

62-1723-CD  
LINDA L. MOORE, et al., vs. ALLSTATE INSURANCE CO.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA L. MOORE and SCOTT J. :  
MOORE, husband and wife, :  
Plaintiffs :  
vs. : No. 02 - 1723 C.D.  
ALLSTATE INSURANCE COMPANY, :  
ALLSTATE INSURANCE COMPANY :  
SPECIAL INVESTIGATIONS UNIT, :  
STATE PUBLIC ADJUSTING :  
COMPANY, and GREGORY R. BOEHM, :  
Defendants :

**PRAECIPE FOR WRIT OF SUMMONS**

TO WILLIAM A. SHAW, PROTHONOTARY

Sir:

Please enter our appearance on behalf of Plaintiffs, LINDA L. MOORE and SCOTT J. MOORE, and issue a Writ of Summons in the above-captioned action against Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, STATE PUBLIC ADJUSTING COMPANY, and GREGORY R. BOEHM.

**FILED**

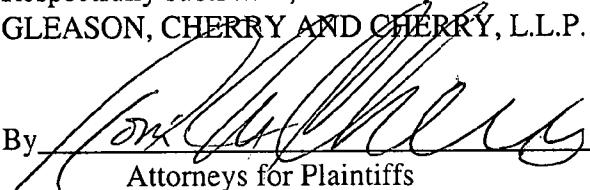
NOV 04 2002

William A. Shaw  
Prothonotary

Date: November 4, 2002

Respectfully submitted,  
GLEASON, CHERRY AND CHERRY, L.L.P.

By

  
John Gleason  
Attorneys for Plaintiffs  
One North Franklin Street  
P. O. Box 505  
DuBois, PA 15801  
Supreme Court No.: 30205

**FILED**

Att'y Cherry pd.

012-1446N

85.00

2cc & 4 wnts to ~~cc~~

Att'y  
J

William A. Shaw  
Prothonotary

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

**COPY**

**SUMMONS**

**Linda L. Moore and  
Scott J. Moore, husband and wife**

**Vs.**

**NO.: 2002-01723-CD**

**Allstate Insurance Company,  
Allstate Insurance Company Special Investigations Unit,  
State Public Adjusting Company, and  
Gregory R. Boehm**

**TO: ALLSTATE INSURANCE COMPANY  
ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT  
STATE PUBLIC ADJUSTING COMPANY  
GREGORY R. BOEHM**

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

Date: 11/04/2002

---

William A. Shaw  
Prothonotary

Issuing Attorney:

Toni M. Cherry  
P. O. Box 505  
DuBois, PA 15801

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 - 1723 CD  
husband and wife,

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants

ISSUE:  
PRAECIPE FOR APPEARANCE

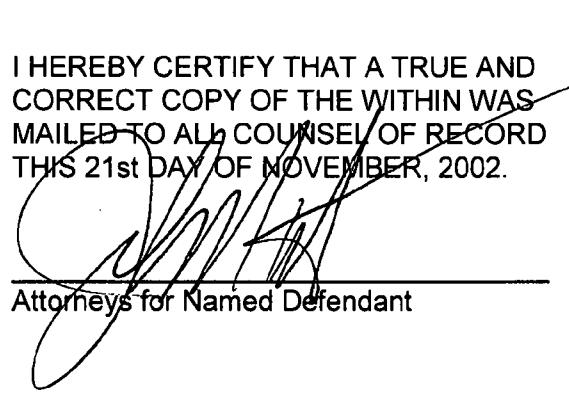
Filed on behalf of Defendant:  
GREGORY R. BOEHM

Counsel of Record:

John L. McIntyre, Esquire  
PA I.D. #28015  
McINTYRE, DUGAS, HARTYE &  
& SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 21st DAY OF NOVEMBER, 2002.

  
\_\_\_\_\_  
Attorneys for Named Defendant

FILED

NOV 25 2002

11/3/02 Wm

William A. Shaw

Prothonotary/Clerk of Courts

Wm Shaw



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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 - 1723 CD  
husband and wife,

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants

JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Kindly enter my appearance as counsel of record for the Defendant, GREGORY  
R. BOEHM, in the above-captioned action.

McINTYRE, DUGAS, HARTYE & SCHMITT

\_\_\_\_\_  
Attorneys for Defendant,  
GREGORY R. BOEHM

John L. McIntyre, Esquire  
PA I.D. #28015  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 - 1723 CD  
husband and wife,

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants

ISSUE:  
PRAECIPE FOR RULE TO FILE  
COMPLAINT

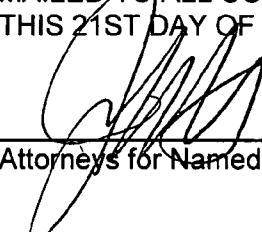
Filed on behalf of Defendant:  
GREGORY R. BOEHM

Counsel of Record:

John L. McIntyre, Esquire  
PA I.D. #28015  
MCINTYRE, DUGAS, HARTYE &  
& SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 21ST DAY OF NOVEMBER, 2002.

  
\_\_\_\_\_  
Attorneys for Named Defendant

FILED

NOV 25 2002

11/25/02  
William A. Shaw

Prothonotary/Clerk of Courts

No. 2002-1723 CD

Rule to Atty



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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 - 1723 CD  
husband and wife,

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants

JURY TRIAL DEMANDED

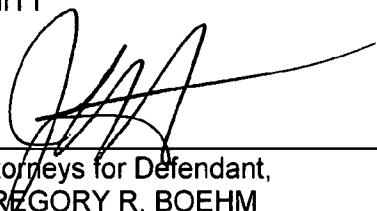
PRAECIPE FOR RULE TO FILE COMPLAINT

TO: PROTHONOTARY:

Please enter a Rule upon Plaintiffs, **LINDA L. MOORE and SCOTT J. MOORE, husband and wife**, to file a Complaint in the above-captioned action within twenty (20) days of the date of service of said Rule.

McINTYRE, DUGAS, HARTYE &  
SCHMITT

By

  
Attorneys for Defendant,  
GREGORY R. BOEHM

John L. McIntyre, Esquire  
PA I.D. #28015  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
husband and wife,

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants

JURY TRIAL DEMANDED

**RULE TO FILE COMPLAINT**

AND NOW, this 25 day of November, 2002, Rule is entered on the  
Plaintiffs to file a Complaint.

  
\_\_\_\_\_  
By Prothonotary

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
husband and wife,

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants

ISSUE:  
CERTIFICATE OF SERVICE OF  
RULE TO FILE COMPLAINT

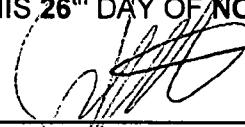
Filed on behalf of Defendants:  
ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
and GREGORY R. BOEHM

Counsel of Record:

John L. McIntyre, Esquire  
PA I.D. #28015  
McINTYRE, DUGAS, HARTYE &  
& SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 26<sup>th</sup> DAY OF NOVEMBER, 2002.

  
\_\_\_\_\_  
Attorneys for Named Defendants

FILED

DEC 02 2002

William A. Shaw  
Prothonotary

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 - 1723 CD  
husband and wife,

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants

JURY TRIAL DEMANDED

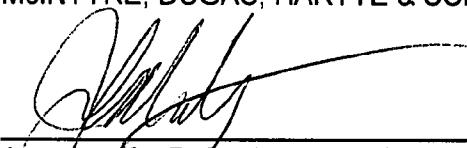
**CERTIFICATE OF SERVICE OF RULE TO FILE COMPLAINT**

TO: PROTHONOTARY

You are hereby notified that on the 26<sup>th</sup> day of NOVEMBER, 2002, Defendants,  
ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL  
INVESTIGATION UNIT, and GREGORY R. BOEHM, served a RULE upon the Plaintiffs,  
by mailing the original of same via First Class Mail, postage prepaid, addressed to the  
Plaintiffs' counsel:

Toni M. Cherry, Esquire  
P.O. Box 505  
Dubois, PA 15801

McINTYRE, DUGAS, HARTYE & SCHMITT



Attorneys for Defendants, ALLSTATE  
INSURANCE COMPANY, ALLSTATE  
INSURANCE SPECIAL INVESTIGATION  
UNIT and GREGORY R. BOEHM

John L. McIntyre, Esquire  
PA I.D. #28015  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581

FILED  
M 11/18 2002  
DEC 02 2002  
8:00 AM  
cc

William A. Shaw  
Prothonotary

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

LINDA L. MOORE and SCOTT J. MOORE, husband and wife, Plaintiffs : No. 02 - 1723 C.D.  
vs. :  
ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, STATE PUBLIC ADJUSTING COMPANY, and GREGORY R. BOEHM, Defendants : Type of Case: TORT - MALICIOUS  
: PROSECUTION  
: Type of Pleading: COMPLAINT  
: Filed on Behalf of: LINDA L. MOORE and SCOTT J. MOORE, husband and wife, Plaintiffs : Counsel of Record for These Parties:  
: TONI M. CHERRY, ESQ.  
: Supreme Court No.: 30205  
: GLEASON, CHERRY AND CHERRY, L.L.P.  
: Attorneys at Law  
: P. O. Box 505  
: One North Franklin Street  
: DuBois, PA 15801  
: (814) 371-5800

**FILED**

DEC 19 2002

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

## CIVIL DIVISION

|                                |            |                    |
|--------------------------------|------------|--------------------|
| LINDA L. MOORE and SCOTT J.    | :          |                    |
| MOORE, husband and wife,       | :          |                    |
|                                | Plaintiffs | :                  |
|                                |            | :                  |
| vs.                            | :          | No. 02 - 1723 C.D. |
|                                | :          |                    |
| ALLSTATE INSURANCE COMPANY,    | :          |                    |
| ALLSTATE INSURANCE COMPANY     | :          |                    |
| SPECIAL INVESTIGATIONS UNIT,   | :          |                    |
| STATE PUBLIC ADJUSTING         | :          |                    |
| COMPANY, and GREGORY R. BOEHM, | :          |                    |
|                                | Defendants | :                  |

## **NOTICE**

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Notice and Complaint 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 claims 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, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator  
Office of the Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
(814) 765-2641 (Ext. 50-51)

GLEASON, CHERRY AND CHERRY, L.L.P.

By

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

## CIVIL DIVISION

LINDA L. MOORE and SCOTT J. :  
MOORE, husband and wife, :  
Plaintiffs :  
vs. : No. 02 - 1723 C.D.  
ALLSTATE INSURANCE COMPANY, :  
ALLSTATE INSURANCE COMPANY :  
SPECIAL INVESTIGATIONS UNIT, :  
STATE PUBLIC ADJUSTING :  
COMPANY, and GREGORY R. BOEHM, :  
Defendants :

# COMPLAINT

AND NOW, come LINDA L. MOORE and SCOTT J. MOORE, by and through their attorneys, GLEASON, CHERRY AND CHERRY, L.L.P., and bring this action against ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and GREGORY R. BOEHM, Defendants, to recover damages upon causes of action whereof the following are statements:

**COUNT I**

**LINDA L. MOORE, Wife Plaintiff vs. Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, and GREGORY R. BOEHM**

1. Plaintiffs, LINDA L. MOORE and SCOTT J. MOORE, are adult individuals and are wife and husband, and reside with each other at 420 North Fourth Street, DuBois, Clearfield County, Pennsylvania 15801.
2. The Defendant, ALLSTATE INSURANCE COMPANY, is an Illinois Corporation authorized to do business in Pennsylvania and having a business address in Pennsylvania c/o

C.T. Corporation System, 1515 Market Street, Suite 1210, Philadelphia, Pennsylvania 19102.

Said Defendant is engaged in the business of providing insurance and in paying claims for damages caused by its insured customers.

3. Defendant, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, is a division of Defendant, ALLSTATE INSURANCE COMPANY, that Plaintiffs believe and therefore aver maintains a business address in Fort Washington, Pennsylvania, or at some other corporate location of Defendant, ALLSTATE INSURANCE COMPANY, within the Commonwealth of Pennsylvania.

4. Defendant, GREGORY R. BOEHM, is an individual whose residence address is believed to be 1059 Kings Cote Drive, Franconia, Pennsylvania 18924, who was at all times material hereto, an agent and employee of Defendant, ALLSTATE INSURANCE COMPANY, through Defendant, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT.

5. That Plaintiffs named STATE PUBLIC ADJUSTING COMPANY as a Defendant in this lawsuit, believing said company to be a division of Defendant, ALLSTATE INSURANCE COMPANY, involved in the settlement of claims for ALLSTATE INSURANCE COMPANY. However, Plaintiffs have now ascertained, after further investigation, that STATE PUBLIC ADJUSTING COMPANY is not a division of ALLSTATE INSURANCE COMPANY and was incorrectly named as a Defendant in this lawsuit. Plaintiffs intend to take the steps necessary to effect a discontinuance of this action with regard to STATE PUBLIC ADJUSTING COMPANY in accordance with the provisions of Pa.R.C.P. 229.

6. That Plaintiff Wife, LINDA L. MOORE, and passengers riding in her vehicle were injured when a vehicle operated by an insured of the Defendants failed to notice that the Moore vehicle was lawfully stopped at a stop light in time to avoid colliding with the same and did smash into the rear of the Moore vehicle with such force that it forced the bumper of the Moore vehicle up over the hatch so that the hatchback could not open, bent the tailpipe and shattered glass from the taillight on the roadway and caused portions of the luggage carrier to be knocked loose and snapped off from the vehicle.

7. The collision was so severe that the vehicle driven by Defendants' insured could not be driven from the scene of the accident which occurred in or about Reading, Pennsylvania.

8. That as a result of the foregoing accident, Plaintiff, LINDA L. MOORE, did request Defendants to pay the damages to her vehicle caused by their insured for which the said LINDA L. MOORE was not responsible because her vehicle was lawfully stopped at a stop light at the time of the collision.

9. That instead of paying for the damages caused by its insured as it was Defendants' obligation to do, Defendants, ALLSTATE INSURANCE COMPANY and ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, acting through their duly authorized officers, agents or employees, including Defendant, GREGORY R. BOEHM, procured and caused the arrest of Plaintiff, LINDA L. MOORE, on or about May 7, 1998, in DuBois, Clearfield County, Pennsylvania, upon a warrant charging her with felony insurance fraud under 18 Pa. C.S.A. §4117(a)(2).

10. That after further investigation, it became obvious that there was no probable cause to have supported the charges Defendants caused to be brought against Wife Plaintiff, LINDA L. MOORE.

11. That as part of an Omnibus Pre-Trial Motion seeking to have the Court quash the information and/or for a Writ of Habeas Corpus and to dismiss the proceedings, Wife Plaintiff provided the Court with a copy of the transcript taken before the District Justice as well as the affidavits of witnesses and the Trial Court subsequently granted the Motion and dismissed all criminal charges against Wife Plaintiff, LINDA L. MOORE, by Order filed November 6, 2000. A true and correct copy of the Order of Court dismissing said charges is attached hereto and made a part hereof as Exhibit "A".

12. That Defendants knew that they had no probable cause to have Wife Plaintiff charged with the crime of felony insurance fraud but caused said charges to be brought against Wife Plaintiff to keep Wife Plaintiff from making a just claim for compensation for the injuries and damages she had sustained against Defendant, ALLSTATE INSURANCE COMPANY.

13. Wife Plaintiff is and always has been a good, true, honest, virtuous and law-abiding citizen earning the respect of her neighbors and business associates.

14. Plaintiff has not at any time been guilty of the crime of insurance fraud and was never suspected of being guilty of any crime prior to the events described herein.

15. The arrest, detention and prosecution of Wife Plaintiff was unlawful and without just reasonable cause of any kind, and the acts of Defendants in charging Wife Plaintiff with insurance fraud were willful and malicious.

16. That the charges against Wife Plaintiff were published in the local newspaper so that all of her friends, neighbors and business associates could read that she had been charged with the above-mentioned crime.

17. That as a result of the publication of the charges brought against her, Wife Plaintiff was questioned by numerous individuals who had read about her and she was forced to explain

herself and to try to defend herself from this wrongful charge to her friends, neighbors and business associates.

18. As a result of the above, Wife Plaintiff has been brought into the direct and ill repute among her friends, neighbors and business associates and has been subject to such great humiliation that she was forced to leave the area for a time and to take up residence elsewhere.

19. As a result of the above, Wife Plaintiff has undergone great suffering of mind and body and her reputation in the community has been greatly injured and damaged.

20. As a result of having to defend the unjust criminal charge against her, Wife Plaintiff has been put to great expense in the employment of counsel and has been prevented from attending to her usual and necessary duties and has thereby suffered great and irreparable financial loss in her business and occupation.

21. Wife Plaintiff's injuries and damages were caused solely by the unlawful and malicious acts of Defendants.

22. By reason of the malicious, wanton and willful conduct of Defendants, Plaintiff demands punitive damages.

WHEREFORE, Plaintiff demands damages in a sum in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), exclusive of interest and costs.

## COUNT II

**SCOTT J. MOORE, Husband Plaintiff vs. Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, and GREGORY R. BOEHM**

23. Plaintiff, SCOTT J. MOORE, incorporates herein by reference all of the preceding paragraphs of this Complaint as if each and every one were individually set forth within this Count.

24. As a result of Defendants' malicious, wanton, willful and unlawful conduct, Plaintiff, SCOTT J. MOORE, has been deprived of the society, companionship, contributions and consortium of his wife, Plaintiff, LINDA L. MOORE, to his great detriment and loss.

25. As a result of Defendants' malicious, wanton, willful and unlawful conduct, Plaintiff, SCOTT J. MOORE, has incurred and may in the future incur large medical bills and expenses to treat his wife's injuries.

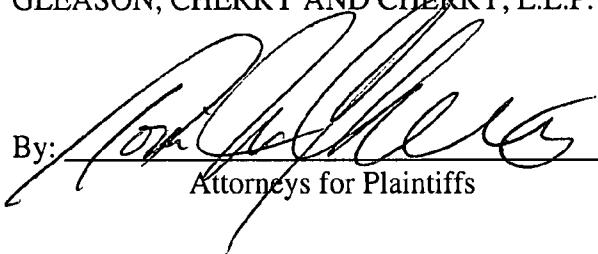
26. As a result of Defendants' malicious, wanton, willful and unlawful conduct, Plaintiff, SCOTT J. MOORE, has suffered a disruption in his daily habits and pursuits and a loss of enjoyment of life and great embarrassment.

WHEREFORE, Plaintiff, SCOTT J. MOORE, demands judgment against Defendants in an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), exclusive of interest and costs.

JURY TRIAL DEMANDED.

Respectfully submitted,

GLEASON, CHERRY AND CHERRY, L.L.P.

By: 

Attorneys for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA

: SS.

COUNTY OF CLEARFIELD

:

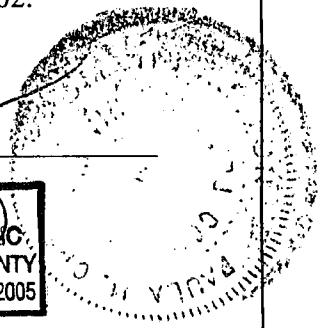
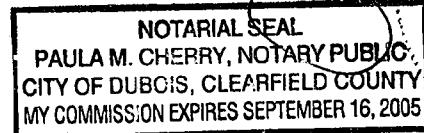
Personally appeared before me, a Notary Public in and for the County and State aforesaid, LINDA L. MOORE, who, being duly sworn according to law, deposes and says that she is one of the Plaintiffs in the foregoing action and that she is authorized to make this Affidavit on behalf of both Plaintiffs and asserts that the facts set forth in the foregoing Complaint are true and correct to the best of her knowledge, information and belief.

Linda L. Moore

Linda L. Moore

Sworn to and subscribed before me this 19 day of December, 2002.

Paula M. Cherry



T. Cherry

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

COMMONWEALTH OF PENNSYLVANIA:

-vs- : No. 98-515-CRA  
LINDA L. MOORE :

**OPINION AND ORDER**

This matter comes before the court on an Omnibus Pre-Trial Motion filed on behalf of Defendant above-named. Trial in the matter is scheduled to commence on Tuesday, November 7, 2000. The Information alleges the offense of Insurance Fraud, specifically 18 Pa. C.S.A. 4117(a)(2). In the Omnibus Pre-Trial Motion, Defendant seeks to have this Court quash the Information and/or for a Writ of Habeas Corpus and second, to dismiss the proceedings based on the de minimis nature of the case. In support of her Motion to Quash, Defendant has presented to this Court a transcript of the testimony taken before the District Justice at the Preliminary Hearing. The Court has read and examined the transcript and mindful of the requirement that it be read in a light most favorable to the Commonwealth, does hereby deny Defendant's Motion to Quash. Clearly the testimony and evidence presented by the Commonwealth is extremely weak and the subsequent submissions by the Defendant make it highly unlikely that a conviction would ensue. Nevertheless, this Court is of the opinion that there is a sufficient question of fact to require the matter be submitted to a jury for determination.

However, this Court is satisfied that under 18 Pa. C.S.A. §312 the prosecution must be dismissed as de minimis. Under (a)(1) of said statute, this Court finds that the

Defendant's conduct was within a customary license or tolerance, neither expressly negative by the person whose interest was infringed nor inconsistent with the law defining the offense.

In addition, under (2) of said act, the conduct of the Defendant did not actually cause or threaten the harm sought to be prevented by the law defining the offense or did so only to an extent too trivial to warrant the condemnation of conviction.

This Court further notes that in this case no harm was done to any victim or to society and therefore, as set forth in Commonwealth v. Moses, 504 A.2d 330, 350 Pa. Super. 231 (1986) and Scurfield Coal Inc. v. Commonwealth, 582 A.2d 694, 136 Pa. Commonwealth 1 (1990) this Court finds that the above prosecution must be dismissed as a de minimis infraction and therefore enters the following:

**ORDER**

NOW, this 3<sup>rd</sup> day of November, 2000, following argument into Defendant's Omnibus Pre-Trial Motion, it is the ORDER of this Court that said Motion be and is hereby granted to the extent that the above-captioned prosecution shall be and is hereby dismissed as a de minimis infraction.

By the Court,

/s/ John K. Reilly, Jr.

---

President Judge

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

NOV 06 2000

Attest:

  
William K. Reilly  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

|                                |                             |
|--------------------------------|-----------------------------|
| LINDA L. MOORE and SCOTT J.    | :                           |
| MOORE, husband and wife,       | :                           |
| Plaintiffs                     | :                           |
|                                | :                           |
| vs.                            | :                           |
|                                | :                           |
|                                | : No. 02 - <u>1723</u> C.D. |
|                                | :                           |
| ALLSTATE INSURANCE COMPANY,    | :                           |
| ALLSTATE INSURANCE COMPANY     | :                           |
| SPECIAL INVESTIGATIONS UNIT,   | :                           |
| STATE PUBLIC ADJUSTING         | :                           |
| COMPANY, and GREGORY R. BOEHM, | :                           |
| Defendants                     | :                           |

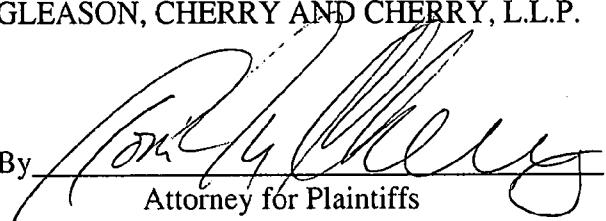
**CERTIFICATE OF SERVICE**

I hereby certify that on this 19<sup>th</sup> day of December, 2002, a true and correct copy of the Complaint filed on behalf of Plaintiffs was sent to JOHN L. McINTYRE, ESQ., by mailing the same to him by United States First Class Mail, postage prepaid, by depositing the same in the United States Post Office at DuBois, Pennsylvania, addressed as follows:

JOHN L. McINTYRE, ESQ.  
McIntyre, Dugas, Hartye & Schmitt  
Attorneys at Law  
P. O. Box 533  
Hollidaysburg, PA 16648-0533

GLEASON, CHERRY AND CHERRY, L.L.P.

By

  
John L. McIntyre  
Attorney for Plaintiffs

Dated: December 19, 2002

FILED

3 cc

DEC 13 2002  
DEC 16 2002  
Atty T. Clegg

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA L. MOORE and SCOTT J.  
MOORE, husband and wife,

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATIONS UNIT,  
STATE PUBLIC ADJUSTING  
COMPANY, and GREGORY R. BOEHM,

Defendants

: No. 02 - 1723 C.D.  
:  
: Type of Case: TORT - MALICIOUS  
: PROSECUTION  
:  
: Type of Pleading: AMENDED COMPLAINT  
:  
: Filed on Behalf of: LINDA L. MOORE and  
: SCOTT J. MOORE, husband and wife,  
: Plaintiffs  
:  
: Counsel of Record for These Parties:  
:  
: TONI M. CHERRY, ESQ.  
: Supreme Court No.: 30205  
:  
: GLEASON, CHERRY AND  
: CHERRY, L.L.P.  
: Attorneys at Law  
: P. O. Box 505  
: One North Franklin Street  
: DuBois, PA 15801  
:  
: (814) 371-5800

**FILED**

APR 17 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

## CIVIL DIVISION

|                                |            |                    |
|--------------------------------|------------|--------------------|
| LINDA L. MOORE and SCOTT J.    | :          |                    |
| MOORE, husband and wife,       | :          |                    |
|                                | Plaintiffs | :                  |
|                                |            | :                  |
| vs.                            | :          | No. 02 - 1723 C.D. |
|                                | :          |                    |
| ALLSTATE INSURANCE COMPANY,    | :          |                    |
| ALLSTATE INSURANCE COMPANY     | :          |                    |
| SPECIAL INVESTIGATIONS UNIT,   | :          |                    |
| STATE PUBLIC ADJUSTING         | :          |                    |
| COMPANY, and GREGORY R. BOEHM, | :          |                    |
|                                | Defendants | :                  |

## NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Notice and Amended Complaint 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 Amended Complaint or for any claims 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, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator  
Office of the Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
(814) 765-2641 (Ext. 50-51)

GLEASON, CHERRY AND CHERRY, L.L.P.

By

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

|                                |                      |
|--------------------------------|----------------------|
| LINDA L. MOORE and SCOTT J.    | :                    |
| MOORE, husband and wife,       | :                    |
| Plaintiffs                     | :                    |
|                                | :                    |
| vs.                            | : No. 02 - 1723 C.D. |
|                                | :                    |
| ALLSTATE INSURANCE COMPANY,    | :                    |
| ALLSTATE INSURANCE COMPANY     | :                    |
| SPECIAL INVESTIGATIONS UNIT,   | :                    |
| STATE PUBLIC ADJUSTING         | :                    |
| COMPANY, and GREGORY R. BOEHM, | :                    |
| Defendants                     | :                    |

**AMENDED COMPLAINT**

AND NOW, come LINDA L. MOORE and SCOTT J. MOORE, by and through their attorneys, GLEASON, CHERRY AND CHERRY, L.L.P., and bring this action against ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and GREGORY R. BOEHM, Defendants, to recover damages upon causes of action whereof the following are statements:

**COUNT I**

**LINDA L. MOORE, Wife Plaintiff vs. Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, and GREGORY R. BOEHM**

1. Plaintiffs, LINDA L. MOORE and SCOTT J. MOORE, are adult individuals and are wife and husband, and reside with each other at 420 North Fourth Street, DuBois, Clearfield County, Pennsylvania 15801.
2. The Defendant, ALLSTATE INSURANCE COMPANY, is an Illinois Corporation authorized to do business in Pennsylvania and having a business address in Pennsylvania c/o

C.T. Corporation System, 1515 Market Street, Suite 1210, Philadelphia, Pennsylvania 19102.

Said Defendant is engaged in the business of providing insurance and in paying claims for damages caused by its insured customers.

3. Defendant, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, is a division of Defendant, ALLSTATE INSURANCE COMPANY, that Plaintiffs believe and therefore aver maintains a business address in Fort Washington, Pennsylvania, or at some other corporate location of Defendant, ALLSTATE INSURANCE COMPANY, within the Commonwealth of Pennsylvania.

4. Defendant, GREGORY R. BOEHM, is an individual whose residence address is believed to be 1059 Kings Cote Drive, Franconia, Pennsylvania 18924.

5. At all times relevant hereto, Defendant, GREGORY R. BOEHM, was the authorized representative, agent, or employee of Defendant, ALLSTATE INSURANCE COMPANY, through Defendant, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, and acted within the scope and authority of his representation, agency, or employment by Defendants.

6. That Plaintiffs named STATE PUBLIC ADJUSTING COMPANY as a Defendant in this lawsuit, believing said company to be a division of Defendant, ALLSTATE INSURANCE COMPANY, involved in the settlement of claims for ALLSTATE INSURANCE COMPANY. However, Plaintiffs have now ascertained, after further investigation, that STATE PUBLIC ADJUSTING COMPANY is not a division of ALLSTATE INSURANCE COMPANY and was incorrectly named as a Defendant in this lawsuit. Plaintiffs intend to take the steps necessary to effect a discontinuance of this action with regard to STATE PUBLIC ADJUSTING COMPANY in accordance with the provisions of Pa.R.C.P. 229.

7. That on the afternoon of Thursday, July 11, 1996, Plaintiff Wife, LINDA L. MOORE, and passengers riding in her vehicle were injured when a vehicle operated by an insured of the Defendants failed to notice that the Moore vehicle was lawfully stopped at a stop light in time to avoid colliding with the same and did smash into the rear of the Moore vehicle with such force that it forced the bumper of the Moore vehicle up over the hatch so that the hatchback could not open, bent the tailpipe and shattered glass from the taillight on the roadway and caused portions of the luggage carrier to be knocked loose and snapped off from the vehicle.

8. The collision was so severe that the vehicle driven by Defendants' insured could not be driven from the scene of the accident which occurred in the center, left-turn lane as Plaintiff, LINDA L. MOORE, was waiting to turn into the Mall at Reading, Pennsylvania.

9. That as a result of the foregoing accident, Plaintiff, LINDA L. MOORE, did request Defendants to pay the damages to her vehicle caused by their insured for which the said LINDA L. MOORE was not responsible because her vehicle was lawfully stopped at a stop light at the time of the collision.

10. That instead of paying for the damages caused by its insured as it was Defendants' obligation to do, Defendants, ALLSTATE INSURANCE COMPANY and ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, acting through their duly authorized officers, agents or employees, including Defendant, GREGORY R. BOEHM, procured and caused the arrest of Plaintiff, LINDA L. MOORE, on or about May 7, 1998, in DuBois, Clearfield County, Pennsylvania, upon a warrant charging her with felony insurance fraud under 18 Pa. C.S.A. §4117(a)(2).

11. That Defendants failed to conduct a comprehensive investigation before accusing Plaintiff, LINDA L. MOORE, of committing insurance fraud.
12. That Defendants did not have a reasonable basis to believe that Plaintiff, LINDA L. MOORE, had committed insurance fraud and did not provide information to the Commonwealth of Pennsylvania in good faith.
13. That Defendants' actions in advising the Commonwealth of Pennsylvania that Plaintiff, LINDA L. MOORE, had committed acts constituting insurance fraud were made with malice because Defendants had information available to them to prove that the damages done to the Moore vehicle were caused solely by the accident of July 11, 1996, as a result of the actions of Defendants' insurer and Defendants knew that they were liable for payment of said damages.
14. That Plaintiffs believe and therefore aver that Defendants delivered information they knew or should have known to be false and/or incomplete to the Commonwealth of Pennsylvania to avoid paying the monies Defendants owed to Plaintiffs as a result of the damages done to the vehicle that Wife Plaintiff was driving on July 11, 1996.
15. That had there been a full and comprehensive investigation on the part of Defendants, there would have been no information that would have warranted Defendants accusing Wife Plaintiff, LINDA L. MOORE, and no probable cause to have supported the charges Defendants caused to be brought against her.
16. That as part of an Omnibus Pre-Trial Motion seeking to have the Court quash the information and/or for a Writ of Habeas Corpus and to dismiss the proceedings, Wife Plaintiff provided the Court with a copy of the transcript taken before the District Justice as well as the affidavits of witnesses and the Trial Court subsequently granted the Motion and dismissed all

criminal charges against Wife Plaintiff, LINDA L. MOORE, by Order filed November 6, 2000.

A true and correct copy of the Order of Court dismissing said charges is attached hereto and made a part hereof as Exhibit "A".

17. That Defendants knew that they had no probable cause to have Wife Plaintiff charged with the crime of felony insurance fraud but caused said charges to be brought against Wife Plaintiff to keep Wife Plaintiff from making a just claim for compensation for the injuries and damages she had sustained against Defendant, ALLSTATE INSURANCE COMPANY.

18. Wife Plaintiff is and always has been a good, true, honest, virtuous and law-abiding citizen earning the respect of her neighbors and business associates.

19. Plaintiff has not at any time been guilty of the crime of insurance fraud and was never suspected of being guilty of any crime prior to the events described herein.

20. The arrest, detention and prosecution of Wife Plaintiff was unlawful and without just reasonable cause of any kind, and the acts of Defendants in charging Wife Plaintiff with insurance fraud were willful and malicious.

21. That the charges against Wife Plaintiff were published in the local newspaper so that all of her friends, neighbors and business associates could read that she had been charged with the above-mentioned crime.

22. That as a result of the publication of the charges brought against her, Wife Plaintiff was questioned by numerous individuals who had read about her and she was forced to explain herself and to try to defend herself from this wrongful charge to her friends, neighbors and business associates.

23. As a result of the above, Wife Plaintiff has been brought into the direct and ill repute among her friends, neighbors and business associates and has been subject to such great humiliation that she was forced to leave the area for a time and to take up residence elsewhere.

24. As a result of the above, Wife Plaintiff has undergone great suffering of mind and body and her reputation in the community has been greatly injured and damaged.

25. As a result of having to defend the unjust criminal charge against her, Wife Plaintiff has been put to great expense in the employment of counsel and has been prevented from attending to her usual and necessary duties and has thereby suffered great and irreparable financial loss in her business and occupation.

26. Wife Plaintiff's injuries and damages were caused solely by the unlawful and malicious acts of Defendants in providing information to law enforcement officers that they knew to be incomplete and false.

27. By reason of the malicious, wanton and willful conduct of Defendants, Plaintiff demands punitive damages.

WHEREFORE, Plaintiff demands damages in a sum in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), exclusive of interest and costs.

## COUNT II

**SCOTT J. MOORE, Husband Plaintiff vs. Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, and GREGORY R. BOEHM**

28. Plaintiff, SCOTT J. MOORE, incorporates herein by reference all of the preceding paragraphs of this Complaint as if each and every one were individually set forth within this Count.

29. As a result of Defendants' malicious, wanton, willful and unlawful conduct, Plaintiff, SCOTT J. MOORE, has been deprived of the society, companionship, contributions and consortium of his wife, Plaintiff, LINDA L. MOORE, to his great detriment and loss.

30. As a result of Defendants' malicious, wanton, willful and unlawful conduct, Plaintiff, SCOTT J. MOORE, has incurred and may in the future incur large medical bills and expenses to treat his wife's injuries.

31. As a result of Defendants' malicious, wanton, willful and unlawful conduct, Plaintiff, SCOTT J. MOORE, has suffered a disruption in his daily habits and pursuits and a loss of enjoyment of life and great embarrassment.

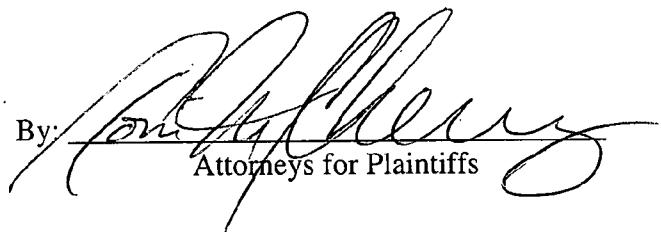
WHEREFORE, Plaintiff, SCOTT J. MOORE, demands judgment against Defendants in an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), exclusive of interest and costs.

JURY TRIAL DEMANDED.

Respectfully submitted,

GLEASON, CHERRY AND CHERRY, L.L.P.

By:

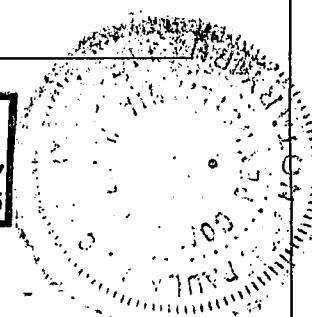
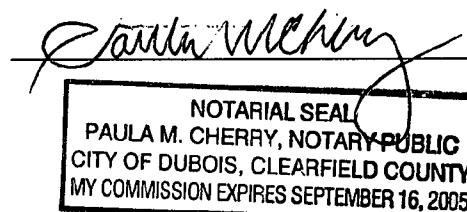
  
John P. Gleason  
Attorneys for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA :  
: SS.  
COUNTY OF CLEARFIELD :

Personally appeared before me, a Notary Public in and for the County and State aforesaid, LINDA L. MOORE, who, being duly sworn according to law, deposes and says that she is one of the Plaintiffs in the foregoing action and that she is authorized to make this Affidavit on behalf of both Plaintiffs and asserts that the facts set forth in the foregoing Amended Complaint are true and correct to the best of her knowledge, information and belief.

Linda L. Moore  
Linda L. Moore

Sworn to and subscribed before me this 17<sup>th</sup> day of April, 2003.



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

COMMONWEALTH OF PENNSYLVANIA:

-vs- : No. 98-515-CRA

LINDA L. MOORE :

OPINION AND ORDER

This matter comes before the court on an Omnibus Pre-Trial Motion filed on behalf of Defendant above-named. Trial in the matter is scheduled to commence on Tuesday, November 7, 2000. The Information alleges the offense of Insurance Fraud, specifically 18 Pa. C.S.A. 4117(a)(2). In the Omnibus Pre-Trial Motion, Defendant seeks to have this Court quash the Information and/or for a Writ of Habeas Corpus and second, to dismiss the proceedings based on the de minimis nature of the case. In support of her Motion to Quash, Defendant has presented to this Court a transcript of the testimony taken before the District Justice at the Preliminary Hearing. The Court has read and examined the transcript and mindful of the requirement that it be read in a light most favorable to the Commonwealth, does hereby deny Defendant's Motion to Quash. Clearly the testimony and evidence presented by the Commonwealth is extremely weak and the subsequent submissions by the Defendant make it highly unlikely that a conviction would ensue. Nevertheless, this Court is of the opinion that there is a sufficient question of fact to require the matter be submitted to a jury for determination.

However, this Court is satisfied that under 18 Pa. C.S.A. §312 the prosecution must be dismissed as de minimis. Under (a)(1) of said statute, this Court finds that the

Defendant's conduct was within a customary license or tolerance, neither expressly negative by the person whose interest was infringed nor inconsistent with the law defining the offense.

In addition, under (2) of said act, the conduct of the Defendant did not actually cause or threaten the harm sought to be prevented by the law defining the offense or did so only to an extent too trivial to warrant the condemnation of conviction.

This Court further notes that in this case no harm was done to any victim or to society and therefore, as set forth in Commonwealth v. Moses, 504 A.2d 330, 350 Pa. Super. 231 (1986) and Scurfield Coal Inc. v. Commonwealth, 582 A.2d 694, 136 Pa. Commonwealth 1 (1990) this Court finds that the above prosecution must be dismissed as a de minimis infraction and therefore enters the following:

**ORDER**

NOW, this 3<sup>rd</sup> day of November, 2000, following argument into Defendant's Omnibus Pre-Trial Motion, it is the ORDER of this Court that said Motion be and is hereby granted to the extent that the above-captioned prosecution shall be and is hereby dismissed as a de minimis infraction.

By the Court,

/s/ John K. Reilly, Jr.

President Judge

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

NOV 06 2000

Attest:

  
William L. Lohr  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA L. MOORE and SCOTT J. :  
MOORE, husband and wife, :  
Plaintiffs :  
vs. : No. 02 - 1723 C.D.  
:  
ALLSTATE INSURANCE COMPANY, :  
ALLSTATE INSURANCE COMPANY :  
SPECIAL INVESTIGATIONS UNIT, :  
STATE PUBLIC ADJUSTING :  
COMPANY, and GREGORY R. BOEHM, :  
Defendants :

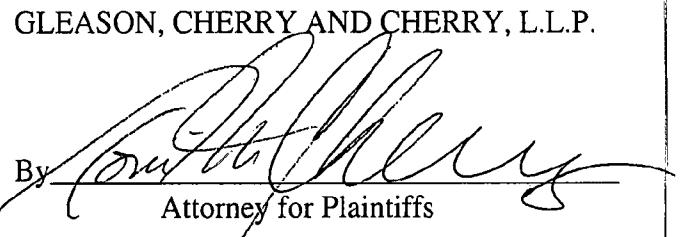
**CERTIFICATE OF SERVICE**

I hereby certify that on this 17<sup>th</sup> day of April, 2003, a true and correct copy of the Amended Complaint filed on behalf of Plaintiffs was sent to JOHN L. McINTYRE, ESQ., by mailing the same to him by United States First Class Mail, postage prepaid, by depositing the same in the United States Post Office at DuBois, Pennsylvania, addressed as follows:

JOHN L. McINTYRE, ESQ.  
McIntyre, Dugas, Hartye & Schmitt  
Attorneys at Law  
P. O. Box 533  
Hollidaysburg, PA 16648-0533

GLEASON, CHERRY AND CHERRY, L.L.P.

By

  
John L. McIntyre  
Attorney for Plaintiffs

Dated: April 17, 2003

**FILED**

APR 17 2003

6/315 (b)(2)

William A. Shaw  
Prothonotary

1 Court to 444

*E  
GHD*

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

**Sheriff Docket # 13271**

**MOORE, LINDA L. & SCOTT J.**

**02-1723-CD**

**VS.**  
**ALLSTATE INSURANCE COMPANY a/**

**SUMMONS**

**SHERIFF RETURNS**

---

**NOW NOVEMBER 6, 2002, JOHN DURANTE, SHERIFF OF MONTGOMERY COUNTY  
WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY  
TO SERVE THE WITHIN SUMMONS ON STATE PUBLIC ADJUSTING COMPANY and  
GREGORY R. BOEHM, DEFENDANTS.**

**NOW NOVEMBER 14, 2002 SERVED THE WITHIN SUMMONS ON GREGORY R.  
BOEHM, DEFENDANT BY DEPUTIZING THE SHERIFF OF MONTGOMERY COUNTY.  
THE RETURN OF SHERIFF DURANTE IS HERETO ATTACHED AND MADE A PART  
OF THIS RETURN STATING THAT HE SERVED CHRIS, WIFE.**

**NOW NOVEMBER 19, 2002 SERVED THE WITHIN SUMMONS ON STATE PUBLIC  
ADJUSTING COMPANY, DEFENDANT BY DEPUTIZING THE SHERIFF OF  
MONTGOMERY COUNTY. THE RETURN OF SHERIFF DURANTE IS HERETO  
ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED  
LESTER SCHLEGAL, PIC.**

**NOW NOVEMBER 6, 2002, JOHN GREEN, SHERIFF OF PHILADELPHIA WAS  
DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO  
SERVE THE WITHIN SUMMONS ON ALLSTATE INSURANCE COMPANY and  
ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, DEFENDANTS.**

**FILED**  
035261  
JAN 27 2003

**William A. Shaw  
Prothonotary**

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 13271

MOORE, LINDA L. & SCOTT J.

02-1723-CD

VS.

ALLSTATE INSURANCE COMPANY a/c

SUMMONS

**SHERIFF RETURNS**

NOW NOVEMBER 22, 2002 SERVED THE WITHIN SUMMONS ON ALLSTATE INSURANCE COMPANY and ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, DEFENDANTS BY DEPUTIZING THE SHERIFF OF PHILADELPHIA. THE RETURNS OF SHERIFF GREEN ARE HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT BOTH COPIES WERE SERVED ON NANCY ARMSTRONG, P.I.C.

---

Return Costs

| Cost          | Description                     |
|---------------|---------------------------------|
| 55.11         | SHFF. HAWKINS PAID BY: ATTY.    |
| 136.00        | SHFF. GREEN PAID BY: ATTY.      |
| 49.00         | SHFF. DURANTE PAID BY: ATTY.    |
| <u>40.00</u>  | <u>SURCHARGE PAID BY: ATTY.</u> |
| <u>280.11</u> |                                 |

Sworn to Before Me This

27<sup>th</sup> Day Of Jan 2003  
W. A. Shaw

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

So Answers,

Chester Hawkins  
Clyde Mauldin  
Chester A. Hawkins  
Sheriff

**SHERIFF'S RETURN****PROTHONOTARY Y- 5653****DEFENDANT: State Public Adjusting Company****DOCUMENT SERVED: Civil****INDIVIDUAL SERVED: Lester Schlegel****RELATIONSHIP TO DEFENDANT: Person In Charge****DATE AND PREVAILING TIME: Nov. 19, 2002 @ 08:00****LOCATION: 609 Melvin Road, Franconia, PA**

*The above document was served on the defendant as per information listed above in the County of Montgomery, Commonwealth of Pennsylvania.*

*Affirmed and subscribed before me on this day so answers.*

Nov. 20, 2002

Notary Public

*John P. Durante*  
Sheriff of Montgomery County

*Helene Friedman*  
Deputy Sheriff  
Zappala

Notarial Seal  
Helene Friedman Notary Public  
Norristown Boro Notary County  
My Commission Expires Apr. 1, 2004

## SHERIFF'S RETURN

PROTHONOTARY Y- 5653

DEFENDANT: Gregory R. Boehn

DOCUMENT SERVED: Civil

INDIVIDUAL SERVED: Chris

RELATIONSHIP TO DEFENDANT: Wife

DATE AND PREVAILING TIME: Nov. 14, 2002 @ 09:35

LOCATION: 1059 Kings Cote Drive, Franconia, PA

*The above document was served on the defendant as per information listed above in the County of Montgomery, Commonwealth of Pennsylvania.*

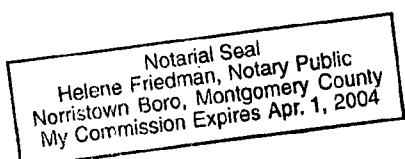
*Affirmed and subscribed before me on this day so answers.*

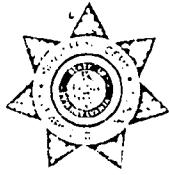
Nov. 20, 2002

Notary Public

*John P. Durante*  
Sheriff of Montgomery County

Deputy Sheriff  
Zappala





CHESTER A. HAWKINS  
SHERIFF

Sheriff's Office  
Clearfield County

OFFICE (814) 765-2641  
AFTER 4:00 P.M. (814) 765-1533  
CLEARFIELD COUNTY FAX  
(814) 765-5915

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

Robert Snyder  
CHIEF DEPUTY

Cynthia Aughenbaugh  
OFFICE MANAGER

RECEIVED  
02 NOV 13 2002  
MARILYN HAMM  
DEPT. CLERK  
PETER F. SMITH  
SOLICITOR  
PA.  
AM 11:49

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA L. & SCOTT J. MOORE

vs

ALLSTATE INSURANCE COMPANY

TERM & NO. 02-1723-CD

DOCUMENT TO BE SERVED:  
SUMMONS

SERVE BY: 12/3/02

MAKES REFUND PAYABLE TO: GLEASON, CHERRY & CHERRY, Attorneys

SERVE: STATE PUBLIC ADJUSTING COMPANY and GREGORY R. BOEHM

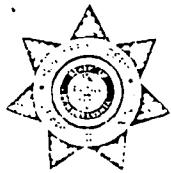
ADDRESS: State--609 Melvin Road, Franconia, Pa. 18924  
Boehm--1059 Kings Cote Drive, Franconia Pa. 18924

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF MONTGOMERY COUNTY Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this 6th Day of November 2002.

Respectfully,

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY

75653



Sheriff's Office  
Clearfield County

OFFICE (814) 765-2641  
AFTER 4:00 P.M. (814) 765-1533  
CLEARFIELD COUNTY FAX  
(814) 765-5915

CHESTER A. HAWKINS  
SHERIFF

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

11-14

①

02 NOV 13  
MONTGOMERY COUNTY  
SHERIFF'S OFFICE  
MARIELYN HAMM,  
DEPT. CLERK  
PETER F. SMITH,  
SOLICITOR  
AM 11:49

RECEIVED

Robert Snyder  
CHIEF DEPUTY  
Cynthia Aughenbaugh  
OFFICE MANAGER

## DEPUTATION

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

PERSON SERVED Lester Sublegel

LINDA L. & SCOTT J. MOORE

TERM & NO. 02-1723-CD

RELATION / POSITION PFC

VS PLACE OF SERVICE as Given  
ALLSTATE INSURANCE COMPANY at

DOCUMENT TO BE SERVED:

SUMMONS

TIME TO SERVE 0800

DATE OF SERVICE 11-19-02

SERVE BY: 12/3/02

NUMBER OF DEPUTIES 2

DEPUTY Zappalas

DEPUTY                   

MAKE REFUND PAYABLE TO: GLEASON, CHERRY & CHERRY, Attorneys

SERVE: STATE PUBLIC ADJUSTING COMPANY and GREGORY R. BOEHM

ADDRESS: State--609 Melvin Road, Franconia, Pa. 18924  
Boehm--1059 Kings Cote Drive, Franconia Pa. 18924

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF MONTGOMERY COUNTY Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this 6th Day of November 2002.

11/14 0905 02

Respectfully,

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY

115653

Sheriff's No. 15070

**AFFIDAVIT OF SERVICE**Court Name: COMMON PLEAS  
PAPlaintiff: LINDA L MOORE  
SCOTT J MOORE

Vs.

County Name: Clearfield

Defendant: ALLSTATE INS CO SPEC  
INVESTIGATIONS UNIT  
1515 MARKET ST STE 1210  
PHILADELPHIA

Case No. 02-1723 0

**COMMONWEALTH OF PENNSYLVANIA: SS: COUNTY OF PHILADELPHIA**That on 11-22-02 at 2 a.m./p.m. service ofCounty Foreign Writ was made upon ALLSTATE INS CO SPEC INVESTIGATIONS  
UNITby serving to and leaving with: Nancy Glassman  
at: 1515 Market St

in the City and Count of Philadelphia, Commonwealth of Pennsylvania.

**NOT FOUND:**

That on \_\_\_\_\_ at \_\_\_\_\_ a.m. /p.m. service was not made because:

Moved      No answer      Expired      Unknown      Vacant

Other \_\_\_\_\_

Cary Glassman  
Process Server/ Competent AdultCary GlassmanSworn to and subscribed to before me this  
25 day of November, 2002.Cheri L. Smith

NOTARIAL SEAL  
CHERI L. SMITH, Notary Public  
City of Philadelphia, Phila. County  
My Commission Expires March 22, 2004

Cary Glassman  
Sheriff, Philadelphia County

Sheriff's No. 5070

**AFFIDAVIT OF SERVICE**

Court Name: COMMON PLEAS  
PA

Plaintiff: LINDA L MOORE  
SCOTT J MOORE

Vs.

County Name: Clearfield

Defendant: ALLSTATE INSURANCE  
COMPANY  
1515 MARKET ST STE 1210  
PHILADELPHIA

Case No. 02-1723 0

**COMMONWEALTH OF PENNSYLVANIA: SS: COUNTY OF PHILADELPHIA**

That on 11-22-02 at 2 a.m./p.m. service of

County Foreign Writ was made upon ALLSTATE INSURANCE COMPANY

by serving to and leaving with: Nancy Armstrong  
at: 1515 Market St

in the City and Count of Philadelphia, Commonwealth of Pennsylvania.

**NOT FOUND:**

That on \_\_\_\_\_ at \_\_\_\_\_ a.m. /p.m. service was not made because:

Moved      No answer      Expired      Unknown      Vacant

Other \_\_\_\_\_

Cary Glassman  
Process Server/ Competent Adult

Cary Glassman  
Sworn to and subscribed to before me this  
25 day of November, 2002.

Cary Glass  
Sheriff, Philadelphia County

Cheri L. Smith

Notary Public

NOTARIAL SEAL  
CHERI L. SMITH, Notary Public  
City of Philadelphia, Phila. County  
Commission Expires March 22, 2004



**Sheriff's Office  
Clearfield County**

OFFICE (814) 765-2641  
AFTER 4:00 P.M. (814) 765-1533  
CLEARFIELD COUNTY FAX  
(814) 765-5915

CHESTER A. HAWKINS  
SHERIFF

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

**COPY**

**Robert Snyder**  
CHIEF DEPUTY

**Cynthia Aughenbaugh**  
OFFICE MANAGER

**MARILYN HAMM**  
DEPT. CLERK

**PETER F. SMITH**  
SOLICITOR

**DEPUTATION**

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

LINDA L. & SCOTT J. MOORE

TERM & NO. 02-1723-CD

VS

DOCUMENT TO BE SERVED:  
SUMMONS

ALLSTATE INSURANCE COMPANY al

**SERVE BY:** 12/3/02

**MAKE REFUND PAYABLE TO:** GLEASON, CHERRY & CHERRY, Attorneys

**SERVE:** ALLSTATE INSURANCE COMPANY and ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT

**ADDRESS:** c/o C.T. Corp. System, 1515 Market St., Suite 1210, Philadelphia, Pa. 19102

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF PHILADELPHIA COUNTY Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this 6th Day of NOVEMBER 2002.

Respectfully,

CHESTER A. HAWKINS.  
SHERIFF OF CLEARFIELD COUNTY

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
husband and wife,

**ISSUE:**  
**PRAECIPE FOR ARGUMENT LIST**

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Filed on behalf of Defendants:  
ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
and GREGORY R. BOEHM

Defendants

Counsel of Record:

John L. McIntyre, Esquire  
PA I.D. #28015  
McINTYRE, DUGAS, HARTYE &  
& SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 8<sup>th</sup> DAY OF JANUARY, 2003.

John L. McIntyre  
Attorneys for Named Defendants

**FILED**

JAN 09 2003

William A. Shaw  
Prothonotary

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
husband and wife,

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Defendants

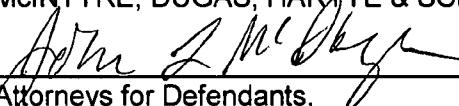
JURY TRIAL DEMANDED

**PRAECIPE**

TO: PROTHONOTARY

Kindly list the above-captioned matter for the next available argument list. The matter to be argued is Preliminary Objections on behalf of Defendants, Allstate Insurance Company, Allstate Insurance Company Special Investigations Unit and Gregory R. Boehm.

McINTYRE, DUGAS, HARTYE & SCHMITT

  
\_\_\_\_\_  
Attorneys for Defendants,  
ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATIONS UNIT and  
GREGORY R. BOEHM  
John L. McIntyre, Esquire  
PA I.D. #28015  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

FILED NO  
M 11:27 AM  
JAN 09 2003

*cc*  
William A. Shaw  
Prothonotary

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
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vs.

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ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants

ISSUE:  
PRELIMINARY OBJECTIONS TO  
PLAINTIFFS' COMPLAINT

Filed on behalf of Defendants:  
ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
and GREGORY R. BOEHM

Counsel of Record:

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John L. McIntyre  
\_\_\_\_\_  
Attorneys for Named Defendants

FILED

JAN 09 2003

William A. Shaw  
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
husband and wife,

Plaintiffs

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STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants

JURY TRIAL DEMANDED

**PRELIMINARY OBJECTIONS TO PLAINTIFFS' COMPLAINT**

AND NOW, come the Defendants, ALLSTATE INSURANCE, ALLSTATE  
INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, and GREGORY R.  
BOEHM, who file the following Preliminary Objections to the plaintiff's Complaint and in  
support set forth the following:

**I. DEMURRER**

1. The plaintiffs' Complaint fails to set forth a claim against Gregory R. Boehm, Allstate Insurance Company and Allstate Insurance Company Special Investigations Unit.
2. At all times, the arrest of Linda Moore occurred solely as a result of and with the authority of the Attorney General's office of the Commonwealth of Pennsylvania.

The Attorney General's office authorized said charges pursuant to 18 Pa. C.S.A. §4117(a)(2).

3. Probable cause existed. Probable cause was found by the Magistrate who handled this matter.

4. The case was bound over by the District Justice.

5. Judge Reilly in his Order of November 3, 2000, a copy of which is attached, denied the Motion of Linda L. Moore to quash the charges.

6. The Court in its opinion went on to state that there was a sufficient question of fact to require the matter to be submitted to a jury for determination.

7. The Court dismissed the matter on the basis that Linda Moore's actions were a "de minimis infraction".

8. Gregory Boehm, Allstate Insurance Company Special Investigations Unit, and Allstate Insurance Company do not have the ability to arrest individuals, issue warrants or approve charges for criminal prosecution. That duty lies with the District Attorney's office or Attorney General's office.

9. At all times, even as noted by Judge Reilly, probable cause existed. This is supported by the District Justice's holding the case over for Court, as well as the opinion of Judge Reilly.

10. The plaintiffs are attempting to claim that the charges against the wife-plaintiff were published in a local newspaper. None of the defendants had any involvement with regard to the publication of the charges and as such, any claims regarding injury or reputation should be dismissed, insofar as the plaintiffs' Complaint does not set forth a valid cause of action against these Defendants, Gregory Boehm,

Allstate Insurance Company Special Investigations Unit and Allstate Insurance Company.

WHEREFORE, the Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and GREGORY R. BOEHM, respectfully request that the plaintiffs' Complaint be dismissed with prejudice, insofar as it fails to set forth a recognized cause of action against any of these defendants.

**II. DEMURRER AS TO CLAIMS OF SCOTT J. MOORE**

11. In Count II of the plaintiffs' Complaint, it is alleged that Scott J. Moore has suffered a loss of consortium; that his wife has incurred and may incur additional medical bills; and that he has suffered disruption of his daily habits and loss of enjoyment of life and great embarrassment.

12. The law in the Commonwealth of Pennsylvania does not recognize such causes of action for loss of consortium, incurring of medical bills and disruption of daily habits and pursuits, including a loss of enjoyment of life and great embarrassment, as a result of the actions complained of by Linda J. Moore.

13. Linda J. Moore did not sustain any personal injuries as a result of the conduct of any of the defendants and as such, there can be no claim for loss of consortium or the other items set forth on behalf of Scott J. Moore.

14. Scott J. Moore fails to set forth a cause of action against any of the named defendants.

WHEREFORE, the Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and

GREGORY R. BOEHM, respectfully request that Scott J. Moore's claims be dismissed with prejudice.

**III. DEMURRER ON BEHALF OF ALLSTATE INSURANCE COMPANY AND ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT**

15. The plaintiffs' Complaint sets forth a purported claim for punitive damages against Allstate Insurance Company, Allstate Insurance Company's Special Investigations Unit and Gregory R. Boehm.

16. Pennsylvania law does not recognize a cause of action for vicarious liability for punitive damages.

17. Plaintiffs' Complaint fails to set forth a recognized cause of action against Allstate Insurance Company and Allstate Insurance Company Special Investigations Unit with regard to the claims for punitive damages.

WHEREFORE, the Defendants, ALLSTATE INSURANCE COMPANY and ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, respectfully request that the claims for punitive damages be dismissed with prejudice and judgment entered in their favor.

**IV. MOTION TO DISMISS**

18. The plaintiffs contend that Linda Moore and her husband were injured as a result of the tortious conduct of Gregory R. Boehm, Allstate Insurance Company Special Investigations Unit and Allstate Insurance Company.

19. According to the plaintiffs' Complaint, she was involved in an automobile accident on May 7, 1998.

20. The actions of the defendants occurred subsequent to May 7, but prior to November 6, 2000, when Judge Reilly entered an Order finding that the prosecution could be dismissed as de minimis.

21. The statute of limitations for tortious conduct in the Commonwealth of Pennsylvania is two years under 42 Pa. C.S.A. §5524.

22. The within action was filed by Writ of Summons on November 4, 2002, more than two years after the actions complained of by any of the defendants.

23. The within actions are barred by the two-year statute of limitations and should be dismissed and stricken with prejudice.

#### **V. MOTION TO STRIKE**

24. The plaintiffs' Complaint contains the following paragraphs:

16. That the charges against Wife Plaintiff were published in the local newspaper so that all of her friends, neighbors and business associates could read that she had been charged with the above-mentioned crime.
17. That as a result of the publication of the charges brought against her, Wife Plaintiff was questioned by numerous individuals who had read about her and she was forced to explain herself and to try to defend herself from this wrongful charge to her friends, neighbors and business associates.
21. Wife Plaintiff's injuries and damages were caused solely by the unlawful and malicious acts of Defendants.
22. By reason of the malicious, wanton and willful conduct of Defendants, Plaintiff demands punitive damages.

25. The plaintiffs fail to set forth that these defendants had a duty or any facts in support of how these defendants were responsible for the publication or what laws were violated with regard to the acts complained of by the plaintiffs.

26. These paragraphs constitute scandalous and impertinent material.

27. The Defendants, Gregory R. Boehm, Allstate Insurance Company Special Investigations Unit and Allstate Insurance Company, challenge the effective service insofar as the same was not timely and appropriately accomplished.

28. Pursuant to the PA Rules of Civil Procedure, the plaintiffs' Complaint should be dismissed as to some or all of these defendants, for failure to comply with the appropriate service rules.

WHEREFORE, the Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and GREGORY R. BOEHM, respectfully request that these paragraphs be stricken from the plaintiffs' Complaint.

**VI. MOTION FOR MORE SPECIFIC COMPLAINT**

29. In the alternative, in the event the Court does not dismiss the above Complaint, then the plaintiffs should be required to plead with more specificity specifically what conduct on behalf of any of these defendants, was unlawful, what laws were violated and precisely when and where said actions occurred.

30. The plaintiffs' Complaint is non-specific with regard to time, dates and places of action on behalf of any of the defendants, including but not limited to Gregory R. Boehm.

31. The plaintiffs have failed to set forth how the conduct of any of the defendants, including Gregory R. Boehm was malicious, wanton and willful.

32. The defendants are entitled to know the specifics of when, where, how and why the defendants supposedly acted unlawfully and how the conduct was malicious, wanton and willful.

33. These defendants will be severely prejudiced if the plaintiffs are not required to file a more specific Complaint regarding the allegations against all of the defendants.

WHEREFORE, in the alternative, the Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and GREGORY R. BOEHM, respectfully request that this Honorable Court enter an Order requiring the plaintiffs to more specifically plead all of the facts as to when, how, why and where the unlawful violations occurred, as well as how the conduct was malicious, willful or wanton. Further, the plaintiffs should be required to plead with more specificity all damages claimed by the plaintiffs.

Respectfully submitted,

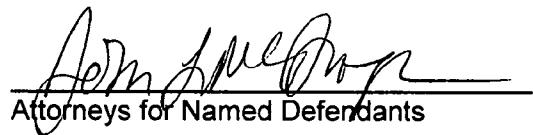
McINTYRE, DUGAS, HARTYE & SCHMITT

By John L. McIntyre  
Attorneys for Defendants,  
ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATIONS UNIT and  
GREGORY R. BOEHM

John L. McIntyre, Esquire  
PA I.D. #28015  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

TO: **PLAINTIFFS**

YOU ARE HEREBY NOTIFIED TO FILE  
A WRITTEN RESPONSE TO THE ENCLOSED  
**PRELIMINARY OBJECTIONS** WITHIN  
**TWENTY (20) DAYS** FROM SERVICE HEREOF  
OR A JUDGMENT MAY BE ENTERED AGAINST  
YOU.

  
\_\_\_\_\_  
Attorneys for Named Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CRIMINAL ACTION

COMMONWEALTH OF PENNSYLVANIA:

-vs- : No. 98-515-CRA

LINDA L. MOORE :

OPINION AND ORDER

This matter comes before the court on an Omnibus Pre-Trial Motion filed on behalf of Defendant above-named. Trial in the matter is scheduled to commence on Tuesday, November 7, 2000. The Information alleges the offense of Insurance Fraud, specifically 18 Pa. C.S.A. 4117(a)(2). In the Omnibus Pre-Trial Motion, Defendant seeks to have this Court quash the Information and/or for a Writ of Habeas Corpus and second, to dismiss the proceedings based on the de minimis nature of the case. In support of her Motion to Quash, Defendant has presented to this Court a transcript of the testimony taken before the District Justice at the Preliminary Hearing. The Court has read and examined the transcript and mindful of the requirement that it be read in a light most favorable to the Commonwealth, does hereby deny Defendant's Motion to Quash. Clearly the testimony and evidence presented by the Commonwealth is extremely weak and the subsequent submissions by the Defendant make it highly unlikely that a conviction would ensue. Nevertheless, this Court is of the opinion that there is a sufficient question of fact to require the matter be submitted to a jury for determination.

However, this Court is satisfied that under 18 Pa. C.S.A. §312 the prosecution must be dismissed as de minimis. Under (a)(1) of said statute, this Court finds that the

Defendant's conduct was within a customary license or tolerance, neither expressly negative by the person whose interest was infringed nor inconsistent with the law defining the offense.

In addition, under (2) of said act, the conduct of the Defendant did not actually cause or threaten the harm sought to be prevented by the law defining the offense or did so only to an extent too trivial to warrant the condemnation of conviction.

This Court further notes that in this case no harm was done to any victim or to society and therefore, as set forth in Commonwealth v. Moses, 504 A.2d 330, 350 Pa. Super. 231 (1986) and Scurfield Coal Inc. v. Commonwealth, 582 A.2d 694, 136 Pa. Commonwealth 1 (1990) this Court finds that the above prosecution must be dismissed as a de minimis infraction and therefore enters the following:

**ORDER**

NOW, this 3<sup>rd</sup> day of November, 2000, following argument into Defendant's Omnibus Pre-Trial Motion, it is the ORDER of this Court that said Motion be and is hereby granted to the extent that the above-captioned prosecution shall be and is hereby dismissed as a de minimis infraction.

By the Court,

/s/ John K. Reilly, Jr.

President Judge

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

NOV 06 2000

Attest:

  
William L. Reilly  
Prothonotary

FILED

NO  
cc

311-27-80  
JAN 09 2003

✓ William A. Shaw  
✓ Prothonotary

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

LINDA L. MOORE and SCOTT J.  
MOORE, husband and wife

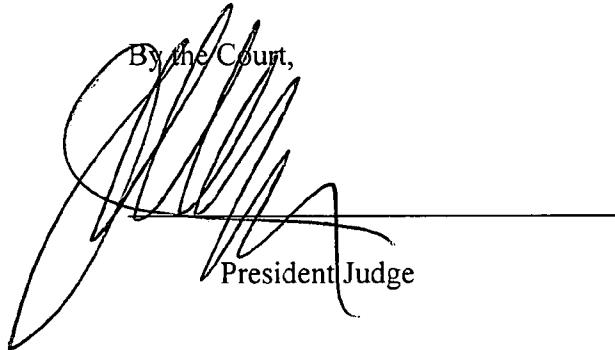
-VS-

No. 02 - 1723 - CD

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATIONS UNIT,  
STATE PUBLIC ADJUSTING  
COMPANY, and GREGORY R. BOEHM

**ORDER**

NOW, this 1<sup>st</sup> day of April, 2003, following argument and briefs into  
Preliminary Objections filed on behalf of Defendants above-named, it is the ORDER of this  
Court that said Objections be and are hereby sustained to the extent that Plaintiffs shall be and  
are hereby given twenty (20) days from date hereof to file an Amended Complaint.

By the Court,  
  
President Judge

**FILED**

APR 02 2003

William A. Shaw  
Prothonotary

**FILED**

APR 02 2003

011:00 AM  
William A. Shaw *JK*  
Prothonotary

CC'd to ATTY CHEM  
&  
MCINTYRE

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
husband and wife,

ISSUE:  
**PRAECIPE FOR ARGUMENT LIST**

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Filed on behalf of Defendants:  
ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
and GREGORY R. BOEHM

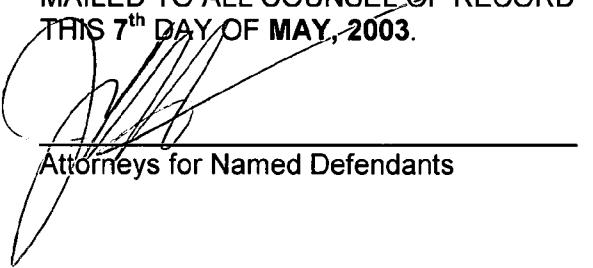
Defendants

Counsel of Record:

John L. McIntyre, Esquire  
PA I.D. #28015  
McINTYRE, DUGAS, HARTYE &  
& SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 7<sup>th</sup> DAY OF MAY, 2003.

  
\_\_\_\_\_  
Attorneys for Named Defendants

**FILED**

MAY 08 2003

William A. Shaw  
Prothonotary

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
husband and wife,

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants : JURY TRIAL DEMANDED

**PRAECIPE**

**TO: PROTHONOTARY**

Kindly list the above-captioned matter for the next available argument list. The matter to be argued is Amended Preliminary Objections to Plaintiffs' Amended Complaint on behalf of Defendants, Allstate Insurance Company, Allstate Insurance Company Special Investigations Unit and Gregory R. Boehm.

McINTYRE, DUGAS, HARTYE & SCHMITT

  
\_\_\_\_\_  
Attorneys for Defendants,  
ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATIONS UNIT and  
GREGORY R. BOEHM  
**John L. McIntyre, Esquire**  
**PA I.D. #28015**  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

FILED NOCC

May 8 2003

cc copy to CJA

William A. Shaw  
Prothonotary

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
husband and wife,

ISSUE:  
PRAECIPE FOR ARGUMENT LIST

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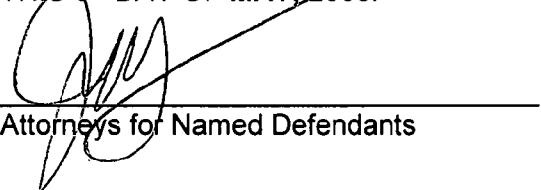
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\_\_\_\_\_  
Attorneys for Named Defendants

FILED

MAY 07 2003  
M/1:30/MS  
William A. Shaw  
Presbyterian  
No Cenr.

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
husband and wife,

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JURY TRIAL DEMANDED

PRAECIPE

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McINTYRE, DUGAS, HARTYE & SCHMITT

  
\_\_\_\_\_  
Attorneys for Defendants,  
ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATIONS UNIT and  
GREGORY R. BOEHM  
John L. McIntyre, Esquire  
PA I.D. #28015  
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FILED

MAY 07 2003

William A. Shaw  
Prothonotary

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

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husband and wife,

Plaintiffs

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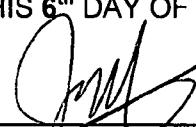
ISSUE:  
PRELIMINARY OBJECTIONS TO  
PLAINTIFFS' AMENDED COMPLAINT

Filed on behalf of Defendants:  
ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
and GREGORY R. BOEHM

Counsel of Record:  
John L. McIntyre, Esquire  
PA I.D. #28015  
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\_\_\_\_\_  
Attorneys for Named Defendants

FILED

MAY 07 2003

11:30 AM  
William A. Shaw  
Prothonotary  
No Cents

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
husband and wife,

Plaintiffs

vs.

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SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants

JURY TRIAL DEMANDED

**PRELIMINARY OBJECTIONS TO PLAINTIFFS' AMENDED COMPLAINT**

AND NOW, come the Defendants, ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, and  
GREGORY R. BOEHM, and file the following Preliminary Objections to the plaintiffs'  
Amended Complaint and in support set forth the following:

**I. DEMURRER**

1. The plaintiffs' Amended Complaint fails to set forth a claim against Gregory R. Boehm, Allstate Insurance Company and Allstate Insurance Company Special Investigations Unit.
2. At all times, the arrest of Linda Moore occurred solely as a result of, with the authority of, and under the direction of the Attorney General's office of the Commonwealth of Pennsylvania. The Attorney General's office authorized said charges pursuant to 18 Pa. C.S.A. §4117(a)(2).

3. Probable cause existed. Probable cause was found by the Magistrate who handled this matter.

4. The case was bound over by the District Justice.

5. Judge Reilly in his Order of November 3, 2000, a copy of which is attached, denied the Motion of Linda L. Moore to quash the charges.

6. The Court in its opinion went on to state that there was a sufficient question of fact to require the matter to be submitted to a jury for determination.

7. The Court dismissed the matter on the basis that Linda Moore's actions were a "de minimis infraction".

8. Gregory Boehm, Allstate Insurance Company Special Investigations Unit, and Allstate Insurance Company do not have the ability to arrest individuals, issue warrants or approve charges for criminal prosecution. That duty lies with the District Attorney's office or Attorney General's office.

9. At all times, even as noted by Judge Reilly, probable cause existed. This is supported by the District Justice's holding the case over for Court, as well as the opinion of Judge Reilly.

10. The plaintiffs are attempting to claim that the charges against the wife-plaintiff were published in a local newspaper. None of the defendants had any involvement with regard to the publication of the charges and as such, any claims regarding injury or reputation should be dismissed, insofar as the plaintiffs' Amended Complaint does not set forth a valid cause of action against these Defendants, Gregory Boehm, Allstate Insurance Company Special Investigations Unit and Allstate Insurance Company.

11. Under the laws of the Commonwealth of Pennsylvania and the applicable case law, the finding of probable cause by the Magistrate and Judge Reilly, in not dismissing the claim on the merits, precludes the plaintiffs from setting forth a recognized and valid cause of action against any of these defendants.

WHEREFORE, the Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and GREGORY R. BOEHM, respectfully request that the plaintiffs' Amended Complaint be dismissed with prejudice, insofar as it fails to set forth a recognized cause of action against any of these defendants.

## **II. DEMURRER AS TO CLAIMS OF SCOTT J. MOORE**

12. In Count II of the plaintiffs' Amended Complaint, it is alleged that Scott J. Moore has suffered a loss of consortium; that his wife has incurred and may incur additional medical bills; and that he has suffered disruption of his daily habits and loss of enjoyment of life and great embarrassment.

13. The law in the Commonwealth of Pennsylvania does not recognize such causes of action for loss of consortium, incurring of medical bills and disruption of daily habits and pursuits, including a loss of enjoyment of life and great embarrassment, as a result of the actions complained of by Linda J. Moore.

14. Linda J. Moore did not sustain any personal injuries as a result of the conduct of any of the defendants and as such, there can be no claim for loss of consortium or the other items set forth on behalf of Scott J. Moore.

15. Scott J. Moore fails to set forth a cause of action against the named defendants, for alleged loss of consortium.

16. According to the case law in Pennsylvania, "a husband's claim for loss of consortium constitutes a separate and distinct cause of action, but recovery is predicated upon his spouse's having sustained physical injuries." Darr Construction Company vs. W.C.A.B. (Walker), 715 A.2d 1075 (Pa. 1998).

WHEREFORE, the Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and GREGORY R. BOEHM, respectfully request that Scott J. Moore's claims be dismissed with prejudice.

**III. DEMURRER ON BEHALF OF ALLSTATE INSURANCE COMPANY AND ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT**

17. The plaintiffs' Amended Complaint sets forth a purported claim for punitive damages against Allstate Insurance Company, Allstate Insurance Company's Special Investigations Unit and Gregory R. Boehm.

18. Pennsylvania law does not recognize a cause of action for vicarious liability for punitive damages, or punitive damages based upon the lack of specificity or averments of malice, etc.

19. At all times, Allstate Insurance Company and the other defendants, had a duty to report suspected activity which was covered under the statutes dealing with suspected insurance fraud.

20. Under 18 Pa. C.S.A. §4117, all persons including insurance companies, have a duty to provide information to the authorities when any type of insurance fraud is suspected.

21. The decision to charge the plaintiff under 18 Pa. C.S.A. §4117(a)(2) was made by the Attorney General's office, not Allstate Insurance Company.

22. Judge Reilly in his Court Order found that there was a question of fact and was allowing the case to proceed, but for his dismissal as "de minimis".

23. Under 18 Pa. C.S.A. §4117(f), Allstate and all of its agents, servants and employees are granted immunity.

24. Clearly, upon the face of the Complaint, which had previously been dismissed by this Court, the plaintiffs have not set forth any new information to permit a claim for punitive damages against Allstate Insurance Company, its agents, servants or employees.

WHEREFORE, the Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and GREGORY R. BOEHM, respectfully request that the claims for punitive damages be dismissed with prejudice and judgment entered in their favor.

#### **IV. MOTION TO DISMISS**

25. The plaintiffs contend that Linda Moore and her husband were injured as a result of the tortious conduct of Gregory R. Boehm, Allstate Insurance Company Special Investigations Unit and Allstate Insurance Company.

26. According to the plaintiffs' Amended Complaint, she was involved in an automobile accident on May 7, 1998.

27. The actions of the defendants occurred subsequent to May 7, but prior to November 6, 2000, when Judge Reilly entered an Order finding that the prosecution could be dismissed as de minimis.

28. The statute of limitations for tortious conduct in the Commonwealth of Pennsylvania is two years under 42 Pa. C.S.A. §5524.

29. The within action was filed by Writ of Summons on November 4, 2002, more than two years after the actions complained of by any of the defendants.

30. The within actions are barred by the two-year statute of limitations and should be dismissed and stricken with prejudice.

#### **V. MOTION TO STRIKE/MOTION FOR MORE SPECIFIC PLEADING**

31. The plaintiffs' Amended Complaint contains the following paragraphs:

21. That the charges against Wife Plaintiff were published in the local newspaper so that all of her friends, neighbors and business associates could read that she had been charged with the above-mentioned crime.
22. That as a result of the publication of the charges brought against her, Wife Plaintiff was questioned by numerous individuals who had read about her and she was forced to explain herself and to try to defend herself from this wrongful charge to her friends, neighbors and business associates.
26. Wife Plaintiff's injuries and damages were caused solely by the unlawful and malicious acts of Defendants in providing information to law enforcement officers that they knew to be incomplete and false.
27. By reason of the malicious, wanton and willful conduct of Defendants, Plaintiff demands punitive damages.

32. The plaintiffs fail to set forth that these defendants had a duty or any facts in support of how these defendants were responsible for the publication or what laws were violated with regard to the acts complained of by the plaintiffs.

33. These paragraphs constitute scandalous and impertinent material.

34. The Defendants, Gregory R. Boehm, Allstate Insurance Company Special Investigations Unit and Allstate Insurance Company, challenge the effective service insofar as the same was not timely and appropriately accomplished.

35. Pursuant to the PA Rules of Civil Procedure, the plaintiffs' Amended Complaint should be dismissed as to some or all of these defendants, for failure to comply with the appropriate service rules.

36. In the alternative, in the event the Court does not dismiss the above Amended Complaint, then the plaintiffs should be required to plead with more specificity specifically what conduct on behalf of any of these defendants, was unlawful, what laws were violated and precisely when and where said actions occurred.

37. The plaintiffs' Amended Complaint is non-specific with regard to time, dates and places of action on behalf of any of the defendants, including but not limited to Gregory R. Boehm.

38. The plaintiffs have failed to set forth how the conduct of any of the defendants, including Gregory R. Boehm was malicious, wanton and willful.

39. The defendants are entitled to know the specifics of when, where, how and why the defendants supposedly acted unlawfully and how the conduct was malicious, wanton and willful.

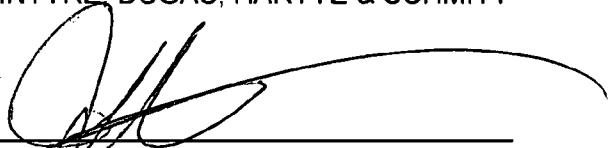
40. These defendants will be severely prejudiced if the plaintiffs are not required to file a more specific Complaint regarding the allegations against all of the defendants.

WHEREFORE, the Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and

GREGORY R. BOEHM, respectfully request that the plaintiffs' Amended Complaint be dismissed or in the alternative, that the plaintiffs be required to file a more specific Complaint detailing as to when, how, why and where the unlawful violations occurred, as well as how the conduct of the defendants was willful, wanton or malicious. If the plaintiffs should fail to do this in their next Amended Complaint, the Court should dismiss the same with prejudice.

Respectfully submitted,

McINTYRE, DUGAS, HARTYE & SCHMITT

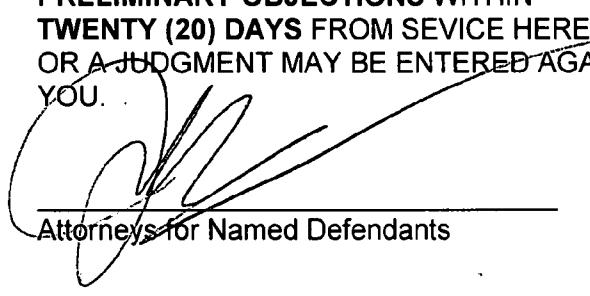
By 

Attorneys for Defendants,  
ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATIONS UNIT and  
GREGORY R. BOEHM

John L. McIntyre, Esquire  
PA I.D. #28015  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

TO: PLAINTIFFS

YOU ARE HEREBY NOTIFIED TO FILE  
A WRITTEN RESPONSE TO THE ENCLOSED  
PRELIMINARY OBJECTIONS WITHIN  
TWENTY (20) DAYS FROM SEVICE HEREOF  
OR A JUDGMENT MAY BE ENTERED AGAINST  
YOU.

  
Attorneys for Named Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CRIMINAL ACTION

COMMONWEALTH OF PENNSYLVANIA:

-vs- : No. 98-515-CRA

LINDA L. MOORE :

OPINION AND ORDER

This matter comes before the court on an Omnibus Pre-Trial Motion filed on behalf of Defendant above-named. Trial in the matter is scheduled to commence on Tuesday, November 7, 2000. The Information alleges the offense of Insurance Fraud, specifically 18 Pa. C.S.A. 4117(a)(2). In the Omnibus Pre-Trial Motion, Defendant seeks to have this Court quash the Information and/or for a Writ of Habeas Corpus and second, to dismiss the proceedings based on the de minimis nature of the case. In support of her Motion to Quash, Defendant has presented to this Court a transcript of the testimony taken before the District Justice at the Preliminary Hearing. The Court has read and examined the transcript and mindful of the requirement that it be read in a light most favorable to the Commonwealth, does hereby deny Defendant's Motion to Quash. Clearly the testimony and evidence presented by the Commonwealth is extremely weak and the subsequent submissions by the Defendant make it highly unlikely that a conviction would ensue. Nevertheless, this Court is of the opinion that there is a sufficient question of fact to require the matter be submitted to a jury for determination.

However, this Court is satisfied that under 18 Pa. C.S.A. §312 the prosecution must be dismissed as de minimis. Under (a)(1) of said statute, this Court finds that the

Defendant's conduct was within a customary license or tolerance, neither expressly negative by the person whose interest was infringed nor inconsistent with the law defining the offense.

In addition, under (2) of said act, the conduct of the Defendant did not actually cause or threaten the harm sought to be prevented by the law defining the offense or did so only to an extent too trivial to warrant the condemnation of conviction.

This Court further notes that in this case no harm was done to any victim or to society and therefore, as set forth in Commonwealth v. Moses, 504 A.2d 330, 350 Pa. Super. 231 (1986) and Scurfield Coal Inc. v. Commonwealth, 582 A.2d 694, 136 Pa. Commonwealth 1 (1990) this Court finds that the above prosecution must be dismissed as a de minimis infraction and therefore enters the following:

ORDER

NOW, this 3<sup>rd</sup> day of November, 2000, following argument into Defendant's Omnibus Pre-Trial Motion, it is the ORDER of this Court that said Motion be and is hereby granted to the extent that the above-captioned prosecution shall be and is hereby dismissed as a de minimis infraction.

By the Court,

/s/ John K. Reilly, Jr.

President Judge

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

NOV 6 2000

Attest

  
William J. Reilly  
Prothonotary

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

LINDA L. MOORE and SCOTT J. MOORE:  
husband and wife :  
: :  
-vs- : No. 02 - 1723 - CD  
: :  
ALLSTATE INSURANCE COMPANY, :  
ALLSTATE INSURANCE COMPANY :  
SPECIAL INVESTIGATION UNIT, :  
STATE PUBLIC ADJUSTING COMPANY:  
and GREGORY R. BOEHM :  
:

**ORDER**

NOW, this 22<sup>nd</sup> day of July, 2003, this being the day and date set for argument into Preliminary Objections filed on behalf of Defendants above-named, to Plaintiffs' Complaint, it is the ORDER of this Court that ruling thereon shall be and is hereby continued to provide Plaintiffs the opportunity to depose Defendant Gregory R. Boehm upon the following conditions. Within twenty (20) days from date hereof Plaintiff shall submit to counsel for Defendants a list of specifically false information provided by Defendant Boehm to the Attorney General for Pennsylvania and the deposition to occur within thirty (30) days thereafter.

By the Court

President Judge

**FILED**

JUL 22 2003

William A. Shaw  
Prothonotary

**FILED**

cc Amy McIntyre  
cc Amy T. Cheung  
01-3961  
JUN 22 2003

cc  
William A. Shaw  
Prothonotary

CA

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
husband and wife,

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants

ISSUE:  
AMENDED PRELIMINARY  
OBJECTIONS TO PLAINTIFFS'  
AMENDED COMPLAINT

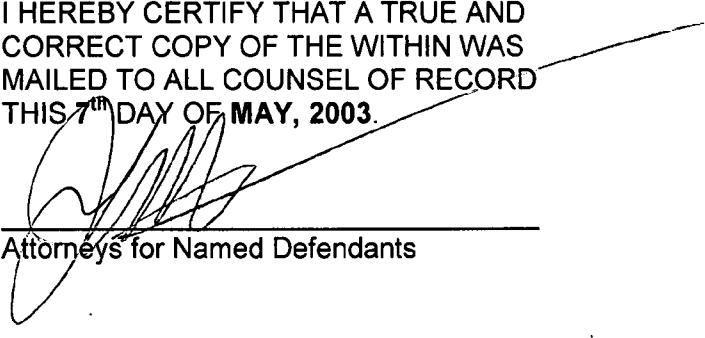
Filed on behalf of Defendants:  
ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
and GREGORY R. BOEHM

Counsel of Record:

John L. McIntyre, Esquire  
PA I.D. #28015  
McINTYRE, DUGAS, HARTYE &  
& SCHMITT  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

JURY TRIAL DEMANDED

I HEREBY CERTIFY THAT A TRUE AND  
CORRECT COPY OF THE WITHIN WAS  
MAILED TO ALL COUNSEL OF RECORD  
THIS 7<sup>th</sup> DAY OF MAY, 2003.

  
\_\_\_\_\_  
Attorneys for Named Defendants

**FILED**

MAY 08 2003

William A. Shaw  
Prothonotary

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

LINDA L. MOORE and SCOTT J. MOORE, : No. 2002 – 1723 CD  
husband and wife,

Plaintiffs

vs.

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATION UNIT,  
STATE PUBLIC ADJUSTING COMPANY,  
and GREGORY R. BOEHM,

Defendants

JURY TRIAL DEMANDED

**AMENDED PRELIMINARY OBJECTIONS TO PLAINTIFFS' AMENDED COMPLAINT**

AND NOW, come the Defendants, ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT, and  
GREGORY R. BOEHM, and file the following Amended Preliminary Objections to the  
plaintiffs' Amended Complaint and in support set forth the following:

**I. DEMURRER**

1. The plaintiffs' Amended Complaint fails to set forth a claim against  
Gregory R. Boehm, Allstate Insurance Company and Allstate Insurance Company  
Special Investigations Unit.
2. At all times, the arrest of Linda Moore occurred solely as a result of, with  
the authority of, and under the direction of the Attorney General's office of the  
Commonwealth of Pennsylvania. The Attorney General's office authorized said charges  
pursuant to 18 Pa. C.S.A. §4117(a)(2).

3. Probable cause existed. Probable cause was found by the Magistrate who handled this matter.

4. The case was bound over by the District Justice.

5. Judge Reilly in his Order of November 3, 2000, a copy of which is attached, denied the Motion of Linda L. Moore to quash the charges.

6. The Court in its opinion went on to state that there was a sufficient question of fact to require the matter to be submitted to a jury for determination.

7. The Court dismissed the matter on the basis that Linda Moore's actions were a "de minimis infraction".

8. Gregory Boehm, Allstate Insurance Company Special Investigations Unit, and Allstate Insurance Company do not have the ability to arrest individuals, issue warrants or approve charges for criminal prosecution. That duty lies with the District Attorney's office or Attorney General's office.

9. At all times, even as noted by Judge Reilly, probable cause existed. This is supported by the District Justice's holding the case over for Court, as well as the opinion of Judge Reilly.

10. The plaintiffs are attempting to claim that the charges against the wife-plaintiff were published in a local newspaper. None of the defendants had any involvement with regard to the publication of the charges and as such, any claims regarding injury or reputation should be dismissed, insofar as the plaintiffs' Amended Complaint does not set forth a valid cause of action against these Defendants, Gregory Boehm, Allstate Insurance Company Special Investigations Unit and Allstate Insurance Company.

11. Under the laws of the Commonwealth of Pennsylvania and the applicable case law, the finding of probable cause by the Magistrate and Judge Reilly, in not dismissing the claim on the merits, precludes the plaintiffs from setting forth a recognized and valid cause of action against any of these defendants.

12. On April 1, 2003, the Honorable John K. Reilly, Jr. entered an Order sustaining the defendants' Preliminary Objections and granting plaintiffs 20 days in which to file an Amended Complaint. Attached hereto and made a part hereof is a true and correct copy of his Order marked Exhibit "B". The only new information filed or added to the Amended Complaint is contained in paragraphs 7 and 8, which provide information about how the accident happened and when it happened.

13. In addition, the plaintiffs have added paragraphs 11, 12, 13, 14 and 15 to their Amended Complaint. These paragraphs provide no information as to what actions were taken at Allstate. They do provide additional information about the automobile accident and suggest that there was no reasonable basis, however, other than these non-specific allegations, add nothing to the plaintiffs' cause of action against these defendants.

In addition, the plaintiffs have added that information was provided which was incomplete and false in paragraph 26, without identifying what this information was. Again, an addition of non-specific factual averments.

WHEREFORE, the Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and GREGORY R. BOEHM, respectfully request that the plaintiffs' Amended Complaint be

dismissed with prejudice, insofar as it fails to set forth a recognized cause of action against any of these defendants.

**II. DEMURRER AS TO CLAIMS OF SCOTT J. MOORE**

14. In Count II of the plaintiffs' Amended Complaint, it is alleged that Scott J. Moore has suffered a loss of consortium; that his wife has incurred and may incur additional medical bills; and that he has suffered disruption of his daily habits and loss of enjoyment of life and great embarrassment.

15. The law in the Commonwealth of Pennsylvania does not recognize such causes of action for loss of consortium, incurring of medical bills and disruption of daily habits and pursuits, including a loss of enjoyment of life and great embarrassment, as a result of the actions complained of by Linda J. Moore.

16. Linda J. Moore did not sustain any personal injuries as a result of the conduct of any of the defendants and as such, there can be no claim for loss of consortium or the other items set forth on behalf of Scott J. Moore.

17. Scott J. Moore fails to set forth a cause of action against the named defendants, for alleged loss of consortium.

18. According to the case law in Pennsylvania, "a husband's claim for loss of consortium constitutes a separate and distinct cause of action, but recovery is predicated upon his spouse's having sustained physical injuries." Darr Construction Company vs. W.C.A.B. (Walker), 715 A.2d 1075 (Pa. 1998).

WHEREFORE, the Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and

GREGORY R. BOEHM, respectfully request that Scott J. Moore's claims be dismissed with prejudice.

**III. DEMURRER ON BEHALF OF ALLSTATE INSURANCE COMPANY AND ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT**

19. The plaintiffs' Amended Complaint sets forth a purported claim for punitive damages against Allstate Insurance Company, Allstate Insurance Company's Special Investigations Unit and Gregory R. Boehm.

20. Pennsylvania law does not recognize a cause of action for vicarious liability for punitive damages, or punitive damages based upon the lack of specificity or averments of malice, etc.

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23. The decision to charge the plaintiff under 18 Pa. C.S.A. §4117(a)(2) was made by the Attorney General's office, not Allstate Insurance Company.

24. Judge Reilly in his Court Order found that there was a question of fact and was allowing the case to proceed, but for his dismissal as "de minimis".

25. Under 18 Pa. C.S.A. §4117(f), Allstate and all of its agents, servants and employees are granted immunity.

26. Clearly, upon the face of the Complaint, which had previously been dismissed by this Court, the plaintiffs have not set forth any new information to permit a claim for punitive damages against Allstate Insurance Company, its agents, servants or employees.

WHEREFORE, the Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and GREGORY R. BOEHM, respectfully request that the claims for punitive damages be dismissed with prejudice and judgment entered in their favor.

#### **IV. MOTION TO DISMISS**

27. The plaintiffs contend that Linda Moore and her husband were injured as a result of the tortuous conduct of Gregory R. Boehm, Allstate Insurance Company Special Investigations Unit and Allstate Insurance Company.

28. According to the plaintiffs' Amended Complaint, she was involved in an automobile accident on May 7, 1998.

29. The actions of the defendants occurred subsequent to May 7, but prior to November 6, 2000, when Judge Reilly entered an Order finding that the prosecution could be dismissed as de minimis.

30. The statute of limitations for tortious conduct in the Commonwealth of Pennsylvania is two years under 42 Pa. C.S.A. §5524.

31. The within action was filed by Writ of Summons on November 4, 2002, more than two years after the actions complained of by any of the defendants.

32. The within actions are barred by the two-year statute of limitations and should be dismissed and stricken with prejudice.

## V. MOTION TO STRIKE/MOTION FOR MORE SPECIFIC PLEADING

33. The plaintiffs' Amended Complaint contains the following paragraphs:

21. That the charges against Wife Plaintiff were published in the local newspaper so that all of her friends, neighbors and business associates could read that she had been charged with the above-mentioned crime.
22. That as a result of the publication of the charges brought against her, Wife Plaintiff was questioned by numerous individuals who had read about her and she was forced to explain herself and to try to defend herself from this wrongful charge to her friends, neighbors and business associates.
26. Wife Plaintiff's injuries and damages were caused solely by the unlawful and malicious acts of Defendants in providing information to law enforcement officers that they knew to be incomplete and false.
27. By reason of the malicious, wanton and willful conduct of Defendants, Plaintiff demands punitive damages.

34. The plaintiffs fail to set forth that these defendants had a duty or any facts in support of how these defendants were responsible for the publication or what laws were violated with regard to the acts complained of by the plaintiffs.

35. These paragraphs constitute scandalous and impudent material.
36. The Defendants, Gregory R. Boehm, Allstate Insurance Company Special Investigations Unit and Allstate Insurance Company, challenge the effective service insofar as the same was not timely and appropriately accomplished.

37. Pursuant to the PA Rules of Civil Procedure, the plaintiffs' Amended Complaint should be dismissed as to some or all of these defendants, for failure to comply with the appropriate service rules.

38. In the alternative, in the event the Court does not dismiss the above Amended Complaint, then the plaintiffs should be required to plead with more specificity specifically what conduct on behalf of any of these defendants, was unlawful, what laws were violated and precisely when and where said actions occurred.

39. The plaintiffs' Amended Complaint is non-specific with regard to time, dates and places of action on behalf of any of the defendants, including but not limited to Gregory R. Boehm.

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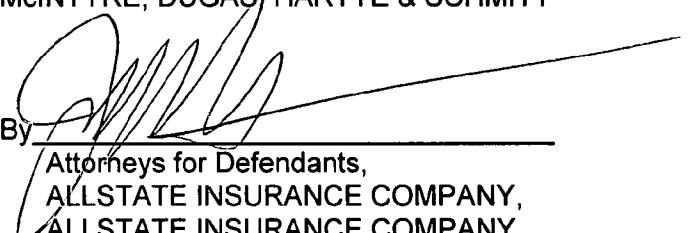
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42. These defendants will be severely prejudiced if the plaintiffs are not required to file a more specific Complaint regarding the allegations against all of the defendants.

WHEREFORE, the Defendants, ALLSTATE INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY SPECIAL INVESTIGATIONS UNIT and GREGORY R. BOEHM, respectfully request that the plaintiffs' Amended Complaint be dismissed or in the alternative, that the plaintiffs be required to file a more specific Complaint detailing as to when, how, why and where the unlawful violations occurred, as well as how the conduct of the defendants was willful, wanton or malicious. If the plaintiffs should fail to do this in their next Amended Complaint, the Court should dismiss the same with prejudice.

Respectfully submitted,

McINTYRE, DUGAS, HARTYE & SCHMITT

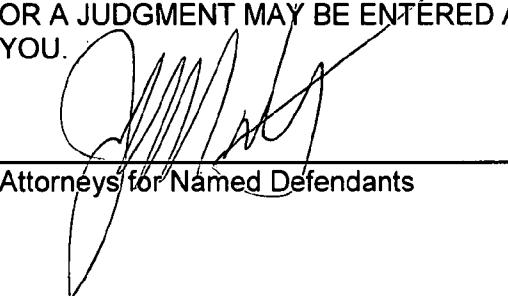
By 

Attorneys for Defendants,  
ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATIONS UNIT and  
GREGORY R. BOEHM

John L. McIntyre, Esquire  
PA I.D. #28015  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

**TO: PLAINTIFFS**

YOU ARE HEREBY NOTIFIED TO FILE  
A WRITTEN RESPONSE TO THE ENCLOSED  
**AMENDED PRELIMINARY OBJECTIONS** WITHIN  
**TWENTY (20) DAYS** FROM SERVICE HEREOF  
OR A JUDGMENT MAY BE ENTERED AGAINST  
YOU.

  
\_\_\_\_\_  
Attorneys for Named Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CRIMINAL ACTION

COMMONWEALTH OF PENNSYLVANIA:

-vs-

: No. 98-515-CRA

LINDA L. MOORE

OPINION AND ORDER

This matter comes before the court on an Omnibus Pre-Trial Motion filed on behalf of Defendant above-named. Trial in the matter is scheduled to commence on Tuesday, November 7, 2000. The Information alleges the offense of Insurance Fraud, specifically 18 Pa. C.S.A. 4117(a)(2). In the Omnibus Pre-Trial Motion, Defendant seeks to have this Court quash the Information and/or for a Writ of Habeas Corpus and second, to dismiss the proceedings based on the de minimis nature of the case. In support of her Motion to Quash, Defendant has presented to this Court a transcript of the testimony taken before the District Justice at the Preliminary Hearing. The Court has read and examined the transcript and mindful of the requirement that it be read in a light most favorable to the Commonwealth, does hereby deny Defendant's Motion to Quash. Clearly the testimony and evidence presented by the Commonwealth is extremely weak and the subsequent submissions by the Defendant make it highly unlikely that a conviction would ensue. Nevertheless, this Court is of the opinion that there is a sufficient question of fact to require the matter be submitted to a jury for determination.

However, this Court is satisfied that under 18 Pa. C.S.A. §312 the prosecution must be dismissed as de minimis. Under (a)(1) of said statute, this Court finds that the

Defendant's conduct was within a customary license or tolerance, neither expressly negative by the person whose interest was infringed nor inconsistent with the law defining the offense.

In addition, under (2) of said act, the conduct of the Defendant did not actually cause or threaten the harm sought to be prevented by the law defining the offense or did so only to an extent too trivial to warrant the condemnation of conviction.

This Court further notes that in this case no harm was done to any victim or to society and therefore, as set forth in Commonwealth v. Moses, 504 A.2d 330, 350 Pa. Super. 231 (1986) and Scurfield Coal Inc. v. Commonwealth, 582 A.2d 694, 136 Pa. Commonwealth 1 (1990) this Court finds that the above prosecution must be dismissed as a de minimis infraction and therefore enters the following:

O R D E R

NOW, this 3<sup>rd</sup> day of November, 2000, following argument into Defendant's Omnibus Pre-Trial Motion, it is the ORDER of this Court that said Motion be and is hereby granted to the extent that the above-captioned prosecution shall be and is hereby dismissed as a de minimis infraction.

By the Court,

/s/ John K. Reilly, Jr.

President Judge

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

NOV 6 2000

Attest:

  
William J. O'Boyle  
Prothonotary

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

LINDA L. MOORE and SCOTT J.  
MOORE, husband and wife

-VS-

No. 02 - 1723 - CD

ALLSTATE INSURANCE COMPANY,  
ALLSTATE INSURANCE COMPANY  
SPECIAL INVESTIGATIONS UNIT,  
STATE PUBLIC ADJUSTING  
COMPANY, and GREGORY R. BOEHM

ORDER

NOW, this 1<sup>st</sup> day of April, 2003, following argument and briefs into  
Preliminary Objections filed on behalf of Defendants above-named, it is the ORDER of this  
Court that said Objections be and are hereby sustained to the extent that Plaintiffs shall be and  
are hereby given twenty (20) days from date hereof to file an Amended Complaint.

By the Court,

/s/ JOHN K. REILLY, JR.

President Judge

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

APR 02 2003

Attest.

*W. E. O.*  
Prothonotary/  
Clerk of Courts

EXHIBIT "B"

**FILED**

NO  
cc

311700  
MAY 08 2003  
FBI

William A. Shaw  
Prothonotary

CA

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

LINDA L. MOORE and SCOTT J. :  
MOORE, husband and wife :  
:  
vs. : No. 02-1723-CD  
:  
ALLSTATE INSURANCE COMPANY, :  
ALLSTATE INSURANCE COMPANY ;  
SPECIAL INVESTIGATION UNIT, :  
STATE PUBLIC ADJUSTING :  
COMPANY and GREGORY R. :  
BOEHM :  
:

O R D E R

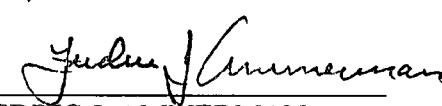
AND NOW, this 2/4/04 day of January, 2004, it is the ORDER of the  
Court that a status conference in the above matter has been scheduled for Friday,  
February 6, 2004 at 10:00 A.M., in Courtroom No. 1, Clearfield County Courthouse,  
Clearfield, PA.

FILED

JAN 21 2004

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk of Courts

  
FREDRIC J. AMMERMAN  
President Judge

FILED

1cc

01/02/2004

JAN 21 2004

Amys McIntyre, T. Cherry

822

William A. Shaw

Prothonotary/Clerk of Courts

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

LINDA L. MOORE and \*  
SCOTT MOORE, husband and wife, \*  
Plaintiffs \*  
\*  
vs. \* NO. 2002-1723-C.D.  
\*  
ALLSTATE INSURANCE COMPANY, \*  
ALLSTATE INSURANCE COMPANY \*  
SPECIAL INVESTIGATING UNIT, \*  
STATE PUBLIC ADJUSTING COMPANY \*  
and GREGORY R. BOEHM,  
Defendants \*

FILED

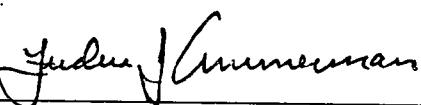
FEB 06 2004

William A. Shaw  
Prothonotary/Clerk of Courts

O R D E R

NOW, this 5<sup>th</sup> day of February, 2004, the Court noting that a Status Conference is scheduled for Friday, February 6, 2004; due to the forecasted inclement weather conditions which are to arrive in Clearfield County and surrounding areas sometime tonight, it is the ORDER of this Court that said Status Conference be and is hereby cancelled. Counsel for the parties shall have no more than twenty (20) days from the date of this Order to present the Court with a letter detailing the status of the above captioned action.

By the Court,

  
FREDRIC J. AMMERMAN

PRESIDENT JUDGE

FILED

01/11/00 7:41 AM  
FEB 06 2004

William A. Shaw  
Prothonotary/Clerk of Courts

2 certified copies to Toni M. Cherry, Esquire  
2 certified copies to John L. McIntyre, Esquire  
1 copy to Judge Ammerman  
1 copy to Court Administrator

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

LINDA L. MOORE and SCOTT J. :  
MOORE, husband and wife, :  
Plaintiffs :  
vs. : No. 02 - 1723 C.D.  
: :  
ALLSTATE INSURANCE COMPANY, :  
ALLSTATE INSURANCE COMPANY :  
SPECIAL INVESTIGATIONS UNIT, :  
STATE PUBLIC ADJUSTING :  
COMPANY, and GREGORY R. BOEHM, :  
Defendants :

**PRAECIPE TO MARK CASE WITHDRAWN**

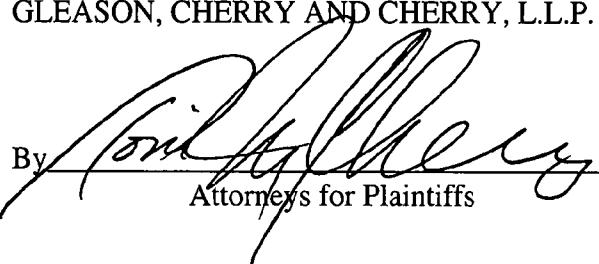
TO WILLIAM A. SHAW, PROTHONOTARY

Sir:

Please mark the above-captioned case withdrawn.

Respectfully submitted,

GLEASON, CHERRY AND CHERRY, L.L.P.

By   
Attorneys for Plaintiffs

Date: June 9, 2005

**FILED** acc  
m/10/28/05 Atty T. Cherry  
JUN 13 2005 copy to CJA  
William A. Shaw  
Prothonotary/Clerk of Courts

60

**FILED**

**JUN 13 2005**

William A. Shaw  
Prothonotary/Clerk of Courts