

04-1668-CD
DONALD THOMAS BANFY

vs.

PAUL M. KEPHART,

Date: 07/07/2005

Clearfield County Court of Common Pleas

User: LBENDER

Time: 11:03 AM

ROA Report

Page 1 of 1

Case: 2004-01668-CD

Current Judge: Fredric Joseph Ammerman

Donald Thomas Baney vs. Paul M. Kephart

District Justice Appeal

Date		Judge
✓10/25/2004	Filing: District Justice Appeals Paid by: Thompson, David R. (attorney for Kephart, Paul M.) Receipt number: 1888927 Dated: 10/25/2004 Amount: \$85.00 (Check) 3 CC to Atty.	No Judge
✓10/29/2004	Proof of Service of Notice of Appeal filed by Atty. Thompson. 2 CC to Atty.	No Judge
✓11/03/2004	District Justice Transcript filed.	No Judge
✓11/15/2004	Motion for Stay Pursuant to the Servicemembers' Civil relief act of 1940, as amended 2003, filed on behalf of the Plff. 1 CC to Atty.	No Judge
✓11/16/2004	Complaint, on behalf of Plaintiff, filed by s/ Ann B. Wood, Esquire. 1CC to Atty	Fredric Joseph Ammerman
✓11/17/2004	Rule to Show Cause, filed. 1 cert. to Atty. Wood NOW this 17th day of November, 2004, Rule returnable the 10th day of December, 2004 for filing written response.	Fredric Joseph Ammerman
✓11/22/2004	Certificate of Service, Certified Copies of the Complaint, and Motion For Stay served upon David R. Thompson, Esquire by 1st class mail on Nov. 22, 2004. Filed by s/ Ann B. Wood, Esquire. No CC	Fredric Joseph Ammerman
✓01/03/2005	Order, NOW, THIS 3rd day of Jan., 2005, upon notice that no written response was received pursuant to Rule Returnable Dec. 10, 2004, it is hereby ORDERED that Plaintiff's Motion for Stay Pursuant To The Servicemembers' Civil Relief Act of 1940, As Amended 2003, is hereby granted and the present proceeding shall be stayed pending such time as the Plaintiff shall return from active duty in the Military Services, whereupon he shall have 90 days from the date of his return to give notice to the Court and the Defendant of his presence, at which time the matter will move forward. BY THE COURT, /s/ Fredric J. Ammerman, President Judge. 2CC to Atty Wood	Fredric Joseph Ammerman

NOTICE OF APPEAL

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

46th JUDICIAL DISTRICT

CLEARFIELD COUNTY

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS NO. 04-1668-CD

FILED Atty
01/10/33/01 David
OCT 25 2004 Thompson
pt 8500
William A. Shaw 300 Atty
Prothonotary Clerk of Courts

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 of the case mentioned below.

PAUL M. KEPHART
NAME OF APPELLANT

MICHAEL A. RUDELLA #46-3-03
MAG. DIST. NO. OR NAME OF D.J.

1116 SCOTCH HOLLOW
ADDRESS OF APPELLANT

OSCEOLA MILLS
CITY

PA
STATE

16666
ZIP CODE

9/23/04
DATE OF JUDGMENT

DONALD THOMAS BANEY
IN THE CASE OF (PLAINTIFF)

VS.

PAUL M. KEPHART
(DEFENDANT)

CLAIM NO.

SIGNATURE OF APPELLANT OR THEIR ATTORNEY OR AGENT

DOCKET NO. CV-0000333-04
LT 2004

[Signature]

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.

Signature of Prothonotary or Deputy

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.

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 **DONALD THOMAS BANEY**, appellee(s), to file a complaint in this appeal (Common Pleas No. 04-1668-CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

[Signature]
Signature of appellant or his attorney or agent

RULE: To **DONALD THOMAS BANEY**, appellee(s).
Name of Appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in his 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 JUDGEMENT 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: October 25, 2004

[Signature]
Signature of Prothonotary or Deputy

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 CLEARFIELD **; ss**

AFFIDAVIT: I hereby swear or affirm that I served

☐ a copy of the Notice of Appeal, Common Pleas No. 04-_____, 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) DONALD THOMAS BANEY on _____, 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 _____, 2004, ☐ by personal service, ☒ by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS _____ **DAY OF** _____, 2004

Signature of affiant

Signature of official before whom affidavit was made

Title of official

My commission expires on _____, 20____.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-03

DJ Name: Hon.

MICHAEL A. RUDELLA

Address: **131 ROLLING STONE ROAD**

P.O. BOX 210

KYLERTOWN, PA

Telephone: **(814) 345-6789**

16847-0444

ATTORNEY DEF PRIVATE :

DAVID THOMPSON

308 WALTON ST. APT/STE 4

P. O. BOX 587

PHILIPSBURG, PA 16866

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

NAME and ADDRESS

BANEY, DONALD THOMAS

611 HALE ST.

OSCEOLA MILLS, PA 16666

VS.

DEFENDANT:

NAME and ADDRESS

KEPHART, M. PAUL, ET AL.

1116 SCOTCH HOLLOW

OSCEOLA MILLS, PA 16666

Docket No.: **CV-0000333-04**

Date Filed: **8/23/04**



THIS IS TO NOTIFY YOU THAT:

Judgment:

FOR PLAINTIFF

☒ Judgment was entered for: (Name) **BANEY, DONALD THOMAS**

☒ Judgment was entered against: (Name) **KEPHART, M. PAUL**

in the amount of \$ **3,088.00** on: (Date of Judgment) **9/23/04**

☐ Defendants are jointly and severally liable.

(Date & Time)

☐ Damages will be assessed on:

☐ This case dismissed without prejudice.

☐ Amount of Judgment Subject to
Attachment/42 Pa.C.S. § 8127 \$

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

Amount of Judgment	\$ 3,000.00
Judgment Costs	\$ 88.00
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 3,088.00

Post Judgment Credits

Post Judgment Costs

Certified Judgment Total \$ 3088.00

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.

9-23-04 Date

M A Rudella, District Justice

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

10/15/04 Date

[Signature], District Justice

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

SEAL

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 CLEARFIELD **; ss**

AFFIDAVIT: I hereby swear or affirm that I served

☐ a copy of the Notice of Appeal, Common Pleas No. 04-168-D upon the District Justice designated therein on

(date of service) 10/27/04, ☐ by personal service, ☒ by (certified)(registered) mail, sender's receipt

attached hereto, and upon the appellee, (name) DONALD THOMAS BANEY on 10/28/04, 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 10/28/04, 2004, ☐ by personal service, ☒ by (certified) (registered) mail, sender's receipt attached hereto.

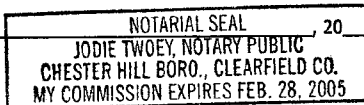
SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS 29th DAY OF October, 2004

Jodie Twoey
Signature of official before whom affidavit was made

Notary Public
Title of official

My commission expires on



[Signature]
Signature of affiant

FILED
O 1:48 PM 2004
OCT 29 2004

William A. Shaw
Promulgatory

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:

Donald Thomas Baney
611 Hale Street
Osceola Mills, PA 16666

2.

7003 1010 0002 3612 4983

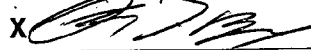
PS Form 3811, August 2001

Domestic Return Receipt

2ACPRI-03-P-4081

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X ☐ Agent☐ Addressee

B. Received by (Printed Name)

DONALD T BANAY

C. Date of Delivery

10-28-04

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

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:

District Justice Michael A. Rudella
131 Rolling Stone Road
P.O. Box 810
Kylertown, PA 16847

2.

7003 1010 0002 3612 4990

PS Form 3811, August 2001

Domestic Return Receipt

2ACPRI-03-P-4081

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X ☐ Agent☒ Addressee

B. Received by (Printed Name)

Michael A. Rudella

C. Date of Delivery

10/27/04

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

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: **46-3-03**
DJ Name: Hon.
MICHAEL A. RUDELLA
Address: **131 ROLLING STONE ROAD**
P.O. BOX 210
KYLERTOWN, PA
Telephone: **(814) 345-6789** **16847-0444**

MICHAEL A. RUDELLA
131 ROLLING STONE ROAD
P.O. BOX 210
KYLERTOWN, PA 16847-0444

NOTICE OF JUDGMENT/TRANSCRIPT CIVIL CASE

PLAINTIFF: **BANEY, DONALD THOMAS**
NAME and ADDRESS
611 HALE ST.
OSCEOLA MILLS, PA 16666

VS.
DEFENDANT: **KEPHART, M. PAUL, ET AL.**
NAME and ADDRESS
1116 SCOTCH HOLLOW
OSCEOLA MILLS, PA 16666

Docket No.: **CV-0000333-04**
Date Filed: **8/23/04**



04-1668-CD

THIS IS TO NOTIFY YOU THAT:

Judgment: FOR PLAINTIFF

☒ Judgment was entered for: (Name) BANEY, DONALD THOMAS

☒ Judgment was entered against: (Name) KEPHART, M. PAUL

in the amount of \$ 3,088.00 on: (Date of Judgment) 9/23/04

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

☐ Damages will be assessed on:

☐ This case dismissed without prejudice.

☐ Amount of Judgment Subject to
Attachment/42 Pa.C.S. § 8127 \$ _____

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

FILED

NOV 03 2004

William A. Shaw
Prothonotary/Clerk of Court

Amount of Judgment	\$ 3,000.00
Judgment Costs	\$ 88.00
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 3,088.00
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
Certified Judgment Total	\$ 3088.00

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.

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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.

9.23.04 Date MARUDELLA, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.
10/28/04 Date MARUDELLA, District Justice

My commission expires first Monday of January, 2006 .

SEAL

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

DONALD THOMAS BANEY,

Plaintiff

vs.

M. PAUL KEPHART,

Defendant

No.04-1668-CD

FILED ¹⁰ McC
01/11/3061 Amy Wood
NOV 17 2004

William A. Shaw
Prothonotary/Clerk of Courts

RULE TO SHOW CAUSE

NOW, this 17th day of November, 2004, upon consideration of the foregoing Motion For Stay Pursuant To The Servicemembers' Civil Relief Act Of 1940, As Amended, Filed On Behalf Of The Plaintiff, it is the ORDER of this Court that a Rule be issued on Defendant, to show cause why cause why the prayer of the Plaintiff should not be granted.

RULE RETURNABLE the 10 day of December, 2004, for filing written response.

NOTICE

A Petition or Motion has been filed against you in Court. If you wish to defend against the claims set forth in the following pages, you must take action on or before Dec. 10, 2004 by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the matter set forth against you. You are warned that if you fail to do so the case may proceed without you and an order may be entered against you by the Court without further notice for relief requested by the petitioner or movant. You may lose 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
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641 Ext. 50-51

BY THE COURT

Frederick J. Zimmerman

Judge

CA

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

DONALD THOMAS BANEY,

Plaintiff

VS.

M. PAUL KEPHART,

Defendant

:
: NO. 04-1668-CD
:
: Type of Case: Civil Action
:
: Type of Pleading:
:
: MOTION FOR STAY PURSUANT TO THE
: SERVICEMEMBERS' CIVIL RELIEF
: ACT OF 1940, AS AMENDED 2003,
: FILED ON BEHALF OF THE PLAINTIFF
:
:
: Filed on Behalf of:
: Donald Thomas Baney, Plaintiff
:
: Counsel of Record for this
: Party:
:
: Ann B. Wood, Esquire
:
: Supreme Court No. 23364
:
: Bell, Silberblatt & Wood
: 318 East Locust Street
: P.O. Box 670
: Clearfield, PA 16830
:
: (814) 765-5537
:
:
:
:

FILED

0 11:14 BA 10/15/04

NOV 15 2004

Prothc

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

DONALD THOMAS BANEY,	:	
	:	
Plaintiff	:	
	:	No.04-1668-CD
vs.	:	
	:	
M. PAUL KEPHART,	:	
	:	
Defendant	:	
	:	

MOTION FOR STAY PURSUANT TO THE SERVICEMEMBERS'
CIVIL RELIEF ACT OF 1940, AS AMENDED 2003, FILED ON
BEHALF OF THE PLAINTIFF

NOW COMES, Ann B. Wood, Counsel for Plaintiff, DONALD THOMAS BANEY, and respectfully requests a stay pursuant to the Servicemembers' Civil Relief Act of 1940, as Amended 2003, and in support thereof states as follows:

1. That on or about August 23, 2004, the Plaintiff did file a proceeding before District Justice Michael A. Rudella for damages in a vehicle accident.

2. That on or about September 23, 2004, Judgment was entered in favor of the Plaintiff by the Magistrate.

3. That on or about October 25, 2004, the Defendant took an Appeal of the Magistrate's Judgment.

4. That on or about September 20, 2004, the Plaintiff was called up for active duty in the Armed Services requiring that

he report to Fort Bragg, Fayetteville, North Carolina on or before November 2, 2004.

5. That attached hereto and made a part hereof is a copy of the activation Order received by the Defendant showing that he is called to active duty for a period of five hundred forty-five days (545) days.


6. That in light of the foregoing, the Plaintiff will be unavailable to proceed to trial in the above captioned matter, as his testimony as a witness is necessary for the proceeding to continue.

7. In light of the foregoing, under provision of the Servicemembers' Civil Act of 1940, as Amended 2003, 50 USCS Appx. §502 et seq., the Plaintiff requests a stay of the pleadings and subsequent trial until such time as the Plaintiff returns from active duty.

WHEREFORE, the Plaintiff, DONALD THOMAS BANEY, by counsel, respectfully requests the Honorable Court to enter an Order staying the proceeding until such time as the Plaintiff returns from active duty.

Respectfully submitted,

BELL, SILBERBLATT & WOOD
By:



Ann B. Wood, Esquire
Attorney for Plaintiff

DEPARTMENT OF THE ARMY
99TH REGIONAL READINESS COMMAND
99 SOLDIERS LANE
CORRACPOLIS, PENNSYLVANIA 15108-2550

ORDERS C4-273-30350

29 September 2004

BANEY DONALD THOMAS
611 HALL ST
CASCOLA HILLS, PA 15566-1225

192-66-6257 SGT
0818 CS CO NCM-DIV (DS) (WSPVAA)
FT MEADE, MD 20755-5347

You are ordered to Active Duty as a member of your Reserve Component unit for the period indicated unless sooner released or unless extended. Proceed from your current location in sufficient time to report by the date specified. You enter active duty upon reporting to unit home station.

Report to: 0818 CS CO NCM-DIV (DS) (WSPVAA), BLDG 8543 6TH ARMORED CAV RC, FT MEADE, MD 20755-5347 Report On: 30 October 2004

Report to: Fort Snagg, Building At 3930 Carr St, Fayetteville, NC 28307 Report On: 02 November 2004

Period of active duty: 545 Days

Purpose: Mobilization for IRAQI FREEDOM (IRAF) (2003 - TBD)

Mobilization category code: "V"

Additional instructions: (01, 02, 03, 04, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 20) See page 2

FOR ARMY USE

AUTHORITY: MCDAMSG211248ZJUG34/DAMO-ODCM/ORDTYP/MOOROR2/HQRAONE/QEF/QEF NO.511-04

Accounting classification:

2142010.0000 01-1100 F1X1A00 11**/12** VIRQ F9203 5570 512123

2142010.0000 01-1100 F1X2A00 11**/12** VIRQ F9203 5570 512120

2142020.0000 01-1100 F135198 21**/22**/25** VIRQ F9203 5570 599595

Sex: M

MDC: FMES

PMOS/ACC/ASL/LIC: 63B2

KOR: CASCOLA HILLS, PA

PSRD: 25 October 1999

DOR: 01 December 2003

Security clearance: NCMZ

Comp: USAR

Format: 165

FOR THE COMMANDER:

OFFICIAL
99TH RRC

JOHN J. FERINCE
COL, GS
DEPUTY CHIEF OF STAFF, G1

DISTRIBUTION: M1 P103
INDIVIDUAL CONCERNED (4)
FAMILY ASSISTANCE OFFICER (1)
MFRJ
FILE (ORIGINAL + 1)

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

DONALD THOMAS BANEY,

Plaintiff

VS.

M. PAUL KEPHART,

Defendant

:
: NO. 04-1668-CD
:
: Type of Case: Civil Action
:
: Type of Pleading:
:
:
: COMPLAINT
:
:
:
: Filed on Behalf of:
: Donald Thomas Baney, Plaintiff
:
: Counsel of Record for this
: Party:
:
: Ann B. Wood, Esquire
:
: Supreme Court No. 23364
:
: Bell, Silberblatt & Wood
: 318 East Locust Street
: P.O. Box 670
: Clearfield, PA 16830
:
: (814) 765-5537
:
:
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:
:

FILED

EGK

01/16/04 BA 1000

NOV 15 2004

WILLIAM A. STOW
Prothonotary

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

DONALD THOMAS BANEY,	:	
	:	
Plaintiff	:	
	:	No.04-1668-CD
vs.	:	
	:	
M. PAUL KEPHART,	:	
	:	
Defendant	:	
	:	

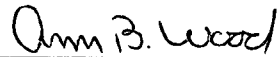
NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
2nd & Market Streets
Clearfield, Pennsylvania 16830
Telephone (814) 765-2641 Ex. 5982

BELL, SILBERBLATT & WOOD
By:


Ann B. Wood, Esquire
Attorney for Plaintiff

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

DONALD THOMAS BANEY,	:	
	:	
Plaintiff	:	
	:	No.04-1668-CD
vs.	:	
	:	
M. PAUL KEPHART,	:	
	:	
Defendant	:	
	:	

COMPLAINT

NOW COMES the Plaintiff, DAVID THOMAS BANEY, through his Attorney-in-Fact, CHERYL D. HRENKO, formerly CHERYL D. BANEY, by his attorney, Ann B. Wood, Esquire, and sets forth his Complaint as follows:

1. That the Plaintiff, Donald Thomas Baney, is an adult individual residing at 611 Hale Street, Osceola Mills, Pennsylvania 16666.

2. That the Attorney-in-Fact for Donald Thomas Baney is Cheryl D. Hrenko, formerly Cheryl D. Baney, pursuant to a Power Of Attorney, dated September 27, 2004.

3. That the Defendant, M. Paul Kephart, is an adult individual residing at 1116 Scotch Hollow Road, Osceola Mills, Pennsylvania 16666.

4. That the Defendant is the owner of a 2002 Honda Sportrax 250 Ex all terrain vehicle.

5. That on or about June 29, 2003, the Plaintiff was operating a 2000 Hyundai Accent South on State Route 970.

6. That on or about the same date and time, Dalton J. Kephart, son of the Defendant, was operating the Defendant's ATV.

7. That the Defendant's son entered the roadway and struck the Plaintiff's vehicle.

8. That the impact caused damages to the Plaintiff's vehicle in excess of Seven Thousand (\$7,000.00) Dollars.

9. That the book value of the Plaintiff's vehicle was Three Thousand Five Hundred (\$3,500.00).

10. That as a result of the negligence of the Defendant, the Plaintiff, in addition to the damages alleged in Paragraph 8 above, further incurred costs through the District Magistrate's Office in the amount of Eighty-Eight (\$88.00) Dollars.

11. That the damages to the Plaintiff's vehicle were caused by and were the direct result of the negligence of the Defendant in any and all of the following respects:

(a) Permitting the operation of his ATV in a fashion where the vehicle was not under proper control.

(b) Permitting an eleven (11) year old to operate an ATV on a highway without the required supervision.

(c) In violation of 75 Pa.C.S.A. §7721, in permitting an operator under the age of sixteen (16) to operate an ATV on the highway without the required supervision.

(d) In permitting his ATV to be operated in violation of 75 Pa.C.S.A. §7726 at a rate of speed that was unreasonable and improper under the existing conditions.

(d) In violation of 75 Pa.C.S.A. §7726 in permitting his ATV to be operated in a careless way so as to endanger the person and property of another.

12. That pursuant to 75 Pa.C.S.A. §7229, negligence in the use or operation of an ATV is attributable to the owner, who shall be liable and responsible for the damages resulting from the

negligence in the use and operation of such vehicle with permission expressed or implied by the owner.

WHEREFORE, Plaintiff requests your judgment in favor of the Plaintiff and against the Defendant in the amount of Three Thousand Five Hundred Eighty-Eight (\$3,588.00) Dollars.

Respectfully submitted,
By:

Ann B. Wood.
Ann B. Wood, Esquire
Attorney For Plaintiff

VERIFICATION

The undersigned verifies that she is the Attorney-in-Fact for DONALD THOMAS BANEY, named in the within action, that as such Attorney-in-Fact, she is authorized to make this verification, and that the statements made in the foregoing COMPLAINT are true and correct, not from her own knowledge, but from the information supplied to her and believed to be true, and that this Verification is filed by her for the purposes of expediting this litigation due to the unavailability of Plaintiff as a result of his active duty status with the Armed Forces. The undersigned understands that false statements made herein are subject to the penalties of 18 PA. C.S. 4904 relating to unsworn falsification to authorities.

Date 11-12-04

Cheryl D. Hrenko
CHERYL D. HRENKO, formerly

Cheryl D. Baney
CHERYL D. BANEY, Attorney-in-Fact
For Donald Thomas Baney

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

DONALD THOMAS BANEY,

Plaintiff

VS.

PAUL M. KEPHART,

Defendant

:
: NO. 04-1668-CD
:
: Type of Case: Civil Action
:
: Type of Pleading:
:
:
: CERTIFICATE OF SERVICE
:
:
:
: Filed on Behalf of:
: Donald Thomas Baney, Plaintiff
:
: Counsel of Record for this
: Party:
:
: Ann B. Wood, Esquire
:
: Supreme Court No. 23364
:
: Bell, Silberblatt & Wood
: 318 East Locust Street
: P.O. Box 670
: Clearfield, PA 16830
:
: (814) 765-5537
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William A. Shaw
Prothonotary/Clerk of Courts

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

DONALD THOMAS BANEY,	:	
	:	
Plaintiff	:	
	:	No.04-1668-CD
vs.	:	
	:	
M. PAUL KEPHART,	:	
	:	
Defendant	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that a Certified Copies of the COMPLAINT and MOTION FOR STAY PURSUANT TO THE SERVICEMEMBERS' CIVIL RELIEF ACT OF 1940, AS AMENDED, FILED ON BEHALF OF THE PLAINTIFF, with reference to the above matter have been served upon the Attorney for Defendant by mailing a true and correct copy of same to him by United States First Class Mail, postage prepaid, addressed as follows on November 22, 2004 :

David R. Thompson, Esquire
308 Walton Street, Suite 4
P.O. Box 587
Philipsburg, PA 16866-0587

BELL, SILBERBLATT & WOOD
By:

Ann B. Wood
Ann B. Wood, Esquire
Attorney for Plaintiff

WA

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

DONALD THOMAS BANEY,

Plaintiff

vs.

M. PAUL KEPHART,

Defendant

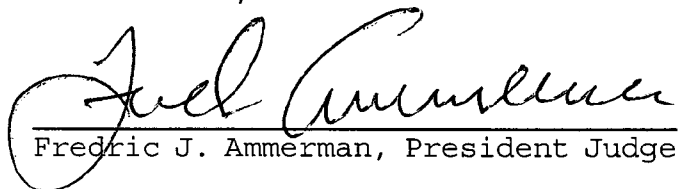
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No.04-1668-CD

ORDER

NOW THIS 3 day of January, 2005, upon notice that no written response was received pursuant to Rule Returnable December 10, 2004, it is HEREBY ORDERED that Plaintiff's Motion For Stay Pursuant To The Servicemembers' Civil Relief Act of 1940, As Amended 2003, is hereby granted and the present proceeding shall be stayed pending such time as the Plaintiff shall return to Clearfield County from active duty in the Military Services, whereupon he shall have ninety (90) days from the date of his return to give notice to the Court and the Defendant of his presence, at which time the matter will move forward.

BY THE COURT,


Fredric J. Ammerman, President Judge

FILED

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01/03/05
William A. Smith
Prothonotary/Clerk of Courts
2 CENT TO ATTORNEY WOOD

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

DONALD THOMAS BANEY,

Plaintiff

VS.

M. PAUL KEPHART,

Defendant

:
: NO. 04-1668-CD
:
: Type of Case: Civil Action
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: Type of Pleading:
:
:
: NOTICE
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: Filed on Behalf of:
: Donald Thomas Baney, Plaintiff
:
: Counsel of Record for this
: Party:
:
: Ann B. Wood, Esquire
:
: Supreme Court No. 23364
:
: Bell, Silberblatt & Wood
: 318 East Locust Street
: P.O. Box 670
: Clearfield, PA 16830
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: (814) 765-5537
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FEB 03 2006
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William A. Shaw
Prothonotary/Clerk of Courts

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

DONALD THOMAS BANEY,

Plaintiff

vs.

M. PAUL KEPHART,

Defendant

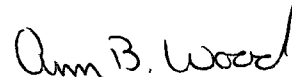
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No.04-1668-CD

NOTICE

Notice is hereby given to the Court and the Defendant that the Plaintiff has been released from active duty in the Military Services as of December 28, 2005 and has returned to Clearfield County.

BELL, SILBERBLATT & WOOD
By:



Ann B. Wood, Esquire
Attorney for Plaintiff

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

DONALD THOMAS BANEY,

Plaintiff

vs.

M. PAUL KEPHART,

Defendant

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No.04-1668-CD

CERTIFICATE OF SERVICE

I hereby certify that a Certified Copy of a NOTICE with reference to the above matter have been served upon the Attorney for Defendant by mailing a true and correct copy of same to him by United States First Class Mail, postage prepaid, addressed as follows on February 3, 2006:

David R. Thompson, Esquire
308 Walton Street, Suite 4
P.O. Box 587
Philipsburg, PA 16866-0587

BELL, SILBERBLATT & WOOD
By:



Ann B. Wood, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

DONALD THOMAS BANEY,

Plaintiff

VS.

M. PAUL KEPHART,

Defendant

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No. 04-1668-CD

TYPE OF CASE:

Civil Matter

TYPE OF PLEADING:

Answer Containing New Matter

FILED ON BEHALF OF:

Plaintiff

COUNSEL OF RECORD FOR

THIS PARTY:

David R. Thompson, Esq.

Attorney at Law

Supreme Court I.D. 73053

P.O. Box 587

308 Walton Street, Suite 4

Philipsburg PA 16866

(814) 342-4100

FILED

01:47 PM
MAR 24 2008

4cc
Atty Thompson

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

DONALD THOMAS BANEY,

Plaintiff

vs.

M. PAUL KEPHART,

Defendant

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No. 04-1668-CD

NOTICE TO PLEAD

TO: Donald Thomas Baney
c/o Ann B. Wood, Esquire
BELL, SILBERBLATT & WOOD
318 East Locust Street
Clearfield, PA 16830

You are hereby notified to file a written response to the enclosed Answer to Complaint containing New Matter within twenty (20) days from service hereof.

By:


David R. Thompson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

DONALD THOMAS BANEY,

Plaintiff

vs.

M. PAUL KEPHART,

Defendant

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NO. 04-1668-CD

ANSWER CONTAINING NEW MATTER

AND NOW, comes the Defendant, M. Paul Kephart, by and through his attorney David R. Thompson, Esquire, and files the following Answer Containing New Matter to Plaintiff's Complaint:

1. Admitted.
2. After reasonable investigation, Defendant is without information sufficient to form a belief as to the truth or falsity of the averment. The same is therefore denied, and strict proof is demanded at the time of trial.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. After reasonable investigation, Defendant is without information sufficient to form a belief as to the truth or falsity of the averment. The same is therefore denied, and

strict proof is demanded at the time of trial.

9. After reasonable investigation, Defendant is without information sufficient to form a belief as to the truth or falsity of the averment. The same is therefore denied, and strict proof is demanded at the time of trial.

10. Paragraph 10 is a conclusion of law to which no response is necessary. To the extent a response is deemed necessary, the same is denied, and strict proof is demanded at the time of trial.

11. Paragraph 11 is a conclusion of law to which no response is necessary. To the extent a response is deemed necessary, the same is denied, and strict proof is demanded at the time of trial.

a. Paragraph 11.a. is a conclusion of law to which no response is necessary. To the extent a response is deemed necessary, the same is denied, and strict proof is demanded at the time of trial.

b. Paragraph 11.b. is a conclusion of law to which no response is necessary. To the extent a response is deemed necessary, the same is denied, and strict proof is demanded at the time of trial.

c. Paragraph 11.c. is a conclusion of law to which no response is necessary. To the extent a response is deemed necessary, the same is denied, and strict proof is demanded at the time of trial.

d. Paragraph 11.d. is a conclusion of law to which no response is necessary. To the extent a response is deemed necessary, the same is denied, and strict proof is demanded at the time of trial.

12. Paragraph 12 is a conclusion of law to which no response is necessary. To the extent a response is deemed necessary, the same is denied, and strict proof is demanded at the time of trial.

WHEREFORE, Defendant respectfully requests this Honorable Court to enter judgment in his favor and against the Plaintiff dismissing Plaintiff's Complaint with prejudice.

NEW MATTER

Paragraphs 1 through 12 of Defendant's Answer are incorporated herein by reference as though the same were set forth at length herein.

13. If Plaintiff sustained the damages as alleged in the Complaint, then the same must be barred and/or reduced by the provisions of the Pennsylvania Comparative Negligence Act, Title 42 Pa.C.S.A. §7100.

14. Plaintiff's Complaint fails to state a claim upon which relief may be granted.

15. If the Plaintiff sustained the damages alleged in the Complaint, the same are not approximately caused by any action or failure to act on behalf of the Defendant.

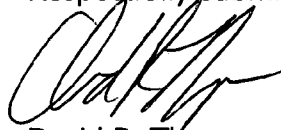
16. Plaintiff has a duty to mitigate his damages. To the extent Plaintiff has failed to do so or has mitigated said damages, the damages if any should be reduced accordingly.

17. If the Plaintiff did indeed sustain damages as alleged in his Complaint, then the same were caused by other entities over which Defendant has or had no control.

18. If the Plaintiff sustained damages as alleged in his Complaint, then the same were caused by Plaintiff's own negligence.

WHEREFORE, Defendant respectfully requests this Honorable Court to enter judgment in his favor and against the Plaintiff, dismissing Plaintiff's Complaint with prejudice.

Respectfully submitted,

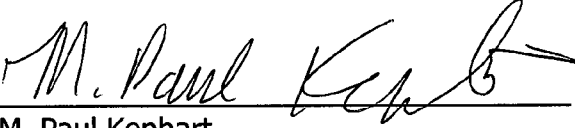
A handwritten signature in black ink, appearing to read 'D. R. Thompson', written in a cursive style.

David R. Thompson, Esquire
Attorney for Defendant

VERIFICATION

I certify that the facts set forth in the foregoing ***ANSWER CONTAINING NEW MATTER*** are true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of 18 Pa. C. S. § 4904, relating to unsworn falsification to authorities.

Dated:


M. Paul Kephart

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

DONALD THOMAS BANEY,

Plaintiff

vs.

M. PAUL KEPHART,

Defendant

No. 04-1668-CD

TYPE OF PLEADING:
Certificate of Service

FILED ON BEHALF OF:
Defendant

COUNSEL OF RECORD FOR
THIS PARTY:
David R. Thompson, Esq.
Attorney at Law
Supreme Court I.D. 73053
P.O. Box 587
308 Walton Street, Suite 4
Philipsburg PA 16866
(814) 342-4100

FILED

APR 12 2006

William A. Shaw
Prothonotary/Clerk of Courts
1 Cent to Att

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

DONALD THOMAS BANEY,

Plaintiff

vs.

M. PAUL KEPHART,

Defendant

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No. 04-1668-CD

CERTIFICATE OF SERVICE

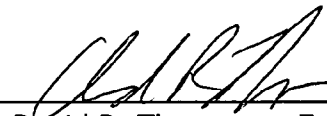
TO THE PROTHONOTARY:

I, **DAVID R. THOMPSON, ESQUIRE**, do hereby certify that I served a true and correct copy of the **ANSWER CONTAINING NEW MATTER and NOTICE TO PLEAD** in the above captioned matter by depositing the same in the U.S. First Class Mail, postage prepaid, addressed as follows:

Donald Thomas Baney
c/o Ann B. Wood, Esquire
BELL, SILBERBLATT & WOOD
318 East Locust Street
Clearfield, PA 16830

DATE: April 3, 2006

BY: _____



David R. Thompson, Esquire

William A. Shaw
Prothonotary/Clerk of Courts

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

DONALD THOMAS BANEY,	:	
	:	
Plaintiff	:	
	:	No.04-1668-CD
vs.	:	
	:	
M. PAUL KEPHART,	:	
	:	
Defendant	:	
	:	

ANSWER TO NEW MATTER

NOW COMES the Plaintiff, Donald Thomas Baney, by his attorney, Ann B. Wood, Esquire, and sets forth his Answer to Defendant's New Matter as follows:

13. Paragraph 13 of the Defendant's New matter is a conclusion of law to which no response is required thereto.

14. Paragraph 14 of the Defendant's New Matter is a conclusion of law to which no response is required thereto.

15. Paragraph 15 of the Defendant's New Matter is denied as stated and on the contrary, Plaintiff would incorporate herein by reference Paragraphs 6, 7, 11 and 12 of the original Complaint.

16. Paragraph 16 of the Defendant's New Matter being a legal conclusion, no response is required thereto. To the extent a response is required, it is averred that the Plaintiff has

mitigated damages and Plaintiff would incorporate herein by reference Paragraphs 8 and 9 of his Complaint.

17. Paragraph 17 of the Defendant's New Matter being a legal conclusion, no response is required thereto. To the extent that a response is required, Plaintiff would incorporate herein by reference Paragraph 12 of his Complaint.

18. Paragraph 18 of the Defendant's New Matter is denied as stated and on the contrary, it is averred that there was no negligence on the part of the Plaintiff in operating his vehicle at which time it was struck by an ATV operated by Defendant's son.

WHEREFORE, Plaintiff respectfully requests the Court to enter judgment in favor of the Plaintiff and against the Defendant in the amount of Three Thousand Five Hundred Eighty-Eight (\$3,588.00) Dollars and interest thereon.


Respectfully submitted,

BELL, SILBERBLATT & WOOD
BY:

Ann B. Wood
Ann B. Wood, Esquire
Attorney For Defendant

VERIFICATION

I, DONALD THOMAS BANEY, state that the within statements in the foregoing ANSWER TO NEW MATTER are true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of 18 Pa. C.S.A., Section 4904, relating to unsworn falsifications to authorities.

A handwritten signature in cursive script, appearing to read 'Donald Thomas Baney', is written over a horizontal line.

DONALD THOMAS BANEY, Defendant

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

DONALD THOMAS BANEY,

Plaintiff

vs.

M. PAUL KEPHART,

Defendant

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No.04-1668-CD

CERTIFICATE OF SERVICE

I hereby certify that a Certified Copy of ANSWER TO NEW
MATTER with reference to the above matter have been served upon the
Attorney for Defendant by mailing a true and correct copy of same
to him by United States First Class Mail, postage prepaid,
addressed as follows on April 21, 2006 :

David R. Thompson, Esquire
308 Walton Street, Suite 4
P.O. Box 587
Philipsburg, PA 16866-0587

BELL, SILBERBLATT & WOOD
By:

Ann B. Wood
Ann B. Wood, Esquire
Attorney for Plaintiff

STATE FARM INSURANCE
COMPANIES, as subrogee of
RUBY E. BELL,

Plaintiff

vs.

ANDREW FULLER,

Defendant

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

: CIVIL DIVISION

: NO. 04-1686-CD

PRAECIPE FOR ENTRY OF DEFAULT JUDGMENT
AS TO DAMAGES

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

Please enter default judgment against the above-referenced Defendant as to damages in the amount of 1,593.94, plus costs of suit. Attached hereto as Exhibit A and incorporated herein by reference are the Appraiser's Affidavit, Notice of Assessment of Damages required by Pa. R.C.P. 1037(b)(2)(ii)-(iii); and Repair Estimate which were previously served upon the Defendant by certified mail, return receipt requested to the last known address of Defendant (*copy of envelope attached indicating "Unclaimed". Original envelope available for inspection at office of undersigned*) along with the attached letter indicating same, and an Affidavit of Mailing of Notice of Default Judgment and Notice of Assessment of Damages to Defendant.

Respectfully submitted,

EVEY, BLACK, DOREZAS, MAGEE, LEVINE,
ROSENSTEEL & MAUK, LLP

By: 

Nathan W. Karn, Sr., Esquire
Attorney for Plaintiff
Pa. I.D.# 86068
401 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648

FILED

m/2:01/67
APR 21 2006

William A. Shaw
Prothonotary/Clerk of Courts

Atty pd. 20.00
Notice to Def.

Statement to

Atty
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STATE FARM INSURANCE
COMPANIES, as subrogee of
RUBY E. BELL,

Plaintiff

vs.

ANDREW FULLER,

Defendant

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

: CIVIL DIVISION

: NO. 04-1686-CD

TO: **ANDREW FULLER**
638 S Main Street
Apt A
Dubois PA 15801

DATE OF NOTICE: February 27, 2006

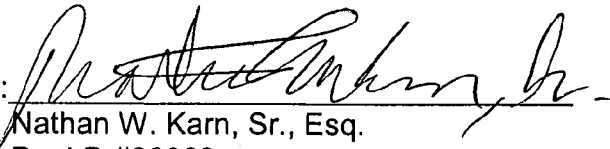
IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

David S. Meholick
Court Administrator
Clearfield County Court House
Clearfield, PA 16830 Phone: (814) 765-2641 Ext. 5982

EVEY, BLACK, DOREZAS, MAGEE, LEVINE,
ROSENSTEEL & MAUK, LLP

BY:


Nathan W. Karn, Sr., Esq.
Pa. I.D.#86068
Attorney for Plaintiff
401 Allegheny Street
P. O. Box 415
Hollidaysburg, PA 16648
(814) 695-7581

CERTIFIED MAIL™

EVEY, BLACK, DOREZAS, MAGEE,
LEVINE, ROSENSTEEL & MAUK LLP

Attorneys at Law

401-403 Allegheny Street

P. O. Box 415

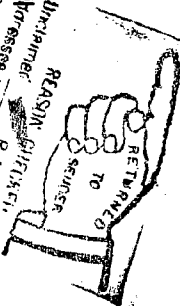
Hollidaysburg, PA 16648-0415



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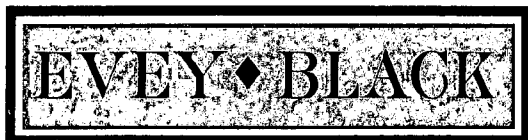
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ANDREW FULLER
638 S. MAIN STREET
APT. A
DUBOIS PA 15801



ATTORNEYS

401-03 ALLEGHENY STREET
P. O. BOX 415
HOLLIDAYSBURG, PA 16648
(814) 695-7581
FAX: (814) 695-1750

ROARING SPRING OFFICE:
99 NASON DRIVE
P. O. BOX 5
ROARING SPRING, PA 16673
(814) 224-5162

REPLY TO HOLLIDAYSBURG OFFICE

CLYDE O. BLACK, II BENJAMIN I. LEVINE, JR.
J. MICHAEL DOREZAS MICHAEL B. MAGEE
AMY ORR ROSENSTEEL KATHY J. MAUK
WILLIAM R. BRENNER NATHAN W. KARN, SR.
JEFFREY A. MURICEAK

WWW.EVEYBLACK.COM

MERLE K. EVEY
OF COUNSEL

March 27, 2006

"CERTIFIED MAIL, RETURN RECEIPT REQUESTED"

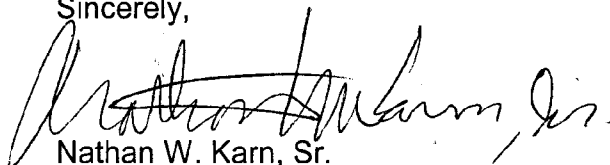
Andrew Fuller
638 S Main Street
Apt A
Dubois PA 15801

In re: State Farm v. Fuller
No. 04-1686-CD

Dear Mr. Fuller:

Enclosed please find a Notice of Assessment of Damages which we intend to enter against you as provided in the Notice, an Appraiser's Affidavit showing the amount of damages incurred in this case, and a repair estimate.

Sincerely,



Nathan W. Karn, Sr.

NWK:dkb
Enclosures

STATE FARM INSURANCE
COMPANIES, as subrogee of
RUBY E. BELL,

Plaintiff

vs.

ANDREW FULLER,

Defendant

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

: CIVIL DIVISION

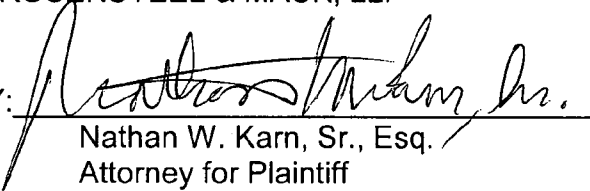
: NO. 04-1686-CD

NOTICE OF ASSESSMENT OF DAMAGES

You are hereby notified that in ten (10) days from the mailing of this Notice, damages will be assessed against you in the amount indicated in the attached Repair Bill in connection with the judgment which will be entered against you in the above-captioned action unless, prior to the date of assessment, you request a trial on the issue of damages by filing a written Praecipe with the Prothonotary.

EVEY, BLACK, DOREZAS, MAGEE, LEVINE,
ROSENSTEEL & MAUK, LLP

BY:


Nathan W. Karn, Sr., Esq.
Attorney for Plaintiff

Dated: March 27, 2006

APPRAISER'S AFFIDAVIT

STATE OF ILLINOIS

COUNTY OF McLean

:
: SS
:

AND NOW, this 14th day of March, 2006, before me, the undersigned authority, personally appeared HARRY PELLEY who acknowledged himself/herself to be an employee of State Farm Insurance Companies, and that the appraisal attached hereto accurately reflects the damages which were sustained to motor vehicle owned by Ruby E. Bell. I certify that these repairs were necessary, and that the prices for labor and material were fair and reasonable and those customarily charged. The undersigned also states that he/she has experience in the appraisal of automobiles for a period of 15 years.

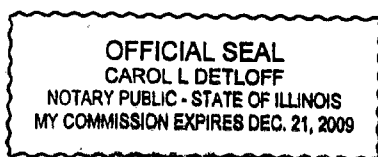
Harry Pelley

Sworn to and subscribed before me

this 14th day of March, 2006.

Carol L. Detloff
Notary Public

My Commission Expires: 12/21/09



STATE FARM MUTUAL INSURANCE COMPANY(R)
MEADVILLE SERVICE CENTER
11488 STATE HIGHWAY 98
MEADVILLE, PA 16335
SEE PHONE NUMBER BELOW

CD LOG NO 184 -0

01-29-03 8:52 AM

ESTIMATE

CLAIM INFORMATION

CLAIM # 38-K117-33701
COMPANY STATE FARM
FAX
INSURED BELL, RUBY
CLAIMANT

POLICY #
CLAIM REP PROCESSOR, TEAM FIVE
WORK PH# (888) 713-4694
LOSS DATE 01-21-03
LOSS TYPE COLLISION

INSPECTION

TYPE FIELD
PRIMARY POI FRONT END CENTER
APPRAISER NAME DUNWORTH, DEAN
LICENSE # 138192
WORK PHONE (814) 333-3227
ADDRESS
CITY STATE
ZIP

SECOND POI

FAX
INSP DATE 01-29-03
LOCATION RESIDENCE
CITY STATE LUTHERSBURG PA

OWNER

BELL, RUBY
RR 1 BOX 53A
LUTHERSBURG PA 15848-9740

WORK#
HOME# (814) 583-5403

REPAIR

VEHICLE

1991 FORD TAURUS L 4 DR SEDAN
6CYL GASOLINE 3.0

OPTIONS

TWO-STAGE - EXTERIOR SURFACES
ELEC REMOTE CONTROL MIRRORS
TILT STEERING WHEEL

TWO-STAGE - INTERIOR SURFACES
TINTED GLASS
AUTOMATIC TRANS

BODY COLOR BLUE CC
CONDITION
LICENSE # EYC-8577
LICENSE STATE PA

MILEAGE 50,805
VIN 1FACP50U1MA109677
CODE P350
VEH INSP #

REMARKS:

NO DRAFT ISSUED IN FIELD
ESTIMATE LEFT WITH OWNER AT TIME OF ESTIMATE
QRP, PARTS @ RICK'S AUTO PARTS RD #1 BRANDY CAMP RD. KERSEY PA 15818, @ 800366-179.
ADDITIONAL DAMAGE MAY RENDER THIS VEHICLE A TOTAL LOSS .
SEE PRIOR DAMAGE LISTED .
OWNER TO DUE SELF REPAIRS .

OP CODES:

* = USER-ENTERED VALUE E = REPLACE OEM NG = REPLACE NAGS
EC = ** QUALITY REPL PART UC = RECONDITIONED PRT UM = REMAN/REBUILT PRT

1991 FORD TAURUS L 4 DR SEDAN

CLAIM # 38-K117-33701

LOG 184 -0

01-29-03 8:52 AM

EU = QLTY RECYCLED PART

EP = ** QUALITY REPL PART

PC = PXN RECONDITIONED

PM = PXN REMAN/REBUILT

TE = PARTL REPL PRICE

ET = PARTL REPL LABOR

IT = PARTIAL REPAIR

I = REPAIR

L = REFINISH

BR = BLEND REFINISH

TT = TWO-TONE

CG = CHIPGUARD

SB = SUBLET

N = ADDITIONAL OPERATION

RI = R&I ASSEMBLY

P = CHECK

RP = RELATED PRIOR

UP = UNRELATED PRIOR

OP	GDE	MC	DESCRIPTION	MFR. PART NO.	PRICE	AJ%	B%	HOURS	R
EU	0008		BUMPER ASSEMBLY, FRONT	QLTY RECYCLED PAR	250.00*	+25		INC	1
			>>PAINT BEFORE INSTALLING						
L	0008		COVER, FRONT BUMPER	REFINISH				2.5	4
				2.5 SURFACE					
E	0009		MLDG, FRT BUMPER COVER	E6DZ17C829A	36.40			0.3	1
E	0006	02	ABSORBER, FRONT ENER LT	E9DZ17755A	133.63			0.7	1
RI	0007		ABSORBER, FRONT ENER RT	R&I ASSEMBLY				0.2	1
E	0028		GRILLE ASSEMBLY	FODZ8200B	96.38			INC	1
L	0028		GRILLE ASSEMBLY	REFINISH				1.2	4
				1.0 SURFACE					
				0.2 TWO-STAGE					
E	0032		EMBLEM, GRILLE	E8DZ8A223A	11.80			0.2	1
EU	0041		HEADLAMP ASSY, HALOG LT	QLTY RECYCLED PAR	100.00*	+25		0.2	1
N	0973		HEADLAMPS AIM	ADDITIONAL OPERAT				0.5	1
E	0057		PANEL, HEADLAMP MTG	FODZ8A284C	166.40			2.2	1
I	0078	07	PANEL ASSEMBLY, RAD SU	REPAIR				2.0*	1
L	0078	10	PANEL ASSEMBLY, RAD SU	REFINISH				0.6*	4
				0.4* SURFACE					
				0.2 TWO-STAGE					
			>>SPOT REPAIR/						
EU	0756		FAN ASSY, ENG COOLING	QLTY RECYCLED PAR	100.00*	+25		0.2	1
			>>TEMP REPAIR DONE.						
N	M03		FLEX ADDITIVE	ADDITIONAL OPERAT	5.00*			0.0*	4
N	M14		CORROSION PROTECTION	ADDITIONAL OPERAT				0.3*	4
N	M60		HAZARDOUS WASTE REMOVA	ADDITIONAL OPERAT	0.00*			0.0*	1

17 ITEMS

MC MESSAGE

02 PART NO. DISCONTINUED, CALL DEALER FOR EXACT PART NO.

07 STRUCTURAL PART AS IDENTIFIED BY I-CAR

10 INCLUDES ADP TIME TO CLEAR ENTIRE PANEL.

FINAL CALCULATIONS & ENTRIES

PARTS

GROSS PARTS	\$	444.61
OTHER PARTS	\$	455.00
PAINT MATERIAL	\$	92.00

ADJUSTMENTS

DISCOUNT

MARKUP

LINE ITEMS	\$	112.50
PARTS TOTAL	\$	1,104.11
TAX ON PARTS & MATERIAL @ 6.000%	\$	66.25

LABOR	RATE	REPLACE HRS	REPAIR HRS
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1991 FORD TAURUS L 4 DR SEDAN

CLAIM # 38-K117-33701

LOG 184

-0

01-29-03 8:52 AM

1-SHEET METAL	\$ 36.00	4.0	2.5	\$	234.00
2-MECH/ELEC	\$ 36.00				
3-FRAME	\$ 38.00				
4-REFINISH	\$ 36.00	4.3	0.3	\$	165.60
5-PAINT	\$ 20.00				

LABOR TOTAL				\$	399.60
TAX ON LABOR	@	6.000%		\$	23.98
TAX ON SUBLET	@	6.000%			
SUBLET REPAIRS					
TOWING					
STORAGE					

GROSS TOTAL	\$	1,593.94
LESS: DEDUCTIBLE	\$	250.00-

NET TOTAL	\$	1,343.94
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UNRELATED PRIOR DAMAGE

OP GDE	DESCRIPTION	MFR.PART NO.	PRICE	HOURS	R
UP 0075	CRSMR,RAD PNL LOWER	UNRELATED PRIOR	0.00		1
	>>HEAVY RUST = SEE PHOTO.				
UP 0390	PANEL,QUARTER	RT UNRELATED PRIOR	0.00		1
	UNRELATED PRIOR DAMAGE PARTS TOTAL	\$	0.00		
	UNRELATED PRIOR DAMAGE LABOR TOTAL	\$	0.00		

PXN Y/00/00/00/00/00 CUM 00/00/00/00/00 GEOCODE: 15801 DUBOIS

ADP PENPRO W0405 ES LOG184 -0 01-29-03 09:14:40 REL 4.05 SW10/02 DT01/03

(C) 1993 - 2002 ADP CLAIMS SOLUTIONS GROUP, INC.

0.4 HRS WERE ADDED TO THIS EST. BASED ON ADP'S TWO-STAGE REFINISH FORMULA.
*****INFORMATION ABOUT YOUR ESTIMATE*****

1. THIS IS NOT AN AUTHORIZATION TO REPAIR.
2. FAILING TO PRESENT THIS ESTIMATE TO THE REPAIRING FACILITY BEFORE A REPAIR MAY RESULT IN ADDITIONAL EXPENSE TO YOU.
3. ALL SUPPLEMENTS REQUIRE PRIOR APPROVAL BY A STATE FARM CLAIM REPRESENTATIVE.
4. COPY OF THE FORM(S) WAS SENT/GIVEN TO THE CONSUMER ON: _____.
5. ESTIMATOR SIGNATURE _____ DATE _____.
6. NOTICE: REPAIRS TO THIS VEHICLE MAY REQUIRE SPECIFIC WELDING EQUIPMENT AS RECOMMENDED BY THE MANUFACTURER.
7. ANY PERSON WHO KNOWINGLY AND WITH INTENT TO INJURE OR DEFRAUD ANY INSURER FILES AN APPLICATION OR CLAIM CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION SHALL UPON CONVICTION BE SUBJECT TO IMPRISONMENT FOR UP TO SEVEN YEARS AND PAYMENT OF A FINE OF UP TO

1991 FORD TAURUS L 4 DR SEDAN
CLAIM # 38-K117-33701
\$15,000.

LOG 184 -0

01-29-03 8:52 AM

8. YOU ARE UNDER NO REQUIREMENT TO USE ANY SPECIFIED REPAIR SHOP.

9. IF THIS APPRAISAL WAS PREPARED BASED ON THE USE OF AFTERMARKET CRASH PARTS, AND THE USE OF AN AFTERMARKET CRASH PART VOIDS THE EXISTING WARRANTY ON THE PART BEING REPLACED OR ANY OTHER PART, THE AFTERMARKET CRASH PART SHALL HAVE A WARRANTY EQUAL TO OR BETTER THAN THE REMAINDER OF THE EXISTING WARRANTY.

10. AN AFTERMARKET CRASH PART IS A NON-ORIGINAL EQUIPMENT MANUFACTURER REPLACEMENT PART, WITH NEW OR USED, FOR ANY OF THE NON-MECHANICAL PARTS THAT GENERALLY CONSTITUTE THE EXTERIOR OF THE MOTOR VEHICLE, INCLUDING INNER AND OUTER PANELS.

SM-SHEET METAL ME-MECH/ELEC FR-FRAME RE-REFINISH SY-SYSTEM

STATE FARM INSURANCE
COMPANIES, as subrogee of
RUBY E. BELL,

Plaintiff

vs.

ANDREW FULLER,

Defendant

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

: CIVIL DIVISION

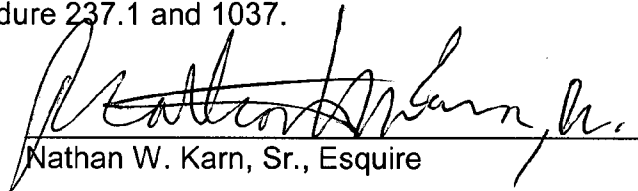
: NO. 04-1686-CD

COMMONWEALTH OF PENNSYLVANIA :

: SS


COUNTY OF BLAIR :

Personally appeared before me, a notary public in and for said Commonwealth and County, NATHAN W. KARN, SR., ESQUIRE, of the firm of Evey, Black, Dorezas, Magee, Levine, Rosensteel & Mauk, LLP, attorney for the Plaintiff, who being duly sworn according to law deposes and says that he mailed notice of default judgment and notice of assessment of damages to the above-captioned Defendant, Andrew Fuller, in accordance with Pennsylvania Rules of Civil Procedure 237.1 and 1037.

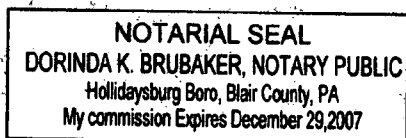

Nathan W. Karn, Sr., Esquire

Sworn to and subscribed before me

this 19th day of April, 2006.



Notary Public



TO: PROTHONOTARY OF CLEARFIELD COUNTY:

In connection with the case State Farm Insurance Companies, a subrogee of Ruby E. Bell v. Andrew Fuller, No. 04-1686-CD, I submit the following information in connection with the eventual removal of the operating privileges of the Defendant in the event that the judgment entered in said action is not paid within sixty (60) days from the date of its entry.

1. Operator's Name – Andrew Fuller
2. Operator's Address – 638 S. Main St., Apt. A, Dubois, PA 15801
3. Operator's Date of Birth – 5/25/81
4. License No. - 26863209
5. Date of Accident – 1/21/03
6. Plaintiff's Name – State Farm Insurance Companies, as subrogee of Ruby E. Bell
7. Plaintiff's Address - P. O. Box 2371, Bloomington, IL 61702-2371

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 19th day of April, 2006, a true and correct copy of the foregoing document was served by United States mail, postage prepaid, on the following:

Andrew Fuller
638 S Main Street
Apt A
Dubois PA 15801

EVEY, BLACK, DOREZAS, MAGEE, LEVINE,
ROSENSTEEL & MAUK, LLP

BY: 

Nathan W. Karn, Sr., Esq.
Pa. I.D.# 86068
Attorney for Plaintiff
401 Allegheny Street
Hollidaysburg, PA 16648
(814) 695-7581

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

State Farm Insurance Companies

Vs.

No. 2004-01686-CD

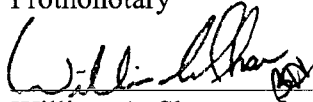
Andrew Fuller

To: DEFENDANT(S)

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you in the amount of \$1,593.94 on April 21, 2006.

William A. Shaw

Prothonotary



William A. Shaw



CCPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
STATEMENT OF JUDGMENT



COPY

State Farm Insurance Companies
Plaintiff(s)

No.: 2004-01686-CD

Real Debt: \$1,593.94

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Andrew Fuller
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment as to Damages

Date of Entry: April 21, 2006

Expires: April 21, 2011

Certified from the record this 21st day of April, 2006.

William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on _____, _____, of defendant full satisfaction of this Judgment,
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

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

DONALD THOMAS BANEY,

Plaintiff

VS.

M. PAUL KEPHART,

Defendant

:
: NO. 04-1668-CD
:
: Type of Case: Civil Action
:
: Type of Pleading:
:
:
: PRAECIPE TO SETTLE &
: DISCONTINUE
:
:
: Filed on Behalf of:
: M. Paul Kephart, Defendant
:
: Counsel of Record for this
: Party:
:
: David R. Thompson, Esquire
:
: Supreme Court No. 73053
:
: P.O. Box 587
: 308 Walton St., Suite #4
: Philipsburg, PA 16866
: (814) 342-4100
:

FILED 2002
APR 23 2007
Cert. of Disc.
to Atty

William A. Shaw
Prothonotary/Clerk of Courts

CR

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

DONALD THOMAS BANEY,

Plaintiff

vs.

M. PAUL KEPHART,

Defendant

:
:
:
: No.04-1668-CD
:
:
:
:
:

PRAECIPE TO SETTLE AND DISCONTINUE

TO: William A. Shaw, Prothonotary,

Please mark the above captioned matter settled and discontinued upon payment of
record costs.

BELL, SILBERBLATT & WOOD
By

Date: March 26, 2007

Ann B. Wood
Ann B. Wood, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Donald Thomas Baney

Vs.

No. 2004-01668-CD

Paul M. Kephart

CERTIFICATE OF DISCONTINUATION

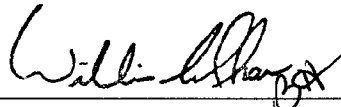
Commonwealth of PA
County of Clearfield

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 April 23, 2007, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by David R. Thompson, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 23rd day of April A.D. 2007.



William A. Shaw, Prothonotary