

03-1567-CD  
MARIETTA E. JONES vs. BARBARA HUGNEY-SHOPE, et al.

Date: 03/30/2006

Time: 02:08 PM

Page 1 of 1

**Clearfield County Court of Common Pleas**

User: LBENDER

ROA Report

Case: 2003-01567-CD

Current Judge: Fredric Joseph Ammerman

Marietta E. Jones vs. Barbara J. Hugney-Shope, Dorothy Gearhart Estate

Civil Other

Date	Judge	
10/17/2003	/ Filing: Writ of Summons Paid by: Sughrue, John (attorney for Jones, Marietta E.) Receipt number: 1867755 Dated: 10/17/2003 Amount: \$85.00 (Check) 3 CC to Atty. 3 Writs to Shff.	No Judge
10/21/2003	/ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
03/08/2005	/ Praeclipe For Appearance, on behalf of Def. Barbara Hugney-Shope, filed by s/ Louis C. Schmitt, Jr., Esquire. No CC	No Judge
	/ Praeclipe For Rule To File Complaint, filed by s/ Louis C. Schmitt, Jr., Esquire. No CC, Rule to Atty Schmitt	No Judge
03/10/2005	/ Certificate of Service, Filed by Atty. Schmitt, Jr. no cert. copies. Served copy of Rule upon Atty. Sughrue.	No Judge
03/28/2005	/ Complaint, filed by Atty. Sughrue 2 Cert. to ATty.	No Judge
04/12/2005	/ Preliminary Objections, filed by s/Louis C. Schmitt, Jr., Esq. No CC	No Judge
	/ Praeclipe for Argument List, filed by s/Louis C. Schmitt, Jr., Esq. No CC	No Judge
05/09/2005	/ Order, AND NOW this 5th day of May, 2005, argument scheduled for the 2nd day of June, 2005, at 9:30 A.M., By the Court, Fredric J. Ammerman, 2CC Atty Schmitt w/Service Memo	Fredric Joseph Ammerman
05/17/2005	/ Consent Order, AND NOW, this 16th day of May, 2005, upon consideration of the Preliminary Objections filed on behalf of Defendant, and as consented to by counsel for all parties, it is hereby ORDERED that subparagraphs (O), (P), and (Q) of Paragraph 10 of plaintiff's Complaint are stricken BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 2CC Atty: Sughrue, Schmitt	Fredric Joseph Ammerman
05/18/2005	/ Affidavit of Service, Order served upon John Sughrue, Esq. Filed By Louis Fredric Joseph Ammerman C. Schmitt, Jr. Esq. No CC	
05/26/2005	/ Answer and New Matter filed. By s/ Louis C. Schmitt, Jr., Esquire. No CC	Fredric Joseph Ammerman
05/31/2005	/ Notice of Interrogatories and Request for Production of Documents Directed to Plaintiff, filed by s/ Louis C. Schmitt, Jr., Esquire. No CC	Fredric Joseph Ammerman
02/06/2006	/ Praeclipe for Argument List filed. Filed by s/ Louis C. Schmitt, Jr. Esquire	Fredric Joseph Ammerman
	/ Motion To Enforce Settlement, filed by s/ Louis C. Schmitt, Jr., Esquire. No CC	Fredric Joseph Ammerman
02/13/2006	/ Rule Returnable, NOW, this 10th day of Feb., 2006, a Rule is granted. Rule returnable the 4th of April, 2006, at 1:30 p.m. in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Judge. 1CC Atty. Schmitt	Fredric Joseph Ammerman

Date: 7/28/2005  
Time: 12:31 PM  
Page 17 of 17

**Clearfield County Court of Common Pleas**  
**Open Bond Report**  
**CT COMMON PLEAS, Prothonotary CT Location Only**  
**Case Type: CR Case Subtype: CR**  
**From 1/1/2000 to 7/28/2005**  
**Surety Bonds Only**

User: BILLSHAW

**Surety Bonds**

Entry Date	Bond Amount	Other						Forfeited	Open
		Received	Converted	Converted	Exonerated	Percent	Fee		
5/31/2005	10000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	10000.00
	2005-0000485-CR			Party: Brownlow, Jeremy A.					
				Bonding Company: Sun Surety Insurance Co. - Gilliland, Joseph K., SUN					
6/1/2005	1000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1000.00
	2005-0000314-CR			Party: Henry, Timothy Apayne					
				Bonding Company: Bankers Insurance Company - Thomas, Frank M., Banker					
6/1/2005	1000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1000.00
	2005-0000315-CR			Party: Henry, Timothy Apayne					
				Bonding Company: Bankers Insurance Company - Thomas, Frank M., Banker					
6/1/2005	1000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1000.00
	2005-0000316-CR			Party: Henry, Timothy Apayne					
				Bonding Company: Bankers Insurance Company - Thomas, Frank M., Banker					
6/29/2005	10000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	10000.00
	2005-0000469-CR			Party: Mccartney, Tina Lee					
				Bonding Company: Bankers Insurance Company - Thomas, Frank M., Banker					
7/14/2005	1000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1000.00
	2005-0000655-CR			Party: Bloom, Paul Edward					
				Bonding Company: Bankers Insurance Company - Thomas, Frank M., Banker					
7/14/2005	1000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1000.00
	2005-0000656-CR			Party: Bloom, Paul Edward					
				Bonding Company: Bankers Insurance Company - Thomas, Frank M., Banker					
7/14/2005	1000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1000.00
	2005-0000657-CR			Party: Bloom, Paul Edward					
				Bonding Company: Bankers Insurance Company - Thomas, Frank M., Banker					
7/21/2005	1000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1000.00
	2005-0000689-CR			Party: Pearce, Barry Mac					
				Bonding Company: Bankers Insurance Company - Thomas, Frank M., Banker					
<b>200 Surety Bonds</b>									
	<b>2757000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>2757000.00</b>	
<b>200 Total Bonds</b>									
	<b>2757000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>2757000.00</b>	

Date: 04/05/2006

Time: 08:53 AM

Page 1 of 1

**Clearfield County Court of Common Pleas**

ROA Report

Case: 2003-01567-CD

User: LMILLER

Current Judge: Fredric Joseph Ammerman

Marietta E. Jones vs. Barbara J. Hugney-Shope, Dorothy Gearhart Estate

Civil Other

Date	Selected Items	Judge
04/03/2006	Plaintiff's Answer to Defendant's Motion to Enforce Settlement, filed by s/ Fredric Joseph Ammerman John Sughrue Esq. 1 CC Sughrue.	
04/04/2006 no cert. filed as of 4-5-06	Praeclipe to Withdraw Motion to Enforce Settlement, filed by Atty. Schmitt, Fredric Joseph Ammerman Jr. no cert. copies.	

7-17-06 Praeclipe for Argument

7-17-06 Amended Motion to Enforce Settlement

7-21-06 Order, dated 7-20-06

8-30-06 Plffs Answer to defts Amoud Motion to Enforce Settlement

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

MARIETTA E. JONES,

Plaintiff

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR, OF THE ESTATE  
OF DOROTHY GEARHART, a/k/a  
DOROTHY E. GEARHART, deceased,  
Late of BRADY TOWNSHIP,

Defendant

\*

\*

\*

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No. 03- 15107 -C.D.

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Civil Action: At Law

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Type of Case: Personal Injury/

\*

Property Damage

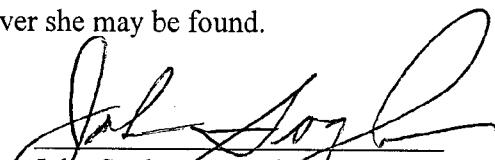
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\*

**PRAECIPE FOR WRIT OF SUMMONS**

TO: WILLIAM A. SHAW, PROTHONOTARY.

Kindly issue a Writ of Summons in a civil action in the above-captioned matter directed to Barbara Hugney-Shope, Administrator of the Dorothy Gearhart Estate, Defendant. The amount in controversy is in excess of \$20,000. Certify the Writ of Summons to the Sheriff of Clearfield County with directions to serve the same on Defendant at the Clearfield County Courthouse, where service will be accepted by the Defendant, or at her business address, 23 North Second Street, Clearfield, Pennsylvania, or wherever she may be found.



John Sughrue, Esquire  
Attorney for Plaintiff

Attorney I. D. #01037  
23 North Second Street  
Clearfield, PA 16830  
Phone: (814) 765-1704  
Fax: (814) 765-6959

FILED

OCT 17 2003

cc: Chester A. Hawkins, Sheriff

William A. Shaw  
Prothonotary/Clerk of Courts

FILED *Atty Sughrue*  
Aug 15, 2003  
06 17 2003  
pd. 85.00  
William A. Shaw 3 Summons to *Shaw*  
Prothonotary/Clerk of Courts 3 cc *Atty*

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

**SUMMONS**

**Marietta E. Jones**

**Vs.**

**NO.: 2003-01567-CD**

**Barbara J. Hugney-Shope, Administrator,  
of the Estate of Dorothy Gearhart, a/k/a  
Dorothy E. Gearhart, deceased,  
Late of Brady Township**

**TO: BARBARA J. HUGNEY-SHOPE  
ESTATE OF DOROTHY GEARHART, a/k/a DOROTHY E. GEARHART**

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: 10/17/2003

---

William A. Shaw  
Prothonotary

Issuing Attorney:

John Sughrue  
23 North Second Street  
Clearfield, PA 16830

In The Court of Common Pleas of Clearfield County, Pennsylvania

JONES, MARIETTA E.

VS.

HUGNEY-SHOPE, BARBARA J. ADM. OF THE ESTATE OF DOROTHY GEA

SUMMONS

Sheriff Docket # 14681

03-1567-CD

**SHERIFF RETURNS**

NOW OCTOBER 17, 2003 AT 2:28 PM SERVED THE WITHIN SUMMONS ON BARBARA J. HUGNEY-SHOPE ADM. OF ESTATE OF DOROTHY GEARHART a/k/a DOROTHY E. GEARHART, DECEASED, DEFENDANT AT SHERIFF'S OFFICE, MARKET ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO BARBARA J. HUGNEY-SHOPE A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: SNYDER

---

Return Costs

Cost	Description
20.37	SHERIFF HAWKINS PAID BY: ATTY
10.00	SURCHARGE PAID BY: ATTY

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Sworn to Before Me This

21st Day Of Oct 2003  
William A. Shaw

So Answers,

*Chester A. Hawkins  
by Mailey Harr*  
Chester A. Hawkins  
Sheriff

**FILED**

OCT 21 2003

William A. Shaw  
Prothonotary

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

COPY

**SUMMONS**

**Marietta E. Jones**

**Vs.**

**NO.: 2003-01567-CD**

**Barbara J. Hugney-Shope, Administrator,  
of the Estate of Dorothy Gearhart, a/k/a  
Dorothy E. Gearhart, deceased,  
Late of Brady Township**

**TO: BARBARA J. HUGNEY-SHOPE  
ESTATE OF DOROTHY GEARHART, a/k/a DOROTHY E. GEARHART**

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: 10/17/2003

  
\_\_\_\_\_  
William A. Shaw  
Prothonotary

Issuing Attorney:

John Sughrue  
23 North Second Street  
Clearfield, PA 16830

**COPY**

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

**SUMMONS**

**Marietta E. Jones**

**Vs.**

**NO.: 2003-01567-CD**

**Barbara J. Hugney-Shope, Administrator,  
of the Estate of Dorothy Gearhart, a/k/a  
Dorothy E. Gearhart, deceased,  
Late of Brady Township**

**TO: BARBARA J. HUGNEY-SHOPE  
ESTATE OF DOROTHY GEARHART, a/k/a DOROTHY E. GEARHART**

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: 10/17/2003

  
\_\_\_\_\_  
William A. Shaw  
Prothonotary

Issuing Attorney:

John Sughrue  
23 North Second Street  
Clearfield, PA 16830

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

VS.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant.

ISSUE:

PRAECIPE FOR APPEARANCE

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR DEFENDANT:

McINTYRE, DUGAS, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 7<sup>th</sup> DAY OF  
MARCH, 2005.

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

FILED <sup>No</sup>  
*3/11/05* cc  
MAR 08 2005 GS

William A. Shaw  
Prothonotary/Clerk of Courts

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

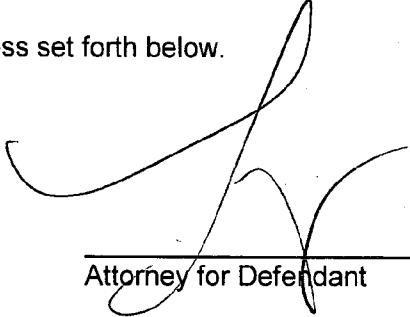
Defendant.

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Enter my Appearance on behalf of Defendant Barbara Hugney-Shope, Administrator of  
the Estate of Dorothy Gearhart.

Papers may be served at the address set forth below.

  
\_\_\_\_\_  
Attorney for Defendant

McINTYRE, DUGAS, HARTYE & SCHMITT  
Louis C. Schmitt, Jr., Esquire  
PA I.D.#52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
PH: (814) 696-3581  
FAX: (814) 696-9399

Date: March 7, 2005

**FILED**

**MAR 08 2005**

William A. Shaw,  
Prothonotary/Clerk of Courts

1000 10th Street, Suite 1000  
Washington, D.C. 20004-1000

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

MARIETTA JONES

Plaintiff,

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant.

NO. 03-1567 CD

ISSUE:

PRAECIPE FOR RULE TO FILE COMPLAINT

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR DEFENDANT:

McINTYRE, DUGAS, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 7<sup>th</sup> DAY OF  
MARCH, 2005.

Atorneys for Named Defendant

FILED NO cc  
M 11/00/05 Rule to  
MAR 08 2005 Atty Schmitt  
William A. Shaw  
Prothonotary/Clerk of Courts

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant.

PRAECIPE FOR RULE TO FILE COMPLAINT

TO: PROTHONOTARY

Please enter a Rule upon the Plaintiff, Marietta Jones, Individually to file a  
Complaint in the above-captioned matter within twenty (20) days from service of said  
Rule.

McINTYRE, DUGAS, HARTYE & SCHMITT

By \_\_\_\_\_  
Attorneys for Defendant

Louis C. Schmitt, Jr., Esquire  
PA I.D. #52459  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

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

COPY

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant.

RULE TO FILE COMPLAINT

AND NOW, this 8<sup>th</sup> day of March, 2005, Rule is entered on the  
Plaintiff to file a Complaint.

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Prothonotary

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant.

ISSUE: **Certificate of Service of Rule  
to File Complaint**

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR DEFENDANT:

McINTYRE, DUGAS, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 9<sup>th</sup> DAY OF  
MARCH, 2005

\_\_\_\_\_  
Atorneys for Named Defendant

①  
FILED  
m/10/2005  
MAR 10 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

MARIETTA JONES

Plaintiff, : NO. 03-1567 CD

vs. : JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant.

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

TO: PROTHONOTARY

You are hereby notified that on the 9<sup>th</sup> day of March, 2005, Defendant, Barbara Hugney-Shope, Administrator of the Estate of Dorothy Gearhart, served a RULE upon the Plaintiff, by mailing the original of same via First Class Mail, postage prepaid, addressed to Plaintiff's counsel:

John Sughrue, Esquire  
23 North Second Street  
Clearfield, PA 16830

McINTYRE, DUGAS, HARTYE & SCHMITT

Attorneys for Defendant

Louis C. Schmitt, Jr., Esquire  
PA I.D. #52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant.

ISSUE:

PRAECIPE FOR RULE TO FILE COMPLAINT

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR DEFENDANT:

McINTYRE, DUGAS, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 7<sup>th</sup> DAY OF  
MARCH, 2005.

*Louis C. Schmitt, Jr.*

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

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant.

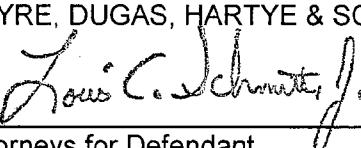
PRAECIPE FOR RULE TO FILE COMPLAINT

TO: PROTHONOTARY

Please enter a Rule upon the Plaintiff, Marietta Jones, Individually to file a  
Complaint in the above-captioned matter within twenty (20) days from service of said  
Rule.

McINTYRE, DUGAS, HARTYE & SCHMITT

By

  
Attorneys for Defendant

Louis C. Schmitt, Jr., Esquire  
PA I.D. #52459  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

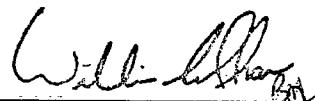
JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant.

RULE TO FILE COMPLAINT

AND NOW, this 8<sup>th</sup> day of March, 2005, Rule is entered on the  
Plaintiff to file a Complaint.



Prothonotary

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

MARIETTA E. JONES,  
Plaintiff,

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township,

Defendant.

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\* NO: 2003-1567-CD  
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\*

\* Type of Case: Civil/Automobile

\*  
\*  
\* Type of Pleading: Complaint

\* Filed on Behalf of: Plaintiff

\* **Counsel of Record for this Party:**

\* John Sughrue  
\* Attorney at Law  
\* Attorney I. D. No. 01037  
\* 23 North Second Street  
\* Clearfield, PA 16830  
\* Phone: (814) 765-1704  
\* Fax: (814) 765-6959  
\*

\* **Other Counsel of Record:**

\* Louis C. Schmitt, Jr., Esquire  
\* McIntrye, Dugas, Hartye & Schmitt  
\* PA ID #52459  
\* P.O. Box 533  
\* Hollidaysburg, PA 16648-0533  
\* Phone: (814) 696-3581  
\* Fax: (814) 696-9399  
\*

O 2:50 6K  
FILED  
MAR 28 2005  
2 cc Atty

William A. Shaw  
Prothonotary

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

MARIETTA E. JONES,

Plaintiff

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\*

\*

vs.

No. 03-1567-C.D.

\*

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Civil Action: At Law

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\*

Type of Case: Personal Injury/Automobile

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\*

\*

Defendant

\*

\*

**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(s). 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 HELP.**

Court Administrator's Office  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, PA 16830  
(814) 765-2641, Extension 32

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

MARIETTA E. JONES,

Plaintiff

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR, OF THE ESTATE  
OF DOROTHY GEARHART, a/k/a  
DOROTHY E. GEARHART, deceased,  
Late of BRADY TOWNSHIP,

Defendant

\*

\*

\*

\*

No. 03-1567-C.D.

\*

Civil Action: At Law

\*

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Type of Case: Personal Injury/Automobile

\*

\*

\*

\*

**COMPLAINT**

AND NOW, comes Marietta E. Jones, Plaintiff, by her attorney, John Sughrue, and files this Complaint in a civil action against the above-named Defendant, upon causes of action, whereof the following are statements:

1. The Plaintiff, MARIETTA E. JONES, is an adult individual presently residing at 161 Alberts Lane, Bradford Township, Clearfield County, Pennsylvania, with a mailing address of P.O. Box 212, Woodland, PA 16881.

2. The Defendant, Barbara J. Hugney-Shope, Esquire, Administrator of the Estate of Dorothy Gearhart is an adult individual who maintains her business office at 23 North Second Street, Clearfield PA 16830, and who was appointed Administrator of the Estate of Dorothy Gearhart by Decree of the Register of Wills of Clearfield County, Pennsylvania dated October 13, 2003, at Estate No. 2003-489, all of which more fully appears of record and is incorporated herein by reference.

3. The Decedent, Dorothy Gearhart a/k/a Dorothy E. Gearhart, was, at all times pertinent hereto, an adult individual who resided at 54 West Long Avenue, DuBois, PA 15801. The Decedent died March 10, 2003.

4. The events and conduct complained of herein occurred on or about Saturday, October 20, 2001, at or about 2:45 p.m. at a point on S.R. 4014, approximately .20 miles West of the Route 322 intersection in the Village of Rockton, Union Township, Clearfield County, Pennsylvania.

5. At said time and place, there existed in said locality a public roadway known as S.R. 4014, improved with an asphalt or concrete surface, which extended generally in an East-West direction between the Village of Rockton and the City of DuBois and consisted of two traffic lanes, one lane for westbound traffic and one lane for eastbound traffic.

6. At said time and place, and at all times pertinent hereto, the Decedent was operating a blue 1994 Oldsmobile Achieva motor vehicle owned by Decedent on said roadway and was traveling in an easterly direction.

7. At said time and place, and at all times pertinent hereto, the Plaintiff was operating a 2001 Ford motor vehicle owned by Plaintiff on said roadway and was traveling in a westerly direction.

8. At said time and place, the Decedent operated her vehicle in such a negligent, reckless and careless manner as to cause or permit the vehicle to depart from the proper lane reserved for east bound vehicles and cross into and through the westbound lane of S.R. 4014 in front Plaintiff's vehicle.

9. As a result of decedent's operation of her vehicle, as aforesaid, Plaintiff was forced or required to steer her vehicle in a northerly direction off of the roadway in order to avoid a direct

collision with Decedent's vehicle and ultimately to strike a tree, thereby causing Plaintiff to sustain serious and possibly permanent injuries and damages as hereinafter more fully set forth.

10. The injuries and damages sustained by the Plaintiff, as hereinafter set forth, were caused by and were the direct and proximate result of the negligence and carelessness of the Decedent generally, and in the following particulars:

- A) In failing to keep her vehicle in the proper eastbound lane;
- B) In causing or permitting her motor vehicle to travel across the center line and into the westbound lane occupied by Plaintiff's vehicle;
- C) In making a left turn in front of Plaintiff's vehicle suddenly, without a turn signal or other warning signal when she knew or by the exercise of reasonable care should have known that she did not have the time and distance to make such left turn;
- D) To operate her vehicle as set forth in foregoing subparagraph when she knew or by the exercise of reasonable care should have known that she was not giving the Plaintiff sufficient time and distance to safely slow or stop her vehicle;
- E) In operating her motor vehicle, as aforesaid, in Plaintiff's lane of travel and toward Plaintiff's vehicle when she knew or by the exercise of reasonable care should have known that she would create an emergency and force Plaintiff to take dangerous, evasive action;
- F) In failing to yield to Plaintiff the right-of-way reserved for her vehicle;
- G) In failing to allow Plaintiff's vehicle to pass her prior to making the aforesaid left-hand turn;
- H) In failing to have her vehicle under proper control;

- I) In failing to maintain a proper lookout;
- J) In failing to stop her vehicle within the assured cleared distance ahead when the Decedent knew or by the exercise of reasonable care should have known that to proceed would result in a collision;
- K) In failing to slow her vehicle when the Decedent knew or by the exercise of reasonable care should have known that to proceed would result in a collision;
- L) In failing to abate her speed or stop her vehicle when the Decedent knew or by the exercise of reasonable care should have known that to proceed would result in a collision;
- M) In failing to slow or turn her vehicle in avoidance when the Decedent knew or by the exercise of reasonable care should have known that she was making a left turn into the path of Plaintiff's vehicle;
- N) In failing to take other evasive action in order to avoid a collision with the Plaintiff's vehicle when the Decedent entered the westbound lane;
- O) In failing to comply with the rules of the road regulating traffic as more fully set forth in Pennsylvania statutes and codes all of which is incorporated herein by reference;
- P) In operating her vehicle without due regard for the rights, safety and position of the Plaintiff; and
- Q) In otherwise failing to exercise that regard and due care for the rights and safety of the Plaintiff required of the Decedent under the law and under the circumstances then and there existing.

11. As a direct and proximate result of the Decedent's negligence as aforesaid, the Plaintiff sustained the following severe and possibly permanent injuries:

- A) Comminuted displaced fracture of the right patella and probable fracture right lateral tibial plateau;
- B) Left hip: comminuted acetabular fracture extending into the ischial tuberosity;
- C) Severe comminuted fracture of right os calcis;
- D) Fracture of lateral aspect of the talus right;
- E) Nondisplaced fracture medial femoral condyle of right knee;
- F) Moderate sprain of lateral collateral ligament of right ankle;
- G) Fracture of the sternum;
- H) Fracture of sixth and seventh right ribs;
- I) Multiple sprains, injury and damage to the muscle tissues and ligaments about the body, including chest wall, left hip, right ankle, right knee;
- J) Bruises and contusions to the tissue of her body;
- K) Other serious injury.

12. The Decedent's negligence and Plaintiff's injuries resulting therefrom, as aforesaid, are the direct and legal cause of the Plaintiff incurring the following damages:

- A) She has in the past and may in the future be required to spend sums of money for medical and surgical services, hospitalization, medical supplies, appliances, medicines, drugs, transportation, lodging and other services and merchandise related to her medical treatment and pursuit of a cure;

B) She was temporarily fully disabled and unable to work at her regular job as a Licensed Practical Nurse at the DuBois Regional Medical Center, thereby resulting in the loss of income;

C) She has in the past and will continue in the future to permanently endure great pain and suffering;

D) The strength and flexibility of her right leg has been permanently diminished;

E) Her general health, strength and vitality have been impaired;

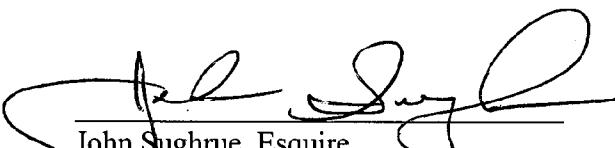
F) Her earning power has been permanently impaired;

G) Her ability to enjoy life has in the past and will continue in the future to be permanently diminished;

H) Other damages to which she is entitled under the law and under the circumstances of this case.

13. Under the laws of the Commonwealth of Pennsylvania, the Defendant Barbara J. Hugney-Shope, as Administrator, has succeeded Decedent and, as such, is responsible for her debts and liabilities, including Decedent's liability to Plaintiff for damages negligently caused by Decedent, as aforesaid.

WHEREFORE, Plaintiff Marietta E. Jones claims damages of the Defendant in a sum in excess of \$25,000.00 together with costs and interest; requests judgment in her favor and against the Defendant and further, DEMANDS A JURY TRIAL ON THE ISSUES AND MATTERS RAISED HEREIN.

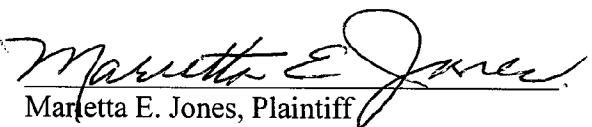


John Sughrue, Esquire  
Attorney for Plaintiff

**VERIFICATION**

I, MARIETTA E. JONES Plaintiff, verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: March 28, 2005

  
\_\_\_\_\_  
Marietta E. Jones, Plaintiff

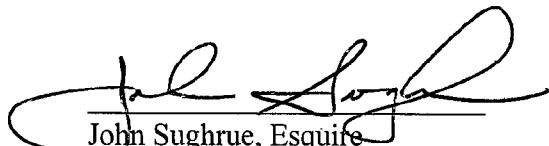
**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on March 28, 2005, I caused a true and correct copy of Plaintiff's Complaint to be served on the following and in the manner indicated below:

By United States Mail, First Class, Postage Prepaid  
Addressed as Follows:

Mr. Louis C. Schmitt, Jr., Esq.  
McIntyre, Dugas, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 1648

Date: March 28, 2005



John Sughrue, Esquire  
Attorney for Plaintiff

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

MARIETTA JONES

Plaintiff, : NO. 03-1567 CD

vs. :

ISSUE: PRELIMINARY OBJECTIONS

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant. :

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR DEFENDANT:

McINTYRE, DUGAS, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 8TH DAY OF  
APRIL, 2005.

Attorneys for Named Defendant

FILED NO  
m/10/47/01  
APR 12 2005  
WMA  
William A. Shaw  
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA  
CIVIL ACTION LAW**

**MARIETTA JONES**

Plaintiff, : **NO. 03-1567 CD**

vs. : **JURY TRIAL DEMANDED**

**BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART**

Defendant.

**PROPOSED ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2005, upon consideration of the Preliminary Objections filed on behalf of defendant, and any response thereto, it is hereby ORDERED, ADJUDGED AND DECREED that subparagraphs (H), (O), (P), and (Q) of Paragraph 10 of plaintiff's Complaint are stricken.

**BY THE COURT:**

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

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

MARIETTA JONES

Plaintiff, : NO. 03-1567 CD

vs. :

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant. :

**PRELIMINARY OBJECTIONS**

AND NOW, comes defendant BARBARA HUGNEY-SHOPE, Administrator of the Estate of DOROTHY GEARHART, a/k/a DOROTHY E. GEARHART, deceased, late of Brady Township, defendant, and files the following Preliminary Objections in response to plaintiff's Complaint, saying as follows:

1. This lawsuit arises out of a motor vehicle accident that occurred at approximately 2:45 p.m. on Saturday, October 20, 2001 at a point on S.R. 4014, approximately .20 miles West of Route 322 in the village of Rockton, Union Township, Clearfield County, Pennsylvania. At that time and place, plaintiff Marietta E. Jones was operating her 2001 Ford motor vehicle in a westerly direction on State Route 4014, when she maneuvered that vehicle in a northerly direction off of the roadway, allegedly in order to avoid a direct collision with a 1994 Oldsmobile Achieva being operated eastbound on State Route 4014 by decedent Dorothy Gearhart, a/k/a Dorothy E. Gearhart.

2. On March 28, 2005, plaintiff served defendant with a copy of her Complaint. (See copy of plaintiff's Complaint, attached hereto as Exhibit "A").

**MOTION TO STRIKE**

3. Defendant hereby incorporates by reference Paragraphs 1 and 2 of these Preliminary Objections, as if fully set forth herein.

4. The allegations of negligence against the defendant are set forth at Paragraph 10, subparagraphs (A) through (Q).

5. Subparagraphs (H), (O), (P), and (Q), of Paragraph 10 of plaintiff's Complaint are vague and lack specificity, in violation of Pa. R.C.P. 1019(a), and should therefore be stricken.

WHEREFORE, defendant Barbara Hugney-Shope, Administrator of the Estate of Dorothy Gearhart, a/k/a Dorothy E. Gearhart, deceased, late of Brady Township, respectfully requests that this Honorable Court strike subparagraphs (H), (O), (P), and (Q) of Paragraph 10 of plaintiff's Complaint.

Respectfully submitted,

**McINTYRE, DUGAS, HARTYE & SCHMITT**

\_\_\_\_\_  
Attorney for Defendant

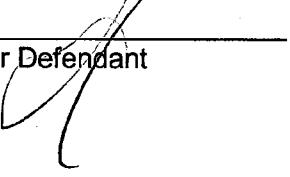
LOUIS C. SCHMITT, JR., ESQUIRE  
PA ID. No. 52459

P. O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581  
(814) 696-9399 - FAX

## **Notice to Plead**

To: Plaintiff, Marietta E. Jones

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.

\_\_\_\_\_  
Attorney for Defendant  


# **EXHIBIT 'A'**

**(Plaintiff's Complaint)**

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

MARIETTA E. JONES,  
Plaintiff,

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township,  
Defendant.

\*  
\*  
\*  
\* NO: 2003-1567-CD  
\*

\* Type of Case: Civil/Automobile

\* Type of Pleading: Complaint

\* Filed on Behalf of: Plaintiff

\* **Counsel of Record for this Party:**

\* John Sughrue  
\* Attorney at Law  
\* Attorney I. D. No. 01037  
\* 23 North Second Street  
\* Clearfield, PA 16830  
\* Phone: (814) 765-1704  
\* Fax: (814) 765-6959

\* **Other Counsel of Record:**

\* Louis C. Schmitt, Jr., Esquire  
\* McIntrye, Dugas, Hartye & Schmitt  
\* PA ID #52459  
\* P.O. Box 533  
\* Hollidaysburg, PA 16648-0533  
\* Phone: (814) 696-3581  
\* Fax: (814) 696-9399

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

MAR 28 2005

Attest.

*William L. Grier*  
Prothonotary/  
Clerk of Courts

EXHIBIT

A

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

MARIETTA E. JONES,	*
Plaintiff	*
	*
vs.	*
	No. 03-1567-C.D.
	*
	*
	Civil Action: At Law
	*
	*
BARBARA HUGNEY-SHOPE, ADMINISTRATOR, OF THE ESTATE OF DOROTHY GEARHART, a/k/a DOROTHY E. GEARHART, deceased, Late of BRADY TOWNSHIP,	*
Defendant	*
	*
	*
	*
	Type of Case: Personal Injury/Automobile
	*
	*
	*
	*

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(s). 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 HELP.**

Court Administrator's Office  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, PA 16830  
(814) 765-2641, Extension 32

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

MARIETTA E. JONES,

Plaintiff

\*

\*

\*

vs.

No. 03-1567-C.D.

\*

\*

Civil Action: At Law

\*

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR, OF THE ESTATE  
OF DOROTHY GEARHART, a/k/a  
DOROTHY E. GEARHART, deceased,  
Late of BRADY TOWNSHIP,

Defendant

\*

\*

Type of Case: Personal Injury/Automobile

\*

\*

**COMPLAINT**

AND NOW, comes Marietta E. Jones, Plaintiff, by her attorney, John Sughrue, and files this Complaint in a civil action against the above-named Defendant, upon causes of action, whereof the following are statements:

1. The Plaintiff, MARIETTA E. JONES, is an adult individual presently residing at 161 Alberts Lane, Bradford Township, Clearfield County, Pennsylvania, with a mailing address of P.O. Box 212, Woodland, PA 16881.

2. The Defendant, Barbara J. Hugney-Shope, Esquire, Administrator of the Estate of Dorothy Gearhart is an adult individual who maintains her business office at 23 North Second Street, Clearfield PA 16830, and who was appointed Administrator of the Estate of Dorothy Gearhart by Decree of the Register of Wills of Clearfield County, Pennsylvania dated October 13, 2003, at Estate No. 2003-489, all of which more fully appears of record and is incorporated herein by reference.

3. The Decedent, Dorothy Gearhart a/k/a Dorothy E. Gearhart, was, at all times pertinent hereto, an adult individual who resided at 54 West Long Avenue, DuBois, PA 15801. The Decedent died March 10, 2003.

4. The events and conduct complained of herein occurred on or about Saturday, October 20, 2001, at or about 2:45 p.m. at a point on S.R. 4014, approximately .20 miles West of the Route 322 intersection in the Village of Rockton, Union Township, Clearfield County, Pennsylvania.

5. At said time and place, there existed in said locality a public roadway known as S.R. 4014, improved with an asphalt or concrete surface, which extended generally in an East-West direction between the Village of Rockton and the City of DuBois and consisted of two traffic lanes, one lane for westbound traffic and one lane for eastbound traffic.

6. At said time and place, and at all times pertinent hereto, the Decedent was operating a blue 1994 Oldsmobile Achieva motor vehicle owned by Decedent on said roadway and was traveling in an easterly direction.

7. At said time and place, and at all times pertinent hereto, the Plaintiff was operating a 2001 Ford motor vehicle owned by Plaintiff on said roadway and was traveling in a westerly direction.

8. At said time and place, the Decedent operated her vehicle in such a negligent, reckless and careless manner as to cause or permit the vehicle to depart from the proper lane reserved for east bound vehicles and cross into and through the westbound lane of S.R. 4014 in front Plaintiff's vehicle.

9. As a result of decedent's operation of her vehicle, as aforesaid, Plaintiff was forced or required to steer her vehicle in a northerly direction off of the roadway in order to avoid a direct

collision with Decedent's vehicle and ultimately to strike a tree, thereby causing Plaintiff to sustain serious and possibly permanent injuries and damages as hereinafter more fully set forth.

10. The injuries and damages sustained by the Plaintiff, as hereinafter set forth, were caused by and were the direct and proximate result of the negligence and carelessness of the Decedent generally, and in the following particulars:

- A) In failing to keep her vehicle in the proper eastbound lane;
- B) In causing or permitting her motor vehicle to travel across the center line and into the westbound lane occupied by Plaintiff's vehicle;
- C) In making a left turn in front of Plaintiff's vehicle suddenly, without a turn signal or other warning signal when she knew or by the exercise of reasonable care should have known that she did not have the time and distance to make such left turn;
- D) To operate her vehicle as set forth in foregoing subparagraph when she knew or by the exercise of reasonable care should have known that she was not giving the Plaintiff sufficient time and distance to safely slow or stop her vehicle;
- E) In operating her motor vehicle, as aforesaid, in Plaintiff's lane of travel and toward Plaintiff's vehicle when she knew or by the exercise of reasonable care should have known that she would create an emergency and force Plaintiff to take dangerous, evasive action;
- F) In failing to yield to Plaintiff the right-of-way reserved for her vehicle;
- G) In failing to allow Plaintiff's vehicle to pass her prior to making the aforesaid left-hand turn;
- H) In failing to have her vehicle under proper control;

- I) In failing to maintain a proper lookout;
- J) In failing to stop her vehicle within the assured cleared distance ahead when the Decedent knew or by the exercise of reasonable care should have known that to proceed would result in a collision;
- K) In failing to slow her vehicle when the Decedent knew or by the exercise of reasonable care should have known that to proceed would result in a collision;
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- M) In failing to slow or turn her vehicle in avoidance when the Decedent knew or by the exercise of reasonable care should have known that she was making a left turn into the path of Plaintiff's vehicle;
- N) In failing to take other evasive action in order to avoid a collision with the Plaintiff's vehicle when the Decedent entered the westbound lane;
- O) In failing to comply with the rules of the road regulating traffic as more fully set forth in Pennsylvania statutes and codes all of which is incorporated herein by reference;
- P) In operating her vehicle without due regard for the rights, safety and position of the Plaintiff; and
- Q) In otherwise failing to exercise that regard and due care for the rights and safety of the Plaintiff required of the Decedent under the law and under the circumstances then and there existing.

11. As a direct and proximate result of the Decedent's negligence as aforesaid, the Plaintiff sustained the following severe and possibly permanent injuries:

A) Comminuted displaced fracture of the right patella and probable fracture right

lateral tibial plateau;

B) Left hip: comminuted acetabular fracture extending into the ischial tuberosity;

C) Severe comminuted fracture of right os calcis;

D) Fracture of lateral aspect of the talus right;

E) Nondisplaced fracture medial femoral condyle of right knee;

F) Moderate sprain of lateral collateral ligament of right ankle;

G) Fracture of the sternum;

H) Fracture of sixth and seventh right ribs;

I) Multiple sprains, injury and damage to the muscle tissues and ligaments about the body, including chest wall, left hip, right ankle, right knee;

J) Bruises and contusions to the tissue of her body;

K) Other serious injury.

12. The Decedent's negligence and Plaintiff's injuries resulting therefrom, as aforesaid, are the direct and legal cause of the Plaintiff incurring the following damages:

A) She has in the past and may in the future be required to spend sums of money for medical and surgical services, hospitalization, medical supplies, appliances, medicines, drugs, transportation, lodging and other services and merchandise related to her medical treatment and pursuit of a cure;

B) She was temporarily fully disabled and unable to work at her regular job as a Licensed Practical Nurse at the DuBois Regional Medical Center, thereby resulting in the loss of income;

C) She has in the past and will continue in the future to permanently endure great pain and suffering;

D) The strength and flexibility of her right leg has been permanently diminished;

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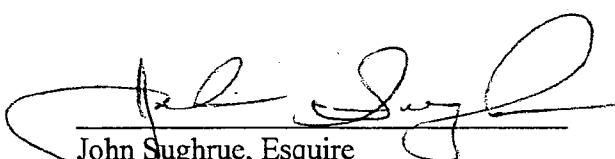
F) Her earning power has been permanently impaired;

G) Her ability to enjoy life has in the past and will continue in the future to be permanently diminished;

H) Other damages to which she is entitled under the law and under the circumstances of this case.

13. Under the laws of the Commonwealth of Pennsylvania, the Defendant Barbara J. Hugney-Shope, as Administrator, has succeeded Decedent and, as such, is responsible for her debts and liabilities, including Decedent's liability to Plaintiff for damages negligently caused by Decedent, as aforesaid.

WHEREFORE, Plaintiff Marietta E. Jones claims damages of the Defendant in a sum in excess of \$25,000.00 together with costs and interest; requests judgment in her favor and against the Defendant and further, DEMANDS A JURY TRIAL ON THE ISSUES AND MATTERS RAISED HEREIN.



John Sughrue, Esquire  
Attorney for Plaintiff

**VERIFICATION**

I, MARIETTA E. JONES Plaintiff, verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: March 28, 2005

  
\_\_\_\_\_  
Marietta E. Jones, Plaintiff

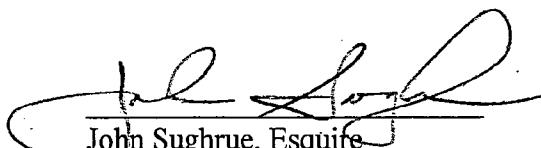
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By United States Mail, First Class, Postage Prepaid  
Addressed as Follows:

Mr. Louis C. Schmitt, Jr., Esq.  
McIntyre, Dugas, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA ~~16428~~

Date: March 28, 2005

  
John Sughrue, Esquire  
Attorney for Plaintiff

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

MARIETTA JONES

Plaintiff,

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant.

NO. 03-1567 CD

ISSUE:

PRAECIPE FOR ARGUMENT LIST

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR  
DEFENDANT:

McINTYRE, DUGAS, HARTYE &  
SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 8<sup>TH</sup> DAY OF  
APRIL, 2005.

\_\_\_\_\_  
Attnorneys for Named Defendant

FILED

APR 12 2005

W.A. Shaw  
Prothonotary/Clerk of Courts

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

Defendant.

**PRAECIPE FOR ARGUMENT LIST**

**TO: PROTHONOTARY**

Kindly list the above-captioned matter on the next available argument list. The matter to be argued is Preliminary Objections filed on behalf of Defendant, Barbara Hugney-Shope, Administrator of the Estate of Dorothy Gearhart.

Respectfully submitted,

MCINTYRE, DUGAS, MARTYE & SCHMITT

By \_\_\_\_\_  
Attorneys for Defendant

Louis C. Schmitt, Jr., Esquire  
PA I.D. No. 52459  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

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

MARIETTA JONES

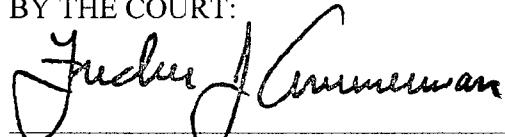
vs. : No. 03-1567-CD

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

**ORDER**

AND NOW, this 5<sup>th</sup> day of May, 2005, upon consideration of Attorney Schmitt's Preliminary Objections filed in the above matter, it is the Order of the Court that argument has been scheduled for the 2nd day of June, 2005, at 9:30 A.M, in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:



FREDRIC J. AMMERMAN  
President Judge

FILED *2cc*  
018 30 001 *Atty Schmitt*  
MAY 09 2005 *W Service memo*

William A. Shaw  
Prothonotary/Clerk of Courts



OFFICE OF COURT ADMINISTRATOR  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE  
SUITE 228, 230 EAST MARKET STREET  
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK  
COURT ADMINISTRATOR

PHONE: (814) 765-2641  
FAX: 1-814-765-7649

MARCY KELLEY  
DEPUTY COURT ADMINISTRATOR

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

**\*\*\* Please note: This also includes service of scheduling orders obtained as the result of the filing of any pleading.**

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

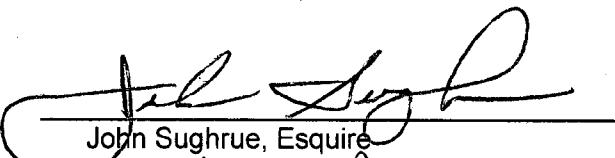
Defendant.

FILED <sup>cc</sup>  
09/5/05 Atty:  
MAY 17 2005 Sughrue  
William A. Shaw Schmitt  
Prothonotary/Clerk of Courts

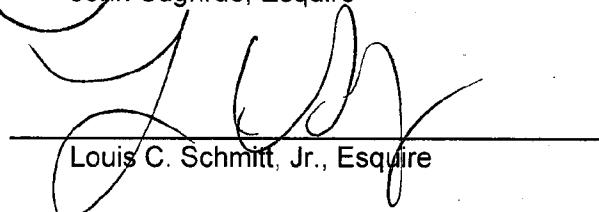
CONSENT ORDER

AND NOW, this 16 day of May, 2005, upon consideration of the Preliminary Objections filed on behalf of defendant, and as consented to by counsel for all parties, it is hereby ORDERED, ADJUDGED AND DECREED that subparagraphs (O), (P), and (Q) of Paragraph 10 of plaintiff's Complaint are stricken.

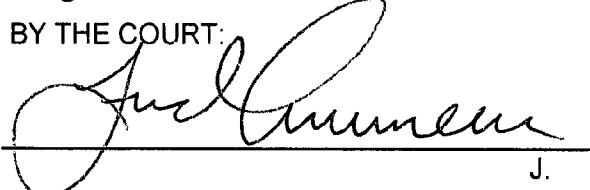
Date: 5-13-05

  
John Sughrue, Esquire

Date: 5/10/05

  
Louis C. Schmitt, Jr., Esquire

BY THE COURT:

  
J.

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

ISSUE: **Affidavit of Service**

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/ka  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR DEFENDANT:

McINTYRE, DUGAS, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 17<sup>th</sup> DAY OF  
MAY, 2005.

\_\_\_\_\_  
Atorneys for Named Defendant

✓ FILED NO  
m10-3584 cc  
MAY 18 2005

William A. Shaw  
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA  
CIVIL ACTION LAW**

## MARIETTA JONES

**Plaintiff,**

NO. 03-1567 CD

vs.

**JURY TRIAL DEMANDED**

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

**Defendant.**

## **AFFIDAVIT OF SERVICE**

AND NOW, comes LOUIS C. SCHMITT, JR., ESQUIRE, counsel for defendant  
BARBARA HUGHNEY-SHOPE, Administrator of the Estate of DOROTHY GEARHART, and  
after first being sworn does depose and say that he served a copy of the attached May 5, 2005  
Order upon John Sughrue, Esquire, counsel for plaintiff Marietta Jones, via first-class mail,  
postage pre-paid, on May 17, 2005.

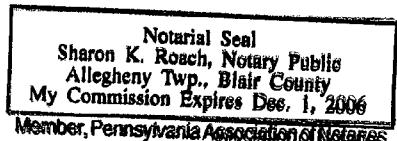
Date: 5/17/05

~~Louis C. Schmitt, Jr., Esquire~~

STATE OF PENNSYLVANIA )  
 )  
COUNTY OF BLAIR )

On this 17th day of MAY, 2005, before me personally appeared Louis C. Schmitt, Jr., Esquire, to me known, and known to me to be the same person described in and who executed the above instrument and he acknowledged to me that he executed the same.

Sharon K. Roach  
Notary Public



**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA  
CIVIL ACTION LAW**

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

**ISSUE: Answer and New Matter**

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, deceased  
Late of Brady Township

Defendant.

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR DEFENDANT:

McINTYRE, DUGAS, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 2<sup>nd</sup> DAY OF  
MAY, 2005.

Attorneys for Named Defendant

FILED  
M 10:45 AM NO  
MAY 26 2005  
cc  
©

William A. Shaw  
Prothonotary/Clerk of Courts

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township,

Defendant.

ANSWER AND NEW MATTER

AND NOW, comes defendant, BARBARA HUGNEY-SHOPE, Administrator of the Estate of DOROTHY GEARHART a/k/a DOROTHY E. GEARHART, Deceased, Late of Brady Township, by and through her attorneys, MCINTYRE, DUGAS, HARTYE, & SCHMITT, and files the following Answer and New Matter in response to plaintiff's Complaint, saying as follows:

1. Defendant is without sufficient knowledge or information, after reasonable investigation, to form a belief as to the truth of the allegations contained in Paragraph 1 of plaintiff's Complaint; those allegations are therefore denied, and strict proof thereof is demanded at the time of trial.

2. Admitted.

3. Admitted.

4. Defendant is without sufficient knowledge or information, after reasonable investigation, to form a belief as to the truth of the allegations contained in Paragraph 4 of plaintiff's Complaint; those allegations are therefore denied, and strict proof thereof is demanded at the time of trial.

5. Admitted.

6. Defendant is without sufficient knowledge or information, after reasonable investigation, to form a belief as to the truth of the allegations contained in Paragraph 6 of plaintiff's Complaint; those allegations are therefore denied, and strict proof thereof is demanded at the time of trial.

7. Defendant is without sufficient knowledge or information, after reasonable investigation, to form a belief as to the truth of the allegations contained in Paragraph 7 of plaintiff's Complaint; those allegations are therefore denied, and strict proof thereof is demanded at the time of trial.

8. The allegations contained in Paragraph 8 of plaintiff's Complaint constitute conclusions of fact and/or law to which no response is required.

9. Defendant is without sufficient knowledge or information, after reasonable investigation, to form a belief as to the truth of the allegations contained in Paragraph 9 of plaintiff's Complaint; those allegations are therefore denied, and strict proof thereof is demanded at the time of trial.

10. Denied.

(A) – (N) Denied.

(O) – (P) The averments contained in these Sub-Paragraphs have been stricken by consent of the parties, and therefore no response is required.

11. Denied.

(A) – (K) Defendant is without sufficient knowledge or information, after reasonable investigation, to form a belief as to the truth of the allegations contained in Paragraph 11 of plaintiff's Complaint; those allegations are therefore denied, and strict proof thereof is demanded at the time of trial.

12. Denied.

(A) – (H) Defendant is without sufficient knowledge or information, after reasonable investigation, to form a belief as to the truth of the allegations contained in

Paragraph 12 of plaintiff's Complaint; those allegations are therefore denied, and strict proof thereof is demanded at the time of trial.

13. The allegations contained in Paragraph 13 of plaintiff's Complaint constitute conclusions of fact and/or law to which no response is required.

WHEREFORE, defendant, BARBARA HUGNEY-SHOPE, Administrator of the Estate of DOROTHY GEARHART a/k/a DOROTHY E. GEARHART, Deceased, Late of Brady Township, denies any and all liability to the plaintiff upon her Complaint, and respectfully requests that this Honorable Court enter judgment in her favor, with prejudice.

**NEW MATTER**

By way of further answer to the allegations contained in plaintiff's Complaint, and in support of her defenses against those allegations, the defendant sets forth the following statements as New Matter:

14. Defendant hereby raises and asserts the rights, privileges, defenses, and immunities provided to her within the Pennsylvania Motor Vehicle Financial Responsibility Act, 75 Pa. C.S.A. Section 1701, et seq.

WHEREFORE, defendant, BARBARA HUGNEY-SHOPE, Administrator of the Estate of DOROTHY GEARHART a/k/a DOROTHY E. GEARHART, Deceased, Late of Brady Township, denies any and all liability to the plaintiff upon her Complaint, and respectfully requests that this Honorable Court enter judgment in her favor, with prejudice.

Respectfully submitted,

**McINTYRE, DUGAS, HARTYE & SCHMITT**

Attorney for Defendant  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA ID. No. 52459  
P. O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581 - (814) 696-9399 - FAX

**Notice to Plead**

To: Plaintiff

You are hereby notified to file a  
written response to the enclosed

**New Matter**

within twenty (20) days from  
service hereof or a judgment may  
be entered against you.

Attorney for Defendant

VERIFICATION

I, BARBARA HUGNEY-SHOPE, Administrator of the Estate of DOROTHY GEARHART a/k/a DOROTHY E. GEARHART, Deceased, Late of Brady Township do hereby verify that I have read the foregoing **Answer and New Matter**. The statements therein are correct to the best of my personal knowledge or information and belief.

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

Barbara Hugney-Shope  
Barbara Hugney-Shope, Administrator  
of the Estate of Dorothy Gearhart a/k/a  
Dorothy E. Gearhart, Deceased

Date: May 11, 2005

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/ka  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

ISSUE: Notice of Interrogatories and  
Request for Production of Documents  
Directed to Plaintiff

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR DEFENDANT:

McINTYRE, DUGAS, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 26<sup>th</sup> DAY OF  
MAY, 2005.

\_\_\_\_\_  
Atorneys for Named Defendant

FILED *NO CC*  
m 19:05:80  
MAY 31 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

**NOTICE OF SERVICE OF INTERROGATORIES  
AND REQUEST FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO PLAINTIFF DATED 5/26/05**

TO: PROTHONOTARY

You are hereby notified that on the 26<sup>th</sup> day of May, 2005, Defendant, Barbara Hugney-Shope, Administrator of the Estate of Dorothy Gearhart a/k/a Dorothy E. Gearhart, deceased served Interrogatories and Request for Production of Documents Directed to Plaintiff Dated May 26, 2005, by mailing the original of same via First Class U.S. Mail, postage prepaid, addressed to the following:

John Sughrue, Esquire  
23 North Second Street  
Clearfield, PA 16830

McINTYRE, DUGAS, HARTYE & SCHMITT

\_\_\_\_\_  
Attorney for Defendant

LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D. No. 52459  
P. O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581

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

MARIETTA JONES

Plaintiff,

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART, a/ka  
DOROTHY E. GEARHART, deceased  
Late of Brady Township,

Defendant.

NO. 03-1567 CD

ISSUE:

PRAECIPE FOR ARGUMENT LIST

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART, a/ka  
DOROTHY E. GEARHART, deceased

COUNSEL OF RECORD FOR  
DEFENDANT:

McINTYRE, DUGAS, HARTYE &  
SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 2<sup>nd</sup> DAY OF

February, 2006.

\_\_\_\_\_  
Atorneys for Named Defendant

FILED NO  
M 111001  
FEB 06 2006 CC  
CR

William A. Shaw  
Prothonotary/Clerk of Courts

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART, a/k/a  
DOROTHY E. GEARHART, deceased  
Late of Brady Township,

Defendant.

PRAECIPE FOR ARGUMENT LIST

TO: PROTHONOTARY

Kindly list the above-captioned matter on the next available argument list. The matter to be argued is Motion to Enforce Settlement filed on behalf of Defendant, Barbara Hugney-Shope, Administratrix of the Estate of Dorothy Gearhart, a/k/a Dorothy E. Gearhart, deceased.

Respectfully submitted,

MCINTYRE, HARTYE & SCHMITT

By \_\_\_\_\_  
Attorneys for Defendant

Louis C. Schmitt, Jr., Esquire  
PA I.D. No. 52459  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/ka  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

ISSUE: MOTION TO ENFORCE  
SETTLEMENT

FILED ON BEHALF OF DEFENDANT:

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR DEFENDANT:

McINTYRE, DUGAS, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 2nd DAY OF  
February, 2006.

Attorneys for Named Defendant

FILED NO CC  
m111061  
FEB 06 2006 60

William A. Shaw  
Prothonotary/Clerk of Courts

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

VS.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2006, upon

consideration of the Motion to Enforce Settlement filed on behalf of defendant, **Barbara Hugney-Shope**, Administrator of the **Estate of Dorothy Gearhart, a/k/a Dorothy E. Gearhart, deceased**, and any response thereto, IT IS HEREBY ORDERED, ADJUDGED AND  
**DECREED** that the plaintiff shall within twenty (20) days:

1. Execute and return to defense counsel the previously received Release in the amount of \$15,000.00; and
2. File a Praecipe to have the docket in this matter marked as settled and discontinued.

BY THE COURT:

---

J.

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

MARIETTA JONES

Plaintiff, NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

**MOTION TO ENFORCE SETTLEMENT**

AND NOW, comes defendant **Barbara Hugney-Shope, Administrator of the Estate of Dorothy Gearhart, a/k/a Dorothy E. Gearhart, deceased**, by and through her attorneys, McIntyre, Hartye & Schmitt, and respectfully requests that this Honorable Court order the plaintiff to implement the settlement of this matter by way of executing a Release and filing a Praecept to have the docket marked as settled and discontinued, saying as follows:

1. This lawsuit arises out of a motor vehicle accident that occurred at approximately 2:45 p.m. on Saturday, October 20, 2001 at a point on S.R. 4014, approximately .20 miles West of Route 322 in the village of Rockton, Union Township, Clearfield County, Pennsylvania. At that time and place, plaintiff Marietta E. Jones was operating her 2001 Ford motor vehicle in a westerly direction on State Route 4014, when she maneuvered that vehicle in a northerly direction off of the roadway, allegedly in order to avoid a direct collision with a 1994 Oldsmobile Achieva being operated eastbound on State Route 4014 by decedent Dorothy Gearhart, a/k/a Dorothy E. Gearhart.

2. In May of 2005, Dave Engler, Casualty Representative for Progressive, the defendant's insurance carrier, and John Sughrue, Esquire, counsel for plaintiff, settled this matter in the amount of the \$15,000.00 Progressive policy limits. Mr. Engler forwarded to plaintiff's counsel a Release in the amount of \$15,000.00 and requested issuance of a Discontinuance. (See copy of May 27, 2005 correspondence from Dave Engler of Progressive to John Sughrue, Esquire, attached hereto as Exhibit "A").

3. Along with sending plaintiff's counsel the proposed Full and Final Release, Progressive actually issued the \$15,000.00 settlement draft to Attorney Sughrue.

4. Notwithstanding receipt by plaintiff's counsel of Progressive's settlement draft in the amount of \$15,000.00 in May of 2005, the plaintiff has failed and/or refused to execute a Release or discontinue this matter. (See December 22, 2005 correspondence of Louis C. Schmitt, Jr., Esquire to John Sughrue, Esquire, attached hereto as Exhibit "B").

WHEREFORE, defendant **Barbara Hugney-Shope**, Administrator of the Estate of **Dorothy Gearhart, a/k/a Dorothy E. Gearhart, deceased**, respectfully requests that this Honorable Court order the plaintiff to within twenty (20) days execute a Release and file a Discontinuance of the within action.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

\_\_\_\_\_  
Attorney for Defendant

LOUIS C. SCHMITT, JR., ESQUIRE  
PA ID. No. 52459

P. O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581  
(814) 696-9399 - FAX

**EXHIBIT 'A'**

MAY 31 2005  
PG 212 NH  
**PROGRESSIVE**

11279 Perry Highway, Suite 201  
Wexford, PA 15090

Telephone: 1-800-PROGRESSIVE  
Facsimile: 724 776-1204  
progressive.com

May 27, 2005

John Sughrue  
Attorney at Law  
23 North Second Street, Pa 19103  
Clearfield, Pa 16830

Attn: John Sughrue

Re: Our Insured: Estate of Dorothy Gearhart  
Our Claim #: 017247461  
Date of Loss: 10/20/01  
Your Client: Marietta Jones

Dear Attorney Sughrue:

This letter will confirm our earlier conversation whereby we tendered to your client our insured's liability policy limit of \$15,000.00 to resolve the above captioned claim. Please have your client sign and notarize the enclosed release and return to our attorney's office as soon as possible with the discontinuance papers.

Thank you for assisting in bringing this matter to conclusion.

Progressive Northern Insurance Company

  
Dave Engler  
Casualty Representative

Enclosure: release, draft and dec page  
cc: Attorney Louis C. Schmitt

**FULL RELEASE OF ALL CLAIMS WITH INDEMNITY**  
Page 1 of 2

Policyholder: **Barbara Hugney-Shope admin of the Estate of Dorothy Gearhart**  
Claim No.: **017247461**  
Policy No.: **80529595-0**

KNOW ALL BY THESE PRESENTS, that We or I, **Marietta E. Jones and William Jones** individually and as husband and wife, for and in consideration of the sum of **\$15000.00 (Fifteen thousand dollars and no cents)** the receipt whereof is hereby acknowledged, does hereby for myself, ourselves, our, my heirs, executors, administrators, successors and assigns and any and all persons, firms, employers, corporations, associations, or partnerships release, acquit and forever discharge **Barbara Hugney-Shope admin of the Estate of Dorothy Gearhart** his, her their agents, employees, subsidiaries, and affiliates (hereinafter "Releasees") from any and all claims, actions, causes of actions, demands, costs, property damage, loss of wages, expenses, hospital medical and nursing expenses, accrued or unaccrued claims for loss of consortium, loss of support or affection, loss of society and companionship on account of or in any way growing out of, any and all known and unknown personal injuries and damages resulting from an automobile accident which occurred on or about **October 20, 2001** it is understood and agreed that this settlement is in full compromise of a doubtful and disputed claim as to both questions of liability and as to the nature and extent of the injuries and damages, and that neither this release, nor the payment pursuant thereto shall be construed as an admission of liability, such being denied.

It is further understood and agreed that the undersigned relies wholly upon the undersigned's judgment, belief, and knowledge of the nature, extent, effect, and duration of said injuries and liability therefore and is made without reliance upon any statement or representation of the party or parties hereby released or their representatives.

In consideration of the payment of the sum, the undersigned further agrees to indemnify, his, her their agents, employees, subsidiaries, and affiliates and save them harmless from any and all further liability, loss, damage, claims of subrogation and expense, arising because of any injuries and damages, sustained by the undersigned, and, if necessary in order to save them so harmless, to satisfy on their behalf any judgment against them arising in any way out of the undersigned injuries or damages.

I have read this release and understand it.

Signed:

---

Witness	date	<b>Marietta E. Jones</b>	date
---------	------	--------------------------	------

---

Witness	date	<b>William Jones</b>	date
---------	------	----------------------	------

**FULL RELEASE OF ALL CLAIMS WITH INDEMNITY**  
Page 2 of 2

State of: \_\_\_\_\_

County of: \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known to be the person(s) who executed the foregoing instrument, and acknowledged this as a free act and deed.  
IN TESTIMONY WHEREOF, I have hereto subscribed my name and affixed my seal this  
\_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.  
My commission expires \_\_\_\_\_

Notary Public

Claim #: **017247461**

**EXHIBIT 'B'**

LAW OFFICES  
**MCINTYRE, DUGAS, HARTYE & SCHMITT**

P. O. BOX 533

JOHN L. MCINTYRE  
STEPHEN L. DUGAS  
FRANK J. HARTYE  
LOUIS C. SCHMITT, JR.  
HEATHER A. HARRINGTON  
MICHAEL A. SOSNOWSKI

HOLLIDAYSBURG, PA 16648-0533

—  
(814) 696-3581  
FAX (814) 696-9399  
[www.mdhslaw.com](http://www.mdhslaw.com)

December 22, 2005

**Our Reference: PG 212 NH**

John Sughrue, Esquire  
23 North Second Street  
Clearfield, PA 16830

Re: Marietta Jones v. Barbara Hugney-Shope, Administrator of the  
Estate of Dorothy Gearhart  
No. 03-1567 CD

Dear Mr. Sughrue:

You have not responded to my letters of June 15, 2005 or August 22, 2005 regarding the settlement of this matter. Nor have you provided me with any Release executed by your client, or any Discontinuance.

It is my understanding that this case did settle in the amount of Progressive's \$15,000.00 insurance policy limits. If I do not hear back from you regarding this issue within thirty days, I will file a Petition to enforce the settlement, ask the court to force your client to execute a Release, and ask the court to enter a Discontinuance of the plaintiff's claims, and I will have no choice but to ask the court to also award me my attorney's fees and costs with regard to filing that Petition.

Sincerely,



Louis C. Schmitt, Jr.

LCS:lag

**ORIGINAL**

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

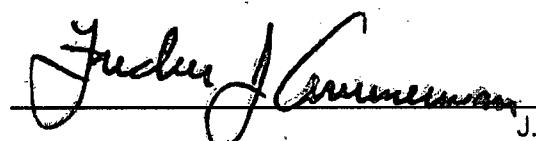
Defendant.

**RULE RETURNABLE**

AND NOW, this 10<sup>th</sup> day of February, 2006, a Rule is hereby granted to show cause  
why the Motion to Enforce Settlement filed on behalf of Defendant, Barbara Hugney-Shope,  
Administratrix of the Estate of Dorothy Gearhart, should not be granted.

This Rule is returnable on the 4<sup>th</sup> day of April, 2006, at  
1:30 p.m. in Court Room No. 1.

BY THE COURT,



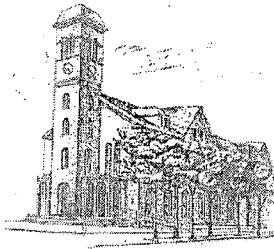
FILED  
13.09.06 Atty Schmitt  
FEB 13 2006  
GR

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

FEB 13 2006

William A. Shaw  
Prothonotary/Clerk of Courts



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

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

**David S. Ammerman**  
Solicitor

**Jacki Kendrick**  
Deputy Prothonotary

**Bonnie Hudson**  
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw  
Prothonotary

DATE: 2/3/06

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

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

MARIETTA E. JONES,  
Plaintiff,

VS.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township,  
Defendant.

FILED 1cc  
04/11/2008 5:04 AM  
APR 03 2008 (RM) Amy Sughrae

William A. Shaw  
Prothonotary/Clerk of Courts

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

MARIETTA E. JONES,	*
Plaintiff	*
	*
vs.	*
	No. 03-1567-C.D.
	*
BARBARA HUGNEY-SHOPE,	*
ADMINISTRATOR, OF THE ESTATE	*
OF DOROTHY GEARHART, a/k/a	*
DOROTHY E. GEARHART, deceased,	*
Late of BRADY TOWNSHIP,	*
Defendant	*

**PLAINTIFF'S ANSWER TO DEFENDANT'S  
MOTION TO ENFORCE SETTLEMENT**

AND NOW, comes Plaintiff, Marietta Jones, by her attorney, John Sughrue, and responds to the Defendant's Motion to Enforce Settlement as follows:

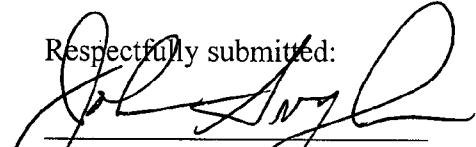
1. Admitted.
2. Denied in part and denied as stated in part. On the contrary, no final enforceable settlement contract was made. Specifically, Plaintiff's case has a settlement value in Plaintiff's counsel's opinion in excess of Fifteen Thousand and 00/100 (\$15,000.00) Dollars. On or about March 24, 2005, Progressive Insurance documented that liability coverage under the Defendant's insurance policy was limited to Fifteen Thousand and 00/100 (\$15,000.00) Dollars. At the same time, it was known to all concerned that Plaintiff's auto insurance carrier, Allstate Insurance, was carrying underinsurance coverage that could be claimed by the Plaintiff in accordance with the Allstate policy terms. On or about March 24, 2005, Plaintiff's counsel, by letter, copy attached as **Exhibit 1**, suggested a resolution of Progressive's involvement in the case by asking if Progressive was "interested in tendering the policy limits in exchange for a release,..... conditioned upon my (Plaintiff's counsel) ability to secure permission from the underinsured carrier, Allstate, and reservation of rights to pursue Mrs. Jones underinsured claim." See Exhibit 1, page 1

attached. Subsequently, the Complaint was filed on March 28, 2005. Thereafter, Progressive, by check dated May 27, 2005, copy attached as **Exhibit 2**, tendered \$15,000.00 and forwarded a Release. This check constituted an offer pursuant to Plaintiff's proposal letter of March 24, 2005 and was subject to the terms of that letter. By letter dated June 7, 2005, copy attached as **Exhibit 3**, Plaintiff's counsel confirmed to Defense counsel that the case was settled conditioned upon securing the aforesaid permission from Allstate.

3. Admitted as set forth above, all of which is incorporated herein by reference.

4. Denied as stated. On the contrary, Plaintiff has refused to execute the Release and discontinue the matter because the conditions of the settlement have not been completed, specifically the underinsurance carrier's consent. In addition to other communications with Allstate, which are not pertinent hereto, Plaintiff's counsel did not specifically seek consent and reservation of rights from the underinsurance carrier until April 3, 2006. That matter is presently pending. Since the conditioned consent of the underinsurance carrier has not yet been obtained, Plaintiff was and continues to be justified in refusing to negotiate said check and/or execute any release because the same is consistent with the agreement of the parties.

WHEREFORE, Plaintiff, Marietta Jones, by her attorney, John Sughrue, respectfully requests that the Defendant's Motion be dismissed, or in the alternative action delayed pending receipt of the response from Allstate Insurance.

Respectfully submitted:  
  
John Sughrue, Attorney for  
Plaintiff

JOHN SUGHRUE  
Attorney at Law

---

23 North Second Street

Phone (814) 765-1704

Clearfield, PA 16830

Fax (814) 765-6959

March 24, 2005

Dave Engler  
Progressive Insurance  
11279 Perry Highway, Suite 201  
Wexford, PA 15090

RE: Your Insured: Dorothy Gearhart  
Claim No.: 017247461  
Plaintiff: Marietta E. Jones  
Date of Loss: October 20, 2001

Dear Mr. Engler:

With respect to the above case, I enclose the following for your records:

1. AllState Insurance letter dated February 13, 2002 directed to Ms. Jones with respect to exhaustion of first-party medical benefits together with the schedule of payments, consisting of 2 pages total;

2. Photocopies of four pictures showing the front and side of Ms. Jones' 2001 Ford Escape Sport, a view from the highway down the hill to the trees where the collision occurred and a view from the collision point up the hill to the highway. On the picture looking towards the highway, you will note a large pine tree to the left and parked cars behind it. That is the area where Mrs. Gearhart was crossing the centerline to pull in to.

Please accept my apology for not adhering to my own schedule and sending these items to you earlier. Your last phone call is acknowledged. I have received the Rule to File Complaint and will do so. I will continue to send you information as I obtain it.

As I understand it, you have a \$15,000.00 liability policy. If you are interested in tendering the policy limits in exchange for a Release, kindly advise. I would recommend that resolution be conditioned upon my ability to secure permission from the underinsured carrier, AllState, and reservation of rights to pursue Mrs. Jones' underinsured claim.

*Exhibit 1*

Engler/Progressive Insurance  
March 24, 2005  
Page 2 of 2

At the time of the accident, Mrs. Jones was employed by DuBois Regional Medical Center and was fully covered by Highmark Blue Cross/Blue Shield health insurance. Highmark picked up the bills. The AllState claim insurance information is evident from the enclosure.

I also enclose a copy of Clearfield Hospital's bill for \$16,854.38.

Thank you for giving these mattes your consideration.

Very truly yours,

John Sughrue

JS/ams

Enclosures

~~cc: [REDACTED] Jones~~

VOID IF NOT PRESENTED WITHIN 6 MONTHS AFTER DATE OF ISSUE

Policy # 58052959-000	Insured GEARHART, DOROTH	Date Issued 5/27/2005	Area Code 523	Draft Number 440061486	56-389 412
Claim # 017247461	Claimant JONES, MARIETTA	Date of Loss 10/20/2001	State Code PA	Office Issued At PA-CASWP-BRN	PAC

Dollars \$ \*\*\*\*\*15,000.00\*\*

PAY FIFTEEN THOUSAND AND 00/100

In Payment of  
SETTLEMENT OF ALL CLAIMS

CDS  
CODE 12PCL

Payable through

**National City Bank**

ASHLAND, OHIO 1-877-448-9544

PROGRESSIVE NORTHERN INSURANCE COMPANY

Pay MARIETTA E JONES AND WILLIAM JONES INDIVIDUALLY AND AS  
To HUSBAND AND WIFE AND THEIR ATTORNEY JOHN SUGHRUE \*\*\*\*\*  
23 N SECOND ST  
CLEARFIELD PA 16830

BY   
AUTHORIZED SIGNATURE

440061486 1041203895 7701870

Exhibit 2

JOHN SUGHRUE  
Attorney at Law

Phone (814) 765-1704

23 North Second Street  
Clearfield, PA 16830

Fax (814) 765-6959

June 7, 2005

Mr. Louis C. Schmitt, Jr., Esq.  
McIntyre, Dugas, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648-0533

Re: Marietta Jones v. Barbara Hugney-Shope, Administrator of the Estate of Dorothy  
Gearhart  
No. 03-1567-CD

Dear Lou,

This will follow up my phone message on your answering service today.

I have a reply due in the above matter on June 15<sup>th</sup> and you served me with interrogatories. I have settled the case in principle with Dave Engler with Progressive for the policy limits of \$15,000.00. I actually have their check and release in hand.

Mr. Engler and I have agreed that I will hold it while I try to secure permission from Allstate, Jones' carrier, to settle this underlying claim. Any further work in the Gearhart case by either you or me is rather non productive.

May we have an agreement that all matters are stayed until July 15, 2005, while I try to implement the settlement?

For your information, Mr. Engler settled this under Claim No. 017247461 and he works out of Progressive's Wexford, PA office located 11279 Perry Highway, Ste. 201, Wexford, PA 15090; Phone: 1-800-PROGRESSIVE.

Thank you for your consideration:

Very truly yours,

John Sughrue

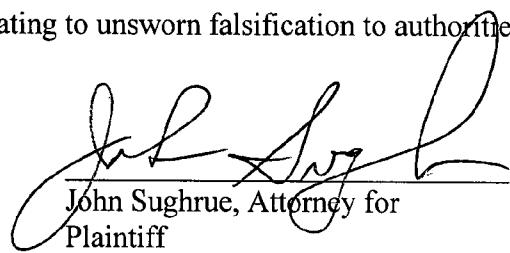
JS/kg

Exhibit 3

**VERIFICATION**

I, John Sughrue, Attorney for Marietta Jones, Plaintiff, verify that the statements made in this PLAINTIFF'S ANSWER TO DEFENDANT'S MOTION TO ENFORCE SETTLEMENT are personally known to me or are based on information received and are true and correct to the best of my information, knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: April 3, 2006



John Sughrue, Attorney for  
Plaintiff

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

MARIETTA JONES

Plaintiff,

VS.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/ka  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

NO. 03-1567 CD

ISSUE:

**PRAECLPICE TO WITHDRAW MOTION  
TO ENFORCE SETTLEMENT**

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR DEFENDANT:

McINTYRE, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 3<sup>rd</sup> DAY OF  
APRIL, 2006.

Attorneys for Named Defendant

FILED

APR 04 2006

110:40 AM  
William A. Shaw  
Prothonotary/Clerk of Courts

no c/c

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

**PRAECIPE TO WITHDRAW MOTION TO ENFORCE SETTLEMENT**

**TO: PROTHONOTARY**

Kindly withdraw the **Motion to Enforce Settlement** filed on behalf of the Defendant,  
which is scheduled before the Honorable Fredric J. Ammerman, P.J., on **Tuesday, April 4,**  
**2006 at 1:30 p.m.**

McINTYRE, HARTYE & SCHMITT

By \_\_\_\_\_  
Attorneys for Defendant

Louis C. Schmitt, Jr., Esquire  
PA I.D. #52459  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

**MH&S**  
McIntyre, Hartye & Schmitt  
LAW OFFICES

April 3, 2006

Our Reference: PG 212 NH

Prothonotary  
Court of Common Pleas of  
Clearfield County  
P.O. Box 549  
Clearfield, PA 16830-0549

Re: Marietta Jones v. Barbara Hugney-Shope, Administrator of the  
Estate of Dorothy Gearhart  
No. 03-1567 CD

Dear Prothonotary:

Kindly file the enclosed **Praecipe to Withdraw Motion to Enforce Settlement** on behalf of Defendant, Barbara Hughey-Shope, Administratrix of the Estate of Dorothy Gearhart.

By copy of this letter and the enclosure to Judge Ammerman and counsel for plaintiff via facsimile, both are being advised of the withdrawal of the Motion. Thank you.

Sincerely,

Louis C. Schmitt, Jr.

LCS/eh  
Enclosure

cc: Honorable Fredric J. Ammerman, P.J. – 814/765-7649  
John Sughrue, Esquire – 814/765-6959  
(w/Enclosure – via facsimile)

11  
ORIGINAL

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

MARIETTA JONES

Plaintiff,

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART, a/ka  
DOROTHY E. GEARHART, deceased  
Late of Brady Township,

Defendant.

NO. 03-1567 CD

ISSUE:

PRAECIPE FOR ARGUMENT LIST

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART, a/ka  
DOROTHY E. GEARHART, deceased

COUNSEL OF RECORD FOR  
DEFENDANT:

McINTYRE, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 13<sup>th</sup> DAY OF  
JULY, 2006.

Louis C. Schmitt, Jr./ma  
Attorneys for Named Defendant

FILED

JUL 17 2006

118130/ma  
William A. Shaw  
Prothonotary/Clerk of Courts

1 cent to Attn

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART, a/k/a  
DOROTHY E. GEARHART, deceased  
Late of Brady Township,

Defendant.

**PRAECIPE FOR ARGUMENT LIST**

**TO: PROTHONOTARY**

Kindly list the above-captioned matter on the next available argument list. The matter to be argued is Amended Motion to Enforce Settlement filed on behalf of Defendant, Barbara Hugney-Shope, Administratrix of the Estate of Dorothy Gearhart, a/k/a Dorothy E. Gearhart, deceased.

Respectfully submitted,

MCINTYRE, HARTYE & SCHMITT

By Louis C. Schmitt, Jr.  
Attorneys for Defendant

Louis C. Schmitt, Jr., Esquire  
PA I.D. No. 52459  
P.O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581

**ORIGINAL**

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA  
CIVIL ACTION LAW**

MARIETTA JONES

Plaintiff, : NO. 03-1567 CD

VS.

ISSUE: **AMENDED MOTION TO ENFORCE  
SETTLEMENT**

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/ka  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR DEFENDANT:

McINTYRE, DUGAS, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 13<sup>th</sup> DAY OF  
JULY, 2006.

*Louis C. Schmitt, Jr.*  
Attnys for Named Defendant

**FILED**

JUL 17 2006

ml8-38/w  
William A. Shaw  
Prothonotary/Clerk of Courts

1 CERT TO ATTY

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

MARIETTA JONES

Plaintiff, : NO. 03-1567 CD  
VS. : JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

ORDER

AND NOW, this 20 day of July, 2006, upon

consideration of the foregoing Amended Motion to Enforce Settlement, IT IS HEREBY

ORDERED THAT:

- (1) a Rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;
- (2) the respondent shall file an Answer to the Motion within twenty (20) days of service upon the respondent;
- (3) the Motion shall be decided under Pa.R.C.P. No. 206.7; and
- (4) Hearing shall be held on August 30, 2006 at 10:30 a.m./p.m. in Courtroom No. 1 of the Clearfield County Courthouse;

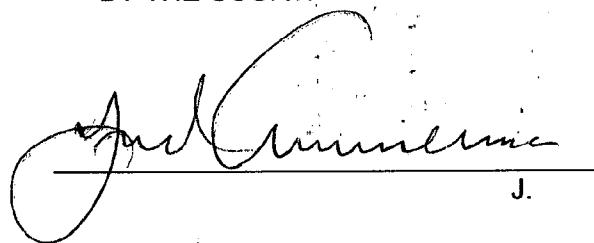
BY THE COURT:

FILED

JUL 21 2006

07/20/06 10:05 AM  
William A. Shaw  
Prothonotary/Clerk of Courts

1 LERT, TO ATT

  
J.

DATE: 7-21

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

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

MARIETTA JONES

Plaintiff, : NO. 03-1567 CD

VS. : JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2006, upon  
consideration of the Motion to Enforce Settlement filed on behalf of defendant, **Barbara  
Hugney-Shope, Administrator of the Estate of Dorothy Gearhart, a/k/a Dorothy E. Gearhart,  
deceased**, and any response thereto, IT IS HEREBY ORDERED, ADJUDGED AND  
**DECREED** that the plaintiff shall within twenty (20) days:

1. Execute and return to defense counsel the previously received Release in the amount of \$15,000.00; and
2. File a Praecipe to have the docket in this matter marked as settled and discontinued.

BY THE COURT:

J.

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

MARIETTA JONES

Plaintiff, : NO. 03-1567 CD

VS. : JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

**AMENDED MOTION TO ENFORCE SETTLEMENT**

AND NOW, comes defendant **Barbara Hugney-Shope**, Administrator of the **Estate of Dorothy Gearhart, a/k/a Dorothy E. Gearhart, deceased**, by and through her attorneys, McIntyre, Hartye & Schmitt, and respectfully requests that this Honorable Court order the plaintiff to implement the settlement of this matter by way of executing a Release and filing a Praeclipe to have the docket marked as settled and discontinued, saying as follows:

1. This lawsuit arises out of a motor vehicle accident that occurred at approximately 2:45 p.m. on Saturday, October 20, 2001 at a point on S.R. 4014, approximately .20 miles West of Route 322 in the village of Rockton, Union Township, Clearfield County, Pennsylvania. At that time and place, plaintiff Marietta E. Jones was operating her 2001 Ford motor vehicle in a westerly direction on State Route 4014, when she maneuvered that vehicle in a northerly direction off of the roadway, allegedly in order to avoid a direct collision with a 1994 Oldsmobile Achieva being operated eastbound on State Route 4014 by decedent Dorothy Gearhart, a/k/a Dorothy E. Gearhart.

2. Defendant previously filed a Motion to Enforce Settlement in this matter. (See copy of original Motion to Enforce Settlement, attached hereto as Exhibit "A"). Prior to the

hearing scheduled to take place with regard to the defendant's original Motion to Enforce Settlement, counsel for the parties reached an agreement whereby plaintiff's counsel would immediately request that of Allstate Insurance Company, the underinsured motorist carrier, consent to the settlement, and it was further agreed that in the event Allstate either consented to the settlement or did not respond within thirty days plaintiff would execute the proposed Full and Final Release in this matter and this matter would be resolved. (See copy of April 5, 2006 correspondence from Louis C. Schmitt, Jr., Esquire to John Sughrue, Esquire, attached hereto as Exhibit "B"). As a result of the agreement, the original Motion to Enforce Settlement was withdrawn.

3. On May 25, 2006, defense counsel wrote to plaintiff's counsel in order to find out whether Allstate Insurance Company, the underinsured motorist carrier, had consented to settlement, or failed to respond. (See May 25, 2006 correspondence from Louis C. Schmitt, Jr., Esquire to John Sughrue, Esquire, attached hereto as Exhibit "C").

4. On June 15, 2006 defense counsel again inquired as to whether Allstate Insurance Company, the underinsured motorist carrier, had consented to settlement, and further advised that in the event defense counsel did not hear back from plaintiff's counsel with regard to the settlement, the within Motion would be filed with the court. (See copy of June 15, 2006 correspondence from Louis C. Schmitt, Jr., Esquire to John Sughrue, Esquire, attached hereto as Exhibit "D").

5. An underinsured motorist carrier has thirty days within which to consent to the settlement of an underlying tort action, failing which the underinsured motorist carrier will by law have been deemed to consent to that settlement. See Daly-Sand v. West American Ins. Co., 387 Pa. Super. 630, 564 A.2d 965 (1989). On April 3, 2006, counsel for the plaintiff indicated he would immediately seek consent to settle from Allstate Insurance Company, the underinsured motorist carrier. Much more than thirty days has passed since then, and there is no indication that Allstate Insurance Company has refused to consent to the within settlement.

Accordingly, at law, Allstate is deemed to have consented to the settlement, and there is no reason the settlement should not proceed forward.

WHEREFORE, defendant **Barbara Hugney-Shope**, Administrator of the **Estate of Dorothy Gearhart, a/k/a Dorothy E. Gearhart, deceased**, respectfully requests that this Honorable Court order the plaintiff to within twenty (20) days execute a Release and file a Discontinuance of the within action.

Respectfully submitted,

**McINTYRE, HARTYE & SCHMITT**

Louis C. Schmitt, Jr./mas  
Attorney for Defendant

**LOUIS C. SCHMITT, JR., ESQUIRE**  
**PA ID. No. 52459**

P. O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581  
(814) 696-9399 - FAX

**EXHIBIT 'A'**

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

MARIETTA JONES

Plaintiff, : NO. 03-1567 CD

vs.

ISSUE: **MOTION TO ENFORCE  
SETTLEMENT**

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/ka  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

FILED ON BEHALF OF DEFENDANT:  
BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART

COUNSEL OF RECORD FOR DEFENDANT:

McINTYRE, DUGAS, HARTYE & SCHMITT  
LOUIS C. SCHMITT, JR., ESQUIRE  
PA I.D.#: 52459  
P.O. Box 533  
Hollidaysburg, PA 16648-0533  
(814) 696-3581  
FAX (814) 696-9399

I HEREBY CERTIFY THAT A TRUE  
AND CORRECT COPY OF THE WITHIN  
WAS MAILED TO ALL PARTIES OF  
RECORD THIS 2nd DAY OF  
February, 2006.

*Louis C. Schmitt, Jr.*

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

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

MARIETTA JONES

Plaintiff, : NO. 03-1567 CD

vs. : JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2006, upon

consideration of the Motion to Enforce Settlement filed on behalf of defendant, **Barbara Hugney-Shope**, Administrator of the **Estate of Dorothy Gearhart**, a/k/a **Dorothy E. Gearhart, deceased**, and any response thereto, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the plaintiff shall within twenty (20) days:

1. Execute and return to defense counsel the previously received Release in the amount of \$15,000.00; and
2. File a Praecipe to have the docket in this matter marked as settled and discontinued.

BY THE COURT:

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

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

MARIETTA JONES

Plaintiff,

NO. 03-1567 CD

vs.

JURY TRIAL DEMANDED

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township

Defendant.

**MOTION TO ENFORCE SETTLEMENT**

AND NOW, comes defendant **Barbara Hugney-Shope**, Administrator of the **Estate of Dorothy Gearhart, a/k/a Dorothy E. Gearhart, deceased**, by and through her attorneys, McIntyre, Hartye & Schmitt, and respectfully requests that this Honorable Court order the plaintiff to implement the settlement of this matter by way of executing a Release and filing a Praecept to have the docket marked as settled and discontinued, saying as follows:

1. This lawsuit arises out of a motor vehicle accident that occurred at approximately 2:45 p.m. on Saturday, October 20, 2001 at a point on S.R. 4014, approximately .20 miles West of Route 322 in the village of Rockton, Union Township, Clearfield County, Pennsylvania. At that time and place, plaintiff Marietta E. Jones was operating her 2001 Ford motor vehicle in a westerly direction on State Route 4014, when she maneuvered that vehicle in a northerly direction off of the roadway, allegedly in order to avoid a direct collision with a 1994 Oldsmobile Achieva being operated eastbound on State Route 4014 by decedent Dorothy Gearhart, a/k/a Dorothy E. Gearhart.

2. In May of 2005, Dave Engler, Casualty Representative for Progressive, the defendant's insurance carrier, and John Sughrue, Esquire, counsel for plaintiff, settled this matter in the amount of the \$15,000.00 Progressive policy limits. Mr. Engler forwarded to plaintiff's counsel a Release in the amount of \$15,000.00 and requested issuance of a Discontinuance. (See copy of May 27, 2005 correspondence from Dave Engler of Progressive to John Sughrue, Esquire, attached hereto as Exhibit "A").

3. Along with sending plaintiff's counsel the proposed Full and Final Release, Progressive actually issued the \$15,000.00 settlement draft to Attorney Sughrue.

4. Notwithstanding receipt by plaintiff's counsel of Progressive's settlement draft in the amount of \$15,000.00 in May of 2005, the plaintiff has failed and/or refused to execute a Release or discontinue this matter. (See December 22, 2005 correspondence of Louis C. Schmitt, Jr., Esquire to John Sughrue, Esquire, attached hereto as Exhibit "B").

WHEREFORE, defendant **Barbara Hugney-Shope**, Administrator of the **Estate of Dorothy Gearhart, a/k/a Dorothy E. Gearhart, deceased**, respectfully requests that this Honorable Court order the plaintiff to within twenty (20) days execute a Release and file a Discontinuance of the within action.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

  
\_\_\_\_\_  
Attorney for Defendant

LOUIS C. SCHMITT, JR., ESQUIRE  
PA ID. No. 52459

P. O. Box 533  
Hollidaysburg, PA 16648  
(814) 696-3581  
(814) 696-9399 - FAX

# **EXHIBIT 'A'**

MAY 31 2005  
PG 212 NFT  
**PROGRESSIVE**

11279 Perry Highway, Suite 201  
Wexford, PA 15090

Telephone: 1-800-PROGRESSIVE  
Facsimile: 724 776-1204  
progressive.com

May 27, 2005

John Sughrue  
Attorney at Law  
23 North Second Street, Pa 19103  
Clearfield, Pa 16830

Attn: John Sughrue

Re: Our Insured: Estate of Dorothy Gearhart  
Our Claim #: 017247461  
Date of Loss: 10/20/01  
Your Client: Marietta Jones

Dear Attorney Sughrue:

This letter will confirm our earlier conversation whereby we tendered to your client our insured's liability policy limit of \$15,000.00 to resolve the above captioned claim. Please have your client sign and notarize the enclosed release and return to our attorney's office as soon as possible with the discontinuance papers.

Thank you for assisting in bringing this matter to conclusion.

Progressive Northern Insurance Company

  
Dave Engler  
Casualty Representative

Enclosure: release, draft and dec page  
cc: Attorney Louis C. Schmitt

## FULL RELEASE OF ALL CLAIMS WITH INDEMNITY

Page 1 of 2

Policyholder: **Barbara Hugney-Shope admin of the Estate of Dorothy Gearhart**

Claim No.: **017247461**

Policy No.: **80529595-0**

KNOW ALL BY THESE PRESENTS, that We or I, **Marietta E. Jones and William Jones** individually and as husband and wife, for and in consideration of the sum of **\$15000.00** (**Fifteen thousand dollars and no cents**) the receipt whereof is hereby acknowledged, does hereby for myself, ourselves, our, my heirs, executors, administrators, successors and assigns and any and all persons, firms, employers, corporations, associations, or partnerships release, acquit and forever discharge **Barbara Hugney-Shope admin of the Estate of Dorothy Gearhart** his, her their agents, employees, subsidiaries, and affiliates (hereinafter "Releasees") from any and all claims, actions, causes of actions, demands, costs, property damage, loss of wages, expenses, hospital medical and nursing expenses, accrued or unaccrued claims for loss of consortium, loss of support or affection, loss of society and companionship on account of or in any way growing out of, any and all known and unknown personal injuries and damages resulting from an automobile accident which occurred on or about **October 20, 2001** it is understood and agreed that this settlement is in full compromise of a doubtful and disputed claim as to both questions of liability and as to the nature and extent of the injuries and damages, and that neither this release, nor the payment pursuant thereto shall be construed as an admission of liability, such being denied.

It is further understood and agreed that the undersigned relies wholly upon the undersigned's judgment, belief, and knowledge of the nature, extent, effect, and duration of said injuries and liability therefore and is made without reliance upon any statement or representation of the party or parties hereby released or their representatives.

In consideration of the payment of the sum, the undersigned further agrees to indemnify, his, her their agents, employees, subsidiaries, and affiliates and save them harmless from any and all further liability, loss, damage, claims of subrogation and expense, arising because of any injuries and damages, sustained by the undersigned, and, if necessary in order to save them so harmless, to satisfy on their behalf any judgment against them arising in any way out of the undersigned injuries or damages.

I have read this release and understand it.

Signed:

---

Witness

date

**Marietta E. Jones**

date

---

Witness  
date

date

**William Jones**

date

**FULL RELEASE OF ALL CLAIMS WITH INDEMNITY**

Page 2 of 2

State of: \_\_\_\_\_

County of: \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known to be the person(s) who executed the foregoing instrument, and acknowledged this as a free act and deed.  
IN TESTIMONY WHEREOF, I have hereto subscribed my name and affixed my seal this  
\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.  
My commission expires \_\_\_\_\_

Notary Public

Claim #: 017247461

# **EXHIBIT 'B'**

LAW OFFICES  
**MCINTYRE, DUGAS, HARTYE & SCHMITT**

P. O. BOX 533

HOLLIDAYSBURG, PA 16648-0533

JOHN L. MCINTYRE  
STEPHEN L. DUGAS  
FRANK J. HARTYE  
LOUIS C. SCHMITT, JR.  
HEATHER A. HARRINGTON  
MICHAEL A. SOSNOWSKI

(814) 696-3581  
FAX (814) 696-9399  
[www.mdhslaw.com](http://www.mdhslaw.com)

December 22, 2005

Our Reference: PG 212 NH

John Sughrue, Esquire  
23 North Second Street  
Clearfield, PA 16830

Re: Marietta Jones v. Barbara Hugney-Shope, Administrator of the  
Estate of Dorothy Gearhart  
No. 03-1567 CD

Dear Mr. Sughrue:

You have not responded to my letters of June 15, 2005 or August 22, 2005 regarding the settlement of this matter. Nor have you provided me with any Release executed by your client, or any Discontinuance.

It is my understanding that this case did settle in the amount of Progressive's \$15,000.00 insurance policy limits. If I do not hear back from you regarding this issue within thirty days, I will file a Petition to enforce the settlement, ask the court to force your client to execute a Release, and ask the court to enter a Discontinuance of the plaintiff's claims, and I will have no choice but to ask the court to also award me my attorney's fees and costs with regard to filing that Petition.

Sincerely,



Louis C. Schmitt, Jr.

LCS:lag

# **EXHIBIT 'B'**

**MH&S**  
McIntyre, Hartye & Schmitt  
LAW OFFICES

April 5, 2006

Our Reference: PG 212 NH

John Sughrue, Esquire  
23 North Second Street  
Clearfield, PA 16830

Re: Marietta Jones v. Barbara Hugney-Shope, Administrator of the  
Estate of Dorothy Gearhart  
No. 03-1567 CD

Dear Mr. Sughrue:

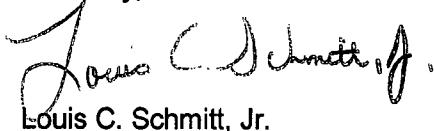
It was a pleasure speaking with you over the telephone regarding this matter on the morning of Monday, April 3, 2006.

As agreed, you will immediately request from Allstate Insurance Company its consent to settle for the \$15,000.00 liability policy of my client.

For my part, I have contacted the court and have withdrawn by Motion to Enforce the Settlement.

In the event Allstate consents, or you do not hear back from Allstate within thirty days after requesting that Allstate consent, please execute the original proposed Release that was forwarded to you.

Sincerely,



Louis C. Schmitt, Jr.

LCS:lag

# **EXHIBIT 'C'**

**MH&S**  
McIntyre, Hartye & Schmitt  
LAW OFFICES

May 25, 2006

Our Reference: PG 212 NH

John Sughrue, Esquire  
23 North Second Street  
Clearfield, PA 16830

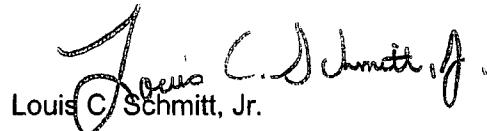
Re: Marietta Jones v. Barbara Hugney-Shope, Administrator of the  
Estate of Dorothy Gearhart  
No. 03-1567 CD

Dear Mr. Sughrue:

I am following up to find out whether Allstate has consented to the settlement of this matter. If not, it appears that more than 30 days have passed, and I believe your client is free to execute the proposed Release.

Please let me know one way or the other how things presently stand.

Sincerely,

  
Louis C. Schmitt, Jr.

LCS:slh

**EXHIBIT 'D'**

**MH&S**  
McIntyre, Hartye & Schmitt  
LAW OFFICES

June 15, 2006

Our Reference: PG 212 NH

John Sughrue, Esquire  
23 North Second Street  
Clearfield, PA 16830

Re: Marietta Jones v. Barbara Hugney-Shope, Administrator of the  
Estate of Dorothy Gearhart  
No. 03-1567 CD

Dear Mr. Sughrue:

As a follow up to my letter of May 25, 2006, I have not yet heard back from you with regard to the execution by your client of the proposed Full and Final Release. I enclose another original Release for your client's execution.

It has been more than thirty days since you requested that Allstate consent to the settlement of this matter. In the event I do not receive the executed Release back from you within ten (10) days, I will have no choice but to re-file a Petition to Enforce the Settlement.

Sincerely,

  
Louis C. Schmitt, Jr.

LCS:lag  
Enclosure

bcc: Colleen Rotunno, Casualty Representative  
PROGRESSIVE INSURANCE COMPANY  
Claim No.: 017247461  
(w/o enclosure)

## FULL RELEASE OF ALL CLAIMS WITH INDEMNITY

Page 1 of 2

Policyholder: **Barbara Hugney-Shope admin of the Estate of Dorothy Gearhart**

Claim No.: **017247461**

Policy No.: **80529595-0**

KNOW ALL BY THESE PRESENTS, that We or I, **Marietta E. Jones and William Jones** individually and as husband and wife, for and in consideration of the sum of **\$15000.00** (**Fifteen thousand dollars and no cents**) the receipt whereof is hereby acknowledged, does hereby for myself, ourselves, our, my heirs, executors, administrators, successors and assigns and any and all persons, firms, employers, corporations, associations, or partnerships release, acquit and forever discharge **Barbara Hugney-Shope admin of the Estate of Dorothy Gearhart** his, her their agents, employees, subsidiaries, and affiliates (hereinafter "Releasees") from any and all claims, actions, causes of actions, demands, costs, property damage, loss of wages, expenses, hospital medical and nursing expenses, accrued or unaccrued claims for loss of consortium, loss of support or affection, loss of society and companionship on account of or in any way growing out of, any and all known and unknown personal injuries and damages resulting from an automobile accident which occurred on or about **October 20, 2001** it is understood and agreed that this settlement is in full compromise of a doubtful and disputed claim as to both questions of liability and as to the nature and extent of the injuries and damages, and that neither this release, nor the payment pursuant thereto shall be construed as an admission of liability, such being denied.

It is further understood and agreed that the undersigned relies wholly upon the undersigned's judgment, belief, and knowledge of the nature, extent, effect, and duration of said injuries and liability therefore and is made without reliance upon any statement or representation of the party or parties hereby released or their representatives.

In consideration of the payment of the sum, the undersigned further agrees to indemnify, his, her their agents, employees, subsidiaries, and affiliates and save them harmless from any and all further liability, loss, damage, claims of subrogation and expense, arising because of any injuries and damages, sustained by the undersigned, and, if necessary in order to save them so harmless, to satisfy on their behalf any judgment against them arising in any way out of the undersigned injuries or damages.

I have read this release and understand it.

Signed:

---

Witness	date	<b>Marietta E. Jones</b>	date
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Witness	date	<b>William Jones</b>	date
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**FULL RELEASE OF ALL CLAIMS WITH INDEMNITY**

Page 2 of 2

State of: \_\_\_\_\_

County of: \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known to be the person(s) who executed the foregoing instrument, and acknowledged this as a free act and deed.  
IN TESTIMONY WHEREOF, I have hereto subscribed my name and affixed my seal this  
\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.  
My commission expires \_\_\_\_\_

Notary Public

Claim #: **017247461**

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

MARIETTA E. JONES,  
Plaintiff,

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township,  
Defendant.

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\* NO: 2003-1567-CD  
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\* Type of Case: Civil/Automobile

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\*  
\*  
\* Type of Pleading: **Plaintiff's Answer to Defendant's  
Amended Motion to Enforce Settlement**  
\*

\* Filed on Behalf of: Plaintiff

\* **Counsel of Record for this Party:**

\* John Sughrue  
\* Attorney at Law  
\* Attorney I. D. No. 01037  
\* 23 North Second Street  
\* Clearfield, PA 16830  
\* Phone: (814) 765-1704  
\* Fax: (814) 765-6959  
\*

\*  
\*  
\*  
\* **Other Counsel of Record:**

\* Louis C. Schmitt, Jr., Esquire  
\* McIntrye, Dugas, Hartye & Schmitt  
\* PA ID #52459  
\* P.O. Box 533  
\* Hollidaysburg, PA 16648-0533  
\* Phone: (814) 696-3581  
\* Fax: (814) 696-9399  
\*

FILED  
AUG 30 2006  
018-7016  
William A. Shaw  
Prothonotary/Clerk of Courts  
3 Ctrs to  
ATT

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA  
CIVIL ACTION LAW**

MARIETTA E. JONES,	*
	Plaintiff
	*
	*
vs.	*      No. 03-1567-C.D.
	*
BARBARA HUGNEY-SHOPE,	*
ADMINISTRATOR, OF THE ESTATE	*
OF DOROTHY GEARHART, a/k/a	*
DOROTHY E. GEARHART, deceased,	*
Late of BRADY TOWNSHIP,	*
	*
Defendant	*

**PLAINTIFF'S ANSWER TO AMENDED MOTION  
TO ENFORCE SETTLEMENT**

AND NOW, comes Plaintiff, Marietta Jones, by her attorney, John Sughrue, and responds to the Defendant's Motion to Enforce Settlement as follows:

1. Admitted.
2. Further, Plaintiff's Answer to said Motion is attached hereto as **EXHIBIT 1** and incorporated herein by reference. Plaintiff did not agree to execute the full and final release with indemnity proposed by Defendant's counsel. In particular, Plaintiff's counsel made it clear that a general release would not be given and that Plaintiff would reserve First Party Benefits and Underinsured Benefits under her Allstate policy, did not agree to indemnity or to have husband, a non-party sign the release. To sign the release as proposed would deprive Plaintiff of her rights under her policy.
5. On the contrary, Plaintiff counsel indicated that he had on April 3, 2006 and intended to write Allstate for consent as required to protect Plaintiff's rights under her Allstate policy. However, subsequently Plaintiff counsel was unable

to ascertain the correct office to which said letter should be directed. Immediate attempts to ascertain the office were unsuccessful and thereafter Plaintiff counsel failed to so advise Defense counsel and to follow through on ascertaining the proper Allstate office.

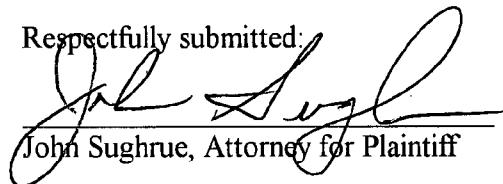
On August 29, 2006 Plaintiff counsel secured the name and address of the proper Allstate official in Pittsburgh, Pa and directed the necessary request for consent to him on August 29, 2006 by Fed Ex overnight service.

**ATTACHED HERETO IS A PROPOSED RELEASE WHICH PLAINTIFF IS PREPARED TO EXECUTE ON SEPTEMBER 29, 2006, THIRTY (30) DAYS AFTER SERVICE OF THE AFOREMENTIONED REQUEST.**

To avoid prejudice to Plaintiff and to comply with the law, thirty (30) days to execute the release is requested rather than twenty (20) days suggested by the Defense. The additional ten (10) days will not prejudicial or financially detrimental to the Defense.

**WHEREFORE**, Plaintiff respectfully moves the Honorable Court to deny the Motion to Enforce Settlement Agreement, or in the alternative direct Plaintiff to deliver the release thirty (30) days after Allstate is served with the request or at such time as Allstate consents, whichever is the shorter period.

Respectfully submitted:

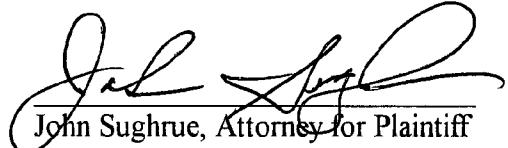


John Sughrue, Attorney for Plaintiff

**VERIFICATION**

I, John Sughrue, Attorney for Marietta Jones, Plaintiff, verify that the statements made in this PLAINTIFF'S ANSWER TO DEFENDANT'S AMENDED MOTION TO ENFORCE SETTLEMENT are personally known to me or are based on information received and are true and correct to the best of my information, knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: August 29, 2006



John Sughrue, Attorney for Plaintiff

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

MARIETTA E. JONES,  
Plaintiff,

vs.

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART a/k/a  
DOROTHY E. GEARHART, Deceased  
Late of Brady Township,  
Defendant.

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\* NO: 2003-1567-CD  
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\*  
\* Type of Case: Civil/Automobile  
\*

\* Type of Pleading: **Plaintiff's Answer to Defendant's  
Motion to Enforce Settlement**  
\*

\* Filed on Behalf of: Plaintiff  
\*

\* **Counsel of Record for this Party:**  
\*

\* John Sughrue  
\* Attorney at Law  
\* Attorney I. D. No. 01037  
\* 23 North Second Street  
\* Clearfield, PA 16830  
\* Phone: (814) 765-1704  
\* Fax: (814) 765-6959  
\*

\* **Other Counsel of Record:**  
\*

\* Louis C. Schmitt, Jr., Esquire  
\* McIntrye, Dugas, Hartye & Schmitt  
\* PA ID #52459  
\* P.O. Box 533  
\* Hollidaysburg, PA 16648-0533  
\* Phone: (814) 696-3581  
\* Fax: (814) 696-9399  
\*

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

APR 03 2006

Attest:

*William B. Brown*  
Prothonotary/  
Clerk of Courts

EXHIBIT 1

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA  
CIVIL ACTION LAW**

MARIETTA E. JONES,	*
Plaintiff	*
	*
vs.	*
	No. 03-1567-C.D.
	*
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	*
BARBARA HUGNEY-SHOPE, ADMINISTRATOR, OF THE ESTATE OF DOROTHY GEARHART, a/k/a DOROTHY E. GEARHART, deceased, Late of BRADY TOWNSHIP,	*
Defendant	*

**PLAINTIFF'S ANSWER TO DEFENDANT'S  
MOTION TO ENFORCE SETTLEMENT**

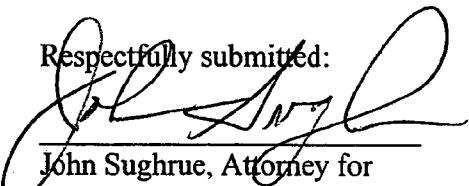
AND NOW, comes Plaintiff, Marietta Jones, by her attorney, John Sughrue, and responds to the Defendant's Motion to Enforce Settlement as follows:

1. Admitted.
2. Denied in part and denied as stated in part. On the contrary, no final enforceable settlement contract was made. Specifically, Plaintiff's case has a settlement value in Plaintiff's counsel's opinion in excess of Fifteen Thousand and 00/100 (\$15,000.00) Dollars. On or about March 24, 2005, Progressive Insurance documented that liability coverage under the Defendant's insurance policy was limited to Fifteen Thousand and 00/100 (\$15,000.00) Dollars. At the same time, it was known to all concerned that Plaintiff's auto insurance carrier, Allstate Insurance, was carrying underinsurance coverage that could be claimed by the Plaintiff in accordance with the Allstate policy terms. On or about March 24, 2005, Plaintiff's counsel, by letter, copy attached as **Exhibit 1**, suggested a resolution of Progressive's involvement in the case by asking if Progressive was "interested in tendering the policy limits in exchange for a release,..... conditioned upon my (Plaintiff's counsel) ability to secure permission from the underinsured carrier, Allstate, and reservation of rights to pursue Mrs. Jones underinsured claim." See Exhibit 1, page 1

attached. Subsequently, the Complaint was filed on March 28, 2005. Thereafter, Progressive, by check dated May 27, 2005, copy attached as **Exhibit 2**, tendered \$15,000.00 and forwarded a Release. This check constituted an offer pursuant to Plaintiff's proposal letter of March 24, 2005 and was subject to the terms of that letter. By letter dated June 7, 2005, copy attached as **Exhibit 3**, Plaintiff's counsel confirmed to Defense counsel that the case was settled conditioned upon securing the aforesaid permission from Allstate.

3. Admitted as set forth above, all of which is incorporated herein by reference.
4. Denied as stated. On the contrary, Plaintiff has refused to execute the Release and discontinue the matter because the conditions of the settlement have not been completed, specifically the underinsurance carrier's consent. In addition to other communications with Allstate, which are not pertinent hereto, Plaintiff's counsel did not specifically seek consent and reservation of rights from the underinsurance carrier until April 3, 2006. That matter is presently pending. Since the conditioned consent of the underinsurance carrier has not yet been obtained, Plaintiff was and continues to be justified in refusing to negotiate said check and/or execute any release because the same is consistent with the agreement of the parties.

WHEREFORE, Plaintiff, Marietta Jones, by her attorney, John Sughrue, respectfully requests that the Defendant's Motion be dismissed, or in the alternative action delayed pending receipt of the response from Allstate Insurance.

Respectfully submitted:  
  
John Sughrue, Attorney for Plaintiff

**JOHN SUGHRUE  
Attorney at Law**

---

23 North Second Street

Phone (814) 765-1704

Clearfield, PA 16830

Fax (814) 765-6959

March 24, 2005

Dave Engler  
Progressive Insurance  
11279 Perry Highway, Suite 201  
Wexford, PA 15090

RE: Your Insured: Dorothy Gearhart  
Claim No.: 017247461  
Plaintiff: Marietta E. Jones  
Date of Loss: October 20, 2001

Dear Mr. Engler:

With respect to the above case, I enclose the following for your records:

1. AllState Insurance letter dated February 13, 2002 directed to Ms. Jones with respect to exhaustion of first-party medical benefits together with the schedule of payments, consisting of 2 pages total;

2. Photocopies of four pictures showing the front and side of Ms. Jones' 2001 Ford Escape Sport, a view from the highway down the hill to the trees where the collision occurred and a view from the collision point up the hill to the highway. On the picture looking towards the highway, you will note a large pine tree to the left and parked cars behind it. That is the area where Mrs. Gearhart was crossing the centerline to pull in to.

Please accept my apology for not adhering to my own schedule and sending these items to you earlier. Your last phone call is acknowledged. I have received the Rule to File Complaint and will do so. I will continue to send you information as I obtain it.

As I understand it, you have a \$15,000.00 liability policy. If you are interested in tendering the policy limits in exchange for a Release, kindly advise. I would recommend that resolution be conditioned upon my ability to secure permission from the underinsured carrier, AllState, and reservation of rights to pursue Mrs. Jones' underinsured claim.

*Exhibit 1*

Engler/Progressive Insurance  
March 24, 2005  
Page 2 of 2

At the time of the accident, Mrs. Jones was employed by DuBois Regional Medical Center and was fully covered by Highmark Blue Cross/Blue Shield health insurance. Highmark picked up the bills. The AllState claim insurance information is evident from the enclosure.

I also enclose a copy of Clearfield Hospital's bill for \$16,854.38.

Thank you for giving these matters your consideration.

Very truly yours,

John Sughrue

JS/ams

Enclosures

~~cc:~~ ~~Marietta Jones~~

VOID IF NOT PRESENTED WITHIN 6 MONTHS AFTER DATE OF ISSUE

Policy # 58052959-000	Insured GEARHART, DOROTH	Date Issued 5/27/2005	Area Code 523	Draft Number 440061486	56-389 412
Claim # 017247461	Claimant JONES, MARIETTA	Date of Loss 10/20/2001	State Code PA	Office Issued At PA-CASWP-BRN-	PAC

Dollars \$ \*\*\*\*\*15,000.00\*\*

PAY: FIFTEEN THOUSAND AND 00/100

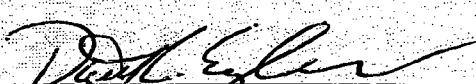
In Payment Of  
SETTLEMENT OF ALL CLAIMS

CDS  
CODE 12PCL

Payable through **National City Bank**  
ASHLAND, OHIO 1-877-448-9544

PROGRESSIVE NORTHERN INSURANCE COMPANY

Pay MARIETTA E JONES AND WILLIAM JONES INDIVIDUALLY AND AS  
TO HUSBAND AND WIFE AND THEIR ATTORNEY JOHN SUGHRUE \*\*\*\*\*  
23 N SECOND ST  
CLEARFIELD PA 16830

BY   
AUTHORIZED SIGNATURE

440061486 041203895 7701870

Exhibit 2

**JOHN SUGHRUE  
Attorney at Law**

---

Phone (814) 765-1704

23 North Second Street

Clearfield, PA 16830

Fax (814) 765-6959

June 7, 2005

Mr. Louis C. Schmitt, Jr., Esq.  
McIntyre, Dugas, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 16648-0533

Re: **Marietta Jones v. Barbara Hugney-Shope, Administrator of the Estate of Dorothy Gearhart  
No. 03-1567-CD**

Dear Lou,

**This will follow up my phone message on your answering service today.**

I have a reply due in the above matter on June 15<sup>th</sup> and you served me with interrogatories. I have settled the case in principle with Dave Engler with Progressive for the policy limits of \$15,000.00. I actually have their check and release in hand.

Mr. Engler and I have agreed that I will hold it while I try to secure permission from Allstate, Jones' carrier, to settle this underlying claim. Any further work in the Gearhart case by either you or me is rather non productive.

**May we have an agreement that all matters are stayed until July 15, 2005, while I try to implement the settlement?**

For your information, Mr. Engler settled this under Claim No. 017247461 and he works out of Progressive's Wexford, PA office located 11279 Perry Highway, Ste. 201, Wexford, PA 15090; Phone: 1-800-PROGRESSIVE.

Thank you for your consideration:

**Very truly yours,**

**John Sughrue**

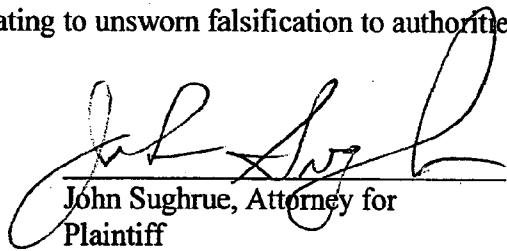
JS/kg

*Exhibit 3*

**VERIFICATION**

I, John Sughrue, Attorney for Marietta Jones, Plaintiff, verify that the statements made in this PLAINTIFF'S ANSWER TO DEFENDANT'S MOTION TO ENFORCE SETTLEMENT are personally known to me or are based on information received and are true and correct to the best of my information, knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: April 3, 2006



John Sughrue, Attorney for  
Plaintiff

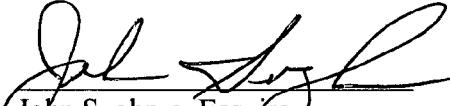
**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on August 30, 2006, I caused a true and correct copy of PLAINTIFF'S ANSWER TO DEFENDANT'S MOTION TO ENFORCE SETTLEMENT to be served on the following and in the manner indicated below:

**By Personal Service upon:**

Mr. Louis C. Schmitt, Jr., Esq.  
McIntyre, Dugas, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 1648

Date: August 30, 2006



John Sughrue, Esquire  
Attorney for Plaintiff

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

MARIETTA JONES

-VS-

No. 03-1567-CD

BARBARA HUGNEY-SHOPE,  
ADMINISTRATOR OF THE ESTATE  
OF DOROTHY GEARHART, a/k/a  
DOROTHY E. GEARHART,  
Deceased Late of Brady  
Township

FILED  
OCT 10 2006  
SEP 01 2006  
Sughrue  
Schmitt

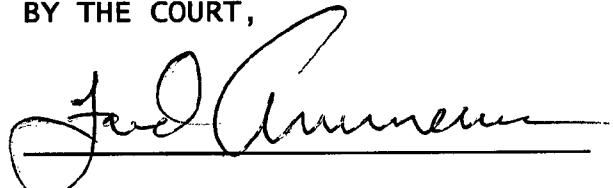
William A. Shaw  
Prothonotary/Clerk of Courts (CR)

O R D E R

NOW, this 30th day of August, 2006, this being the date set for evidentiary hearing relative the Defendant's Amended Motion to Enforce Settlement; the Court noting that Attorney John Sughrue has appeared for the Plaintiff and that neither the Defendant or Defense counsel have appeared; Plaintiff's counsel having indicated to the Court that he believes there is some misunderstanding as to the scheduling of the matter and has requested that the Defendant's Motion be continued rather than dismissed. Therefore, in consideration of the same, it is the ORDER of this Court that the evidentiary hearing be and is hereby continued. Upon request of Plaintiff's counsel, no new hearing date shall be set. The matter shall be rescheduled

for hearing upon request of either of counsel.

BY THE COURT,

A handwritten signature in black ink, appearing to read "Fred A. Munneke". The signature is fluid and cursive, with a large, stylized "F" at the beginning.

President Judge

**FILED**

**SEP 01 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

Special Interventions:

Defendants' Attorney

Plaintiff's Attorney

Plaintiff's Prothonotary's Office

DATE: 9/1/06

*You are responsible for serving all documents on parties.*



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

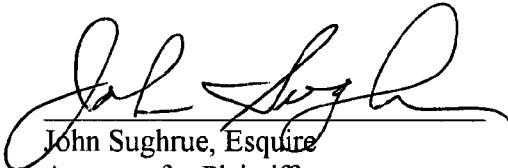
MARIETTA E. JONES,	*
	Plaintiff
	*
	*
vs.	*
	No. 03-1567-C.D.
	*
	*
BARBARA HUGNEY-SHOPE,	*
ADMINISTRATOR, OF THE ESTATE	*
OF DOROTHY GEARHART, a/k/a	*
DOROTHY E. GEARHART, deceased,	*
Late of BRADY TOWNSHIP,	*
	*
Defendant	*

**PRAECIPE TO SETTLE AND DISCONTINUE**

TO WILLIAM A. SHAW, PROTHONOTARY.

Kindly mark the above-captioned matter settled, discontinued, and terminated with prejudice, Plaintiff to pay costs. Please certify Bill of Costs and Certificate of Discontinuation to the undersigned, John Sughrue, Attorney for Plaintiff.

Date: September 11, 2006



John Sughrue, Esquire  
Attorney for Plaintiff

Cc: Mr. Louis C. Schmitt  
Ms. Marietta E. Jones

**FILED**  
0 12:00P.M.6K  
SEP 11 2006 3cc to Atty  
William A. Shaw I certificated to Atty  
Prothonotary/Clerk of Courts EX copy to CIA

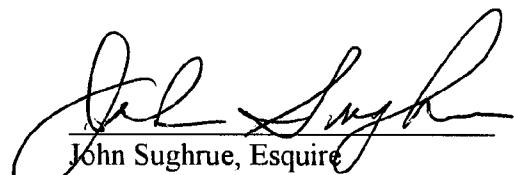
**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on September       , 2006, I caused a true and correct copy of Plaintiff's Praecipe to Settle and Discontinue to be served on the following and in the manner indicated below:

By United States Mail, First Class, Postage  
Prepaid, Addressed As Follows:

Mr. Louis C. Schmitt, Jr., Esq.  
McIntyre, Dugas, Hartye & Schmitt  
PO Box 533  
Hollidaysburg, PA 1648

Date: September 11, 2006



John Sughrue, Esquire  
Attorney for Plaintiff

**COPY**

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

**CIVIL DIVISION**

**Marietta E. Jones**

**Vs.**

**No. 2003-01567-CD**

**Barbara J. Hugney-Shope  
Dorothy Gearhart Estate**

**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 11th Day of September, 2006, marked:

Settled, Discontinued And Terminated With Prejudice.

Record costs in the sum of \$85.00 have been paid in full by John Sughrue, Esquire.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 11th day of September A.D. 2006.

---

William A. Shaw, Prothonotary

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

BILL OF COSTS

Marietta E. Jones,

Vs.

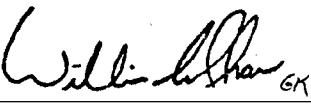
2003-01567-CD

Barbara J. Hugney-Shope, Dorothy Gearhart  
Estate,

Total \$115.37

<u>Amount</u>	<u>Document</u>	<u>Paid By</u>
\$85.00	Writ of Summons	John Sughrue, Esquire
\$30.37	Sheriff Return	John Sughrue, Esquire

Certified from the record this 11th Day of September, 2006.

  
\_\_\_\_\_  
WILLIAM A. SHAW  
PROTHONOTARY