2 A. I believe that that was pretty  
3 similar to what she had discussed with  
4 me, that they had just moved back to  
5 Pennsylvania from out of state and were  
6 staying in the camper. And for  
7 whatever reason her parents wanted or  
8 needed the camper back so then that's  
9 when they went to stay in the house.  
10 They didn't have, if I remember right,  
11 she said they didn't have a bed. But I  
12 remember seeing a bed when I was  
13 conducting the scene examination. I  
14 don't know the status of them before  
15 the fire, though.

16 Q. Did she give you any indication  
17 that they intended to move back into  
18 the camper when her parents were done  
19 with it?

20 ATTORNEY STEELE:

21 I object to the leading  
22 nature of the question. You can  
23 answer it.

24 A. That's a good question. I mean,  
25 I have to think about that.

1 BY ATTORNEY GEARHART:

2 Q. If you don't remember, you don't  
3 remember.

4 A. I wouldn't be able to give you  
5 an accurate answer to that.

6 Q. That's fine.

7 A. I know she didn't like living  
8 there.

9 ATTORNEY GEARHART:

10 I have nothing further.

11 CROSS EXAMINATIN

12 BY ATTORNEY STEELE:

13 Q. Trooper, just so you know where  
14 all these documents are coming from, I  
15 represent Mr. McCracken in his fire  
16 loss claim which is pending against  
17 Clearfield County Grange Mutual. And  
18 we've already done a substantial amount  
19 of document exchange. And so mainly  
20 what I would like to do during my  
21 examination of you is just go through a  
22 number of documents and ask you  
23 questions about the documents.

24 A. Sure.

25 Q. First of all, Trooper, just so

1 it's clear, I believe you're not  
2 related in any way to Richard  
3 McCracken; is that right?

4 A. I never knew him before this  
5 incident occurred. I believe though  
6 his father was at the scene and I did  
7 speak with him and somehow distantly we  
8 are related. I never knew him before  
9 this incident.

10 Q. I guess distantly we're all  
11 related in some fashion, but before the  
12 fire, just more specifically, you  
13 really had no relationship with Richard  
14 McCracken? You didn't know him  
15 socially or anything?

16 A. Correct.

17 Q. What about some of the other  
18 individuals involved in connection with  
19 this loss, such as Ed Yocum from E.L.  
20 Braid Claims?

21 A. I have dealt with Ed Yocum on  
22 and off through work, through business.

23 Q. All right. Just in connection  
24 with his employment with E.L. Braid and  
25 the investigation of claims?

1 A. Correct. I never knew him first  
2 until I met him job related.

3 (Deposition Exhibit One  
4 marked for  
5 identification.)

6 BY ATTORNEY STEELE:

7 Q. Okay. The first document that I  
8 would like to ask you about, Trooper,  
9 is a letter dated July 22 of 2002.  
10 I'll give you a minute to look at it.  
11 Do you recognize the letter?

12 A. Yes, I do.

13 Q. Just a couple questions. Would  
14 you agree that this is a copy of a  
15 letter that you sent to Randy Guthrie  
16 at Clearfield County Grange Mutual  
17 Insurance Company basically notifying  
18 him that you were assigned to  
19 investigate the loss and requesting  
20 that the insurance company provide you  
21 with copies of any documents that they  
22 received in connection with the loss?

23 A. That's a good description  
24 although what it is is what's called an  
25 Arson Immunity Act letter, which any

1 time that myself, as a fire  
2 investigator, I furnish this letter to  
3 the insurance company. This requires  
4 them to provide me with all the  
5 information that they have and it gives  
6 them immunity from, I guess, if anybody  
7 would think they were doing anything  
8 wrong by providing me that information.

9 Q. Okay.

10 A. In a way it's kind of like a  
11 search warrant only the law enables  
12 this to be done without a search  
13 warrant. They have to give me the  
14 information that they have in the file  
15 by this request. But what you  
16 described is also accurate.

17 Q. And at the end of the letter  
18 would you agree with me that it  
19 indicates there, and I believe that  
20 this is also a provision of the Act,  
21 that in the event your investigation  
22 reveals specific facts which would  
23 preclude the initial notice to the  
24 policyholder about who the information  
25 furnished pertains we shall advise your

1 company accordingly? That's at the  
2 very end of the letter.

3 A. Yes.

4 Q. My question is, Trooper, did you  
5 ever provide information in connection  
6 with that provision to Clearfield  
7 County Grange Mutual telling them not  
8 to notify the policyholder?

9 A. Of what?

10 Q. Of the fact that you were  
11 investigating the claim and the fact  
12 that the insurance company had turned  
13 over information to you regarding the  
14 claim.

15 A. I don't believe I did.

16 Q. Well, I'm not implying that you  
17 should. My question is just following  
18 up to the last paragraph to find out  
19 whether or not you, in fact, ever did  
20 contact Clearfield County to notify  
21 them that they should not provide  
22 notice to the policyholder as indicated  
23 in this letter?

24 A. I don't remember doing that. I  
25 did tell them, of course, that I was

1 making an arrest on it.

2 (Deposition Exhibit Two  
3 marked for  
4 identification.)

5 BY ATTORNEY STEELE:

6 Q. Okay. This notation was  
7 provided to me also in discovery,  
8 Trooper. This is a note that was  
9 directed, I think, by Mr. Guthrie to Ed  
10 Yocum. And I'll give you a minute to  
11 look at that also.

12 ATTORNEY STEELE:

13 Do you want to see that  
14 copy, Attorney Gearhart?

15 BY ATTORNEY STEELE:

16 Q. My question, Trooper, is  
17 according to that note it indicates  
18 there that you met with Randy Guthrie  
19 on July 5, 2002, and that you discussed  
20 with him retaining a cause and origin  
21 expert ---

22 A. Yes.

23 Q. --- to investigate; is that  
24 right?

25 A. Yes, I did.

1 Q. And were you, in fact, the one  
2 who actually called Jim Tsikalas?

3 A. I may have.

4 Q. And Jim is the one who then  
5 completed the cause and origin  
6 investigation?

7 A. Yes.

8 Q. And in connection with the first  
9 letter that you sent to Clearfield  
10 County, do you recall whether or not  
11 you received a complete copy of the  
12 cause and origin investigation that was  
13 conducted by Tsikalas Investigations?

14 A. I don't believe I did.

15 Q. Were you aware as to whether or  
16 not Mr. Tsikalas interviewed witnesses  
17 in connection with his investigation?

18 A. Yes.

19 Q. Did you receive copies of any  
20 statements that he took from those  
21 witnesses?

22 A. I did receive copies of --- I  
23 have them right here so I can tell you  
24 exactly which ones. Carol Posanskey,  
25 Robert Evans, Rick McCracken, Allen

1 Lutz and Shay Manning (phonetic).

2 Q. And with regard to the statement  
3 of Mr. McCracken, Trooper, would that  
4 be the same statement transcript which  
5 I have a copy of dated July 5 of 2002,  
6 and I believe it's seven pages in  
7 length?

8 A. Yes, that's the same one.

9 Q. Trooper, you previously told us  
10 that you interviewed Rick McCracken; is  
11 that right?

12 A. Yes.

13 Q. And was that on the day of the  
14 fire?

15 A. It would have been. I should be  
16 able to tell you the date and time.  
17 Actually, I don't have that statement  
18 on my original notes. So I'm sorry, I  
19 can't tell you when I originally  
20 interviewed him.

21 Q. Yes. I think when you were  
22 testifying to it previously you were  
23 referring to your formal report.

24 A. Yes. I don't have a date of  
25 interview on that.

1 Q. You didn't take a written  
2 statement from Mr. McCracken?

3 A. No.

4 Q. But you took an oral statement  
5 from Mr. McCracken and then in addition  
6 to talking to him orally you also  
7 received a copy of the transcript of  
8 the statement that he had given to Jim  
9 Tsikalas?

10 A. Yes.

11 (Deposition Exhibit Three  
12 marked for  
13 identification.)

14 BY ATTORNEY STEELE:

15 Q. The next document, Trooper, I'd  
16 like to refer you to is a fax from Mr.  
17 Tsikalas directed to Ed Yocum. I'll  
18 give you a minute to look at that.

19 A. Okay.

20 Q. Did you receive a copy of that  
21 at any time?

22 A. I don't believe I have a copy of  
23 this.

24 Q. And looking at page two of that  
25 document that I marked as Exhibit

1 Three, it indicates there that  
2 according to Mr. Tsikalas the fire was  
3 incendiary in nature and the fire was  
4 intentionally set. This fire is  
5 classified as an arson spite revenge  
6 fire and due to the gathered  
7 information the perpetrator of this  
8 crime is the insured's girlfriend, one  
9 Pamela Jo Vaux. Have I read that  
10 correctly, Trooper?

11 A. Yes.

12 Q. And was the opinion and  
13 conclusion of Mr. Tsikalas consistent  
14 with your own investigation?

15 A. Well, that --- I mean, yeah, I  
16 agree that Pam Vaux set the fire.

17 Q. Trooper, do you recall during  
18 the course of your investigation  
19 receiving telephone calls from Mr.  
20 Yocum at E.L. Braid?

21 A. I'm sure I did. If I wouldn't  
22 have, it would have been unusual.

23 Q. Do you know whether or not you  
24 would have made any notes regarding  
25 those telephone conversations?

1 A. Probably what I would have would  
2 be notes indicating that he called me  
3 and I should call him back, notes from  
4 the desk, if I wasn't in. If I did  
5 make any notes during the  
6 conversations, I would have them in  
7 here. So I'll look through here real  
8 quick. I have the correspondence. I  
9 don't have any notes.

10 (Deposition Exhibit Four  
11 marked for  
12 identification.)

13 BY ATTORNEY STEELE:

14 Q. Trooper, the next document that  
15 I'd like you to take a look at is a  
16 note that I received --- a copy of a  
17 letter rather directed to Mr. Yocum  
18 again from Mr. Tsikalas and indicating  
19 there that charges are expected to soon  
20 be implemented relative to Pamela J.  
21 Vaux, the insured's girlfriend,  
22 evidence is being sent for analysis.  
23 Do you know what evidence was analyzed?

24 A. He's probably referring to  
25 evidence that he would have collected,

1 although I believe I also collected  
2 some. But his and mine would be  
3 separate.

4 Q. Was the evidence for the purpose  
5 of trying to confirm that there was an  
6 accelerant used?

7 A. I would say yes.

8 Q. And did the analysis of the  
9 evidence, to your recollection, confirm  
10 that there was?

11 A. I couldn't tell you an answer to  
12 the evidence he collected. What I'm  
13 looking for is ---. Okay, I did, I did  
14 collect from the camp and fire debris.  
15 I don't know if he did.

16 Q. And were you able to determine  
17 whether or not there had been an  
18 accelerant used in the fire?

19 A. Actually, I don't have a lab  
20 request or laboratory results. So I  
21 probably never sent it in.

22 Q. Would that be because of the  
23 confession?

24 A. Yes, or because I thought that  
25 it wouldn't --- for whatever reason I

1 just decided not to with the  
2 confession.

3 (Deposition Exhibit Five  
4 marked for  
5 identification.)

6 BY ATTORNEY STEELE:

7 Q. Trooper, I'm now showing you a  
8 document I've marked Exhibit Five.  
9 This is a notation again that I  
10 received in discovery written by Mr.  
11 Yocum to Mr. Guthrie. And in paragraph  
12 two he is reviewing a telephone  
13 conversation that he had with you  
14 indicating that you stated that you had  
15 sufficient information to warrant the  
16 arrest of the insured's girlfriend,  
17 Pamela Vaux. And then he goes on to  
18 refer to that they would follow up to  
19 determine what information would be  
20 required to pursue the responsible  
21 party for restitution. And he states  
22 this, of course, all hinges upon the  
23 insured's cooperation and whether or  
24 not any additional investigation would  
25 reveal the insured had any part in this

1 arson loss. My question, Trooper, is  
2 did any investigation that you  
3 conducted reveal that Richard McCracken  
4 had any part in the arson loss?

5 A. I never --- I don't believe so,  
6 not that was substantial enough to file  
7 charges. I basically went by Pam's  
8 confession, that she ---. Now if  
9 you're asking ---.

10 Q. Well, I'm asking whether or not  
11 you ever obtained any evidence that  
12 would have supported a conclusion ---?

13 A. I never obtained evidence that I  
14 would file any charges against him.

15 Q. And Pamela's Vaux never  
16 implicated him?

17 A. No.

18 Q. The confession that you obtained  
19 from Pamela Vaux, was that entirely  
20 oral or did you obtain a written or  
21 recorded statement from her?

22 A. I just took notes while she was  
23 confessing.

24 Q. You just took what?

25 A. I took notes. I never recorded

1 or had her write a statement.

2 Q. And I believe you said that that  
3 was during the second occasion that you  
4 questioned her?

5 A. Yes.

6 Q. And the date of that? You may  
7 have said it before.

8 A. I believe it was the 12th. Yes,  
9 it was. No, the 18th of July.

10 Q. July 18th. And during the time  
11 that she made the confession did she  
12 indicate any motive?

13 A. Yes, she did. She indicated ---  
14 that she alleged prior abuse from her  
15 14 year marriage and felt that she was  
16 also being mentally abused by Richard  
17 at this time. And that was her  
18 reasoning for committing this arson.

19 Q. So essentially she was angry or  
20 trying to seek revenge or punish in  
21 some way.

22 A. I would have to agree with that.

23 Q. To punish him in some way?

24 A. I would have to agree with that.

25 Q. Did she indicate that they had

1 had a fight that evening?

2 A. Yes.

3 Q. The evening of the fire?

4 A. Yes.

5 Q. And incidentally, Trooper, I  
6 think that Mr. Yocum had placed the  
7 date of loss as July 4 of 2002. In  
8 fact, you have indicated that the fire  
9 was during the early morning hours of  
10 July 5; is that right?

11 A. I'm placing the time of the fire  
12 at 15 minutes after midnight.

13 (Deposition Exhibit Six  
14 marked for  
15 identification.)

16 BY ATTORNEY STEELE:

17 Q. Trooper, the next document that  
18 I would like you to take a look at, and  
19 I think you already pulled a copy of  
20 the original letter from your file, is  
21 the letter dated July 24, 2002 from Mr.  
22 Yocum. Looking at Exhibit Six, first  
23 of all I would ask you if you did  
24 receive the original letter from Mr.  
25 Yocum, and you can look at the

1 original?

2 A. Yes, I have, I have the original  
3 here.

4 Q. And would you agree with me,  
5 Trooper, in the letter Mr. Yocum brings  
6 it to your attention that Mr. McCracken  
7 had not attended an appointment that  
8 Mr. Yocum had scheduled with him and  
9 that Mr. Yocum informed you that he  
10 learned that Mr. McCracken is notorious  
11 for procrastination and honoring his  
12 word and commitment. My question to  
13 you, Trooper, is did Mr. Yocum or any  
14 one from Clearfield County Grange  
15 Mutual ever suggest to you that Mr.  
16 McCracken was involved in the arson?

17 A. I believe they queried me as to  
18 whether I felt that maybe he was but I  
19 --- as far as my investigation that I  
20 conducted who actually set the fire, I  
21 determined it was Pam and that Richard  
22 was not present at that time. But I do  
23 believe we may have discussed whether  
24 or not he might have had --- put her up  
25 to it or something. I believe --- I

1 mean I'm the one going by her  
2 confession. I believe she was the only  
3 one present at the time the fire was  
4 set.

5 Q. And do you recall having that  
6 conversation with Mr. Yocum?

7 A. Very vaguely now I do recall  
8 that we had discussed different things.

9 Q. And do you recall whether Mr.  
10 Yocum asked you at any time whether or  
11 not there was any evidence that Mr.  
12 McCracken was involved?

13 A. I'm sure that he would have.

14 Q. Do you recall ever informing him  
15 that you had obtained any such  
16 evidence?

17 A. Other than I'm sure that I  
18 probably would have passed the  
19 information on when Pam told me that  
20 Richard --- she had reason to believe  
21 Richard was going to claim things that  
22 weren't damaged by the fire, but I  
23 don't recall ever saying that he had  
24 any active involvement.

25 Q. Okay. Since say August of 2002,

1 the same year of the fire, have you had  
2 any conversations or contact with Ed  
3 Yocum or any representative of  
4 Clearfield County Grange Mutual  
5 regarding this fire loss?

6 A. Since August? I'm sure that I  
7 have, probably updating them on when  
8 the charges were filed, different  
9 things. I mean, I'm sure that I would  
10 have.

11 ATTORNEY GEARHART:  
12 Counselor, are you  
13 including the attorney for  
14 Grange?

15 ATTORNEY STEELE:  
16 Well, I have a specific  
17 question there.

18 BY ATTORNEY STEELE:

19 Q. In fact, Trooper, prior to  
20 today's deposition on how many  
21 occasions have you had contact with  
22 Attorney Gearhart regarding this  
23 incident?

24 A. I'm sure at court proceedings,  
25 hearings, half a dozen times maybe.

1 It's hard to say.

2 Q. Now, Pamela Vaux has been  
3 sentenced; is that right?

4 A. Yes. I just received  
5 notification. I believe it was  
6 probably earlier this week, maybe last  
7 week.

8 Q. You didn't attend the  
9 sentencing?

10 A. No. I received notification of  
11 the sentencing but I either got called  
12 out on a fire or something and couldn't  
13 go. I had another commitment.

14 Q. Trooper, Attorney Gearhart  
15 already asked you this question about  
16 whether or not you had any information  
17 about the loss. And that's when you  
18 told him that you had this conversation  
19 with Pamela Vaux where she stated that  
20 she thought Richard was going to claim  
21 that things were in the house that  
22 weren't in the house. Have you told  
23 Attorney Gearhart that information  
24 prior to today?

25 A. To be honest with you, I can't

1 say whether I did or I didn't but if  
2 the occasion would have arisen I  
3 probably would have.

4 Q. Trooper, this conversation that  
5 you had with Pam, the one that I just  
6 referred to, this was during the same  
7 conversation where you told her that  
8 she would ultimately be responsible for  
9 paying restitution for the damages; is  
10 that right?

11 A. I can't remember how many times  
12 I did talk to her. It very well could  
13 have been. It just as easily might  
14 have been another time also.

15 Q. Well, did she at any time  
16 attempt to minimize that the damages in  
17 her statements to you?

18 A. No, she admitted to everything  
19 and told me that she did what she did  
20 and she is going to try to pay back  
21 everything that she owes everybody.

22 Q. And, Trooper, at your site  
23 investigation wouldn't you agree with  
24 me that there was a substantial amount  
25 of personal property inside the

1 dwelling, if you recall?

2 A. I wouldn't say a substantial  
3 amount. There was --- I never looked  
4 in the garage. I do recall a lot of  
5 belongings that I assumed had been  
6 taken out of the structure by the fire  
7 department. Inside the residence there  
8 wasn't a whole lot around. It was  
9 pretty bare.

10 Q. You say that a lot of the  
11 furniture, that type of thing, had been  
12 moved outside by the fire department?

13 A. That's what I believed.

14 Q. Did you take any pictures,  
15 Trooper, of the fire loss?

16 A. Yes, I did. I'm hoping I have  
17 the picture with me, which I should. I  
18 don't know why I wouldn't. But I guess  
19 we'll find out. I didn't remember that  
20 but I do now. There was K-9  
21 indication.

22 Q. And what is that?

23 A. K-9 indications.

24 Q. Of accelerant?

25 A. Yes, which that would have been

1     why I didn't send them in.

2     Q.        Okay. Trooper, I may request  
3     duplicates of all the photographs ---

4     A.        Sure.

5     Q.        --- at some later point. But we  
6     do have other photographs that were  
7     taken by Mr. Tsikalas, I believe as  
8     well.

9     A.        Actually he has more than I do  
10    because it was my job to determine the  
11    origin and cause.

12    Q.        Trooper, do you recall whether  
13    or not Pamela Vaux told you where she  
14    had slept the night before the fire?

15    A.        I believe they did sleep at the  
16    house. They didn't sleep there very  
17    many times but I believe --- I know  
18    they did at least once. Whether it was  
19    the night before the fire, most likely  
20    it was, but I don't know that.

21    Q.        And, Trooper, you indicated in  
22    response to Attorney Gearhart's  
23    questions that Pam told you that  
24    Richard McCracken told her that she  
25    should see an attorney; is that right?

1 A. Yes. He didn't want her to talk  
2 to me.

3 Q. Well, he wanted her to consult  
4 with an attorney?

5 A. That as well as not talk to me.  
6 He didn't want her to give a statement.

7 Q. Well, do you know, he may have  
8 wanted her to consult with an attorney  
9 before talking to you; is that right?

10 A. Yes, but he also did not want  
11 her --- he told her that she should not  
12 talk to the police.

13 Q. But according to your testimony,  
14 Trooper, that in no way impeded your  
15 investigation, did it, because she  
16 spoke to you anyway?

17 A. Correct. She came in.

18 Q. And you've already indicated  
19 that Mr. McCracken was cooperative with  
20 you, he talked to you?

21 A. He was, I remember now, whether  
22 it was the 5th or very shortly  
23 thereafter, it was an occasion I was up  
24 at the scene and he did walk around  
25 with me. We were looking at different

1 things. But I don't believe that after  
2 --- I don't remember having very many  
3 conversations with him after the recent  
4 pass of the fire.

5 Q. Trooper, you filed criminal  
6 charges only against Pamela Vaux; is  
7 that right?

8 A. Yes.

9 Q. And is your investigation now  
10 closed?

11 A. Yes.

12 Q. And so you would have no  
13 objection to providing copies of your  
14 written report ---

15 A. No.

16 Q. --- to the parties?

17 A. No.

18 Q. Before today, Trooper, did you  
19 have any knowledge as to whether or not  
20 Clearfield County had denied Mr.  
21 McCracken's claim under his policy?

22 A. I don't know whether they denied  
23 it or not. I know that that's the  
24 reason all this is going on because  
25 there is a possibility it will be

1 denied but I can't tell you whether  
2 they have outright denied it or not.

3 Q. Other than the letter that I  
4 previously referred you to, I think it  
5 was dated July 24 of 2002, did you  
6 receive any other written documents  
7 from Mr. Yocum, E.L. Braid Claims  
8 Services, or Attorney Gearhart other  
9 than today's deposition notice, of  
10 course? If you need to check your  
11 file, that would be fine.

12 A. I attended another deposition.  
13 I honestly can't tell you whether it  
14 was regarding this fire or not though.  
15 I remember being deposed before you  
16 once before but I honestly don't  
17 remember whether it was this fire or it  
18 was another one.

19 ATTORNEY GEARHART:

20 Can I tell him?

21 ATTORNEY STEELE:

22 Sure, if you want to.

23 ATTORNEY GEARHART:

24 It was Wheeler case.

25 A. Okay.

1 BY ATTORNEY STEELE:

2 Q. It was another case?

3 A. Yes.

4 ATTORNEY STEELE:

5 Well, I never got any  
6 notice of it so I was hoping it  
7 wasn't this one.

8 ATTORNEY GEARHART:

9 In fact, it wasn't even  
10 Grange Insurance.

11 ATTORNEY STEELE:

12 I believe I'm finished,  
13 Trooper.

14 A. I don't see any notice in here,  
15 any other correspondence.

16 BY ATTORNEY STEELE:

17 Q. Of course, too, with regard to  
18 the fire marshal's report that was  
19 completed that I requested a copy of do  
20 your statements in there summarizing  
21 the statements that you obtained from  
22 witnesses accurately set forth what  
23 they told you to the best of your  
24 knowledge?

25 A. Well, I believe that they did.

1 If you want to read them real quick  
2 here before we ---. You can ask me  
3 that.

4 Q. No, that's okay. I just wanted  
5 to make sure that it's authenticated,  
6 that you're the one who actually did  
7 speak with the witnesses whose  
8 statements are summarized in the  
9 report.

10 A. Yes.

11 ATTORNEY STEELE:

12 I have nothing further.

13 Thank you.

14 ATTORNEY GEARHART:

15 Just real quick.

16 REDIRECT EXAMINATION

17 BY ATTORNEY GEARHART:

18 Q. You said and we probably talked  
19 about how the fire stated. Do you  
20 remember ever talking to me before this  
21 morning five minutes?

22 A. Oh my, no, just no.

23 Q. There was never any formal you  
24 come to my office or I come to your  
25 office?

1 A. No, no.

2 ATTORNEY GEARHART:

3 I have nothing further.

4 \* \* \* \* \*

5 DEPOSITION CONCLUDED AT 2:00 P.M.

6 \* \* \* \* \*

1 COMMONWEALTH OF PENNSYLVANIA)

2 COUNTY OF CLEARFIELD )

3 C E R T I F I C A T E

4 I, Rhonda K. Lingle, Notary Public in and for  
5 the Commonwealth of Pennsylvania, do hereby certify:

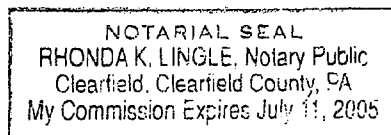
6 That the witness was hereby first duly sworn to  
7 testify to the truth, the whole truth, and nothing  
8 but the truth; that the foregoing deposition was  
9 taken at the time and place stated herein; and that  
10 the said deposition was taken in Stenotype by me and  
11 reduced to typewriting, and constitutes a true and  
12 correct record of the testimony given by the witness.

13 I further certify that the reading and signing  
14 of said depositions were (not) waived by counsel for  
15 the respective parties and by the witness.

16 I further certify that I am not a relative,  
17 employee or attorney of any of the parties, nor a  
18 relative or employee of counsel, and that I am in no  
19 way interested directly or indirectly in this action.

20 IN WITNESS WHEREOF, I have hereunto set my hand  
21 and stamp this 11 day of Mar. 2004.

22  
23 *Rhonda K. Lingle*  
24



•PITTSBURGH, PA

•CLEARFIELD, PA

•STATE COLLEGE, PA

•HOLLIDAYSBURG, PA

•ERIE, PA

•OIL CITY, PA

•HARRISBURG, PA

SARGENT'S  
COURT REPORTING  
SERVICE, INC.

210 Main Street  
Johnstown, PA 15901  
(814) 536-8908

•INDIANA, PA

•GREENSBURG, PA

•PHILADELPHIA, PA

•SOMERSET, PA

•WILKES-BARRE, PA

•CHARLESTON, WV

July 22, 2002

Clearfield County Grange Mutual Insurance Company  
1214 South Second St.  
Clearfield Pa 16830

Mr. Randy GUTHRIE,

Your insurance company has been named as the insurer of a fire loss presently being investigated by a member of this Department.

In accordance with the provisions of the Pennsylvania Arson Reporting Immunity Act, 1980-85, please provide us with the pertinent policy information and other relevant information, reports, photographs, evidence or material in your possession or in the possession of underwriting agents, adjusters and investigators which relates to any previous fires and the fire loss indicated below:

PSP Incident No.: C03-0712205  
Policy/Claim Number: Policy # 32334  
Date & Time of Fire: 07/05/02 at 00:15 A.M.  
Location of Fire Loss: North side of Chestnut St. 300 Ft. east of SR53  
Bigler Twp. Clearfield County. Pennsylvania

Name of Policy Holder(s): Rick McCracken  
P.O. Box 281 Madera, Pa 16661

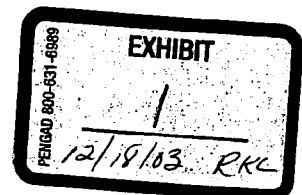
Investigator, Address & Telephone Number: Trooper Michael S. McCracken  
Pennsylvania State Police  
R.D. 2 Box 314  
Woodland, Pa. 16881  
(814) 857-3800

It is requested the information be furnished **DIRECTLY** to the investigator identified in this correspondence.

In the event our investigation reveals specific facts which would preclude the initial notice to the policyholder about whom the information furnished pertains, we shall advise your company accordingly.

Sincerely, *Tpr. Michael S. McCracken*

Tpr. Michael S. MCCRACKEN  
Deputy Fire Marshal  
Troop C Punxsutawney  
Clearfield Barracks  
Fire Marshal Unit



THOMAS A. DIXON, President  
Box 79  
Wallaceport, PA 16876

RANDALL GUTHRIE, Secretary-Treasurer  
P.O. Box 50  
Mineral Springs, PA 16855

# Clearfield County Grange Mutual Fire Insurance Company

Suite #3

1214 Old Town Road  
Clearfield, Pennsylvania 16830

PHONE 814 765-3223 / FAX 814 765-6083

ATTENTION: Yocum

RE: Richard McCracken policy # 32334

NO. OF PAGES: 1

(INC. COVER SHEET)

If there are any problems with this FAX, please contact this office at 814/765-3223, or by FAX at 814/765-6083. Thank you.

I met with Trooper McCracken on 7/5/02. He wanted a cause & origin man to look at this. He called him directly so they can meet. If you need to get in touch with either one of them call Trooper McCracken at Bonacks 857-3800 Cell # 577-1751 or pager # 814-947-3126. The Truck (James Tiskalas) pager # 888 519 5553 in Ebensburg. Cell phone 814 659-2771. Bus. 814-322-4909



# FAX

Date 7-8-02

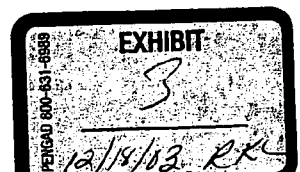
Number of pages including cover sheet 3

TO:	<u>ED YOCUM</u>
Phone	
Fax Phone	

FROM:	James M. Tsikalas
	Tsikalas Investigations
	3423 William Penn Avenue
	Johnstown, PA. 15909
Phone	1-814-322-4909
Fax Phone	1-814-322-3310

NOTE:

OVERALL FINDINGS/CONCLUSION  
MCCREACKON



## **OVERALL FINDINGS AND CONCLUSION:**

After conducting the scene examination, reviewing the scene photographs and conducting witness interviews, together with the education and experience of this investigator, it is my professional opinion, within a reasonable degree of scientific certainty, that the fire that occurred on July 05, 2002 at 0041 hours to the insured Richard McCracken's two story structure along Chestnut Street, in the Village of Madera, Township of Bigler, County of Clearfield, Commonwealth of Pennsylvania was *Incendiary* in nature as the fire was intentionally set. This fire is classified as an "*Arson -Spite Revenge Fire*" and due to the gathered information the perpetrator of this crime is the insured's girlfriend, one Pamela Jo Vaux, W-F-43, D.O.B. 3-11-59 of P.O. Box 98, Kylertown, PA 16847. Vaux drove to the insured's residence in a light blue Ford Thunderbird, parked on Chestnut Street and proceeded to the insured's Ford Ranger bearing PA Registration YDD6243. Vaux took the insured's car keys that were in the ashtray. She also turned on the headlights as the bright lights were observed by the neighbor, Carol Posanskey who resides across the street. A short time later, Vaux got in her vehicle and spun the tires leaving the scene as a rapid pace. Carol Posanskey stated that from the time that the blue Thunderbird had left the scene, it was less than a matter of ten minutes when Posanskey called in the fire.

The insured and his girlfriend were staying at a camp-site approximately 9 miles from the fire scene and when this investigator went to the camp site, Pamela Jo Vaux was not present however the insured's Harley Davidson Motorcycle, tent, opened suitcase with the insured's clothing inside and camping equipment was burned. Also it was learned that Pamela Vaux had wrecked her blue colored Thunderbird into a guardrail along PA Rte 729 waking up a nearby resident, Melvin Barrett, Phone # 814-236-2898. The accident site is approximately 2 to 2 1/2 miles from the camping area on Gazzam Road. The accident occurred on Jul 5, 2002 at approx., 1:45 A.M. The accident had not been reported to the State Police and it is a "hit and run" accident.

It is also the opinion of this investigator, within a reasonable degree of scientific certainty, the fire originated at the exterior South side of the house against the lap siding with the use of a liquid accelerants.

### ***POINT OF ORIGIN INDICATORS:***

- ① Distinct "V" pattern at the South side of the ballooned framed structure.
- ② No Arcing, beading and dark discoloration to the electrical wiring
- ③ The presence of more thermal exposure at the area of origin.
- ④ Significantly more fire damage at the exterior South side as contrasted to the other sectors at the residence.

- Truncated cone effect above the point of origin

### ***ELIMINATION FACTORS:***

- Elimination of lightening strikes and all other natural fire causes.
- Elimination of the aerial electrical service entrance as a fire cause.
- Elimination of the electrical service panel as a fire cause.
- Elimination of the interior electrical wiring as a fire cause.
- Elimination of the coal / wood hot water boiler as a fire cause.
- Elimination of spontaneous combustion.



# TSIKALAS INVESTIGATIONS

3423 William Penn Avenue Johnstown Pennsylvania 15909

PAGER: 888-519-5553 ♦ PHONE: 814-322-4909 ♦ CELLULAR: 814-659-2771

♦ 24 HOUR FAX: 814-322-3310 ♦

WEB-SITE: <http://tsikalas.com> ♦ E-MAIL: [fire@tsikalas.com](mailto:fire@tsikalas.com)

July 10, 2002

Ed Yocum  
E.L. Braid Claim Service  
R.D. 3, Box 276  
Clearfield, PA 16830

RE: Policy # 32334  
Insured: Richard McCracken  
Subject: Incendiary Residential Structure Fire

Dear Mr. Yocum:

Enclosed please find the invoice and the full and complete investigation as assigned on July 5, 2002 regarding the McCracken property. A complete file will be maintained in this office.

As documented in the report, the fire is classified as "Incendiary" and "Arson / Spite revenge Fire".

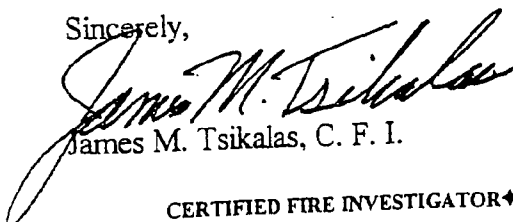
Ed, if you have any questions concerning this investigation, please feel free to call my office at anytime.

Ed, Clearfield County Grange Mutual fire Insurance Company will be receiving an (Arson Immunity Letter) as the PSP Fire Marshal requested a copy of the fire investigation. The colored copy is attached. Charges are expected to soon be implemented relative Pamela Jo Vaux, insured's girlfriend.

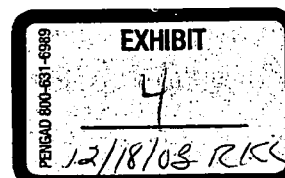
- The evidence is being sent for Analysis.

Thank you for the opportunity to serve the Clearfield County Grange Mutual fire Insurance Company and E.L. Braid Claim Service.

Sincerely,

  
James M. Tsikalas, C. F. I.

CERTIFIED FIRE INVESTIGATOR ♦ ♦ ♦ ♦ ♦ LICENSED ♦ ♦ ♦ ♦ ♦ BONDED ♦ ♦ ♦ ♦ ♦ INSURED



B.P.S.

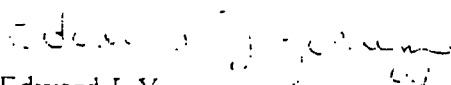
Dear Mr. Guthrie:

In confirming our telephone conversations of Thursday, July 11 and Friday, July 12, you will note that we have yet to receive a call back from the insured to determine the reasons he did not meet us at the property on Friday and, due to these initial problems, we thought it best to put him on notice of his duties and obligations set forth within the Standard Fire Policy Form.

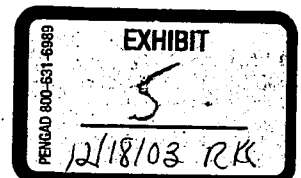
In addition to the above, we had the opportunity to further discuss the investigation of the Pennsylvania State Police Fire Marshall's department and their investigator, Trooper Michael McCracken, of the Clearfield Barracks. Although, Trooper McCracken was off on Friday, July 12, we were able to reach him via his cell phone and informed him of the insureds "no show". Trooper McCracken has indicated that he now has sufficient information and documentation to warrant the arrest of the insured's girlfriend, Pamela Vaux. It will simply, come down to him completing the necessary paperwork and proceeding to the alleged perpetrator's residence to complete the arrest process. He hopes to have that task completed within the next several days and we, of course, will follow-up with him to determine what information he will require from us to pursue the responsible party for restitution. This of course all hinges upon the insured's cooperation and whether or not any additional investigation would reveal the insured had any part in this arson loss.

Lastly, we are attempting to learn the current status of the mortgage the insured has with County National Bank and upon confirmation of the mortgage status we will notify you of that information. If in the interim, you should have any questions or concerns please contact this writer at the above listed numbers at extension 205.

Very truly yours,

  
Edward J. Yocum

EJY/kjw



July 24, 2002

Re: Insured: MCCRACKEN, RICHARD  
Policy: 32334  
D/L: 7/04/02  
Our File: J 2291

TROOPER MICHAEL MCCRACKEN  
PA STATE POLICE  
CLEARFIELD BARRACKS  
R.D.#1 BOX 314  
WOODLAND PA 16881-9723

Dear Trooper McCracken:

I write to you in reference to the above captioned claim, which we are handling on behalf of our principal, Clearfield County Grange Mutual Fire Insurance Company.

As discussed in our most recent telephone conversation of July 17<sup>th</sup>, we still have had no cooperation from the insured, Richard McCracken.

As previously discussed we had set an initial appointment to meet with Mr. McCracken at the residence on July 11<sup>th</sup>, and he failed to show on that date and since that date we have been unable to reach him by telephone but do have confirmation that he received our July 12<sup>th</sup>, 2002 correspondence sent certified returned receipt. We confirm that Mr. McCracken picked up our correspondence on July 19<sup>th</sup>, 2002 and again has failed to contact this writer regarding his intentions. We have once again written to him advising that it is his obligation to cooperate and his failure to do so could ultimately jeopardize coverage.

We have learned from his nearby neighbor, Ken Long that apparently Mr. McCracken is notorious for procrastination and honoring his word and commitment. This combined with the fact that this loss is alleged to be an arson case involving Mr. McCracken's girlfriend, Pamela Vaux may explain some delay if indeed he is in fact intending on continuing that relationship.

We are asking by copy of this correspondence that should you have any direct contact with Mr. McCracken that you notify him of our attempts to reach him and strongly urge to him



that it is very important that at the very least he gives this writer a call so we may discuss the claim process in general and what his intentions may be for the claim that has been submitted.

We take this opportunity to thank you in advance for your anticipated cooperation in this matter and should you have any additional questions please contact this writer at the above listed numbers at extension 205.

Very truly yours,

E. L. BRAID CLAIM SERVICE, INC.

Edward J. Yocum

EJY/kjw

CC: Clearfield Co. Grange Mutual Fire Ins. Company ✓

B.P.S.: Dear Mr. Guthrie:

As you note we have not had any further contact from the insured but we have confirmed as per the certified mail delivery card, the insured picked up our July 12<sup>th</sup>, 2002 correspondence on July 19<sup>th</sup>, 2002. Again he has failed to contact this writer thus, our reason for sending the attached.

In addition to the correspondence to the insured you will note that we have written to Trooper Michael McCracken advising him of our problems getting the insured's cooperation.

In my last telephone conversation with Trooper McCracken he advised that an arrest of the alleged responsible party, Pamela Vaux would happen shortly and if he had the opportunity to discuss the claim with the insured he would inform him that he has an obligation and duty to assist the insurance company in processing the claim.

If you should have any questions or concerns upon receipt of this status, please contact this writer at the above listed numbers at extension 205. Otherwise, our additional reporting will soon follow.

Very truly yours,

  
Edward J. Yocum



EJY/kjw  
Enclosure



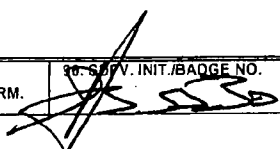


SP 7-0050 (12-94) PENNSYLVANIA STATE POLICE <b>INCIDENT REPORT</b>				REPORT TYPE <input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> CONTINUATION <input type="checkbox"/> SUPPLEMENTAL		DATE(S)/DAY(S) OF INCIDENT 07/05/02 Fri.		INCIDENT NO. C03-0712205				
				TIME(S) OF INCIDENT 0015		JUVENILE <input type="checkbox"/>		DOMESTIC VIOLENCE <input type="checkbox"/>				
ATTACHMENTS: <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED-DATE A <input type="checkbox"/> DEATH OF ACTOR   D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED   E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED   N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP								
1. ORI/STATION PAPSP1300/Clearfield		2. LOCATION North side of Chestnut st. 300 ft. east of SR53							ZONE 19			
3. CITY/TWP/BORO Bigler Twp.				CODE 203		4. COUNTY Clearfield				CODE 17		
5. VICTIM NO. 1   NAME Richard Duane MCCracken				ADDRESS P.O. Box 281 Madera, Pa 16661				HOME PHONE				
6. EMPLOYER NAME none				ADDRESS				WORK PHONE				
7. RACE/ETHY. W / N	8. SEX M	9. DOB 05/03/74	10. AGE 28	11. RES. STAT. R	12. REL. TO OFFENDER(S) BG	13. TYPE INJ.	14. CIRC.	15. CON. TO OFF. 01	16. TYPE VICT. I	17. OFF. NO. REL. 1		
5. VICTIM NO. 2   NAME				ADDRESS				HOME PHONE				
6. EMPLOYER NAME				ADDRESS				WORK PHONE				
7. RACE/ETHY. /	8. SEX	9. DOB	10. AGE	11. RES. STAT.	12. REL. TO OFFENDER(S)	13. TYPE INJ.	14. CIRC.	15. CON. TO OFF.	16. TYPE VICT.	17. OFF. NO. REL.		
18. OFFENSE												
<input type="checkbox"/> SIMPLE ASSAULT <input type="checkbox"/> CRIMINAL MISCHIEF <input type="checkbox"/> TERRORISTIC THREATS <input type="checkbox"/> THEFT BY UNLAWFUL TAKING OR DISPOSITION <input type="checkbox"/> BURGLARY <input type="checkbox"/> MISSING PERSON <input type="checkbox"/> HARASSMENT <input type="checkbox"/> CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT <input type="checkbox"/> ESCAPE <input type="checkbox"/> AGGRAVATED ASSAULT <input checked="" type="checkbox"/> ARSON BY RELATED OFFENSES <input type="checkbox"/> HARASSMENT BY COMMUNICATION OR ADDRESS <input type="checkbox"/> OTHER												
19. NO. 01	20. STATUTE CC	21. SECTION NO. 3301	22. UCR 090	23. HATE/BIAS 88	24. OFF. USED A	25. OFF. LOC 20	26. ETY. METH. N	NO.	27. ACTY. TYPE	28. WPN/FC	A	
29. VEHICLE: <input type="checkbox"/> STOLEN <input type="checkbox"/> RECOVERED <input type="checkbox"/> SUSPECT <input type="checkbox"/> OTHER												
30. LIC		31. LIS	32. LIY	33. LIT	34. VIN			35. VYR	36. VMA			
37. VMO		38. VST	39. VCO		40. DOT		41. MIS		42. MILEAGE			
43. NO. 01	44. PROPERTY DESCRIPTION 2 STORY HOUSE				45. PRD. DESC. 29	46. TYPE LOSS 02	47. QTY. 1	48. VALUE \$55,000	49. DATE REC.			
50.												
<table style="width:100%; border: none;"> <tr> <td style="width:50%; vertical-align: top;">           INCIDENT PROMPTLY REPORTED BY VICTIM   <input type="checkbox"/> YES   <input checked="" type="checkbox"/> NO            CAN A SUSPECT BE NAMED   <input checked="" type="checkbox"/> YES   <input type="checkbox"/> NO            EVIDENCE AT SCENE TO LINK OFFENDER   <input type="checkbox"/> YES   <input checked="" type="checkbox"/> NO            CAN A VEHICLE BE IDENTIFIED WITH CRIME   <input checked="" type="checkbox"/> YES   <input type="checkbox"/> NO            SCENE PROCESSED FOR LATENT PRINTS   <input type="checkbox"/> YES   <input checked="" type="checkbox"/> NO            LATENT PRINTS DISCOVERED   <input type="checkbox"/> YES   <input checked="" type="checkbox"/> NO            SCENE CHECKED FOR WITNESSES   <input checked="" type="checkbox"/> YES   <input type="checkbox"/> NO         </td> <td style="width:50%; vertical-align: top;">           NEIGHBORHOOD/AREA CANVASS   <input checked="" type="checkbox"/> YES   <input type="checkbox"/> NO            ANY WITNESSES LOCATED   <input checked="" type="checkbox"/> YES   <input type="checkbox"/> NO            OFFENDER INFORMATION AVAILABLE   <input checked="" type="checkbox"/> YES   <input type="checkbox"/> NO            IDENTIFIABLE/TRACEABLE PROPERTY   <input type="checkbox"/> YES   <input checked="" type="checkbox"/> NO            UNIQUE/UNUSUAL METHOD OF OPERATION   <input type="checkbox"/> YES   <input checked="" type="checkbox"/> NO            THOUGHT TO BE CONNECTED WITH KNOWN CRIME PATTERN   <input type="checkbox"/> YES   <input checked="" type="checkbox"/> NO            CLEAN/STATISTICAL NARCOTICS MESSAGE SENT   <input checked="" type="checkbox"/> YES   <input type="checkbox"/> NO         </td> </tr> </table>											INCIDENT PROMPTLY REPORTED BY VICTIM <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO CAN A SUSPECT BE NAMED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO EVIDENCE AT SCENE TO LINK OFFENDER <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO CAN A VEHICLE BE IDENTIFIED WITH CRIME <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO SCENE PROCESSED FOR LATENT PRINTS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO LATENT PRINTS DISCOVERED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO SCENE CHECKED FOR WITNESSES <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	NEIGHBORHOOD/AREA CANVASS <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO ANY WITNESSES LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO OFFENDER INFORMATION AVAILABLE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IDENTIFIABLE/TRACEABLE PROPERTY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO UNIQUE/UNUSUAL METHOD OF OPERATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO THOUGHT TO BE CONNECTED WITH KNOWN CRIME PATTERN <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO CLEAN/STATISTICAL NARCOTICS MESSAGE SENT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
INCIDENT PROMPTLY REPORTED BY VICTIM <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO CAN A SUSPECT BE NAMED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO EVIDENCE AT SCENE TO LINK OFFENDER <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO CAN A VEHICLE BE IDENTIFIED WITH CRIME <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO SCENE PROCESSED FOR LATENT PRINTS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO LATENT PRINTS DISCOVERED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO SCENE CHECKED FOR WITNESSES <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	NEIGHBORHOOD/AREA CANVASS <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO ANY WITNESSES LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO OFFENDER INFORMATION AVAILABLE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IDENTIFIABLE/TRACEABLE PROPERTY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO UNIQUE/UNUSUAL METHOD OF OPERATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO THOUGHT TO BE CONNECTED WITH KNOWN CRIME PATTERN <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO CLEAN/STATISTICAL NARCOTICS MESSAGE SENT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO											
51. DATE/TIME OFFICER ARRIVED 07/05/02 / 0300		52. DATE/TIME OFFICER DEPARTED 07/05/02 / 2130		53. DATE OF REPORT 08/09/02		54. PART ONE ONLY <input type="checkbox"/>		55. LCE NOTIFIED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		56. SURV. INIT./BADGE NO. <i>[Signature]</i>		
57. OFFICER'S NAME/SIGNATURE Tpr. Michael S. MCCracken				BADGE NO. 5846		58. INVS. RECM. <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM.		59. <input type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR		60. PAGE 1		

*08/10/02*

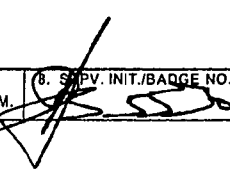
<input checked="" type="checkbox"/> INCIDENT REPORT		<input type="checkbox"/> NON-TRAFFIC DEATH INVESTIGATION REPORT		<input type="checkbox"/> HOMICIDE INVESTIGATION REPORT		<input type="checkbox"/> ACCIDENTAL REPORT PSP JURISDICTION		<input type="checkbox"/> OTHER AGENCY		
SPFP 23 (6-95). PENNSYLVANIA STATE POLICE <b>FIRE INVESTIGATION REPORT/WORKSHEET</b>				1. ORI / STATION PAPSP 1300/Clearfield			2. INCIDENT NO. C03-0712205			
3. ORIGIN/CAUSE ONLY FOR					4. CLASSIFICATION <input checked="" type="checkbox"/> INCENDIARY <input type="checkbox"/> ACCIDENTAL <input type="checkbox"/> EXPLOSION <input type="checkbox"/> UNDETERMINED					
5. STATUTE/SECTION NO./UCR CC 3301 090			6. LOCATION North Side of Chestnut ST. 300 ft. east of SR53						ZONE 19	
7. CITY/TWP/BORO Bigler Twp.				CODE 203		8. COUNTY Clearfield			CODE 17	
9. DATE OCCURRED 07/05/02		DAY Fri.		TIME 0015		10. TYPE OF ALARM phone		11. DATE OF ALARM 07/05/02		
		DAY Fri.						TIME 0041		
12. DISCOVERED BY Carol Frances POSANSKEY				ADDRESS P.O. Box 437 Madera, pa. 16661				PHONE NO. 814-378-5979		
13. RESPONDING FIRE DEPARTMENT Madera V.F.D.				OFFICER IN CHARGE Duane DELOTREE				PHONE NO.		
14. INVESTIGATION REQUESTED BY same				AGENCY				PHONE NO.		
15. DATE REQUESTED 07/05/02		TIME 0132		16. DATE INV. NOTIFIED 07/05/02		TIME 0201		17. DATE INV. ARRIVED 07/05/02		
								TIME 0300		
OWNER	18. NAME Richard Duane MCCRACKEN			ADDRESS P.O. Box 281 Madera, Pa 16661					PHONE NO.	
	19. DOB 05/03/74	20. RACE-ETH/SEX W/N-M	AGE 28	21. EMPLOYER OR SCHOOL None						
	22. INSURANCE CARRIER Clearfield county Grange Mutual			POLICY NO. 32334		EFFECTIVE DATE 08/12/99-02		AMOUNT \$55,000.00		
	23. MORTGAGE/LOAN INSTITUTION County National Bank			ADDRESS 3Rd and Market, Clearfield Pa 16830		AMOUNT \$15,842.83				
OCCUPANT	24. NAME (SAME AS OWNER <input checked="" type="checkbox"/> )			ADDRESS					PHONE NO.	
	25. DOB	26. RACE-ETH/SEX	AGE	27. EMPLOYER OR SCHOOL						
	28. INSURANCE CARRIER			POLICY NO.		EFFECTIVE DATE		AMOUNT		
VEHICLE	29. YEAR	MAKE	MODEL	TYPE	REGISTRATION - STATE / PA		VIN NO.			
	30. REPORTED STOLEN <input type="checkbox"/> YES <input type="checkbox"/> NO		31. REPORTED TO (AGENCY)					DATE REPORTED		TIME REPORTED
	32. INVESTIGATING OFFICER (IF STOLEN)			33. INCIDENT NO.		34. EVIDENCE OF STRIPPING/DAMAGE				
35. POINT OF ORIGIN 2nd floor, N.E. Bedroom				36. IGNITION FACTOR Incendiary			IF APPLICABLE-TYPE MAKE MODEL			
37. WEATHER AT TIME OF FIRE		GENERAL CONDITIONS Calm Clear				TEMPERATURE 68		WIND DIRECTION west	WIND SPEED 03	
38. PROPERTY VALUE		DAMAGE		39. PROPERTY USE			40. NO. INJURED		NO. KILLED	
STRUCTURE \$35,000.00		STRUCTURE \$35,000.00		Single family dwelling			0		OCCUPANTS 0	
CONTENTS \$20,000.00		CONTENTS 20,000.00					0		FIREFIGHTER 0	
TOTAL \$55,000.00		TOTAL \$55,000.00					0		OTHER 0	
41. TYPE CONSTRUCTION Wood Frame			42. NO. OF STORIES 2		DIMENSIONS LENGTH 24' WIDTH 24'		43. TYPE HEAT Coal			
44. UTILITIES <input checked="" type="checkbox"/> ELECTRIC <input type="checkbox"/> OIL <input type="checkbox"/> GAS <input checked="" type="checkbox"/> OTHER		45. ELECTRICAL SERVICE <input type="checkbox"/> FUSE 100 AMP <input checked="" type="checkbox"/> BREAKER		SUPPLIER Penelec		46. PHOTOS TAKEN <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO By Tpr. MCCRACKEN		PHOTOS RETAINED AT PSP Clearfield		
47. CLEAN MESSAGE SENT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		48. EVIDENCE COLLECTED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		BY Tpr. MCCRACKEN			PROPERTY NO. C3-5630			
49. SIGNATURE 				50. ASSISTED BY						
51. PRINT NAME OF INVESTIGATOR Tpr. Michael S. MCCRACKEN				BADGE NO. 5846		52. ADV. INITIALS & BADGE NO.  5550		53. PAGE NO. 2		

STATION

SP 7-0050 A (12-94) PENNSYLVANIA STATE POLICE <b>INCIDENT REPORT - PART II</b>				REPORT TYPE <input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> CONTINUATION <input type="checkbox"/> SUPPLEMENTAL		DATE(S)/DAY(S) OF INCIDENT		INCIDENT NO. C03-0712205			
				TIME(S) OF INCIDENT		JUVENILE <input type="checkbox"/>		DOMESTIC VIOLENCE <input type="checkbox"/>			
ATTACHMENTS: <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED-DATE A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP							
61. ORI/STATION PAPSP1300/Clearfield			62. DATE OF REPORT 08/09/02		63. OFFENSE Arson						
64. <input type="checkbox"/> ACCUSED <input checked="" type="checkbox"/> SUSPECT		65. OFFENDER NO. 1 NAME Pamela Jo VAUX			66. ADDRESS P.O. Box 98 Kylertown, Pa 16847						
67. HOME PHONE 814-345-6892		68. NICKNAMES/ALIAS			69. HEIGHT 503		70. WEIGHT 125		71. HAIR BLN	72. EYES BLU	73. MARITAL STATUS S
74. RACE/ETHY. W / N	75. SEX F	76. DOB 11/03/59	77. AGE 43	78. RES. STAT. N	79. OFF. CODE 090	80. TYPE ARREST	81. DATE OF ARREST	82. ARMED WITH	A	83. OTN/NON- TRAFFIC CIT. NO.	
84. FINGERPRINTED <input type="checkbox"/> YES <input type="checkbox"/> NO		85. PHOTOGRAPHED <input type="checkbox"/> YES <input type="checkbox"/> NO		86. DISP. UNDER 18		87. VIC. NO. REL 01		88. SSN 158-52-5681		89. OLN STATE	
90. BIRTHPLACE				91. EMPLOYER/SCHOOL Reese's truck stop					92. MISC. NO.		
64. <input type="checkbox"/> ACCUSED <input type="checkbox"/> SUSPECT		65. OFFENDER NO. 2 NAME			66. ADDRESS						
67. HOME PHONE		68. NICKNAMES/ALIAS			69. HEIGHT		70. WEIGHT		71. HAIR	72. EYES	73. MARITAL STATUS
74. RACE/ETHY. /	75. SEX	76. DOB	77. AGE	78. RES. STAT.	79. OFF. CODE	80. TYPE ARREST	81. DATE OF ARREST	82. ARMED WITH	A	83. OTN/NON- TRAFFIC CIT. NO.	
84. FINGERPRINTED <input type="checkbox"/> YES <input type="checkbox"/> NO		85. PHOTOGRAPHED <input type="checkbox"/> YES <input type="checkbox"/> NO		86. DISP. UNDER 18		87. VIC. NO. REL		88. SSN		89. OLN STATE	
90. BIRTHPLACE				91. EMPLOYER/SCHOOL					92. MISC. NO.		
93. NARRATIVE											
<p><b>REASON FOR INVESTIGATION:</b></p> <p>On 07/05/02 at 0201 hrs. P.C.O. HALEY contacted me. She advised that Chief DELOTREE of the Madera V.F.D. was at the scene of a structure fire. He was requesting a Fire Marshal because he believed that the fire might have been set intentionally.</p> <p><b>SCENE DESCRIPTION:</b></p> <p>The scene of this fire is a two story wood frame structure with the exterior walls being plank and covered with wooden lap siding. That was painted white. The interior was studded with 2x2's and covered with lath and plaster which some of which was covered by dry wall. This structure was constructed as and being used as a single family dwelling. It is located along the north side of chestnut St. 300 ft east of SR 53, within Bigler Twp. Clearfield co. Just south of the village of Madera. The foundation is made of stone and creates a full basement beneath the 24'x24' structure. The roof was of hip type construction built out of rafters and covered with asphalt shingles. The 100 ampere square d service entrance is located in the southwest corner of the basement and was supplied power from Penelec via an overhead drop. The Coal fired furnace is located in the basement along with the gas fired hot water heater. The main entrance to the structure is located at the west end of the north wall and was covered by a small porch.</p>											
94. OFFICER'S NAME/SIGNATURE Tpr. Michael S. MCCracken				BADGE NO. 5846		95. INVS. RECM. <input type="checkbox"/> CONT. <input type="checkbox"/> TERM.		96. S. INV. INIT./BADGE NO. 		97. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR	
				STATION						98. PAGE 3	

SP 7-0051 (3-96)  PENNSYLVANIA STATE POLICE CONTINUATION SHEET <input checked="" type="checkbox"/> SUPPLEMENTAL INVESTIGATION REPORT <input type="checkbox"/>		REPORT TYPE <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OTHER		DATE(S)/DAY(S) OF INCIDENT  TIME(S) OF INCIDENT		INCIDENT NO. C03-0712205  JUVENILE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>	
ATTACHMENTS: <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED- DATE A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP			
1. ORI/STATION PAPSP1300/Clearfield						2. DATE OF REPORT 08/09/02	
3. OFFENSE Arson						4. VICTIM Richard MCCRACKEN	
5. NARRATIVE  <b>SCENE EXAMINATION:</b>  I examined the scene of this fire. Permission to examine the scene was given by owner MCCRACKEN, who was present during the examination. The scene had remained under the control of the Madera V.F.D. through the time of my arrival. The scene was examined in a systematic process from the outside in and from the area of least damage to the area of most damage. The basement of the structure had sustained the least amount of damage and consisted primarily of water damage. The appliances located in the basement were examined and showed no indication of contributing to the fire. The service entrance was examined and was ruled out as being a contributing factor. The first floor of the structure sustained smoke and water damage. The ceiling of the living room, located in the north east corner, had collapsed down in to the living room. Examination of the second floor of the structure showed the least amount of damage to be the southeast room. The west side rooms were severely damaged including holes burned through the floors. This believed to have been caused by drop down. The bath room, located between the west side bedrooms, sustained lesser damage than the bedrooms themselves. Examination of the north east bedroom revealed the area of most significant damage. One half of the floor in this room had collapsed down in to the living room below. The point of lowest burn and deepest char occurred beneath the east side window. At this point the plate between the floors had been consumed. Examination of the electrical system on the second floor showed no indication that it was a contributing factor. There were no electrical conductors located at the area of origin. The roof of the structure had been consumed. The roof gables had fallen to the ground and continued to burn while on the ground. Starting secondary fires from ground level. Examination of the attic stairs revealed that they had been consumed and were attacked by the fire from the east. The second floor ceiling plate had been consumed at the north east room but remained throughout the rest of the structure. Window frames had been consumed in the north east bedroom but remained in the other rooms.  <b>INVESTIGATION DETAILS:</b>  I collected the evidence listed on property record C3-5630 and C3-5630A attached. I photographed the scene using a cannon EOS Rebel G with a 52 mm lens and a Vivitar 283 flash. The camera was loaded with Kodak 400 speed film.  Chief DELOTREE, interviewed at the scene stated that he requested a Fire Marshal because he believed that the fire might have been set. He advised that the fire was already through the roof over the north east bedroom upon his arrival.							
6. OFFICER'S NAME/SIGNATURE Tpr. michael S. MCCRACKEN		BADGE NO. 5846		7. INVEST. RECM. <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM.		8. SUCV. INIT./BADGE NO. 	
				9. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR		10. PAGE 4	

STATION

SP 7-0051 (3-96)  PENNSYLVANIA STATE POLICE CONTINUATION SHEET <input checked="" type="checkbox"/> SUPPLEMENTAL INVESTIGATION REPORT <input type="checkbox"/>		REPORT TYPE <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OTHER		DATE(S)/DAY(S) OF INCIDENT  TIME(S) OF INCIDENT		INCIDENT NO. C03-0712205  JUVENILE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>	
ATTACHMENTS: <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED - DATE A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP			
1. ORI/STATION PAPSP1300/Clearfield						2. DATE OF REPORT 08/09/02	
3. OFFENSE Arson				4. VICTIM Richard MCCRACKEN			
5. NARRATIVE  <b>INVESTIGATION DETAILS CONT:</b>  <p>Victim MCCRACKEN, interviewed at the scene, stated that Pam VAUX is his girlfriend. He advised that they had lived together in Colorado and Arizona for the past five months and returned to pa to live in her parent's camper. The camper was set up at MCCRACKEN's property in Kermooore. Her parents needed the camper so about the beginning of the month they moved in to the hose. The electric was turned on during the 3<sup>rd</sup> of the month. There was still no running water in the house so the water heater was not turned on. Nor was the furnacé because due to the warm weather it was not needed. He and Pam went to a 4<sup>th</sup> of July party in Sandborn. At the party he was talking to some younger girls. This caused Pam to become angry and she left the party leaving him behind. He stated that she was Yelling at him as she drove away. He got a ride back to Madera with Carrie PHILLIPS. He arrived in Madera to see all of the fire trucks. He stated at that time he knew that Pam had set his house on fire because of the way she left the party.</p> <p>Carol Frances POSANSKY, W/N-F-38. P.O. Box 437 Madera, Pa 16661. 814-378-5979. Interviewed and stated that she was floating in her pool and at about 2330 she heard popping and thought Rick was setting off fire works. Then she saw the motion light going on and off but it turned out to be the headlights on a truck parked in the victims yard. When she arrived home about twenty minuets earlier, there was the light blue older car parked at the house. She has seen Pam driving this car. After investigating the lights and noise she observed that the house was on fire. At this time the blue car was gone. She woke up her husband and contacted 911.</p> <p>Michael Brad HIPPS, W/N-M-26, P.O. Box 282 Grampian, Pa 16838. 814-236-3395. Son in law of suspect VAUX. Stated that he was awakened by Pam beating on his door. This was about 0300 on 5 July. She came in to the house and went to the bathroom where she put clean cloths on. They sat in the living room and Pam told him that she was in a lot of trouble and was going to be behind bars after this. He advised that she told him [I burned Rick's house down and went to Gazam and set his tent and Harley on fire. ] She also advised him that she had wrecked her car and had to have it towed off of the road.</p> <p>Suspect VAUX, interviewed at the HIPPS residence, stated that she and Rick had gotten in to a fight at a party. They had both been drinking. Rick threw beer on her and slammed her car door on her. She left the party and wrecked her car. A guy from a near by house, pulled her car off of the road and gave her a ride to her daughters house. She stated that she was no where near Madera or Rick's house after she left the party.</p>							
6. OFFICER'S NAME/SIGNATURE Tpr. michael S. MCCRACKEN		BADGE NO. 5846	7. INVEST. RECM. <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM.	8. SUPV. INIT./BADGE NO. 	9. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR	10. PAGE 5	

STATION

SP 7-0051 (3-96)  PENNSYLVANIA STATE POLICE CONTINUATION SHEET <input checked="" type="checkbox"/> SUPPLEMENTAL INVESTIGATION REPORT <input type="checkbox"/>		REPORT TYPE <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OTHER		DATE(S)/DAY(S) OF INCIDENT  TIME(S) OF INCIDENT		INCIDENT NO. C03-0712205  JUVENILE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>	
ATTACHMENTS: <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED- DATE A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP			
1. ORI/STATION PAPSP1300/Clearfield						2. DATE OF REPORT 08/09/02	
3. OFFENSE Arson						4. VICTIM Rick MCCRACKEN	
5. NARRATIVE  <b>CONCLUSION:</b>  Based upon the scene examination and information to date. It is my opinion that this fire is incendiary in nature and was started in the second floor northeast corner bed room along the outside wall beneath the window.  <b>MISCELLANEOUS:</b>  C.L.E.A.N. message #CFL171-37158 file 14 attached. News media contacted by chief DELOTREE. Refer to Incident # C03-071221.							
6. OFFICER'S NAME/SIGNATURE Tpr. Michael S. MCCRACKEN		BADGE NO. 5846		7. INVEST. RECM. <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM		8. SUPV. INIT./BADGE NO. 	
						9. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR	
						10. PAGE 6	

STATION

SP 7-0051 (3-96)		REPORT TYPE <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OTHER		DATE(S)/DAY(S) OF INCIDENT 07/05/02 Fri.		INCIDENT NO. C03-0712205	
PENNSYLVANIA STATE POLICE CONTINUATION SHEET <input type="checkbox"/> SUPPLEMENTAL INVESTIGATION REPORT <input checked="" type="checkbox"/>				TIME(S) OF INCIDENT 0015		JUVENILE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>	
ATTACHMENTS: <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER		<input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> RIGHTS WARNING AND WAIVER		DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED- DATE A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP			
1. ORI/STATION PAPSP1300/Clearfield				2. DATE OF REPORT 10/11/02			
3. OFFENSE Arson				4. VICTIM Richard MCCRACKEN			
5. NARRATIVE							

Suspect VAUX, interviewed at this Barracks. VAUX signed a waiver of rights and agreed to be interviewed. She stated that she had been married to her first husband for 14 years. During that time he was mentally abusive to her. This contributed to why she set the fire. She stated " something snapped in me that night. His voice just kept getting louder and louder. He was drunk and I was Drunk. I was setting at a picnic table and several people told him to shut up and leave me alone. I lost everything because of him. All of my problems started when I started seeing him about a year ago. He was always talking about his other girl friends and how he was going to get married and have kids. He would throw this in my face because I had a hysterectomy. He was mentally abusive to me. From what I can remember about that night, I went to the car and he followed me to the car. He got in the car and threw beer on me. Then he hit me and got out of the car. We were both so drunk. He was slurring so that I couldn't understand him. I never meant to burn his house down. I just went in to his weight room and set some padding on fire. I thought he was right behind me and would put it out. I just wanted to get out of there before he got there. I just used my lighter to set the padding on fire. Then I went to the camp. He was supposed to sell his motorcycle so we could go back to Arizona and get the computer that I bought for my boys for Christmas. He pawned it and was supposed to sell his motorcycle to get it back. He told his dad he wasn't going to sell it. So I no he wasn't going to get my boys computer back. This is why I burned his motorcycle. I just held my lighter to the seat. "

OFFICER'S NAME/SIGNATURE Tpr. Michael S. MCCRACKEN	BADGE NO. 5846	7. INVEST. RECM. <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM	8. SUPV. INIT./BADGE NO. <i>[Signature]</i> 5530	9. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR	10. PAGE 7
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STATION

SP 7-0051 (3-96)  PENNSYLVANIA STATE POLICE CONTINUATION SHEET <input type="checkbox"/> SUPPLEMENTAL INVESTIGATION REPORT <input checked="" type="checkbox"/>		REPORT TYPE <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OTHER		DATE(S)/DAY(S) OF INCIDENT 07/05/02 Fri.		INCIDENT NO. C03-0712205	
				TIME(S) OF INCIDENT 0015		JUVENILE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>	
ATTACHMENTS: <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED-DATE			
				A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE			
				B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY			
				C <input type="checkbox"/> EXTRADITION DENIED N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP			
1. ORI/STATION PAPSP1300/Clearfield						2. DATE OF REPORT 01/30/03	
3. OFFENSE Arson						4. VICTIM Richard MCCRACKEN	
5. NARRATIVE  I contacted suspect VAUX and have made arrangements for arraignment. VAUX is scheduled for arraignment on arson and related offenses, before Magistrate HAWKINS on 02/03/03							
6. OFFICER'S NAME/SIGNATURE <i>[Signature]</i> Tpr. Michael S MCCRACKEN				BADGE NO. 5846		7. INVEST. RECM. <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM.	
				8. SUPV. INIT./BADGE NO. <i>[Signature]</i> 5846		9. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR	
STATION						10. PAGE 8	

SP 7-0050 A (12-94) PENNSYLVANIA STATE POLICE <b>INCIDENT REPORT - PART II</b>				<b>REPORT TYPE</b> <input type="checkbox"/> INITIAL <input type="checkbox"/> CONTINUATION <input checked="" type="checkbox"/> SUPPLEMENTAL		<b>DATE(S)/DAY(S) OF INCIDENT</b> 07/05/02 Fri.		<b>INCIDENT NO.</b> C03-0712205											
				<b>TIME(S) OF INCIDENT</b> 0015		<input type="checkbox"/> JUVENILE		<input type="checkbox"/> DOMESTIC VIOLENCE											
<b>ATTACHMENTS:</b> <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				<b>DISP.:</b> <input checked="" type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED- DATE A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED N <input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP															
61. ORI/STATION PAPSP1300/Clearfield		62. DATE OF REPORT 03/03/03		63. OFFENSE Arson															
64. <input checked="" type="checkbox"/> ACCUSED <input type="checkbox"/> SUSPECT		65. OFFENDER NO. 1 NAME Pamela JO VAUX			66. ADDRESS P.O. Box 98 Kylertown, Pa. 16847														
67. HOME PHONE 814-345-6892		68. NICKNAMES/ALIAS			69. HEIGHT 503		70. WEIGHT 125		71. HAIR BLN		72. EYES BLU		73. MARITAL STATUS D						
74. RACE/ETHY. W / N		75. SEX F		76. DOB 03/11/59		77. AGE 44		78. RES. STAT. N		79. OFF. CODE 090		80. TYPE ARREST T		81. DATE OF ARREST 02/03/03		82. ARMED WITH 01		83. OTN/NON-TRAFFIC CIT. NO. H 627558-1	
84. FINGERPRINTED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		85. PHOTOGRAPHED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		86. DISP. UNDER 18		87. VIC. NO. REL 01		88. SSN 158-52-5681		89. OLN 18820474		STATE PA							
90. BIRTHPLACE Center Co. Pa.				91. EMPLOYER/SCHOOL Hedges, Clearfield Pa.								92. MISC. NO.							
64. <input type="checkbox"/> ACCUSED <input type="checkbox"/> SUSPECT		65. OFFENDER NO. 2 NAME			66. ADDRESS														
67. HOME PHONE		68. NICKNAMES/ALIAS			69. HEIGHT		70. WEIGHT		71. HAIR		72. EYES		73. MARITAL STATUS						
74. RACE/ETHY.		75. SEX		76. DOB		77. AGE		78. RES. STAT.		79. OFF. CODE		80. TYPE ARREST		81. DATE OF ARREST		82. ARMED WITH		83. OTN/NON-TRAFFIC CIT. NO.	
84. FINGERPRINTED <input type="checkbox"/> YES <input type="checkbox"/> NO		85. PHOTOGRAPHED <input type="checkbox"/> YES <input type="checkbox"/> NO		86. DISP. UNDER 18		87. VIC. NO. REL		88. SSN		89. OLN		STATE							
90. BIRTHPLACE				91. EMPLOYER/SCHOOL								92. MISC. NO.							
93. NARRATIVE																			
<p>On 02/03/03 Accused VAUX was arraigned before D.J. HAWKINS in Houtzdale Pa. a preliminary hearing was scheduled for 02/12/03 at the Clearfield Co. centralized court. Vaux was released on R.O.R. Bail.</p> <p>Notice that on prior paperwork The birth date of the accused is listed as 11/03/59. Her correct date of birth is 03/11/59.</p>																			
94. OFFICER'S NAME/SIGNATURE Tpr. Michael S. MCCracken				BADGE NO. 5846		95. INVES. RECM. <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM.		96. SUPV. INIT./BADGE NO. [Signature]		97. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR		98. FILE # 9							

STATION

UCR 03603  
A, B, C

SP 7-0051 (3-96) PENNSYLVANIA STATE POLICE CONTINUATION SHEET <input type="checkbox"/> SUPPLEMENTAL INVESTIGATION REPORT <input checked="" type="checkbox"/>		REPORT TYPE <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OTHER		DATE(S)/DAY(S) OF INCIDENT 07/05/02 Fri.		INCIDENT NO. C03-0712205	
				TIME(S) OF INCIDENT 0015		JUVENILE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>	
ATTACHMENTS: <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED-DATE A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP			
1. ORI/STATION						2. DATE OF REPORT	
PAPSP1300/Clearfield						08/16/03	
3. OFFENSE						4. VICTIM	
Arson						Richard MCCRACKEN	
5. NARRATIVE							
This incident is still pending court.							
6. OFFICER'S NAME/SIGNATURE				7. INVEST. RECM.		8. SUPV. INIT./BADGE NO.	
Tpr. Michael S. MCCRACKEN 				BADGE NO. 5846 <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM.		9. <input type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR C 6311	
						10. PAGE	
						10	

STATION

## PROPERTY RECORD

1. <input type="checkbox"/> PROPERTY RECORD CONTINUATION										2. INCIDENT NO.										3. DESIGNATOR/INVENTORY NO. 68-5630																			
4. STATUS <input checked="" type="checkbox"/> EVIDENCE <input type="checkbox"/> FOUND <input type="checkbox"/> RECOVERED <input type="checkbox"/> RECEIPT <input type="checkbox"/> OTHER										5. OFFENSE A.P.C.										6. STATION/DISTRICT OFFICE 22nd DISTRICT																			
7. SUBMITTING OFFICER T. J. ...										8. RECEIVING OFFICER P. ...										9. DATE 8/10/82										10. TIME 12:32									
11. INVESTIGATING OFFICER ...										12. FOUND OR RECOVERED FROM ...										13. DATE 8/10/82										14. TIME ...									
15. CODES 1. PROPERTY ROOM 2. SAFETY DEPOSIT BOX										16. STORAGE AREA 3. EXPLOSIVE MAGAZINE 4. NON-DEPARTMENT										17. DISPOSITION 1. DESTROYED 2. ESCHEATABLE 3. EXPENDED IN LABORATORY										18. REMOVAL CODE 1. CUSTODY 2. COURT 3. LABORATORY 4. OTHER									

15. ITEMS - (ONE ITEM PER LINE)		16. TYPE PROPERTY	17. CODE	18. QUANTITY	19. VALUE	20. STORAGE AREA CODE	21. DISPOSITION CODE
1		OC	01	1			
2		OC	01	1			
3							
4							
5							
6							
7							
8							
9							
0							

22. PROPERTY IN	23. DATE & TIME	24. ITEM(S) NO.	25. OFFICER'S SIGNATURE - BADGE NO.	26. CUSTODIAL OFFICER'S INIT. BADGE NO.	27. REMOVAL CODE & LOCATION	28. ESTIMATED DATE OF RETURN	29. COMPUTER ENTRY

30. I HEREBY CERTIFY THAT I AM THE OWNER OF PROPERTY OR AUTHORIZED AGENT TO RECEIVE ITEM(S) NO. \_\_\_\_\_  
 31. CLAIMANT'S NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_ TELEPHONE NO. \_\_\_\_\_  
 32. CLAIMANT'S SIGNATURE \_\_\_\_\_ OWNER'S SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_



SP 7-0019 (9-89)

PENNSYLVANIA STATE POLICE  
**RIGHTS WARNING AND WAIVER**

INCIDENT NO. \_\_\_\_\_

TIME 1505 DATE 07/18/02 PLACE P.S.P. CLEARFIELD

My name is PM. McRACKEN

(OFFICER'S NAME)

of the Pennsylvania State Police.

You have an absolute right to remain silent and anything you say can and will be used against you in a court of law. You also have the right to talk to an attorney before and have an attorney present with you during questioning. If you cannot afford to hire an attorney, one will be appointed to represent you without charge before questioning, if you so desire. If you do decide to answer questions, you may stop any time you wish and you cannot be forced to continue.

**WAIVER**

I fully understand the statement warning me of my rights and I am willing to answer questions. I do not want an attorney, and I understand that I may stop answering questions any time during the questioning. No promises have been made to me, nor have I been threatened in any manner.

WITNESS(ES)

Danile Jones  
SIGNATURE

SIGNATURE OF WITNESS(ES)

Mr. Paul J. [Signature]  
SIGNATURE OF OFFICER

SP 7-0050 (12-94) PENNSYLVANIA STATE POLICE <b>INCIDENT REPORT</b>		REPORT TYPE <input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> CONTINUATION <input type="checkbox"/> SUPPLEMENTAL		DATE(S)/DAY(S) OF INCIDENT 07/05/02 Fri.		INCIDENT NO. C03-0712212					
				TIME(S) OF INCIDENT 0045		JUVENILE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>					
ATTACHMENTS: <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED-DATE A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP							
1. ORI/STATION PAPSP1300/Clearfield		2. LOCATION South side of Gazam rd. .2 mi. west of SR 729					ZONE 19				
3. CITY/TWP/BORO Jordan Twp.			CODE 220	4. COUNTY Clearfield			CODE 17				
5. VICTIM NO. 1 NAME Richard Duane MCCracken		ADDRESS P.O. Box 281 Madera, Pa 16661				HOME PHONE					
6. EMPLOYER NAME none		ADDRESS				WORK PHONE					
7. RACE/ETHY. W / N	8. SEX M	9. DOB 05/03/74	10. AGE 28	11. RES. STAT. R	12. REL. TO OFFENDER(S) BG	13. TYPE INJ.	14. CIRC.	15. CON. TO OFF. 01	16. TYPE VICT. I	17. OFF. NO. REL. 1	
5. VICTIM NO. 2 NAME		ADDRESS				HOME PHONE					
6. EMPLOYER NAME		ADDRESS				WORK PHONE					
7. RACE/ETHY. /	8. SEX	9. DOB	10. AGE	11. RES. STAT.	12. REL. TO OFFENDER(S)	13. TYPE INJ.	14. CIRC.	15. CON. TO OFF.	16. TYPE VICT.	17. OFF. NO. REL.	
18. OFFENSE											
<input type="checkbox"/> SIMPLE ASSAULT <input type="checkbox"/> CRIMINAL MISCHIEF <input type="checkbox"/> TERRORISTIC THREATS <input type="checkbox"/> THEFT BY UNLAWFUL TAKING OR DISPOSITION <input type="checkbox"/> BURGLARY <input type="checkbox"/> MISSING PERSON <input type="checkbox"/> HARASSMENT <input type="checkbox"/> CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT <input type="checkbox"/> ESCAPE <input type="checkbox"/> AGGRAVATED ASSAULT <input checked="" type="checkbox"/> ARSON BY RELATED OFFENSES <input type="checkbox"/> HARASSMENT BY COMMUNICATION OR ADDRESS <input type="checkbox"/> OTHER											
19. NO.	20. STATUTE	21. SECTION NO.	22. UCR	23. HATE/BIAS	24. OFF. USED	25. OFF. LOC	26. ETY. METH.	NO.	27. ACTY. TYPE	28. WPN/FC	A
01	CC	3301	090	88	A	20	N				
29. VEHICLE: <input type="checkbox"/> STOLEN <input type="checkbox"/> RECOVERED <input type="checkbox"/> SUSPECT <input type="checkbox"/> OTHER											
30. LIC		31. LIS	32. LIY	33. LIT	34. VIN	35. VYR		36. VMA			
37. VMO		38. VST	39. VCO		40. DOT	41. MIS			42. MILEAGE		
43. NO.	44. PROPERTY DESCRIPTION				45. PRD. DESC.	46. TYPE LOSS	47. QTY.	48. VALUE	49. DATE REC.		
01	1989 Harley Sportster				24	02	1	\$5,000			
50.											
INCIDENT PROMPTLY REPORTED BY VICTIM				YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	NEIGHBORHOOD/AREA CANVASS				YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
CAN A SUSPECT BE NAMED				YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	ANY WITNESSES LOCATED				YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
EVIDENCE AT SCENE TO LINK OFFENDER				YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	OFFENDER INFORMATION AVAILABLE				YES <input type="checkbox"/>	NO <input type="checkbox"/>
CAN A VEHICLE BE IDENTIFIED WITH CRIME				YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	IDENTIFIABLE/TRACEABLE PROPERTY				YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
SCENE PROCESSED FOR LATENT PRINTS				YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	UNIQUE/UNUSUAL METHOD OF OPERATION				YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
LATENT PRINTS DISCOVERED				YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	THOUGHT TO BE CONNECTED WITH KNOWN CRIME PATTERN				YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
SCENE CHECKED FOR WITNESSES				YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	CLEAN/STATISTICAL NARCOTICS MESSAGE SENT				YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
51. DATE/TIME OFFICER ARRIVED 07/05/02 / 1100		52. DATE/TIME OFFICER DEPARTED 07/05/02 / 2130		53. DATE OF REPORT 08/12/02		54. PART ONE ONLY <input type="checkbox"/>		55. LCE NOTIFIED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		56. SHIPV. INIT./BADGE NO. 5550	
57. OFFICER'S NAME/SIGNATURE Tpr. Michael S. MCCracken				BADGE NO. 5846		58. INVS. RECM. <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM.		59. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR		60. PAGE 1	

STATION

<input checked="" type="checkbox"/> INCIDENT REPORT		<input type="checkbox"/> NON-TRAFFIC DEATH INVESTIGATION REPORT		<input type="checkbox"/> HOMICIDE INVESTIGATION REPORT		<input type="checkbox"/> ACCIDENTAL REPORT PSP JURISDICTION		<input type="checkbox"/> OTHER AGENCY	
SPFP 23 (6-95) PENNSYLVANIA STATE POLICE <b>FIRE INVESTIGATION REPORT/WORKSHEET</b>				1. ORI / STATION PAPSP 1300/Clearfield			2. INCIDENT NO. C03-0712212		
3. ORIGIN/CAUSE ONLY FOR					4. CLASSIFICATION <input checked="" type="checkbox"/> INCENDIARY <input type="checkbox"/> ACCIDENTAL <input type="checkbox"/> EXPLOSION <input type="checkbox"/> UNDETERMINED				
5. STATUTE/SECTION NO./UCR CC 3301 090			6. LOCATION South side of Gazam RD. .2 mi. wets of SR729						ZONE 19
7. CITY/TWP/BORO Jordan Twp.				CODE 220	8. COUNTY Clearfield				CODE 17
9. DATE OCCURRED 07/05/02		DAY Fri.	TIME 0045	10. TYPE OF ALARM phone		11. DATE OF ALARM		DAY	TIME
12. DISCOVERED BY Richard Duane MCCRACKEN				ADDRESS P.O. Box 281 Madera, Pa. 16661				PHONE NO.	
13. RESPONDING FIRE DEPARTMENT				OFFICER IN CHARGE				PHONE NO.	
14. INVESTIGATION REQUESTED BY Victim				AGENCY				PHONE NO.	
15. DATE REQUESTED 07/05/02		TIME 1032	16. DATE INV. NOTIFIED 07/05/02		TIME 1033	17. DATE INV. ARRIVED 07/05/02		TIME 1100	
OWNER	18. NAME Richard Duane MCCRACKEN			ADDRESS P.O. Box 281 Madera, Pa 16661				PHONE NO.	
	19. DOB 05/03/74	20. RACE-ETH/SEX W/N-M	AGE 28	21. EMPLOYER OR SCHOOL None					
	22. INSURANCE CARRIER none			POLICY NO.		EFFECTIVE DATE		AMOUNT	
	23. MORTGAGE/LOAN INSTITUTION			ADDRESS		AMOUNT			
OCCUPANT	24. NAME (SAME AS OWNER <input type="checkbox"/> )			ADDRESS				PHONE NO.	
	25. DOB	26. RACE-ETH/SEX	AGE	27. EMPLOYER OR SCHOOL					
	28. INSURANCE CARRIER			POLICY NO.		EFFECTIVE DATE		AMOUNT	
VEHICLE	29. YEAR 1989	MAKE Harley Davidson	MODEL Sportster	TYPE MC	REGISTRATION - STATE 9RJ9B / PA		VIN NO. 1HD1CAP12KY114830		
	30. REPORTED STOLEN <input type="checkbox"/> YES <input type="checkbox"/> NO		31. REPORTED TO (AGENCY)				DATE REPORTED		TIME REPORTED
	32. INVESTIGATING OFFICER (IF STOLEN)			33. INCIDENT NO.		34. EVIDENCE OF STRIPPING/DAMAGE			
35. POINT OF ORIGIN Seat			36. IGNITION FACTOR Incendiary			IF APPLICABLE-TYPE MAKE MODEL			
37. WEATHER AT TIME OF FIRE	GENERAL CONDITIONS Calm Clear				TEMPERATURE 68	WIND DIRECTION west	WIND SPEED 03		
38. PROPERTY VALUE STRUCTURE \$5,000.00		DAMAGE STRUCTURE \$5,000.00		39. PROPERTY USE Motorcycle		40. NO. INJURED 0		NO. KILLED 0	
CONTENTS		CONTENTS				0		OCCUPANTS 0	
TOTAL \$5,000.00		TOTAL \$5,000.00				0		FIREFIGHTER 0	
						0		OTHER 0	
41. TYPE CONSTRUCTION			42. NO. OF STORIES		DIMENSIONS LENGTH WIDTH		43. TYPE HEAT		
44. UTILITIES <input type="checkbox"/> ELECTRIC <input type="checkbox"/> OIL <input type="checkbox"/> GAS <input type="checkbox"/> OTHER		45. ELECTRICAL SERVICE <input type="checkbox"/> FUSE AMP <input type="checkbox"/> BREAKER			46. PHOTOS TAKEN <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		PHOTOS RETAINED AT PSP Clearfield		
47. CLEAN MESSAGE SENT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		48. EVIDENCE COLLECTED <input type="checkbox"/> YES <input type="checkbox"/> NO BY			PROPERTY NO.				
49. SIGNATURE <i>Tpr. Michael S. MCCRACKEN</i>				50. ASSISTED BY					
51. PRINT NAME OF INVESTIGATOR Tpr. Michael S. MCCracken				BADGE NO. 5846		52. SUPV. INITIALS & BADGE NO. <i>[Signature]</i> 5846		53. PAGE NO. 2	

STATION

SP 7-0050 A (12-94) PENNSYLVANIA STATE POLICE <b>INCIDENT REPORT - PART II</b>				REPORT TYPE <input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> CONTINUATION <input type="checkbox"/> SUPPLEMENTAL		DATE(S)/DAY(S) OF INCIDENT		INCIDENT NO. C03-0712212											
				TIME(S) OF INCIDENT		JUVENILE <input type="checkbox"/>		DOMESTIC VIOLENCE <input type="checkbox"/>											
ATTACHMENTS: <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER										DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED-DATE A <input type="checkbox"/> DEATH OF ACTOR   D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED   E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED   N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP									
61. ORI/STATION PAPSP1300/Clearfield				62. DATE OF REPORT 08/12/02				63. OFFENSE Arson											
64. <input type="checkbox"/> ACCUSED <input checked="" type="checkbox"/> SUSPECT		65. OFFENDER NO. 1 NAME Pamela Jo VAUX				66. ADDRESS P.O. Box 98 Kylertown, Pa 16847													
67. HOME PHONE 814-345-6892		68. NICKNAMES/ALIAS				69. HEIGHT 503		70. WEIGHT 125		71. HAIR BLN		72. EYES BLU		73. MARITAL STATUS S					
74. RACE/ETHY. W / N		75. SEX F		76. DOB 11/03/59		77. AGE 43		78. RES. STAT. N		79. OFF. CODE 090		80. TYPE ARREST		81. DATE OF ARREST		82. ARMED WITH		83. OTN/NON- TRAFFIC CIT. NO.	
84. FINGERPRINTED <input type="checkbox"/> YES <input type="checkbox"/> NO		85. PHOTOGRAPHED <input type="checkbox"/> YES <input type="checkbox"/> NO		86. DISP. UNDER 18		87. VIC. NO. REL 01		88. SSN 158-52-5681		89. OLN		STATE							
90. BIRTHPLACE				91. EMPLOYER/SCHOOL Reese's truck stop								92. MISC. NO.							
64. <input type="checkbox"/> ACCUSED <input type="checkbox"/> SUSPECT		65. OFFENDER NO. 2 NAME				66. ADDRESS													
67. HOME PHONE		68. NICKNAMES/ALIAS				69. HEIGHT		70. WEIGHT		71. HAIR		72. EYES		73. MARITAL STATUS					
74. RACE/ETHY. I		75. SEX		76. DOB		77. AGE		78. RES. STAT.		79. OFF. CODE		80. TYPE ARREST		81. DATE OF ARREST		82. ARMED WITH		83. OTN/NON- TRAFFIC CIT. NO.	
84. FINGERPRINTED <input type="checkbox"/> YES <input type="checkbox"/> NO		85. PHOTOGRAPHED <input type="checkbox"/> YES <input type="checkbox"/> NO		86. DISP. UNDER 18		87. VIC. NO. REL		88. SSN		89. OLN		STATE							
90. BIRTHPLACE				91. EMPLOYER/SCHOOL								92. MISC. NO.							
93. NARRATIVE																			
<b>REASON FOR INVESTIGATION:</b>  On 07/05/02 at 0201 hrs. P.C.O. HALEY contacted me. She advised that Chief DELOTREE of the Madera V.F.D. was at the scene of a structure fire. He was requesting a Fire Marshal because he believed that the fire might have been set intentionally. While investigating C03-0712205. It was discovered that victim MCCRACKEN's Motorcycle had also been burned at this location.																			
<b>SCENE DESCRIPTION:</b>  The scene of this fire is at a camping site located along the South side of Gazam Rd. .2 mi west of SR 729, within Jordan Twp. Clearfield co. The camp site is a camp ground owned by the victim. The 1989 Harley was parked beside his two man tent that is set up on a camp site within the camp ground.																			
94. OFFICER'S NAME/SIGNATURE Tpr. Michael S. MCCRACKEN				BADGE NO. 5846		95. INVS. RECM. <input type="checkbox"/> CONT. <input type="checkbox"/> TERM.		96. SUPV. INIT./BADGE NO.		97. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR		98. PAGE 3		STATION					

SP 7-0051 (3-96) PENNSYLVANIA STATE POLICE CONTINUATION SHEET <input checked="" type="checkbox"/> SUPPLEMENTAL INVESTIGATION REPORT <input type="checkbox"/>		REPORT TYPE <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OTHER		DATE(S)/DAY(S) OF INCIDENT		INCIDENT NO. C03-0712205	
				TIME(S) OF INCIDENT		JUVENILE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>	
ATTACHMENTS: <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED- DATE A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP			
1. ORI/STATION PAPSP1300/Clearfield						2. DATE OF REPORT 08/09/02	
3. OFFENSE Arson						4. VICTIM Richard MCCRACKEN	
5. NARRATIVE  <b>SCENE EXAMINATION:</b>  I examined the scene of this fire. Permission to examine the scene was given by owner MCCRACKEN, who was present during the examination. Examination of the scene revealed that the gas cap had been removed from the motorcycle prior to the fire being ignited. The seat of the the motorcycle had been destroyed by the fire. As the polyfoam from the seat burned and melted, the fire was drawn downward and damaged the rear tire and rear parts of the cycle. Primarily the materials that fueled the fire came from the seat. Upon consumption of the seat the fire burned out except for the flame burning at the opening of the gas tank, where the gas fumes were burning. Another fire had also been set within the tent. This fire destroyed the contents of the tent and damaged the back half of the tent, burning the top off and the back side.  <b>INVESTIGATION DETAILS:</b>  Victim MCCRACKEN stated that while waiting for the scene investigation to be completed at C03-0712205, being his house. His neighbor ken LONG suggested they go check out his Harley while they waited. Upon arrival at the camp site he saw that both his Harley and his tent had been set on fire.  I photographed the scene using a Cannon EOS Rebel G camera Wwith a 52mm. Lens and a Vivitar 283 flash. The camera was loaded with Kodak 400 speed film.  <b>CONCLUSION:</b>  Based upon the scene examination and information to date, it is my opinion that this fire is incendiary in nature and was started when the seat of the motorcycle was ignited.  <b>MISCELLANEOUS:</b>  C.L.E.A.N. message #CFL171-37519 file 14 attached. News Media contacted by Chief DELOTREE Refer to incident # C03-0712205							
6. OFFICER'S NAME/SIGNATURE: <i>[Signature]</i> Tpr. Michael S. MCCRACKEN		BADGE NO. 5846		7. INVEST. RECM. <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM		8. S.W. INIT./BADGE NO. <i>[Signature]</i> 5846	
				9. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR		10. PAGE 4	

STATION

SP 7-0051 (3-96) <b>PENNSYLVANIA STATE POLICE</b> CONTINUATION SHEET <input type="checkbox"/> SUPPLEMENTAL INVESTIGATION REPORT <input checked="" type="checkbox"/>		<b>REPORT TYPE</b> <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OTHER		<b>DATE(S)/DAY(S) OF INCIDENT</b> 07/05/02 Fri.		<b>INCIDENT NO.</b> C03-0712212	
		<b>TIME(S) OF INCIDENT</b> 0045		<b>JUVENILE</b> <input type="checkbox"/>		<b>DOMESTIC VIOLENCE</b> <input type="checkbox"/>	
<b>ATTACHMENTS:</b> <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				<b>DISP.:</b> <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED - DATE A <input type="checkbox"/> DEATH OF ACTOR    D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED    E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED    N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP			
<b>1. ORI/STATION</b> PAPSP1300/Clearfield						<b>2. DATE OF REPORT</b> 01/30/03	
<b>3. OFFENSE</b> Arson				<b>4. VICTIM</b> Richard MCCRACKEN			
<b>5. NARRATIVE</b>  I contacted suspect VAUX and have made arrangements for arraignment. VAUX is scheduled for arraignment on Arson and related offenses, before Magistrate HAWKINS on 02/03/03.							
<b>6. OFFICER'S NAME/SIGNATURE</b> Tpr. Michael S. MCCRACKEN		<b>BADGE NO.</b> 5846		<b>7. INVEST. RECM.</b> <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM.		<b>8. SUPERV. INIT./BADGE NO.</b> [Signature] 5530	
				<b>9.</b> <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR		<b>10. PAGE</b> 5	

STATION

SP 7-0050 A (12-94)		REPORT TYPE <input type="checkbox"/> INITIAL <input type="checkbox"/> CONTINUATION <input checked="" type="checkbox"/> SUPPLEMENTAL		DATE(S)/DAY(S) OF INCIDENT 07/05/02 Fri.		INCIDENT NO. C03-0712212	
PENNSYLVANIA STATE POLICE <b>INCIDENT REPORT - PART II</b>				TIME(S) OF INCIDENT 0045		JUVENILE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>	
ATTACHMENTS: <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				DISP.: <input checked="" type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED - DATE A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED N <input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP			
61. ORI/STATION PAPSP1300/Clearfield		62. DATE OF REPORT 03/03/03		63. OFFENSE Arson			
64. <input checked="" type="checkbox"/> ACCUSED <input type="checkbox"/> SUSPECT		65. OFFENDER NO. 1 NAME Pamela JO VAUX		66. ADDRESS P.O. Box 98 Kylertown, Pa. 16847			
67. HOME PHONE 814-345-6892		68. NICKNAMES/ALIAS		69. HEIGHT 503		70. WEIGHT 125	
71. HAIR BLN		72. EYES BLU		73. MARITAL STATUS D			
74. RACE/ETHY. W / N		75. SEX F		76. DOB 03/11/59		77. AGE 44	
78. RES. STAT. N		79. OFF. CODE 090		80. TYPE ARREST T		81. DATE OF ARREST 02/03/03	
82. ARMED WITH 01		83. OTN/NON- TRAFFIC CIT. NO. H 627558-1		84. FINGERPRINTED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		85. PHOTOGRAPHED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
86. DISP. UNDER 18		87. VIC. NO. REL 01		88. SSN 158-52-5681		89. OLN 18820474	
90. BIRTHPLACE Center Co. Pa.		91. EMPLOYER/SCHOOL Hedges, Clearfield Pa.		92. MISC. NO.		STATE PA	
64. <input type="checkbox"/> ACCUSED <input type="checkbox"/> SUSPECT		65. OFFENDER NO. 2 NAME		66. ADDRESS			
67. HOME PHONE		68. NICKNAMES/ALIAS		69. HEIGHT		70. WEIGHT	
71. HAIR		72. EYES		73. MARITAL STATUS			
74. RACE/ETHY. /		75. SEX		76. DOB		77. AGE	
78. RES. STAT.		79. OFF. CODE		80. TYPE ARREST		81. DATE OF ARREST	
82. ARMED WITH		83. OTN/NON- TRAFFIC CIT. NO.		84. FINGERPRINTED <input type="checkbox"/> YES <input type="checkbox"/> NO		85. PHOTOGRAPHED <input type="checkbox"/> YES <input type="checkbox"/> NO	
86. DISP. UNDER 18		87. VIC. NO. REL		88. SSN		89. OLN	
90. BIRTHPLACE		91. EMPLOYER/SCHOOL		92. MISC. NO.		STATE	

93. NARRATIVE

On 02/03/03 Accused VAUX was arraigned before D.J. HAWKINS in Houtzdale Pa. a preliminary hearing was scheduled for 02/12/03 at the Clearfield Co. centralized court. Vaux was released on R.O.R. Bail.

Notice that on prior paperwork The birth date of the accused is listed as 11/03/59. Her correct date of birth is 03/11/59.

94. OFFICER'S NAME/SIGNATURE Tpr. Michael S. MCCracken		BADGE NO. 5846		95. INVS. RECM. <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM.		96. SUPV. INIT./BADGE NO. <i>[Signature]</i> 5530		97. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR		98. PAGE 6	
STATION											

UCR 03/03  
A, B<sup>2</sup>, C

SP 7-0051 (3-96)		REPORT TYPE <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OTHER		DATE(S)/DAY(S) OF INCIDENT 07/05/02 Fri.		INCIDENT NO. C03-0712212	
PENNSYLVANIA STATE POLICE CONTINUATION SHEET <input type="checkbox"/> SUPPLEMENTAL INVESTIGATION REPORT <input checked="" type="checkbox"/>				TIME(S) OF INCIDENT 0045		JUVENILE <input type="checkbox"/>	DOMESTIC VIOLENCE <input type="checkbox"/>
ATTACHMENTS: <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER		<input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> RIGHTS WARNING AND WAIVER		DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED - DATE A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP			
1. ORI/STATION PAPSP1300/Clearfield						2. DATE OF REPORT 08/16/03	
3. OFFENSE Arson				4. VICTIM Richard MCCRACKEN			
5. NARRATIVE  This incident is still pending court.							
6. OFFICER'S NAME/SIGNATURE Tpr. Michael S. MCCRACKEN		BADGE NO. 5846		7. INVEST. RECM. <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM.		8. SUPV. INIT./BADGE NO. C 62 6311	
				9. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR		10. PAGE 7	

STATION

SP 7-0051 (3-96) PENNSYLVANIA STATE POLICE CONTINUATION SHEET <input type="checkbox"/> SUPPLEMENTAL INVESTIGATION REPORT <input checked="" type="checkbox"/>		REPORT TYPE <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OTHER		DATE(S)/DAY(S) OF INCIDENT 07/05/02 Fri.		INCIDENT NO. C03-0712212	
				TIME(S) OF INCIDENT 0045		JUVENILE <input type="checkbox"/> DOMESTIC VIOLENCE <input type="checkbox"/>	
ATTACHMENTS: <input type="checkbox"/> MISSING PERSON CHECKLIST <input type="checkbox"/> FELONY CRIMES AGAINST THE PERSON <input type="checkbox"/> STATEMENT FORM(S) <input type="checkbox"/> VICTIM/WITNESS ASSISTANCE GUIDE RECEIPT <input type="checkbox"/> RIGHTS WARNING AND WAIVER <input type="checkbox"/> PROPERTY RECORD <input type="checkbox"/> OTHER				DISP.: <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONALLY CLEARED- DATE			
				A <input type="checkbox"/> DEATH OF ACTOR D <input type="checkbox"/> VICTIM REFUSED TO COOPERATE B <input type="checkbox"/> PROSECUTION DECLINED E <input type="checkbox"/> JUVENILE/NO CUSTODY C <input type="checkbox"/> EXTRADITION DENIED N <input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> MULTIPLE CLEAR-UP			
1. ORI/STATION PAPSP1300/Clearfield						2. DATE OF REPORT 10/16/03	
3. OFFENSE Arson						4. VICTIM Richard MCCRACKEN	
5. NARRATIVE  This incident is still pending court.							
6. OFFICER'S NAME/SIGNATURE Tpr. Michael S. MCCRACKEN				BADGE NO. 5846		7. INVEST. RECM. <input checked="" type="checkbox"/> CONT. <input type="checkbox"/> TERM.	
				8. SUPV. INIT./BADGE NO. <i>ccc 6311</i>		9. <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR	
						10. PAGE 8	

STATION

FILED

APR 19 2004



William A. Shaw,  
Prothonotary/Clerk of Courts

NO  
cc

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

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

: CIVIL DIVISION  
:

: NO. 02-1687-CD  
:  
:  
:  
:

**CERTIFICATE OF SERVICE**

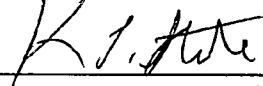
This is to certify that I, Karen L. Steele, Esquire, served a copy of the Supplemental Record in Support of Defendant's Renewed Motion for Summary Judgment on the 16 day of April, 2004, via First Class United States Mail, postage prepaid and addressed to the following:

R. Denning Gearhart, Esquire  
Attorney for Plaintiff  
Attorney I.D. #26540

215 East Locust Street  
Clearfield, PA 16830  
(814) 765-1581

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By

  
\_\_\_\_\_  
Karen L. Steele, Esquire  
Attorney for Defendant  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

**FILED**

APR 19 2004

William A. Sarno  
Prothonotary Clerk of Courts

CLERK OF COURT  
PROCTOR & KENNEDY, P.A.

FILED  
APR 10 2014  
11:51 AM  
No 22

CA

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

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE  
COMPANY

vs.


RICHARD D. MCCRACKEN

:  
:  
:  
:  
: No. 02-1687-CD  
:  
:

**ORDER**

AND NOW, this 30<sup>th</sup> day of April, 2004, upon consideration of Defendant's Renewed Motion for Summary Judgment, it is the ORDER of the Court that argument on said Motion has been scheduled for the 10 day of May, 2004, at 10:30 A.M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

FILED

APR 30 2004

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

2CC

APR 11 5 50 PM '04

Atty Steele w/

William A. Shaw

Prothonotary/Clerk of Courts

memo to service

*[Handwritten signature]*

FILED

APR 11 2004

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 02-1687-CD

**PRAECIPE FOR ARGUMENT COURT**

Filed on behalf of Defendant

Counsel of record for this party:

Karen L. Steele, Esquire  
Attorney I.D. #32707

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER & OSWALT  
414 N. Logan Boulevard  
Altoona, PA 16602

(814) 946-4391

JURY TRIAL DEMANDED

**FILED**

**APR 30 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

Defendant

NO. 02-1687-CD

If you are the moving party, is your brief enclosed: X Yes \_\_\_\_ No

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

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

: CIVIL DIVISION

: NO. 02-1687-CD


**CERTIFICATE OF SERVICE**

This is to certify that I, Karen L. Steele, served a copy of the Praecipe for Argument Court on the 23 day of April, 2004, via First Class United States Mail, postage prepaid and addressed to the following:

R. Denning Gearhart, Esquire  
215 East Locust Street  
Clearfield, PA 16830

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER, OSWALT & STOEHR

By

  
Karen L. Steele, Esquire  
Attorney for Defendant  
I.D. No.32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

FILED  
APR 10 2004  
APR 30 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

RICHARD D. MCCRACKEN :  
VS. : NO. 02-1662-CD  
CLEARFIELD COUNTY GRANGE :  
MUTUAL FIRE INSURANCE COMPANY :

and

CLEARFIELD COUNTY GRANGE :  
MUTUAL FIRE INSURANCE COMPANY :  
VS. : NO. 02-1687-CD  
RICHARD D. MCCRACKEN :

COPY

ORDER

NOW, this 10th day of May, 2004, following argument on the cross Motions for Summary Judgment, it is the ORDER of this Court that counsel for Clearfield County Grange Mutual Fire Insurance Company have no more than ten (10) days from this date in which to submit appropriate brief to the Court. Counsel for Richard D. McCracken shall have no more than five (5) days following receipt of the insurance company's brief to respond.

BY THE COURT,



President Judge

FILED

MAY 11 2004

William A. Shaw  
Prothonotary/Clerk of Courts

ORIGINAL TO 02-1662-CD

COPY TO STEELE & GERARD

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 02-1687-CD

**CERTIFICATE OF SERVICE -  
SCHEDULING ORDER FOR DEFENDANT'S  
RENEWED MOTION FOR  
SUMMARY JUDGMENT**

Filed on behalf of Defendant

Counsel of record for this party:

Karen L. Steele, Esquire  
Attorney I.D. #32707

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER & OSWALT  
414 N. Logan Boulevard  
Altoona, PA 16602

(814) 946-4391

**FILED**

MAY 11 2004

William A. Shaw  
Prothonotary

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

Plaintiff

vs.

RICHARD D. McCracken,

Defendant

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

: CIVIL DIVISION

: NO. 02-1687-CD

**CERTIFICATE OF SERVICE**

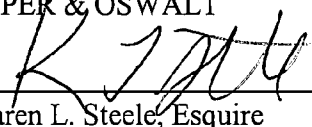
This is to certify that I, Karen L. Steele, Esquire, served a copy of the Scheduling Order regarding Defendant's Renewed Motion for Summary Judgment on the 4 day of May, 2004, via First Class United States Mail, postage prepaid and addressed to the following:

R. Denning Gearhart, Esquire  
Attorney for Plaintiff  
Attorney I.D. #26540

215 East Locust Street  
Clearfield, PA 16830  
(814) 765-1581

GOLDSTEIN, HESLOP, STEELE,  
CLAPPER & OSWALT

By

  
\_\_\_\_\_  
Karen L. Steele, Esquire  
Attorney for Defendant  
Attorney I.D. #32707

414 N. Logan Boulevard  
Altoona, PA 16602  
(814) 946-4391

FILED

*IN 10:09 AM 10/10/04*

MAY 11 2004

*g  
pk*

William A. Shaw  
Prothonotary

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

RICHARD D. MCCRACKEN :  
: VS. : NO. 02-1662-CD  
: CLEARFIELD COUNTY GRANGE :  
: MUTUAL FIRE INSURANCE COMPANY :

and

CLEARFIELD COUNTY GRANGE :  
: MUTUAL FIRE INSURANCE COMPANY :  
: VS. : NO. 02-1687-CD  
: RICHARD D. MCCRACKEN :

COPY

ORDER

NOW, this 10th day of May, 2004, this being the date set for argument on the Motion to Consolidate Cases; with both parties being in agreement that the same should be accomplished, it is the ORDER of this Court that the motion is hereby granted. The cases are hereby consolidated.

All future filings shall be to the case with Richard D. McCracken as Plaintiff, bearing No. 02-1662-CD.

BY THE COURT,



President Judge

FILED

MAY 11 2004

ET  
YK

William A. Shaw  
Prothonotary/Clerk of Courts

ORIGINAL TO 02-1662-CD

SENT TO STEPHEN + GERMAN

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

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,  
Plaintiff

vs.

RICHARD D. McCRACKEN,  
Defendant

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\*

No. 2002-1687-C.D.  
No. 2002-1662-C.D.

**FILED**

**JUL 29 2004**

OPINION and ORDER

William A. Shaw  
Prothonotary/Clerk of Courts

Plaintiff, Clearfield County Grange Mutual Fire Insurance Company ("Grange Mutual") commenced a declaratory judgment action to Civil Docket No. 2002-1687-C.D. by filing a Complaint on October 28, 2002. Therein, the Court is requested to declare that the fire insurance policy which Grange Mutual issued to the Defendant, Richard D. McCracken, ("McCracken") does not provide coverage for the fire loss which occurred on July 4, 2002. A copy of the Complaint was thereafter mailed to McCracken's attorney on or about October 28, 2002. However, previously, on October 23, 2002, McCracken filed a Complaint against Grange Mutual to No. 2002-1662-C.D. asserting in Count I thereof breach of the insurance contract and, in Count II, bad faith on the part of Grange Mutual by denying coverage. McCracken filed an Answer, New Matter and Counterclaim in which

he incorporates his Complaint filed against Grange Mutual in the companion action. The Court consolidated the two actions.

After obtaining Answers to Interrogatories/Request for Production of Documents and completing the deposition of the claims adjuster, Edward J. Yocum, on February 10, 2003, McCracken filed a motion for Summary Judgment. Grange Mutual filed no response to the allegations in said Motion but provided a Letter Brief in opposition shortly before oral argument was held on May 20, 2003. In its Brief and at oral argument, Grange Mutual asserted that it was necessary to obtain the depositions of Pamela Vaux, McCracken's girlfriend, who had been charged with arson after admitting to starting the fire following an argument with McCracken, and the investigating Fire Marshall. The Court then entered an Order denying Defendant's Motion for Summary Judgment pending completion of such discovery without prejudice to renewal of the motion. The depositions were completed on December 18, 2003, and copies of the transcripts have been filed of record. McCracken has now filed a Renewed Motion for Summary Judgment. Grange Mutual has also filed a Motion for Partial Summary Judgment, requesting that McCracken's claim for punitive damages based on bad faith be dismissed. The Court will grant both Motions.

In support of his Renewed Motion for Summary Judgment, McCracken makes reference to the record, including the pleadings filed in both actions, and has also submitted copies of all

deposition transcripts taken in the action. The deposition of Edward J. Yocum, the independent adjuster employed by E.L. Braid Claim Service, Inc. and authorized by Grange Mutual to adjust McCracken's claim on its behalf was taken by McCracken and was previously filed of record. Transcripts of the depositions of Pamela Vaux and the investigating Fire Marshall, Trooper Michael S. McCracken, have also been filed by McCracken in support of this Motion, along with copies of the Incident Reports completed by Trooper McCracken.

On or before July 4, 2002, McCracken was the owner of real property and improvements located in Bigler Township, Village of Madera, Clearfield County. (Complaint of Grange Mutual, Par. 2). On July 4, 2002, McCracken's property was covered by a fire insurance policy issued by Grange Mutual providing insurance coverage of up to \$40,000.00 on the dwelling, up to \$15, 000.00 on the contents, and up to \$1,000.00 on an unattached masonry garage. (Complaint of Grange Mutual, Par 3; Complaint of McCracken, Par. 4; Answer of Grange Mutual, Par. 4). On July 4, 2002, the insured property was destroyed by fire. The cause of the fire was determined to be arson committed by the girlfriend of McCracken, which was described by Grange Mutual's investigator as a "spite revenge" fire. (Deposition Transcript ("DT") of Edward J. Yocum, p. 172, Exhibit 3). McCracken promptly reported the fire loss and made a claim under the policy.

Grange Mutual assigned the adjustment of the claim to Edward J. Yocum, an independent adjuster employed by E.L. Braid Claim Service, Inc. (DT Edward J. Yocum, p. 33, 47, Exhibit 9). Grange Mutual also contracted with Tsikalas Investigations to complete a cause and origin investigation of the fire. As part of its investigation, on July 5, 2002, Tsikalas Investigations obtained a recorded statement of McCracken and others. (DT Edward J. Yocum, Exhibit 6). Thereafter, on August 14, 2002, Mr. Yocum also took a recorded statement of McCracken, the transcript of which is 21 page in length. In his statements, McCracken stated that he had gone out west at the end of February or beginning of March, 2002, and spent several months there before returning to Clearfield County approximately one month before the fire. After returning to Clearfield County, McCracken initially stayed with his girlfriend in her parents' camper at a local campground. However, several days before the fire, McCracken returned to live in his home. In his statement of July 5, 2002, McCracken stated:

- Q. ....Can you tell me what the circumstances were before the fire? Were you here?
- A. Yeah, I was. I was puttin' the hand railing on the porch. I wanted to try to fix it up to try to get...I had a book on how to make it on certain rules or whatever for HUD - cause I thought maybe I could rent it and I didn't know about how to go about it and I got papers and it said all this stuff. So, we started on it. I put that porch on it and it just had the two concrete steps there and we was puttin' hand

railings on it and I was gonna put a roof on it. That's what I was doin' for the past two days, wasn't' I...

Q. I have to ask that question because we have to find out what's going on here. When did you come back from out west?

A. It's been right around a month ago and I was stayin' at this property over near Kerrmoor. That's where the Harley's at, my tent and we had her parents...

Q. You have a Harley and a tent over there, correct?

A. Yeap.

Q. Do you have other personal belongings over there?

A. Yeap.

Q. Is that her house?

A. No, there's no house there at all. It's just a campground and we had her camper there, her parents', and we stayed in it and we just got electric turned on here on the 3<sup>rd</sup> and we stayed here for three to four nights, like a couple days before we got the electric. The day we got the electric, we stayed here.

...

Q. What did you and Pam do that day in the house? (July 4, 2002).

A. I'm thinkin' we probably got up around 10:00 and started workin' on the porch and did that probably for just a few hours, workin' on the porch. Like I said, I didn't even have my power tools down here, I was just using the battery operated handsaw and we got the porch pretty much done except for the roof.

(DT Edward J. Yocum, Exhibit 6, pp.2-4).

In his statement of August 14, 2002, McCracken made the following statements:

Q. Okay, um, so actually, leading up to then, the night of the fire, um, you weren't actually living in the house?

A. Ah, we did stay there probably two to three nights, you know, right before the 4<sup>th</sup> of July.

Q. Hum, hum.

A. You know, cause we're still at that campsite and, you know its getting a little old.

Q. Right.

A. Cause we was in a camper the whole time out west and, you know, we stayed there a couple nights and, ah, even with no electricity we, you know, was usin' them kerosene lamps and then having the power turned on.

(DT Edward J. Yocum, Exhibit 14, pp.13-14).

By letter of August 16, 2002, McCracken was informed by Mr. Yocum that Grange Mutual was denying coverage on the loss based upon the information McCracken had provided in his recorded statement as follows:

The question has come to light is involving occupancy of the dwelling and the fact that you had confirmed that the property had been vacant for approximately four months just prior to the fire with no utilities connected except electricity that was re-established to the property two or three days prior to July 4<sup>th</sup>....

In light of the above-stated information we want to bring to your attention and refer you to a copy of the insurance policy provided for the property, which is referred to as a standard fire insurance policy in the State of Pennsylvania specifically lines twenty-five through thirty-two where it states:

Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring:

A. While the hazard is increased by any means within the control or knowledge of the insured:

B. While a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of 60 consecutive days; or...

Based upon the facts confirmed during the course of your statement the above-stated exclusionary language of the policy, we must with regret deny coverage to you for the dwelling loss above and beyond the mortgage payoff with County National Bank. Meaning, no additional funds will be provided for the structure loss once the mortgage payoff has been confirmed and the payoff processed.

(DT Edward J. Yocum, Exhibit 15, p. 1-2, emphasis added).

In its Complaint, paragraph 11, Grange Mutual makes the following statement: "That while he states that he did reside at the premises for three or four nights, such is not enough to establish residency in the premises and the premises remained vacant."

At his deposition, Edward J. Yocum admitted that Grange Mutual had no evidence to dispute Mr. McCracken's statements that he had been living in the home for several days prior to the fire. Mr. Yocum testified as follows:

Q. Were you aware as of that time [in reference to the letter of August 16, 2002], of the existence of any facts or any witnesses who would testify or who could testify that the property was not occupied on the date of the loss?

A. Do we have any information to confirm that?

Q. Yes.

A. No, not from any witnesses.

Q. ...Okay. But you've agreed with me previously, I think, that you had no information, no facts to dispute his claim that he had been living in the

property on the date of the fire and for several days before that; correct?

A. That's correct, but I think our direction is it's not an issue of him staying in the property one or two days or three days or four days prior, but he was out of the property for an extended period of time. And that's why we felt, because of the language of the policy, to have counsel review it.

Q. To your knowledge, are there any documents or any facts of which you're aware that serve as a basis of the denial of coverage, other than the facts that we've discussed here today and the documents that we've reviewed?

A. No, none that I'm aware of.

(DT Edward J. Yocum, pp. 116, 122-123, p. 168).

Although his letter denying coverage also made reference to Subsection A, "While the hazard is increased by any means within the control or knowledge of the insured", Mr. Yocum testified that he had only made reference to Subsection A because it was part of the section on conditions suspending or restricting insurance and that the denial of coverage of Mr. McCracken's claim was based upon occupancy. (DT Edward J. Yocum, pp. 126-127).

After the denial of coverage to McCracken, Grange Mutual forwarded a check to County National Bank in payment of the balance due on McCracken's mortgage of \$15,967.20. Mr. Yocum testified that there is no dispute that the fire damage to the dwelling exceeds the limit of coverage of \$40,000.00 and that the fire damage to the contents exceeds the policy limit of \$15,000.00. (DT Edward J. Yocum, pp. 146-149). Mr. Yocum agreed that McCracken had not changed his address from 1999 when

he had applied for the policy through the date of loss. (DT Edward J. Yocum, pp. 163-164).

At her deposition on December 18, 2003, Pamela Vaux testified that McCracken had no involvement in, or knowledge of, her burning his home but that she alone had done so fueled by anger and alcohol following an argument with McCracken. Ms. Vaux further confirmed that she and McCracken had been staying in the subject home for a period of several days before the fire during which time McCracken, with her help, was building a porch on the property. She and McCracken had slept in the property the night before the fire.

The Incident Reports completed by Trooper McCracken and his deposition testimony further confirm that both McCracken and Ms. Vaux informed him immediately after the fire that they had been residing in the home for several days before the fire. Trooper McCracken confirmed that his investigation revealed no evidence that McCracken had any involvement whatsoever in the arson. He agreed with the conclusion reached by Grange Mutual's expert, Tsikalas Investigations, that the arson was committed by Pamela Vaux was a "spite revenge - fire." Trooper McCracken also testified that he had been in contact with Grange Mutual's representatives during the course of his investigation and had informed Grange Mutual contemporaneously as to the results of his investigation.

Pursuant to Pa.R.C.P. No. 1035.2, a motion for summary judgment is properly sought when:

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law

(1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or

(2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

The record in this case shows that there are no material factual disputes. With respect to suspension of coverage based upon the occupancy clause or denial of coverage based upon the defense of arson, the burden of proof remains squarely upon the insurer. Wexler Knitting Mills v. Atlantic Mut. Ins. Co., 382 Pa.Super. 405, 555 A.2d 903 (1989); Fratto v. Northern Ins. Co. of New York, 242 F. Supp. 262 (W.D. Pa. 1965). The Court believes Grange Mutual has failed to produce evidence of facts essential to support its denial of McCracken's claim such that judgment should be entered in favor of McCracken as a matter of law.

With regard to application and construction of the vacancy condition in the standard fire policy issued to McCracken, there are no facts to support the construction and application of this clause by Grange Mutual. Grange Mutual issued a standard fire policy to McCracken including the statutory language required by 40 P.S. Section 636(1) set forth, in pertinent part, as follows:

Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto, this Company shall not be liable for loss occurring:

(a) while the hazard is increased by any means within the control or knowledge of the insured; or

(b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or...

Additionally, the extended coverage clause added to the policy by Grange Mutual contains the following provision:

WAIVER OF POLICY PROVISIONS: A claim for loss from perils included in this Endorsement shall not be barred because of change of occupancy, nor because of vacancy or unoccupancy, except as herein before provided.

(Complaint, Exhibit "A").

A contract of insurance is generally governed by the same principles of law as any other contract. Summ Pa Jur 2d, Insurance Section 3:2. Words in an insurance contract are to be

construed and applied in their ordinary sense and, when not defined in the policy, the dictionary definition may be considered. Tyler v. Motorists Mut. Ins. Co., 779 A.2d 528 (Pa. Super. 2001) app. den. 567 Pa. 764, 790 A.2d 1018 (2001). Where the language of the contract is clear and unambiguous, the court is required to give effect to the contract language. However, where an ambiguity is found to exist, it must be construed in favor of the insured. The interpretation of the language of an insurance policy is a question of law for the court. Municipality of Mt. Lebanon v. Reliance Ins. Co., 778 A.2d 1228 (Pa. Super. 2001). When the insurance carrier asserts that a covered risk falls within the scope of a coverage exclusion, the burden of proof is on the insurance carrier. Summ Pa Jur 2d, Insurance Section 15:1. The language at issue here is such that a simple reading shows that there is no basis for Grange Mutual's denial of coverage under the facts as established through the discovery. The clause specifically states that coverage is suspended for a loss occurring while a described building is vacant or unoccupied beyond a period of 60 days. If the covered building is not vacant or unoccupied when the loss occurs, the condition suspending coverage has no application. Based upon the unambiguous policy language and the ordinary meaning of the term "unoccupied" and "vacant", there is no basis upon which Grange Mutual can meet its burden of proving that the exclusion applies to the facts presented. Thus, there is no

issue of material fact and Grange Mutual cannot sustain its burden of proving that the insured property was vacant on the date of loss.

With respect to damages, Grange Mutual has admitted that the loss to the structure exceeds the limit of coverage of \$40,000.00 and that the loss of the contents exceeds the limit of coverage of \$15,000.00. Thus, after crediting the mortgage payoff of \$15,967.20, Grange Mutual owes a total principal balance of \$39,032.80 to McCracken. Further, by statute, the policy must provide that a fire loss will be paid within 60 days after the receipt of proof of loss and agreement on the amount of loss. 40 P.S. Section 636(2). However, when the insurer denies liability before the end of the 60 day period, interest is assessed from the date of the fire. Gardner v. Freystown Mutual Fire Insurance Company, 350 Pa. 1, 37 A.2d 535 (1944); Berkley Inn, Inc. v. Centennial Insurance Company, 282 Pa. Super. 207, 422 A.2d 1078 (1980). Thus, interest is due and payable on the principal sum at the legal rate from the date of the fire, July 4, 2002, through the date of payment.

The remaining issue in the case is the Motion for Partial Summary Judgment filed on behalf of Grange Mutual. In this Motion, Grange Mutual asks the Court to dismiss McCracken's claim for punitive damages based upon alleged bad faith in denying the claim.

Courts in the Commonwealth have found that an insurer acts in bad faith if they lack "a reasonable basis for denying coverage and the insurer knew or recklessly disregarded its lack of a reasonable basis for denying coverage." Adamski v. Allstate Insurance Co., 738 A.2d 1033 (Pa.Super. 1999). Mere negligence or bad judgment by an insurer in refusing to pay a claim is not bad faith. O'Donnell ex rel. Mitro v. Allstate Insurance Co., 734 A.2d 901 (Pa.Super. 1999).

In Adamski, the Superior Court further elaborated on an insurer acting in bad faith:

"Bad faith" on the party of insurer is any frivolous or unfounded refusal to pay proceeds of policy; it is not necessary that such refusal be fraudulent. For purposes of an action against an insurer for failure to pay a claim, such conduct imports a dishonest purpose and means a breach of a known duty (i.e., good faith and fair dealing), through some motive of self-interest or ill will; mere negligence or bad judgment is not bad faith.

Adamski, 738 A.2d at 1036.

In the instant case, from a review of the entire record, the Court agrees as a matter of law that Grange Mutual did not act in bad faith. Following the fire and following the claim by McCracken, Grange Mutual commenced an investigation. The interview of McCracken was conducted by Mr. Yokum at the Insurance Company Office. Before the interview, Mr. Yokum noted that McCracken was driven to the interview by Ms. Vaux, the very

person who was alleged to have committed the arson and burned the house. During the interview McCracken described how he and Ms. Vaux had been out west for a number of months and the house was vacant. As noted, upon their return they lived in a camper with some of Ms. Vaux's relatives. McCracken further stated he was trying to repair the house so he could rent it to Ms. Vaux and obtain a rental subsidy. One could reasonably assume that Mr. McCracken would live there with Ms. Vaux while also enjoying the benefit of the rental subsidy. Mr. Yokum also learned that the house was without any utilities, except for the electricity which McCracken established by using his sister's name with the electrical supplier.

Given the circumstances, there can be no doubt but that Grange Mutual was justified in having significant suspicions concerning the situation. Its actions in denying coverage and proceeding with the filing of the action for declaratory judgment and continuing with its investigation were certainly reasonable when taken in context with these suspicions.

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

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,

vs.

RICHARD D. McCracken,

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No. 2002-1662-C.D.  
No. 2002-1687-C.D.

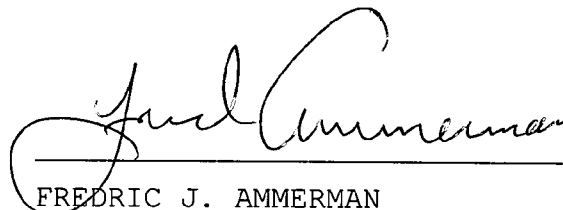
O R D E R

NOW, this 26<sup>th</sup> day of July, 2004, it is the ORDER of  
this Court as follows:

1. The Motion for Summary Judgment filed on behalf of  
Richard D. McCracken is hereby granted. Clearfield County  
Grange Mutual Fire Insurance Company will make payment on the  
insurance claim in the total principle amount of \$39,032.80.  
Interest at 6% shall be payable from the date of the fire, being  
July 4, 2002.

2. Clearfield County Grange Mutual Fire Insurance  
Company's Motion for partial summary judgment is hereby granted.  
Richard D. McCracken's request for damages based upon bad faith  
as set forth in Count II of his Complaint filed October 23,  
2002, is hereby dismissed.

By the Court,



FREDRIC J. AMMERMAN  
PRESIDENT JUDGE

FILED  
01/10/39/01  
JUL 29 2004

*K. Steele*

William A. Shaw  
Prothonotary/Clerk of Courts

2 certified copies to Plaintiff's counsel *R. Gearhart*  
2 certified copies to Defendant's counsel *K. Steele*  
1 copy to Law Library  
1 copy to Court Administrator  
1 copy to Don Mikesell, Esquire  
2 copies to President Judge Ammerman

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

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,  
Plaintiff,

v.

RICHARD D. MCCRACKEN,  
ALLSTATE INSURANCE CO.,  
Defendants.

No. 02-1687-CD

CASE NUMBER: 02-1687-CD

TYPE OF PLEADING: PRAECIPE TO SETTLE AND DISCONTINUE

FILED ON BEHALF OF: Plaintiff

COUNSEL FOR RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court ID#: 26540  
207 East Market Street  
Clearfield, PA 16830  
814-765-1581

FILED

NOV 03 2004

0/3:30h  
William A. Shaw

Prothonotary/Clerk of Courts

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C/D.

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

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,  
Plaintiff,

v.


No. 02-1687-CD

RICHARD D. MCCRACKEN,  
ALLSTATE INSURANCE CO.,  
Defendants.

**PRAECIPE TO SETTLE AND DISCONTINUE**

TO THE PROTHONOTARY:

Please mark the above-captioned matter settled and discontinued.



---

R. Denning Gearhart  
Attorney for Plaintiff

Date: **November 3, 2004**

— Lap over margin —

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

CLEARFIELD COUNTY GRANGE  
MUTUAL FIRE INSURANCE COMPANY,  
Plaintiff,

v.

RICHARD D. MCCrackEN,  
ALLSTATE INSURANCE CO.,  
Defendants.

PRAECIPE TO SETTLE AND  
DISCONTINUE

02-1687-CD

R. DENNING GEARHART  
ATTORNEY AT LAW  
CLEARFIELD, PA. 16830

FILED

NOV 03 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

**CIVIL DIVISION**

**Clearfield County Grange Mutual Fire Insurance Co.**

**Vs.**

**No. 2002-01687-CD**

**Richard D. McCracken**

**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 November 3, 2004, marked:

Settled and Discontinued

Record costs in the sum of \$80.00 have been paid in full by Atty. Gearhart.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 3rd day of November A.D. 2004.

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William A. Shaw, Prothonotary