

02-1833-CD
JOANNE R. DUTTRY vs. MARTIN R. DUTTRY ETAL.

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

JOANNE R. DUTTRY, an
adult individual,
Plaintiff,

vs.

MARTIN R. DUTTRY, an adult
individual and CATHERINE A.
DUTTRY, an adult individual,
Defendants.

No. 02 -1833 - CD

Type of Pleading:

COMPLAINT

Filed on behalf of:
Plaintiffs

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

211 1/2 E. Locust Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED

18 11 12

VERNON J. NEW
CLERK

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

JOANNE R. DUTTRY, an *
adult individual, *
Plaintiff, *

vs. *

No. 02 - - CD

MARTIN R. DUTTRY, an adult *
individual and CATHERINE A. *
DUTTRY, an adult individual, *
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 Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

COURT ADMINISTRATOR
Clearfield County Courthouse
Market and Second Streets
Clearfield, PA 16830

(814) 765-2641, ext. 5982

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

JOANNE R. DUTTRY, an
adult individual,
Plaintiff,

vs.

MARTIN R. DUTTRY, an adult
individual and CATHERINE A.
DUTTRY, an adult individual,
Defendants.

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No. 02 - - CD

C O M P L A I N T

NOW COMES the Plaintiff, JOANNE R. DUTTRY, and by her attorney, James A. Naddeo, Esquire, sets forth the following:

1. That the Plaintiff is Joanne R. Duttry, an adult individual, who resides at 2797 Windy Hill Road, Curwensville, Pennsylvania 16833.

2. That Defendant is Martin R. Duttry, an adult individual, who resides at RD1 Box 17, Olanda, Pennsylvania 16863.

3. That Defendant is Catherine A. Duttry, an adult individual, who resides in Smokerun, Pennsylvania 16681.

4. Plaintiff and Defendants are the owners of certain real estate in Knox Township, Clearfield County, Pennsylvania, as described below, and all interests of the parties in the property are held as tenants in common and are undivided.

5. The parties acquired title to the property known as 13 acres 102.7 perches, more or less, and 10 acres, more or less, respectively, by Deed dated October 30, 1984, and recorded in the Office of the Recorder of Deeds of Clearfield County in Volume 979, Page 208, wherein said Pauline Amelia Lowell conveyed all those two parcels of land situate in the Township of Knox, Clearfield County, Pennsylvania, bound and described as follows:

THE FIRST THEREOF, beginning at a hemlock, thence by land of Jno. McCullough N 54° E 95 perches to white oak; thence N 40° W 18 perches to a post; thence by land of Margaret B. Lord S 60° W 97 perches to a hemlock; thence by land of Isabella McKee S 4° E 32 perches to place of beginning. CONTAINING: 13 acres 102.7 perches more or less.

THE SECOND THEREOF, beginning at a portion of Little Clearfield Creek; thence S 40° E 13 perches to a post; thence 60 1/2° S 50 perches more or less along land of James L. Soulsbey to a post; thence along land of Margaret B. Lord 40 perches more or less to post corner and Little Clearfield Creek; thence up Little Clearfield Creek along its different courses and distances 60 perches more or less to post on Little Clearfield Creek and place of beginning. CONTAINING: 10 acres more or less.

in the following proportions: one-third to Plaintiff and two-thirds to Defendants Martin R. Duttry and Catherine A. Duttry, as tenants by the entireties, under and subject to a certain mortgage of \$34,400.00, secured on the said property, dated March 10, 1997, and recorded in the Office of the Recorder of Deeds of Clearfield County in Mortgage Book 1825, Page 583.


6. No person other than the parties to this suit has any interest in the property which is presently in the possession of Defendant Martin R. Duttry.

7. No partition or division of the property has ever been made, although Plaintiff has requested the Defendants to join with her in making one as appears from the letter attached hereto as Exhibit "A".

WHEREFORE, Plaintiff demands that:

- (a) the Court decree partition of the real estate;
- (b) the share or shares to which the respective parties are entitled be set out to them in severalty and that all proper and necessary conveyances and assurances be executed for carrying such partition into effect; and that, if the real estate cannot be divided without prejudice to or spoiling the whole, such proper and necessary sale or sales of the same may be made by such persons and in such manner as the Court may direct;
- (c) such other and further relief be granted as the Court deems just and proper.

Respectfully submitted,


James A. Naddeo, Esquire
Attorney for Plaintiff

JAMES A. NADDEO
ATTORNEY AT LAW
211½ EAST LOCUST STREET
MARINO BUILDING
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

TELEPHONE
(814) 765-1601
TELECOPIER
(814) 765-8142

ASSOCIATE
LINDA C. LEWIS

October 24, 2002

Kimberly M. Kubista, Esquire
BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

Gary A. Knaresboro, Esquire
SOBEL, COLLINS & KNARESBORO
218 South Second Street
Clearfield, PA 16830

Re: Joanne Duttry - 23 +/- Acres
Knox Township, Clearfield County, PA

Dear Ms. Kubista and Mr. Knaresboro:

I have been consulted by Joanne Duttry concerning her interest in a 23 +/- acre parcel of land located in Knox Township, Clearfield County.

I am enclosing a copy of the Deed from Pauline Amelia Lowell to Martin Ray Duttry and Catherine Annett Duttry dated October 30, 1984, recorded in Volume 979, Page 208. I am also enclosing a copy of the later Deed from Martin and Catherine to Joanne Duttry.

It is my understanding that the subject property is part of the focus of domestic litigation between Martin Ray Duttry and Catherine Annett Duttry. My client would like to have the co-tenancy dissolved. I propose that we effect an amicable dissolution of the co-tenancy. I suggest that we have the property appraised by someone with whom all parties have a comfort level. I would then recommend that the property be placed on the market for the appraised value. When the property is sold, distribution of the proceeds would then be

Kimberly M. Kubista, Esquire
Gary A. Knaresboro, Esquire
October 24, 2002
Page 2

made in accordance with our clients' title (ownership) in the property. Specifically, I propose that when the property is sold, the net proceeds be split two-thirds (2/3) to your clients and one-third (1/3) to mine.

If your clients are unwilling to embrace this proposition, I have been instructed to file suit to partition the property. This suit will be filed by no later than fifteen (15) days from the date of this letter.

Sincerely,

James A. Naddeo

JAN/jlr

cc: Mrs. Joanne Duttry

COMMONWEALTH OF PENNSYLVANIA)

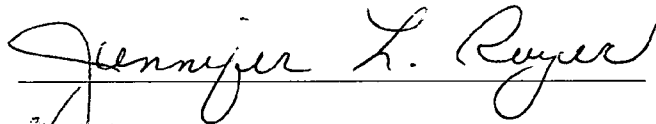
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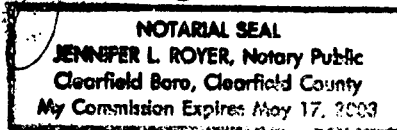
COUNTY OF CLEARFIELD)

Before me, the undersigned officer, personally appeared JOANNE R. DUTTRY who being duly sworn according to law, deposes and states that the facts set forth in the foregoing Complaint are true and correct to the best of her knowledge, information and belief.


Joanne R. Duttry

SWORN and SUBSCRIBED before me this 20th day of November, 2002.





JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

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C/3: 26 871
Atty Naddeo
pn 85.00

William A. Shaw
Præthorietary

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

JOANNE R. DUTTRY, an *
adult individual, *
Plaintiff, *

vs. *

No. 02 - 1833 - CD

MARTIN R. DUTTRY, an adult *
individual and CATHERINE A. *
DUTTRY, an adult individual, *
Defendants. *

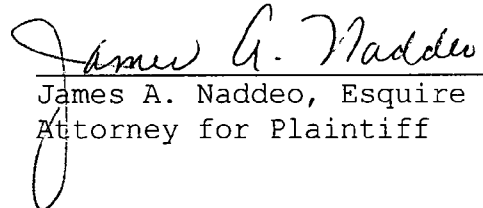
CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Notice of Default in the above-captioned action was served on the following persons and in the following manner on the 27th day of December, 2002:

First-Class Mail, Postage Prepaid

Martin R. Duttry
RD1 Box 17
Olanta, PA 16863

Catherine A. Duttry
Smokerun, PA 16681


James A. Naddeo, Esquire
Attorney for Plaintiff

JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

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Wm Naddeo

William A. Shaw
Prothonotary

William A. Shaw
Prothonotary

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

JOANNE R. DUTTRY, an
adult individual,
Plaintiff,

vs.

MARTIN R. DUTTRY, an adult
individual and CATHERINE A.
DUTTRY, an adult individual,
Defendants.

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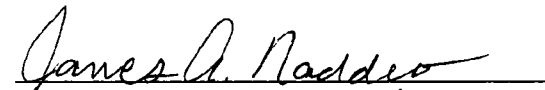
No. 02 - 1833 - CD

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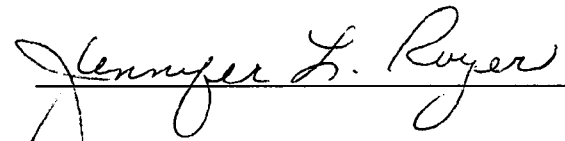
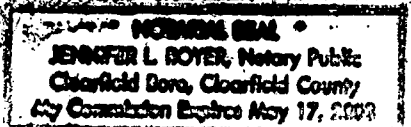
JAMES A. NADDEO, ESQUIRE, being duly sworn according to law, deposes and states that service was made on the following individuals by Regular U.S. Mail and by Certified Mail, return receipt requested as evidenced by Return Receipts attached hereto as follows:

Martin R. Duttry
RD1 Box 17
Olanta, PA 16863
January 17, 2003

Catherine A. Duttry
Smokerun, PA 16681
January 21, 2003


James A. Naddeo, Esquire

SWORN and SUBSCRIBED before me this 22nd day of January, 2003.

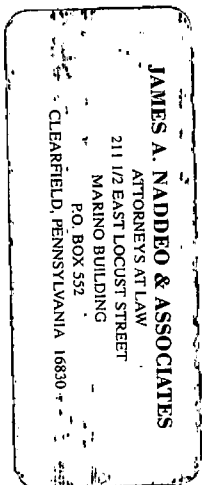



UNITED STATES POSTAL SERVICE

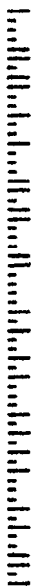


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •



03



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Catherine A. Duttry
Smokerun, PA 16681

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery
Catherine A. Duttry 1-21-03
C. Signature Catherine A. Duttry ☐ Agent ☐ Addressee
D. Is delivery address different from item 1? ☒ Yes ☐ No
If YES, enter delivery address below:

P.O. Box 115

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☒ Yes

2. Article Number (Copy from service label)

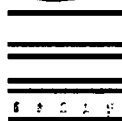
7099 3400 0016 7883 3464

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

UNITED STATES POSTAL SERVICE

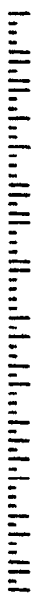


First-Class Mail
Postage & Fees Paid
USPS
Permit No: G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
MARINO BUILDING
PO. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

os



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Martin R. Duttry
RD1 Box 17
Olanta, PA 16863

COMPLETE THIS SECTION ON DELIVERY

- A. Signature *Martin R. Duttry* ☐ Agent ☒ Addressee
- B. Received by (Printed Name) Martin R. Duttry ☒ Date of Delivery 1-17-83
- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☒ Yes

2. Article Number

(Transfer from service label)

7099 3400 0016 7883 3471

PS Form 3811, August 2001

Domestic Return Receipt

102595-01-M-2509

JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

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William A. Shaw
Prothonotary

FILED
JAN 22 2003
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In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket #

13345

DUTTRY, JOANNE R.

02-1833-CD

VS.

DUTTRY, MARTIN R. & CATHERINE A.

COMPLAINT

SHERIFF RETURNS

NOW NOVEMBER 26, 2002 AT 3:47 PM EST SERVED THE WITHIN COMPLAINT
ON MARTIN R. DUTTRY, DEFENDANT AT SHERIFF'S OFFICE, MARKET ST.,
CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO
MARTN R. DUTTRY AND MAKING KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: RYEN

NOW DECEMBER 2, 2002 AT 1:48 PM EST SERVED THE WITHIN COMPLAINT
ON CATHERINE A. DUTTRY, DEFENDANT AT RESIDENCE, SMOKE RUN,
CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO CATHERINE A. DUTTRY
A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN
TO HER THE CONTENTS THEREOF.
SERVED BY: MCCLEARY/NEVLING

Return Costs

Cost	Description
55.27	SHFF. HAWKINS PAID BY: ATTY
20.00	SURCHARGE PAID BY: ATTY.

Sworn to Before Me This

29th Day Of Jan 2003
William A. Shaw

So Answers,

Chester A. Hawkins
Cy Mauler
Chester A. Hawkins
Sheriff

FILED

JAN 29 2003

0/2:08 p.m.
William A. Shaw
Prothonotary EAB

William A. Shaw
Prothonotary

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

JOANNE R. DUTTRY, an *
adult individual, *
Plaintiff, *

vs. *

No. 02 - 1833 - CD

MARTIN R. DUTTRY, an adult *
individual and CATHERINE A. *
DUTTRY, an adult individual, *
Defendants. *

ORDER DIRECTING PARTITION OF REAL
PROPERTY BECAUSE OF DEFAULT

AND NOW, this 13th day of January, 2003, upon
consideration of Plaintiff's motion for the entry of an order
directing partition because of Defendants' default and it
appearing that the Complaint has been duly served and that
Defendants failed to answer the Complaint within the time
allowed, it is hereby ORDERED that partition be made of the
lands mentioned and described in the Complaint among the named
parties in proportion to their respective interests, as follows:

To Joanne R. Duttry, one-third share;

To Martin R. Duttry and Catherine A. Duttry,
two-thirds share.

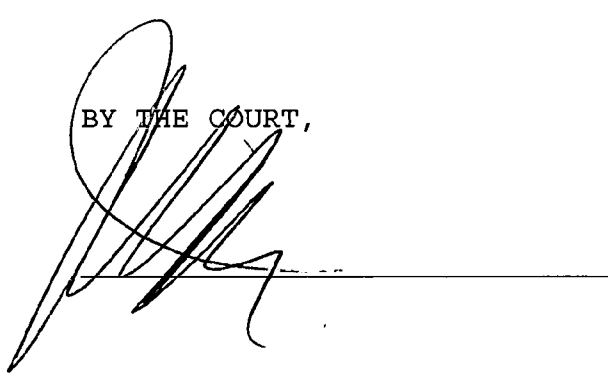
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JAN 14 2003

William A. Shaw
Prothonotary

The parties or their attorneys are directed to appear for a preliminary conference on the 1 day of February, 2003, at 2:30 p.m. to consider the matters set forth in Rule 1558.

BY THE COURT,



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0/11:10 ~~8H~~ *Atty Maddes*
JAN 14 2003

William A. Shaw
Prothonotary

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

JOANNE R. DUTTRY, an *
adult individual, *
Plaintiff, *

vs. * No. 02 - 1833 - CD

MARTIN R. DUTTRY, an adult *
individual and CATHERINE A. *
DUTTRY, an adult individual, *
Defendants. *

MOTION FOR ORDER DIRECTING
PARTITION OF REAL ESTATE

NOW COMES James A. Naddeo, Esquire, attorney for
Plaintiff in the above-captioned action, and moves the Court as
follows:

1. That Plaintiff filed a Complaint seeking partition
of real property on November 2, 2002.

2. That Defendant, Martin R. Duttry, was properly
served with Plaintiff's Complaint on November 26, 2002.

3. That Defendant, Catherine A. Duttry, was properly
served with Plaintiff's Complaint on December 2, 2002.

4. That neither Defendant filed an Answer to
Plaintiff's Complaint within twenty (20) days as required by the
Pennsylvania Rules of Civil Procedure.

5. That Defendant, Martin R. Duttry, was properly
served with Notice of Default on December 27, 2002.

6. That Defendant, Catherine A. Duttry, was properly served with Notice of Default on December 27, 2002.

7. That neither Defendant has caused an Answer to be filed to Plaintiff's Complaint seeking partition of real property.

8. That no attorney has appeared of record on behalf of either Defendant.

WHEREFORE, counsel for Plaintiff moves your Honorable court to enter the Order attached to this Motion.

Respectfully submitted,

A handwritten signature in cursive script, reading "James A. Naddeo". The signature is written in dark ink and is positioned above a horizontal line.

James A. Naddeo, Esquire
Attorney for Plaintiff

JAMES A. NADDEO
ATTORNEY AT LAW
211 1/2 EAST LOCUST STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

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FILED

8/10/46
JAN 09 2013

2 CC
Amy Naddo
JAN 09 2013

Wm. A. Shaw
Prothonotary

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

JOANNE R. DUTTRY, an adult
individual

-vs-

No. 02 – 1833 – CD

MARTIN R. DUTTRY, an adult
individual and CATHERINE A. DUTTRY,
an adult individual

ORDER

NOW, this 18th day of February, 2003, following conference into the above-captioned action in partition, upon agreement of the parties, it is the ORDER of this Court that the subject premises shall be listed with Amon, Mitchell & Walsh, Realtors, for purpose of sale.

By the Court,

President Judge

FILED

FEB 20 2003

William A. Shaw
Prothonotary

FILED

012:38 PM
FEB 20 2003

William A. Shaw
Prothonotary

1cc Atty Maddeo

1cc Def M. Buttry

RD1, Box 17

Olanta, PA 16803

1cc Def. C. Buttry

PO Box 105
Smoketown, PA 16801

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

JOANNE R. DUTTRY, an adult	:	
individual	:	
	:	
vs.	:	No. 02-1833-CD
	:	
MARTIN R. DUTTRY, an adult	:	
individual and CATHERINE A.	:	
DUTTRY, an adult individual	:	

ORDER

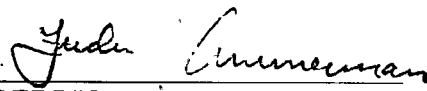
AND NOW, this 21st day of January, 2004, it is the ORDER of the Court that a status conference in the above matter has been scheduled for **Thursday, February 12, 2004 at 10:00 A.M.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

FILED

JAN 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

William A. Shaw
Prothonotary/Clerk of Courts

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JAN 21 2004
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Amy Nadeo, Knaresboro, Kabisita

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

JOANNE R. DUTTRY, an adult
individual,
Plaintiff

vs.

MARTIN R. DUTTRY, an adult
individual and CATHERINE A.
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Defendants

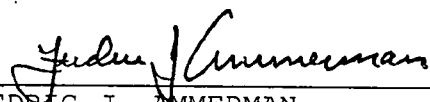
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No. 2002-1833-C.D.

O R D E R

NOW, this 11th day of February, 2004, the Court noting that a Status Conference is scheduled for Thursday, February 12, 2004; 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

FEB 11 2004

William A. Shaw
Prothonotary

FILED

6 10:08 BA

FEB 11 2004

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JEP

William A. Shaw
Prothonotary

- 2 certified copies to James A. Naddeo, Esquire
- 2 certified copies to Gary A. Knaresboro, Esquire
- 2 certified copies to Kimberly M. Kubista, Esquire

- 1 copy to Judge Ammerman
- 1 copy to Court Administrator

2101

William A. Shaw
Prothonotary, Clerk of Courts

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

JOANNE R. DUTTRY, an *
adult individual, *
Plaintiff, *

vs. *

No. 02 - 1833 - CD

MARTIN R. DUTTRY, an adult *
individual and CATHERINE A. *
DUTTRY, an adult individual, *
Defendants. *

PRAECIPE TO SETTLE AND DISCONTINUE

To the Prothonotary:

Please mark the above-captioned case settled and
discontinued.



James A. Naddeo, Esquire
Attorney for Plaintiffs

JAMES A. NADDEO
ATTORNEY AT LAW
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

FILED No CC
MAR 01 2004
William A. Shaw
Prothonotary/Clerk of Courts
Cert. of Disc.
to Atty Naddeo
Copy to CIA

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Joanne R. Duttry, an adult individual

Vs.

No. 2002-01833-CD

**Martin R. Duttry, an adult
individual and Catherine A. Duttry,
an individual**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County
and Commonwealth aforesaid do hereby certify that the above case was on March 1,
2004, marked:

Settled and Discontinued

Record costs in the sum of \$160.27 have been paid in full by James A. Naddeo, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at
Clearfield, Clearfield County, Pennsylvania this 1st day of March A.D. 2004.

William A. Shaw, Prothonotary