

Jack Sinclair vs Joy Sinclair
2004-1288-CD

2004-1288-CD
Jack W. Sinclair vs. Joy M. Sinclair

Date: 11/23/2004

Clearfield County Court of Common Pleas

User: BILLSHAW

Time: 03:51 PM

ROA Report

Page 1 of 2

Case: 2004-01288-CD

Current Judge: Paul E. Cherry

Jack W. Sinclair vs. Joy M. Sinclair

District Justice Appeal

Date		Judge
08/20/2004	Filing: District Justice Appeals Paid by: Sinclair, Joy M. (defendant) Receipt number: 1885059 Dated: 08/20/2004 Amount: \$85.00 (Check) Cert. copies to Atty. Jones-Wenger	No Judge
08/25/2004	DJ Judgment Transcript, filed.	No Judge
08/26/2004	Proof of Service of Notice of Appeal and Rule to File Complaint, Filed by s/Winifred H. Jones-Wenger, No cc	No Judge
09/03/2004	Complaint, on behalf of Plaintiff, filed by s/Jack W. Sinclair, Plaintiff. 4CC Plaintiff. Certificate of Service, certified copy of the Complaint, filed by s/ Jack W. Sinclair, upon Joy M. Sinclair. No CC.	No Judge
09/29/2004	Notice To Plead, filed by Atty. Jones-Wenger 3 cert. to Atty. Preliminary Objections, filed by Atty. Jones-Wenger 3 cert. to Atty. Certificate of Service, filed by Atty. Jones-Wenger 3 cert. to Atty. Served copy of Preliminary Objections with Notice to Plead on Plaintiff on September 29, 2004 by first class mail.	No Judge
09/30/2004	Amended Certificate of Service/Re: Defendant's Preliminary Objections and No Judge Notice to Plead, on behalf of Defendant, served upon Jack W. Sinclair, Plaintiff, at residence by U.S. mail on September 29, 2004, first class. No CC	No Judge
10/01/2004	Filing: Certificate of Readiness/List For Arbitration Paid by: Sinclair, Jack W. (plaintiff) Receipt number: 1887527 Dated: 10/01/2004 Amount: \$20.00 (Cash) Filed by s/Jack W. Sinclair Four CC Plaintiff	No Judge
10/05/2004	Motion to Strike from Trial List, filed by s/Winifred H. Jones-Wenger One CC Attorney Wenger	No Judge
10/07/2004	Certificate of Service, Motion to Strike From Trial List, by U.S. Postal Service upon Jack W. Sinclair. Filed by Winifred H. Jones-Wenger. No CC	Paul E. Cherry
10/08/2004	Order, AND NOW, this 6th day of October, 2004, it is the ORDER of the Court that argument on Defendant's motion to Strike from Trial List filed in the above matter has been scheduled for the 5th day of November, 2004, at 11:00 a.m., in Courtroom No. 2, Clfd. Co. Courthouse. BY THE COURT:/s/ Paul E. Cherry, Judge. 2 CC Atty Jones-Wenger Order, AND NOW, this 7th day of October, 2004, it is the ORDER of the Court that argument on Defendant's Preliminary Objections filed in the above matter has been scheduled for the 5th day of November, 2004, at 11:00 a.m. in Courtroom No. 2, Clfd. Co. Courthouse. BY THE COURT: /s/ Paul E. Cherry, Judge. 2 CC to Atty Jones-Wenger.	Paul E. Cherry
10/13/2004	Certificate of Service, Order of Court Scheduling argument on Defendant's motion to Strike from Trial List and a certified copy of the October 7, 2004 Order of Court scheduling argument on Defendant's Preliminary Objections, on Jack W. Sinclair, Plaintiff, by 1st class mail. s/Winifred H. Jones-Wenger. No CC	Paul E. Cherry
11/10/2004	ORDER, filed, Cert. to 3 Cert. to Atty. Jones-Wenger NOW, this 5th day of November, 2004, Order of this Court that Defendant's Motion to Strike from Trial List be and is hereby granted.	Paul E. Cherry

Date: 11/23/2004

Time: 03:51 PM

Page 2 of 2

Clearfield County Court of Common Pleas

User: BILLSHAW

ROA Report

Case: 2004-01288-CD

Current Judge: Paul E. Cherry

Jack W. Sinclair vs. Joy M. Sinclair

District Justice Appeal

Date		Judge
11/10/2004	ORDER, filed 2 Cert. to Atty. Jones-Wenger and 1 Cert. to Plff. NOW, this 5th day of November, 2004, ORDER of this Court taht the parties, if they so desire, may submit briefs to this Court on the issue of venue by Nov. 15, 2004.	Paul E. Cherry
11/18/2004	Order, AND NOW, this 18th day of Nov. 2004, following Argument on Defendant's Preliminary Objections and review of Briefs it is the ORDER of this Court that the Preliminary Objection be and are hereby GRANTED. The Court is satisfied that the Court of Common Pleas of Centre Co. PA is proper venue in this matter. BY THE COURT, /s/ Paul E. Cherry, Judge. 2CC Plff, 2CC Atty Wenger	Paul E. Cherry

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS
CLEARFIELD CO.
JUDICIAL DISTRICT
46TH

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2004-1288-CJ

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case mentioned below.

NAME OF APPELLANT Joy M. Sinclair	MAG. DIST. NO. OR NAME OF D.J. 46-3-04		
ADDRESS OF APPELLANT 336 S. Centre Street	CITY Philipsburg	STATE PA	ZIP CODE 16866
DATE OF JUDGMENT 07-26-04	IN THE CASE OF (Plaintiff) Jack W. Sinclair vs. Joy M. Sinclair (Defendant)		
CLAIM NO. CV 0000059-04 LT	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT <i>X Joy M. Sinclair</i>		
This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B. This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.		If appellant was CLAIMANT (see Pa. R.C.P.J.P. No. 1001(6) in action before District Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL.	
Signature of Prothonotary or Deputy			

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee).

PRAECIPE: To Prothonotary

Enter rule upon Jack W. Sinclair, appellee(s), to file a complaint in this appeal
(Name of appellee(s))

(Common Pleas No. 2004-1288-CJ) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Winifred H. Jones-Nanger
Signature of appellant or his attorney or agent

RULE: To Jack W. Sinclair, appellee(s).
(Name of appellee(s))

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS WILL BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of mailing.

Date: Aug. 20, 2004

Cella

Signature of Prothonotary or Deputy

FILED
Fee

AUG 20 2004
01/11/06 Wm
William A. Shaw
Prothonotary/Clerk of Courts
(GPIR to Atty.)

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____; SS

AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. _____, upon the District Justice designated therein on (date of service) _____, by personal service by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) _____, on _____ by personal service by (certified) (registered) mail, sender's receipt attached hereto.

and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on _____, _____, by personal service by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS _____ DAY OF _____,

Signature of affiant

Signature of official before whom affidavit was made

Title of official

My commission expires on _____

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-04

DJ Name: Hon.

JAMES L. HAWKINS
Address: **251 SPRING STREET**
P.O. BOX 362
HOUTZDALE, PA

Telephone: **(814) 378-7160**

16651-0362

ATTORNEY DEF PRIVATE :

WINIFRED H. JONES-WENGER
333 LAUREL ST
PO BOX 469
PHILIPSBURG, PA 16866

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

SINCLAIR, JACK W
522 MCATEER ST
HOUTZDALE, PA 16651

NAME and ADDRESS

DEFENDANT:

SINCLAIR, JOY M
36 S. CENTER ST APT/STE A
PHILIPSBURG, PA 16866

NAME and ADDRESS

Docket No.: **CV-0000059-04**
Date Filed: **5/13/04**



THIS IS TO NOTIFY YOU THAT:

Judgment:

DEFAULT JUDGMENT PLTF

<input checked="" type="checkbox"/> Judgment was entered for: (Name) <u>SINCLAIR, JACK W</u>		
<input checked="" type="checkbox"/> Judgment was entered against: (Name) <u>SINCLAIR, JOY M</u>		
in the amount of \$ <u>5,618.50</u> on:	(Date of Judgment)	<u>7/26/04</u>
<input type="checkbox"/> Defendants are jointly and severally liable.	(Date & Time)	
<input type="checkbox"/> Damages will be assessed on:	Amount of Judgment \$ <u>5,500.00</u>	
<input type="checkbox"/> This case dismissed without prejudice.	Judgment Costs \$ <u>118.50</u>	
<input type="checkbox"/> Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ _____	Interest on Judgment \$ <u>.00</u>	
<input type="checkbox"/> Portion of Judgment for physical damages arising out of residential lease \$ _____	Attorney Fees \$ <u>.00</u>	
	Total \$ <u>5,618.50</u>	
	Post Judgment Credits \$ _____	
	Post Judgment Costs \$ _____	
	=====	
	Certified Judgment Total \$ _____	

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR DISTRICT JUSTICES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE DISTRICT JUSTICE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE DISTRICT JUSTICE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

7-26-04 Date *James L. Hawkins*, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date _____, District Justice

My commission expires first Monday of January, **2006**.

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-04

DJ Name: Hon.

JAMES L. HAWKINS
Address: **251 SPRING STREET**
P.O. BOX 362
HOUTZDALE, PA
Telephone: **(814) 378-7160**

16651-0362

JAMES L. HAWKINS
251 SPRING STREET
P.O. BOX 362
HOUTZDALE, PA 16651-0362

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

SINCLAIR, JACK W
522 MCATEER ST
HOUTZDALE, PA 16651

NAME and ADDRESS

DEFENDANT:

SINCLAIR, JOY M
36 S. CENTER ST APT/STE A
PHILIPSBURG, PA 16866

NAME and ADDRESS

Docket No.: **CV-0000059-04**
Date Filed: **5/13/04**



04-1288-CJ

THIS IS TO NOTIFY YOU THAT:

Judgment:

DEFAULT JUDGMENT PLTF

Judgment was entered for: (Name) **SINCLAIR, JACK W**

Judgment was entered against: (Name) **SINCLAIR, JOY M**

in the amount of \$ **5,618.50** on: (Date of Judgment) **7/26/04**

Defendants are jointly and severally liable. (Date & Time) _____

Damages will be assessed on: **FILED** *E6K*
7/26/04
AUG 25 2004

This case dismissed without prejudice.

Amount of Judgment Subject to **William A. Shaw**
Attachment/42 Pa.C.S. § 8127 \$ **Prothonotary/Clerk of Courts**

Portion of Judgment for physical damages arising out of residential lease \$ _____

Amount of Judgment	\$ 5,500.00
Judgment Costs	\$ 118.50
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 5,618.50
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
Certified Judgment Total \$ _____	

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR DISTRICT JUSTICES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE DISTRICT JUSTICE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE DISTRICT JUSTICE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

7-26-04 Date *James L. Hawkins*, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

8-24-04 Date *James L. Hawkins*, District Justice

My commission expires first Monday of January, **2006**.

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-04

DJ Name: Hon.

JAMES L. HAWKINS
Address: **251 SPRING STREET**
P.O. BOX 362
HOUTZDALE, PA
Telephone: **(814) 378-7160**

16651-0362

CIVIL COMPLAINT

PLAINTIFF:

NAME and ADDRESS

Jack W. Sinclair
522 McAtee St.
Houtzdale PA 16651

VS.

DEFENDANT:

NAME and ADDRESS

Joy M. Sinclair
36 South Center St. Apt A
L Ph. Lpsburg PA 16866

Docket No.: **CU-59-04**

Date Filed: **5-13-04**



FILING COSTS	AMOUNT	DATE PAID
POSTAGE	\$ _____	/ /
SERVICE COSTS	\$ _____	/ /
CONSTABLE ED.	\$ _____	/ /
TOTAL	\$ _____	/ /

Pa.R.C.P.D.J. No. 206 sets forth those costs recoverable by the prevailing party.

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ **5,500** together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

ON April 14, 2004 the Plaintiff and Defendant typed up a document to settle their divorce. The Plaintiff has primary custody of their daughter and as part of the agreement the defendant was allowed to claim their daughter on her 2003 Federal Income Taxes. The defendant received the tax benefit but refused to comply with the May deadline for a \$5,500 check and a Kirby vacuum to the Plaintiff.

I, Jack W. Sinclair verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read "Jack W. Sinclair".

(Signature of Plaintiff or Authorized Agent)

Plaintiff's Attorney: _____

Address: _____

Telephone: _____

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within district justice jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

FILED

AUG 25 2004

William A. Shaw
Prothonotary/Clerk of Courts

7003 1010 0002 3611 7398

U.S. Postal Service™
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HOUTZDALE PA 16651-0362

Postage	\$ 0.37
Certified Fee	\$2.30
Return Receipt Fee (Endorsement Required)	\$1.75
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ 4.42

PA 16888
0090 03
Postmark
Here
AUG 23 2004
08/23/2004

Sent To James L Hawkins
 District Justice
 Street, Apt. No. 251 Spring Street
 or PO Box No. P.O. BOX 362
 City, State, ZIP+4 Houtzdale, PA 16651-0362

PS Form 3800, June 2002
 See Reverse for Instructions

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail® or Priority Mail®.
- Certified Mail is *not* available for any class of international mail.
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS® postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry. Internet access to delivery information is not available on mail addressed to APOs and FPOs.

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

James L. Hawkins
District Justice
251 Spring Street
P.O. Box 362
Houtzdale, PA 16651-0362

2. Article Number 7003 1010 0002 3611 7398
(Transfer from service label)

PS Form 3811, August 2001

COMPLETE THIS SECTION ON DELIVERY**A. Signature** Agent
 Addressee**B. Received by (Printed Name)****C. Date of Delivery**
8.24.04**D. Is delivery address different from item 1?** Yes
if YES, enter delivery address below: No**3. Service Type**

<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

CPRI-03-P-4081

RECEIVED AUG 25 2004

UNITED STATES POSTAL SERVICE



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

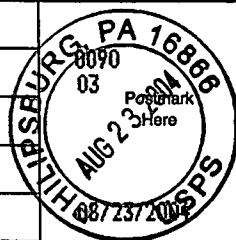
- **Sender:** Please print your name, address, and ZIP+4 in this box •
WINIFRED H. JONES-WENGER, ESQ.
333 Laurel Street
P.O. Box 469
Philipsburg, PA 16866

U.S. Postal Service™
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(*Domestic Mail Only; No Insurance Coverage Provided*)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	\$ 0.37
Certified Fee	\$2.30
Return Receipt Fee (Endorsement Required)	\$1.75
Restricted Delivery Fee (Endorsement Required)	\$3.50
Total Postage & Fees	\$ 7.92



Sent To Mr. Jack W. Sinclair
Street, Apt. No.;
or PO Box No. 522 McAteer Street
City, State, ZIP+4
Houtzdale, PA 16651

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail® or Priority Mail®.
- Certified Mail is *not* available for any class of international mail.
- **NO INSURANCE COVERAGE IS PROVIDED** with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS® postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry. Internet access to delivery information is not available on mail addressed to APOs and FPOs.

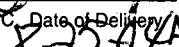
SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:
Mr. Jack W. Sinclair
522 McAteer Street
Houtzdale, PA 16651

COMPLETE THIS SECTION ON DELIVERY

A. Signature  Agent Addressee

B. Received by (Printed Name) C. Date of Delivery 

D. Is delivery address different from item 1? Yes
if YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number 7003 1010 0002 3611 7381

(Transfer from service label)

7003 1010 0002 3611 7381

PS Form 3811, August 2001

CPRI-03-P-4081

UNITED STATES POSTAL SERVICE



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

- **Sender: Please print your name, address, and ZIP+4 in this box •**
WINIFRED H. JONES-WENGER, ESQ.
333 Laurel Street
P.O. Box 469
Philipsburg, PA 16866

6866-0463

FILED

01/11/25 BN
AUG 26 2004
100

William A. Shaw EAS
Prothonotary/Clerk of Courts

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____, SS

AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. 2004-1288-CD, upon the District Justice designated therein on (date of service) 8-23-2004, by personal service by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) JACK W. SINCLAIR, on 8-23-2004, by personal service by (certified) (registered) mail, sender's receipt attached hereto.

and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on 8-23-2004, by personal service by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS 26th DAY OF August, 2004

William A. Shaw

Signature of official before whom affidavit was made

WILLIAM A. SHAW
Prothonotary

Title of official

My Commission Expires

1st Monday in Jan. 2006

My commission expires on Clearfield Co., Clearfield, PA

Virginia H. Jones-Henzer

Signature of affiant

COURT OF COMMON PLEAS

CLEARFIELD CO.
JUDICIAL DISTRICT

46TH

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2004-1288-CN

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case mentioned below.

NAME OF APPELLANT Joy M. Sinclair	MAG. DIST. NO. OR NAME OF D.J. 46-3-04		
ADDRESS OF APPELLANT 336 S. Centre Street	CITY Philipsburg	STATE PA	ZIP CODE 16866
DATE OF JUDGMENT 07-26-04	IN THE CASE OF (Plaintiff) Jack W. Sinclair vs. Joy M. Sinclair	(Defendant)	
CLAIM NO. CV/000059-04	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT <i>X Joy M. Sinclair</i>		
LT			
<p>This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B.</p> <p>This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p>_____ Signature of Prothonotary or Deputy</p>			
<p>If appellant was CLAIMANT (see Pa. R.C.P.J.P. No. 1001(6) in action before District Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL.</p>			

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee).

PRAECIPE: To Prothonotary

Enter rule upon Jack W. Sinclair, appellee(s), to file a complaint in this appeal
(Name of appellee(s))

(Common Pleas No. 2004-1288-CN) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Verified by Joy M. Sinclair
Signature of appellant or his attorney or agent

RULE: To Jack W. Sinclair, appellee(s).
(Name of appellee(s))

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS WILL BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of mailing.

Date: Aug 20, 2004

LL

Signature of Prothonotary or Deputy

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

AUG 20 2004

Attest.

W.L. H.
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY,
PENNSYLVANIA

Jack W. Sinclair
Plaintiff

vs.

Joy M. Sinclair
Defendant

District Justice Appeal
CASE NO. 04-1288-CD

Type of Pleading:
COMPLAINT

Filed on Behalf of
PLAINTIFF

Plaintiff's address:
522 McAtee Street
Houtzdale, Pennsylvania 16651
(814) 378-8752

EGH
FILED 4cc
01:57 6/1 P.M.
SEP 03 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

<u>JACK W. SINCLAIR</u>	:
Plaintiff	:
vs.	CASE NO. 04-1288-CD
<u>Joy M. Sinclair</u>	:
Defendant	Type of Pleading: COMPLAINT

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 defense or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, Pennsylvania 16830
(814) 765-2641, extension 1300

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

JACK W. SINCLAIR
Plaintiff

VS

**District Justice Appeal
CASE NO. 04-1288-C.D.**

JOY M. SINCLAIR
Defendant

**Type of Pleading:
COMPLAINT**

COMPLAINT

PARTIES

1. The Plaintiff, Jack W. Sinclair at all times relevant hereto, is an adult citizen of the State of Pennsylvania and resides in Clearfield county.
2. The Defendant, Joy M. Sinclair at all times relevant hereto, is an adult citizen of the State of Pennsylvania who resides at 336 S. Centre Street, Philipsburg, PA 16866 and is subject to service of process.

FACTS:

3. On or about April 14, 2004 the Plaintiff and Defendant entered into a written contract, a copy of which is attached hereto, made a part hereof, and is marked as Exhibit A (hereinafter referred to as the Contract). Said contract provides that the laws of the State of Pennsylvania shall govern the Contract.

4. Pursuant to the Contract, the Plaintiff agreed to: (from contract)

- a. Allow the Defendant to claim their minor child for the 2003 tax year.
- b. Return photographs the Defendant took in Paris while in high school.
- c. Give to Defendant a Nintendo game system purchased by the couple in 1990.

d. Return any personal items of the Defendant's he comes across while unpacking boxes, etc.

and the Defendant agreed to: (from contract)

- a. All photographs will be shared/copied evenly. This includes all photographs taken by Jack or Joy, all photographs given to them by family members, all photographs taken at photography studios, school photographs, photographs bought from the Centre Daily Times, etc. All photographs will be given to Jack on or before June 30, 2004. If all Photographs are not shared evenly by June 30, Joy will pay Jack an additional \$250 and also make the necessary corrections. Examples of not sharing evenly include: Joy withholding selected/favorite pictures of Jaclyn from Jack; Joy keeping larger (10X13, 8X10) and giving Jack smaller copies; Joy making 4X6 copies of 3X5 originals and Jack not getting an equal number of 4X6 copies; Joy not sharing the negatives. Joy and Jack will share the cost of reproducing the photographs evenly.

b. All videotapes need to be reproduced onto DVD format. The original tapes need to be divided equally. The cost to reproduce the tapes onto DVD will be shared evenly. The DVD's and his share of originals need to be given to Jack on or before June 30, 2004. If the tapes are not delivered by June 30, or if not all tapes are reproduced, Joy will pay Jack an additional \$250 and then make the necessary corrections.

- c. All financial documents that have not been shared already will be copied and given to Jack by June 30.
- d. Jaclyn's college fund will be divided into two with each parent serving as the custodian for their half of the account. The college fund will be divided evenly by May, 7, 2004.
- e. All of Jaclyn's school papers, awards, report cards, projects, etc., will be reproduced and/or shared evenly.
- f. Since a lump sum financial agreement could not be agreed upon, Joy will pay Jack \$5,500 plus the Kirby vacuum. The check and item need to be in Jack's possession by May 7, 2004.
- g. All personal items of Jack's that she comes across when unpacking boxes, etc.

5. On or about May 7, 2004 the Defendant breached the Contract by failing to perform the obligations of the contract by refusing to provide to the Plaintiff the \$5,500 and the Kirby vacuum cleaner by the written deadline of May 7, 2004. The June 30, 2004 deadlines for the duplication of photographs, videotapes, and financial records we also not fulfilled.

6. On or about May 7, 2004 Plaintiff gave notice of breach of contract and demand for performance to the Defendant.

7. On or about July 26, 2004 District Justice James L. Hawkins (46-3-04) entered a Judgment for the Plaintiff for the amount of \$5,618.50

8. On or about August 20, 2004 the Defendant and her attorney, Winifred H. Jones-Wenger, filed a Notice of Appeal From District Justice Judgment, and a Praeclipe To Enter Rule To File Complaint And Rule to File. Common Pleas No. 2004-1288-C.D. Claim No. 0000058-04.

CLAIMS:

9. The Defendant's breach of the Contract delineated hereinabove proximately caused Plaintiff to suffer the loss of \$1,362 for complying with the Federal Income Tax portion of the contract, and \$118.50 in filing costs at the District Justice level. The Plaintiff is still without the \$5,500, the \$500 in penalties outlined in the contract, the vacuum cleaner, the pictures, videotapes, school items, and financial records..

10. Plaintiff has performed all conditions precedent to recovery and has not excused defendant's non-performance or breach of the Contract.

DEMAND FOR RELIEF:

WHEREFORE, the Plaintiff asks for the following relief:

1. Judgment for Plaintiff and against the Defendant;
2. An award of damages in an amount which will fully and fairly compensate Plaintiff for the cash amounts and items outlined within the contract; and for the stress of pursuing the fair distribution of joint items, involving a juvenile child of which the Plaintiff is the primary parent, that are being withheld by the Defendant;
3. Reasonable attorney fees, costs and expenses if they are needed to defend the existing judgment;
4. Plus interest, court costs and such other and further relief as may be deemed just and proper costs as the court may allow.

Jack W. Sinclair
Plaintiff

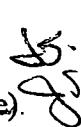
Exhibit A

April 14, 2004

This document will serve as a final divorce settlement between Joy Marie Sinclair and Jack William Sinclair. By signing this, each party agrees to honor the entire agreement and not to make any changes or revisions without the consent of the other party.

A formal settlement will be drafted and approved by each of their lawyers, but the formal agreement will not differ in principal from this agreement.

To settle the divorce, Joy will provide to Jack:

- All photographs will be shared/copied evenly. This includes all photographs taken by Jack or Joy, all photographs given to them by family members, all photographs taken at photography studios, school photographs, photographs bought from the Centre Daily Times, etc. All photographs will be given to Jack on or before June 30, 2004. If all photographs are not shared evenly by June 30, Joy will pay Jack an additional \$250 and also make the necessary corrections. Examples of not sharing evenly include: Joy withholding selected/favorite pictures of Jaclyn from Jack; Joy keeping larger (10X13, 8X10) and giving Jack smaller copies; Joy making 4X6 copies of 3X5 originals and Jack not getting an equal number of 4X6 copies; Joy not sharing the negatives. Joy and Jack will share the costs of reproducing the photographs evenly.
- All videotapes need to be reproduced onto DVD format. The original tapes need to be divided equally. The cost to reproduce the tapes onto DVD will be shared evenly. The DVD's and his share of originals need to be given to Jack on or before June 30, 2004. If the tapes are not delivered by June 30, or if not all tapes are reproduced, Joy will pay Jack an additional \$250 and then make the necessary corrections.
- All financial documents that have not been shared already will be copied and given to Jack by June 30.
- Jaclyn's college fund will be divided into two with each parent serving as the custodian for their half of the account. The college fund will be divided evenly by May 7, 2004.
- All of Jaclyn's school papers, awards, report cards, projects, etc., will be reproduced and/or shared evenly.
- Since a lump sum financial agreement could not be agreed upon, Joy will pay Jack \$5,500 plus the Kirby vacuum (~~\$700 total value according to Joy's estimates~~). ~~Or, at Joy's discretion \$5,500 plus the Kirby vacuum cleaner, JBL speakers, and the Sony CD player (\$530 total value according to Joy's estimate)~~.  The check and items need to be in Jack's possession by May 7, 2004.
- All personal items of Jack's that she comes across when unpacking boxes, etc.

Jack will provide to Joy:

- photographs she took while she was in Paris

- Nintendo game system and games
- Any personal items of Joy's that he comes across while unpacking boxes, etc.

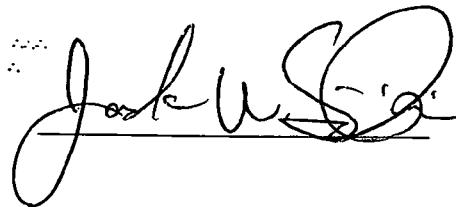
Agreed upon points:

- For tax purposes, Joy and Jack will alternate declaring Jaclyn as their dependent. Jack 2002, Joy 2003, Jack 2004, Joy 2005, etc. If either party remarries this will be open for renegotiation.
- All present and future items of Jaclyn (school report cards, awards, etc.) will be shared or reproduced evenly.
- This document was put together in haste to help facilitate an agreement for the 2003 Federal Income Tax filing date of April 15. If either party signs this document but then does not honor the agreement once taxes have been filed, the other party has the right to receive everything outlined above that would have gone to them.

Joy M. Sinclair


4/14/04 4/14/04

Jack W. Sinclair


4/14/04 4/14/04

VERIFICATION

I verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to Unsworn Falsification to Authorities.

A handwritten signature in black ink, appearing to read "Jack W. Sheldon", is written over a horizontal line. The signature is fluid and cursive, with a prominent 'J' at the beginning.

7003 7001 7010 7002 7180

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Return Receipt Fee (Endorsement Required)	\$ 1.75
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 4.65

CLAYFIELD PA 16830
0830 07 SEP 3 Postmark
09/15/04 2004

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Joy M. Sinclair
Street, Apt. No.
or PO Box No.
336 S. Centre ST.
City, State, ZIP44
Philipsburg PA 16866

PS Form 3800, June 2002
See Reverse for Instructions

Certified Mail Provides:

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- A unique identifier for your mailpiece
- A record of delivery kept by the Postal Service for two years

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- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain *Return Receipt* service, please complete and attach a *Return Receipt* (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS® postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement, "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry. Internet access to delivery information is not available on mail addressed to APOs and FPOs.

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY,
PENNSYLVANIA

JACK W. SINCLAIR

Plaintiff

vs.

District Justice Appeal
CASE NO. 04-1288-C.D.

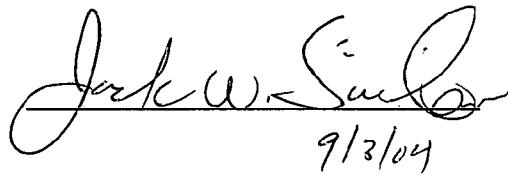
JOY M. SINCLAIR

Defendant

CERTIFICATE OF SERVICE

I, Jack W. Sinclair, Plaintiff above named, do hereby certify that on the third day of September , 2004, I caused a certified copy of the Complaint to be mailed, first class – postage prepaid, to the Defendant at her address as follows:

Joy M. Sinclair
336 S. Centre Street
Philipsburg, PA 16866


9/3/04

FILED

SEP 03 2004

2:10 PM

William A. Shaw

Prothonotary/Clerk of Courts

NO CUST

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

JACK W. SINCLAIR, :
Plaintiff :
: :
v. : No. 2004-1288-CD
: :
JOY M. SINCLAIR :
Defendant :
:

NOTICE TO PLEAD

TO: JACK W. SINCLAIR

You are hereby notified to file a written response to the enclosed Preliminary Objections of Joy M. Sinclair within twenty (20) days from service hereof or a judgment may be entered against you.

Winifred H. Jones-Wenger
Winifred H. Jones-Wenger
Attorney for Defendant Joy M. Sinclair

Date: 9-29-04

FILED

SEP 29 2004
019100
William A. Shaw
Prothonotary/Clerk of Courts

3 copies to ATT

FILED

SEP 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

SEP 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

JACK W. SINCLAIR, :
Plaintiff :
: :
v. : No. 2004-1288-CD
: :
JOY M. SINCLAIR :
Defendant :
:

PRELIMINARY OBJECTIONS

AND NOW COMES the Defendant Joy M. Sinclair, by her attorney, Winifred H. Jones-Wenger, Esquire, who sets forth the following Preliminary Objections to Plaintiff's Complaint.

Improper Venue
(Pa. R.C.P. 1028(a)(1)

1. Plaintiff has filed a complaint seeking to collect on a purported agreement between the parties.
2. Plaintiff previously filed an action in divorce against Defendant in the Court of Common Pleas of Centre County to No. 2001-2897.
3. It is apparent from the face of the purported agreement (attached to Plaintiff's Complaint) and the averments of the Complaint that Plaintiff is attempting to adjudicate and/or enforce the issue of equitable distribution in the divorce between the parties.

WHEREFORE Defendant objects to the venue of this Court to determine the case raised by Plaintiff.

FILED

SEP 29 2004

0191-001
William A. Shaw
Prothonotary/Clerk of Courts

3 copy to Atty

Pendency of Prior Action
(Pa. R.C.P. 1028(a)(6)

4. The averments of Paragraphs 1 through 4 of Defendant's Preliminary Objections are incorporated herein as though set forth at length.

5. In the divorce action filed by Plaintiff in Centre County, the Honorable Charles C. Brown bifurcated the divorce action and entered an Order retaining jurisdiction over the issue of equitable distribution. See copy of Order attached hereto as Exhibit "A" and incorporated herein by this reference.

6. The Centre County Court has not filed a resolution of the matter of equitable distribution.

WHEREFORE, Defendant raises the objection of pendency of a prior action for the resolution of this matter.

Legal Insufficiency (Demurrer)
(Pa. R.C.P. 1028(a)(4)

9. In his Complaint Plaintiff seeks damages for breach of a written "contract" which he has attached to his Complaint.

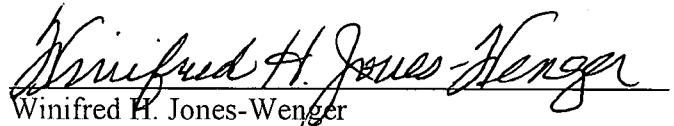
10. Said "contract" states in the second paragraph thereof as follows: "A formal settlement will be drafted and approved by each of their lawyers, . . ."

11. It is apparent from the face of it that such contract is executory in nature.

12. Plaintiff does not state a cause of action against the Defendant.

WHEREFORE Defendant objects (demurs) to the legal insufficiency of Plaintiff's Complaint.

Respectfully submitted,



Winifred H. Jones-Wenger
Counsel for Defendant
333 Laurel Street (P.O. Box 469)
Philipsburg, PA 16866
(814) 342-4330
PA ID No. 23751

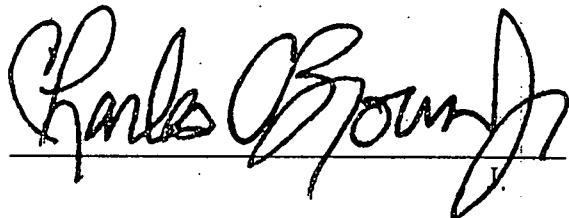
IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

JACK WILLIAM SINCLAIR)
Plaintiff,)
)
v.) No. 2001-2897
)
JOY MARIE SINCLAIR)
Defendant.) IN DIVORCE

ORDER

AND NOW, this 26th day of February, 2004, upon review of the
Stipulation for Bifurcation filed in the above-captioned matter, the Court hereby bifurcates the
issue raised in the pleading from the divorce, and reserves jurisdiction over the sole issue of
equitable distribution of property.

BY THE COURT:



DEBRA C. IMMEL
PROTHONOTARY
CENTRE COUNTY, PA

U P Y
FILED FOR RECORD

2004 FEB 26 A 9:34

EXHIBIT 'A'

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

JACK W. SINCLAIR, :
Plaintiff :
: :
v. : No. 2004-1288-CD
: :
JOY M. SINCLAIR :
Defendant :
:

CERTIFICATE OF SERVICE

I, Winifred H. Jones-Wenger, the undersigned, certify that I did serve Plaintiff's Preliminary Objections with Notice to Plead, concerning the above-captioned case, on Jack W. Sinclair, Plaintiff, at his residence address of 522 McAteer Street, Houtzdale, Pennsylvania, 16651, by depositing same with the U.S. Postal Service on September 29, 2004, for delivery by U.S. mail, first class, postage prepaid.

Winifred H. Jones-Wenger
WINIFRED H. JONES-WENGER
Attorney for Defendant

Dated: September 29, 2004

FILED

SEP 29 2004
019001
William A. Shaw
Prothonotary/Clerk of Courts

3 Cents to Mail

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JACK W. SINCLAIR,
PLAINTIFF

vs.

JOY M. SINCLAIR,
DEFENDANT

: CIVIL DIVISION
:
: NO. 2004-1288-CD
:
: AMENDED CERTIFICATE OF SERVICE/RE:
: DEFENDANT'S PRELIMINARY
: OBJECTIONS AND NOTICE TO PLEAD
:
: FILED ON BEHALF OF:
: DEFENDANT/JOY M. SINCLAIR
:
: COUNSEL OF RECORD FOR THIS PARTY:
: WINIFRED H. JONES-WENGER, ESQ.
: ID #23751
: 333 LAUREL STREET/P.O. BOX 469
: PHILIPSBURG, PA 16866
: (814) 342-4330

666
FILED *666*
NO CC
M/11/3/2004
SEP 30 2004

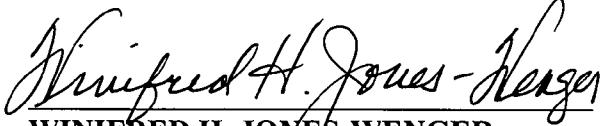
William A. Shaw
Prothonotary/Clerk of Courts

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

JACK W. SINCLAIR, :
Plaintiff :
: :
v. : No. 2004-1288-CD
: :
JOY M. SINCLAIR, :
Defendant :
:

AMENDED CERTIFICATE OF SERVICE

I, Winifred H. Jones-Wenger, the undersigned, certify that I did serve Defendant's Preliminary Objections and Notice to Plead, concerning the above-captioned case, on Jack W. Sinclair, Plaintiff, at his residence address of 522 McAtee Street, Houtzdale, Pennsylvania, 16651, by depositing same with the U.S. Postal Service on September 29, 2004, for delivery by U.S. mail, first class, postage prepaid.


WINIFRED H. JONES-WENGER
Attorney for Defendant

Dated: September 29, 2004

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL TRIAL LISTING

CERTIFICATE OF READINESS

TO THE PROTHONOTARY

DATE PRESENTED 10/11/04

CASE NUMBER TYPE TRIAL REQUESTED ESTIMATED TRIAL TIME

04-1288-C.D

Date Complaint Jury Non-Jury

Filed: Answer 8/20/04 Arbitration _____ days/hours

Complaint 9/3/04

PLAINTIFF(S)

Jack W. Sinclair

Check block if a Minor
is a Party to the Case

DEFENDANT(S)

Joy M. Sinclair

ADDITIONAL DEFENDANT(S)

FILED ^{4CC}

01/10/2004 Piff

OCT 01 2004 Piff pd

00.00

W.A.S. William A. Shaw

Prothonotary/Clerk of Courts

JURY DEMAND FILED BY:

DATE JURY DEMAND FILED:

AMOUNT AT ISSUE CONSOLIDATION DATE CONSOLIDATION ORDERED

\$6,118.50

More than

&

yes no

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel:

Jack W. Sinclair

Jack W. Sinclair

(814) 378-8752

FOR THE PLAINTIFF

TELEPHONE NUMBER

Wm. Fred H. Jones-Wenger

(814) 342-4330

FOR THE DEFENDANT

TELEPHONE NUMBER

FOR ADDITIONAL DEFENDANT

TELEPHONE NUMBER

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

JACK W. SINCLAIR,
Plaintiff

v.

JOY M. SINCLAIR,
Defendant

: No. 2004-1288-CD

FILED ^{cc}
Oct 05 2004
Wenger

By William A. Shaw
Prothonotary/Clerk of Courts

MOTION TO STRIKE FROM TRIAL LIST

COMES NOW the Defendant, by and through her attorney Winifred H. Jones-Wenger who files the following Motion to Strike the matter from the trial (arbitration) list and in support thereof sets forth the following:

1. On September 3, 2004, Plaintiff filed a Complaint in the above referenced case.
2. On September 29, 2004, Defendant filed Preliminary Objections to the Complaint filed, raising the issues of improper venue, pending action, and legal insufficiency to the Complaint.
3. On October 1, 2004, Plaintiff filed a Certificate of Readiness in which he asked that the matter be placed on the trial list.
4. There are motions outstanding before the Court in the nature of Preliminary Objections and therefore Plaintiff has failed to comply with Local Rule 212.2(a)(1).
5. Defendant has not had the opportunity to file an Answer, depending on the disposition of the outstanding Preliminary Objections.
6. Defendant has not had the opportunity to pursue discovery in this matter.
7. The matter has not been listed for trial previously.

WHEREFORE Defendant moves the Court to strike the matter from the trial (arbitration) list.

Respectfully submitted,

Winifred H. Jones-Wenger
Winifred H. Jones-Wenger, Esquire
Attorney for Defendant

Date: 10-4-04

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

JACK W. SINCLAIR,
Plaintiff

v. : No. 2004-1288-CD

JOY M. SINCLAIR,
Defendant

CERTIFICATE OF SERVICE

I, Winifred H. Jones-Wenger, the undersigned, certify that I did serve a certified copy of the Motion to Strike from Trial List, concerning the above-captioned case, on Jack W. Sinclair, Plaintiff, at his residence address of 522 McAtee Street, Houtzdale, Pennsylvania, 16651, by depositing same with the U.S. Postal Service on October 6, 2004, for delivery by U.S. mail, first class, postage prepaid.

Winifred H. Jones-Wenger
WINIFRED H. JONES-WENGER
Attorney for Defendant

Dated: October 6, 2004

FILED *EGK*

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mf 10-301
William A. Shaw
Prothonotary/Clerk of Courts
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

JACK W. SINCLAIR

vs.

No. 04-1288-CD

JOY M. SINCLAIR

ORDER

AND NOW, this 16th day of October, 2004, it is the ORDER of the Court that argument on Defendant's Motion to Strike from Trial List filed in the above matter has been scheduled for the 5 day of November, 2004, at 11:00 A.M., in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


PAUL E. CHERRY
Judge

FILED ^{EGK}
O 10:52 80 sec atty Jones-Wenger

OCT 08 2004

William A. Shaw
Prothonotary

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

JACK W. SINCLAIR

vs.

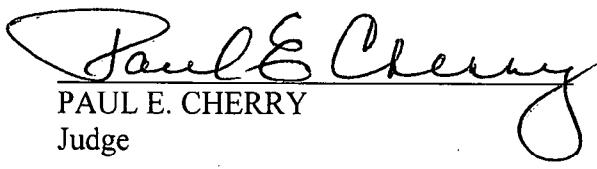
No. 04-1288-CD

JOY M. SINCLAIR

ORDER

AND NOW, this 7th day of October, 2004, it is the ORDER of the Court that argument on Defendant's Preliminary Objections filed in the above matter has been scheduled for the 5 day of November, 2004, at 11:00 A.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


PAUL E. CHERRY
Judge

FILED EOK

010:55 PM 2004 to Atty. ^{for} _{Wenger}

OCT 08 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JACK W. SINCLAIR,
PLAINTIFF

vs.

JOY M. SINCLAIR,
DEFENDANT

: CIVIL DIVISION
:
: NO. 2004-1288-CD
:
: CERTIFICATE OF SERVICE/RE: 10/06/04
: ORDER-ARGUMENT ON DEFENDANT'S
: MOTION TO STRIKE FROM TRIAL LIST;
: 10/07/04 ORDER-ARGUMENT ON
: DEFENDANT'S PRELIMINARY
: OBJECTIONS
:
: FILED ON BEHALF OF:
: DEFENDANT/JOY M. SINCLAIR
:
: COUNSEL OF RECORD FOR THIS PARTY:
: WINIFRED H. JONES-WENGER, ESQ.
: ID #23751
: 333 LAUREL STREET/P.O. BOX 469
: PHILIPSBURG, PA 16866
: (814) 342-4330

esk
FILED *no cc*
m/10/4784
OCT 13 2004

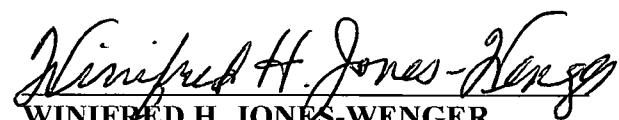
William A. Shaw
Prothonotary/Clerk of Courts

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

JACK W. SINCLAIR, :
Plaintiff :
: :
v. : No. 2004-1288-CD
: :
JOY M. SINCLAIR, :
Defendant :
:

CERTIFICATE OF SERVICE

I, Winifred H. Jones-Wenger, the undersigned, certify that I did serve a certified copy of the October 6, 2004 Order of Court scheduling argument on Defendant's Motion to Strike from Trial List and a certified copy of the October 7, 2004 Order of Court scheduling argument on Defendant's Preliminary Objections, concerning the above-captioned case, on Jack W. Sinclair, Plaintiff, at his residence address of 522 McAteer Street, Houtzdale, Pennsylvania, 16651, by depositing same with the U.S. Postal Service on October 11, 2004, for delivery by U.S. mail, first class, postage prepaid.


WINIFRED H. JONES-WENGER
Attorney for Defendant

Dated: October 11, 2004

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

JACK W. SINCLAIR

:

VS.

: NO. 04-1288-CD

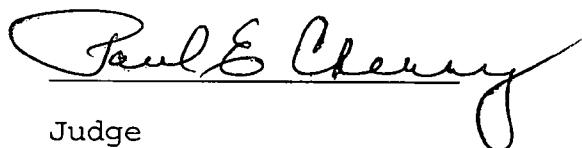
JOY M. SINCLAIR

:

O R D E R

NOW, this 5th day of November, 2004, following argument on Defendant's Motion to Strike From Trial List and upon consideration thereof, it is the ORDER of this Court that said motion be and is hereby granted.

BY THE COURT:


Judge

FILED
01:53 PM 300 atty
Fres. Winger
NOV 10 2004

William A. Shaw
Prothonotary

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

JACK W. SINCLAIR

:

VS.

: NO. 04-1288-CD

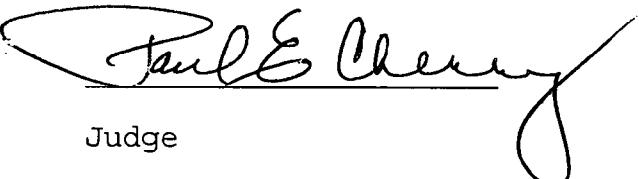
JOY M. SINCLAIR

:

O R D E R

NOW, this 5th day of November, 2004, following argument on Preliminary Objections and upon consideration thereof, it is the ORDER of this Court that the parties, if they so desire, may submit briefs to this Court on the issue of venue by and no later than Monday, November 15, 2004.

BY THE COURT:


Judge

FILED *cc: Atty. Wenger*
01/31/05 *CCP/ff*
NOV 10 2004 *502 McAtee St.*
William A. Shaw *Houtzdale, PA*
Prothonotary/Clerk of Courts *16860*

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

JACK W. SINCLAIR

V.

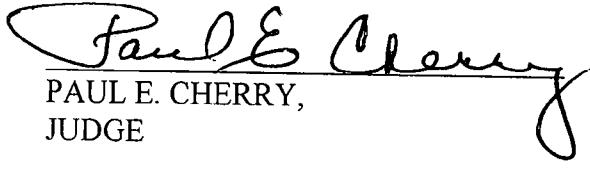
NO. 04-1288-CD

JOY M. SINCLAIR

ORDER

AND NOW, this 18th day of November, 2004, following Argument on Defendant's Preliminary Objections and review of Briefs it is the ORDER of this Court that the Preliminary Objections be and are hereby GRANTED. The Court is satisfied that the Court of Common Pleas of Centre County, Pennsylvania is proper venue in this matter.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

ERK FILED 2cc Piff-
O/J. 36 BY 522 McAfee St.
NOV 18 2004, Houtzdale, PA
16051
William A. Shaw
Prothonotary/Clerk of Courts
2cc Atty Wenger

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

JACK W. SINCLAIR, :
Plaintiff :
: :
v. : No. 2004-1288-CD
: :
JOY M. SINCLAIR, :
Defendant :
:

CERTIFICATE OF SERVICE

I, Winifred H. Jones-Wenger, the undersigned, certify that I did serve a certified copy of the November 5, 2004 Order of Court regarding Defendant's Motion to Strike from Trial List, concerning the above-captioned case, on Jack W. Sinclair, Plaintiff, at his residence address of 522 McAteer Street, Houtzdale, Pennsylvania, 16651, by depositing same with the U.S. Postal Service on December 2, 2004, for delivery by U.S. mail, first class, postage prepaid.

Winifred H. Jones-Wenger
WINIFRED H. JONES-WENGER
Attorney for Defendant

Dated: December 2, 2004

FILED *11:15 AM* ^{EOK}
NO CC
DEC 03 2004

William A. Shaw
Prothonotary/Clerk of Courts

Date: 10/28/2004

Clearfield County Court of Common Pleas

User: BANDERSON

Time: 09:41 AM

ROA Report

Page 1 of 1

Case: 2004-01288-CD

Current Judge: Paul E. Cherry

Jack W. Sinclair vs. Joy M. Sinclair

District Justice Appeal

Date	Judge	
08/20/2004	Filing: District Justice Appeals Paid by: Sinclair, Joy M. (defendant) Receipt number: 1885059 Dated: 08/20/2004 Amount: \$85.00 (Check) Cert. copies to Atty. Jones-Wenger	No Judge ✓
08/25/2004	DJ Judgment Transcript, filed.	No Judge ✓
08/26/2004	Proof of Service of Notice of Appeal and Rule to File Complaint, Filed by s/Winifred H. Jones-Wenger, No cc	No Judge ✓
09/03/2004	Complaint, on behalf of Plaintiff, filed by s/Jack W. Sinclair, Plaintiff. 4CC Plaintiff. Certificate of Service, certified copy of the Complaint, filed by s/ Jack W. Sinclair, upon Joy M. Sinclair. No CC.	No Judge ✓
09/29/2004	Notice To Plead, filed by Atty. Jones-Wenger 3 cert. to Atty. Preliminary Objections, filed by Atty. Jones-Wenger 3 cert. to Atty. Certificate of Service, filed by Atty. Jones-Wenger 3 cert. to Atty. Served copy of Preliminary Objections with Notice to Plead on Plaintiff on September 29, 2004 by first class mail.	No Judge ✓ No Judge ✓ No Judge ✓
09/30/2004	Amended Certificate of Service/Re: Defendant's Preliminary Objections and Notice to Plead, on behalf of Defendant, served upon Jack W. Sinclair, Plaintiff, at residence by U.S. mail on September 29, 2004, first class. No CC	No Judge ✓
10/01/2004	Filing: Certificate of Readiness/List For Arbitration Paid by: Sinclair, Jack W. (plaintiff) Receipt number: 1887527 Dated: 10/01/2004 Amount: \$20.00 (Cash) Filed by s/Jack W. Sinclair Four CC Plaintiff	No Judge ✓
10/05/2004	Motion to Strike from Trial List, filed by s/Winifred H. Jones-Wenger One CC Attorney Wenger	No Judge ✓
10/07/2004	Certificate of Service, Motion to Strike From Trial List, by U.S. Postal Service upon Jack W. Sinclair. Filed by Winifred H. Jones-Wenger. No CC	Paul E. Cherry ✓
10/08/2004	Order, AND NOW, this 6th day of October, 2004, it is the ORDER of the Court that argument on Defendant's motion to Strike from Trial List filed in the above matter has been scheduled for the 5th day of November, 2004, at 11:00 a.m., in Courtroom No. 2, Clfd. Co. Courthouse. BY THE COURT:/s/ Paul E. Cherry, Judge. 2 CC Atty Jones-Wenger Order, AND NOW, this 7th day of October, 2004, it is the ORDER of the Court that argument on Defendant's Preliminary Objections filed in the above matter has been scheduled for the 5th day of November, 2004, at 11:00 a.m. in Courtroom No. 2, Clfd. Co. Courthouse. BY THE COURT: /s/ Paul E. Cherry, Judge. 2 CC to Atty Jones-Wenger.	Paul E. Cherry ✓
10/13/2004	Certificate of Service, Order of Court Scheduling argument on Defendant's Paul E. Cherry motion to Strike from Trial List and a certified copy of the October 7, 2004 Order of Court scheduling argument on Defendant's Preliminary Objections, on Jack W. Sinclair, Plaintiff, by 1st class mail. s/Winifred H. Jones-Wenger. No CC	✓

RECEIVED
7/12/04

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY,
PENNSYLVANIA

<u>JACK W. SINCLAIR</u>	:	
Plaintiff	:	
vs.	:	District Justice Appeal
	:	CASE NO. 04-1288-C.D.
<u>JOY M. SINCLAIR</u>	:	
Defendant	:	

BRIEF IN SUPPORT OF PLAINTIFF'S RESPONSE TO DEFENDANT'S
PRELIMINARY OBJECTION TO THE VENUE OF THIS COURT TO DETERMINE
THE CASE RAISED BY PLAINTIFF.

Plaintiff Jack W. Sinclair files this brief in support of Plaintiff's response to Defendant's objection of pendency of a prior action for the resolution of this matter citing the divorce action filed by Plaintiff in Centre County where the Honorable Charles C. Brown bifurcated the divorce action and entered an Order retaining jurisdiction over the sole issue of equitable distribution, and would ask the court to consider the following.

I.

Just as the Defendant could not provide to District Justice Hawkins any court cases that matched the particulars of this case with regards to Jurisdiction, Plaintiff could not locate any cases either.

II.

It was never Plaintiff's intentions to sidestep or to ignore Judge Brown's Order. Plaintiff fully acknowledges that the Plaintiff and the Defendant were on a path towards a trial to determine the equitable distribution of their property, since after two and a half years the only issue that had been successfully resolved had been custody, and the settlement trial would have been in front of Judge Brown.

III.

Plaintiff and Defendant mutually agreed to avoid going in front of Judge Brown for him to determine the equitable distribution of their property and freely elected to settle the issue themselves. Exhibits one and two show Defendants desire to do so.

IV.

Plaintiff was not asking District Justice Hawkins to determine equitable distribution of property, Plaintiff and Defendant already agreed to specific terms on this, Plaintiff was asking for the enforcement of a signed document between the Plaintiff and the Defendant. The agreement contained specific items that were to be distributed by specific dates and also contained financial penalties for non-compliance. Nothing beyond enforcement of the signed document was asked for.

V.

Since the Plaintiff and Defendant were married for sixteen and a half years, there are many additional items that could have been asked for if the Plaintiff was asking this court to determine equitable distribution of property, such as the two houses that were involved, three motor vehicles that were involved, retirement accounts, etc. It was not the Plaintiff's intent when he filed with the District Justice, nor is it his intent now for this court to make any determination on what the equitable distribution of the Plaintiff's and Defendant's divorce should be. The Plaintiff is only asking that the court system within the county he resides enforce an agreement that was written and signed by both the Plaintiff and Defendant within Clearfield County.

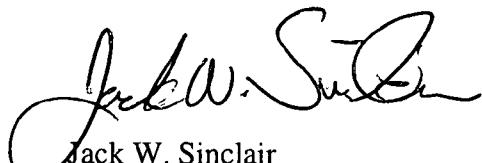
VI.

The Plaintiff and Defendant are already involved with Child Support issues that are controlled by this court. Since the Plaintiff resides in Clearfield County and has primary custody of the Plaintiff's and Defendant's only child, that enforcement is through the Clearfield County Domestic Relations Office PACSES Case Number: 849106007. The initial hearing to determine support in January 2004 and the follow-up hearing in June 2004 where Defendant requested the elimination of her obligation for child support during the summer months and to be relieved of any additional obligations for medical expenses were both overseen by this court.

For the reasons stated herein and those to be set forth more fully during the arbitration of this matter, Plaintiff respectfully requests the court to deny the Defendant's Preliminary Objection and to allow the Plaintiff to pursue the enforcement of the signed agreement between the two parties.

Date: 11/12/04

Respectfully submitted,



Jack W. Sinclair
522 McAteer Street
Houtzdale, PA 16651
(814) 378-8752

EXHIBIT 1

X-PH: V4.1@tr10n04

From: "Sinclair, Joy" <JoyS@psu.edu>
To: "JACK W SINCLAIR" <jws5@psu.edu>
Subject: Alternatives
Date: Tue, 13 Apr 2004 21:18:09 -0400
X-Mailer: Internet Mail Service (5.5.2657.72)

If you elect to allow me to claim Jaclyn as you said you would last Wednesday, then I will follow through on the \$5000 agreement as we discussed on the phone tonight and we can peaceably close this issue and move on. I will also add to that any money that may have not been reimbursed to you at closing due to any payments I may have missed on the houses.

But if your offer was again one of your limited-time deals, then after Thursday I will no longer discuss any of this with you and I will refile last year's federal tax return. Money means more to you than it does to me anyway, and I will be okay in the long run no matter what happens, if for no other reason than the fact that I'll get over it. We would both be ahead if you elect to allow me to claim Jaclyn, and Jaclyn could see her parents peacefully end this issue. Both our lives would be simpler without a court case and an IRS audit. If there is a court case, everything's up in the air. Please think about it and let me know. But I do need an answer tomorrow as I need to finalize my taxes. If you agree to settle peacefully I will stop over tomorrow night to exchange signatures. Can we please end this? Please consider this rationally and without anger, and let me know your answer tomorrow. If you need to discuss this with your friends, it might help you to talk to someone. Just let me know. Thanks.

Exhibit 2

X-PH: V4.1@f04n09

From: "Sinclair, Joy" <JoyS@psu.edu>

To: "Jack Sinclair" <jws5@psu.edu>

Subject: RE: no class

Date: Wed, 14-Apr-2004 16:24:08 -0400

X-Mailer: Internet Mail Service (5.5.2657.72)

I would need something to sign. If we agree on the details though, I will send it to my attorney tonight. I will sign if we agree. Believe me or not, I don't care. I'd be happy to get you out of my life and save an appearance in court. But I can promise you one thing. If you don't sign the 8332 form, I'm not signing anything or talking at all. Now if you were any kind of man, you would see that I did this for you last year, so you would do it for me this year to be fair. But then again..... I won't hold my breath. Send me the stipulations, and once we agree on them, I'll send them to my attorney as I promised.

-----Original Message-----

From: Jack Sinclair [mailto:jws5@psu.edu]

Sent: Wednesday, April 14, 2004 4:21 PM

To: Sinclair, Joy

Subject: RE: no class

Naaaa, not buying that. I did all that for you even though it was during that period when you told me you hated me on a regular basis, and you really didn't care that I did it. That was evident by your future actions.

For once, stand up and admit that even if you hated me then and hate me now -- i still made you an extremely fair offer and sign for it tonight. If not, it will be continued nastiness from both camps for months to come.

At 04:01 PM 4/14/2004, you wrote:

I must have thanked you. I surely would have meant to, and if I didn't I'm sorry. Please accept my apologies and my gratitude. And I'm not being sarcastic. I mean it.

-----Original Message-----

From: Jack Sinclair [mailto:jws5@psu.edu]

Sent: Wednesday, April 14, 2004 3:59 PM

To: Sinclair, Joy

Subject: Re: no class

In a heartbeat, babe. Your brothers did not pack that junk, your brothers didn't haul it to Pennsylvania, didn't sell videos at fleamarkets, didn't talk to car repossession men, didn't drive cars back, didn't clean out your father's apartment for two weekends, didn't move items to storage, didn't haul all those clothes to charities no, they didn't do any of that. You deciding that you don't owe me anything is spiteful, vengeful, pathetic, and pitiful.

But you know what ... it's all summed up by this no they didn't do any of that I did all of that .. and you never even thanked me back then for any of that.

At 03:26 PM 4/14/2004, you wrote:

And to think that you would rob me, Rusty and Randy of the pathetic little inheritance that we received is spiteful, vengeful, pathetic, and pitiful. But I'm not surprised.

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

<u>JACK W. SINCLAIR</u>	:	
Plaintiff	:	
	:	District Justice Appeal
vs.	:	CASE NO. 04-1288-C.D.
	:	
<u>JOY M. SINCLAIR</u>	:	
Defendant	:	

CERTIFICATE OF SERVICE

I, Jack W. Sinclair, Plaintiff above named, do hereby certify that on the twelfth day of November, 2004, I caused a copy of my Brief in response to Defendant's Preliminary Objections to be mailed, first class – postage prepaid, to the Defendant's attorney at her address as follows:

Winifred H. Jones Wenger
333 Laurel Street
P.O. Box 469
Philipsburg, PA 16866



Franklin

P.O.'s

⇒ Improper venue.



2004-1288 CS

Jack W. Sinclair

522 McAtee St

Hartzdale, PA 16651

vs

Joy M. Sinclair

Winifred H. Jones-Wenger