

04-1966-CD  
GENE M. STEWART, et al. vs. LYnda M. HARWOOD, et al.

Gene Stewart et al vs Lynda Harwood  
2004-1966-CD

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

GENE M. STEWART and ) CIVIL ACTION - LAW  
VIRGINIA STEWART, his wife )  
Plaintiffs )  
vs. ) NO. 04-1966-CD  
LYNDA M. HARWOOD, EXECUTRIX )  
OF THE ESTATE OF CAROL P. GELARDO, )  
Defendant )  
-and- )  
VIRGINIA DAVIS, )  
Additional Defendant )

FILED *60K*  
*m 10:30 AM*  
DEC 13 2004 *Atty PD*  
William A. Shaw  
Prothonotary/Clerk of Courts  
85.00  
*3 CC & 2 Writs*  
*to Atty*  
*D*

PRAECIPE FOR WRIT OF SUMMONS

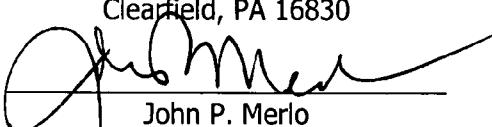
TO: WILLIAM A. SHAW, PROTHONOTARY, CLEARFIELD COUNTY

Please issue a Writ of Summons in Trespass against:

Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo  
1701 37<sup>th</sup> Street, Apt. 1510  
Phenix City, AL 36867

Virginia Davis  
1 Hummork Court  
Wilmington, DE 19803

Timothy E. Durant, Esquire  
201 N. Second Street  
Clearfield, PA 16830

  
John P. Merlo  
Attorney for Plaintiffs

December 10, 2004

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

*COPY*

**SUMMONS**

**Gene M. Stewart and  
Virginia Stewart, his wife  
Plaintiff**

**Vs.**

**NO.: 2004-01966-CD**

**Lynda M. Harwood, Executrix of  
the Estate of Carol P. Gelardo  
Defendant**

**-and-**

**Virginia Davis  
Additional Defendant**

**TO: LYNDA M. HARWOOD, Executrix of the Estate of CAROL P. GELARDO;  
VIRGINIA DAVIS**

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

Date: 12/13/2004

---

**William A. Shaw  
Prothonotary**

Issuing Attorney:

John P. Merlo  
27 North Sixth Street  
Indiana, PA 15701

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,  
Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,  
Defendant

and

VIRGINIA DAVIS,  
Additional Defendant

**JURY TRIAL DEMANDED**

**CIVIL DIVISION**

No. 04-1966-CD

**PRAECIPE FOR APPEARANCE**

Filed on Behalf of Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE  
PA. I.D. #36933

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.  
Firm No. 198  
114 South Main Street  
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840  
Fax No.: (724) 836-0532

**FILED** *(initials)*

FEB 09 2005  
~ 1 2:30 ~  
William A. Shaw  
Prothonotary/Clerk of Courts

*I concur to this*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and  
VIRGINIA STEWART, his wife,  
Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant

and

VIRGINIA DAVIS,

Additional Defendant

CIVIL DIVISION

No. 04-1966-CD

**PRAECIPE FOR APPEARANCE**

TO THE PROTHONOTARY:

Please enter my appearance on behalf of the defendant, Lynda M. Harwood,  
Executrix of the Estate of Carol P. Gelardo, in the above-captioned matter.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, PLLC**

By:

**John M. Noble, Esquire**

Attorney for Defendant,

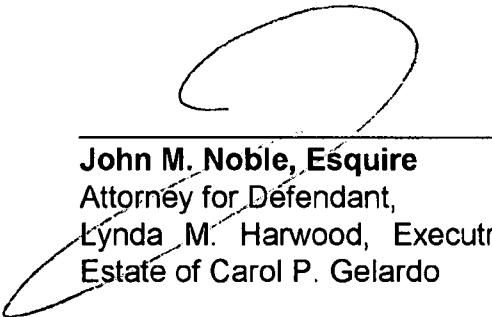
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

## CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **PRAECIPE FOR APPEARANCE** has been mailed to all counsel of record by forwarding a copy of same, First Class U.S. Mail, postage prepaid, this 772 day of Feb., 2005.

John P. Merlo, Esquire  
27 North Sixth Street  
Indiana, PA 15701  
(*Attorney for Plaintiffs*)

Virginia Davis  
1 Hummork Court  
Wilmington, DE 19803  
(*Pro se Additional Defendant*)

  
John M. Noble, Esquire  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

**NOTICE OF SERVICE OF  
INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS**

Defendant

and

VIRGINIA DAVIS,

Additional Defendant

Filed on Behalf of Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

Counsel of Record for this Party:

**JOHN M. NOBLE, ESQUIRE**  
PA. I.D. #36933

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**  
Firm No. 198  
114 South Main Street  
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840  
Fax No.: (724) 836-0532

64 **FILED** NO  
m/1/2005 CC  
FEB 14 2005

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant

and

VIRGINIA DAVIS,

Additional Defendant

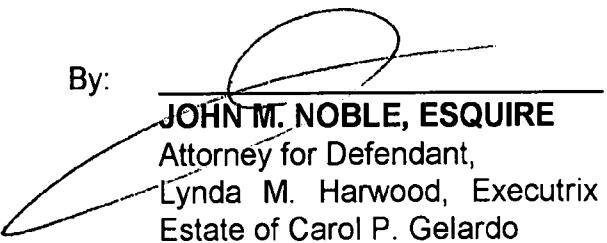
**NOTICE OF SERVICE OF INTERROGATORIES  
AND REQUEST FOR PRODUCTION OF DOCUMENTS**

TO THE PROTHONOTARY:

Kindly take notice that **INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS** were served upon plaintiffs, by depositing one (1) original in the United States Mail, addressed to John P. Merlo, Esquire, 27 North Sixth Street, Indiana, Pennsylvania 15701 on the 10<sup>th</sup> day of Feb, 2005.

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, PLLC

By:

  
JOHN M. NOBLE, ESQUIRE

Attorney for Defendant,

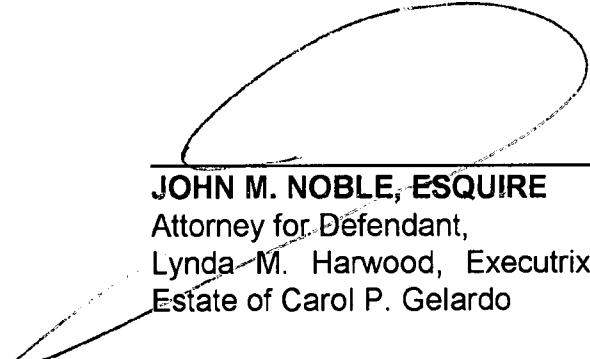
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

## CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **NOTICE OF SERVICE OF  
INTERROGATORIES ON PLAINTIFF** has been served upon all counsel of record by  
forwarding a copy of same, First Class U.S. Mail, postage prepaid, this 10<sup>th</sup> day of  
Feb, 2005.

John P. Merlo, Esquire  
27 North Sixth Street  
Indiana, PA 15701  
(Attorney for Plaintiffs)

Virginia Davis  
1 Hummork Court  
Wilmington, DE 19803  
(*Pro se* Additional Defendant)

  
**JOHN M. NOBLE, ESQUIRE**  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

**CIVIL DIVISION**

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

**AFFIDAVIT OF SERVICE**

Filed on Behalf of Defendant,  
Lynda M. Harwood, Executrix of The  
Estate of Carol P. Gelardo

Defendant

Counsel of Record for this Party:

and

JOHN M. NOBLE, ESQUIRE  
PA. I.D. #36933

VIRGINIA DAVIS,

Additional Defendant.

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.  
Firm No. 198  
114 South Main Street  
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840  
Fax No.: (724) 836-0532

**FILED**

64 FEB 17 2005

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant

and

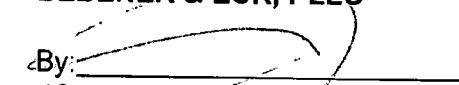
VIRGINIA DAVIS,

Additional Defendant.

**AFFIDAVIT OF SERVICE**

I, John M. Noble, Esquire, do hereby certify, pursuant to PA. R.C.P. 234.2, that I served a Rule to File Complaint on counsel for the Plaintiff, John P. Merlo, Esquire, 27 North Sixth Street, Indiana, PA 15701, via Certified Mail, Receipt No. 7002 3150 0004 2204 3588 on February 15, 2005.

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, PLLC

By: 

JOHN M. NOBLE, ESQUIRE

Attorney for Defendant,  
Lynda Harwood, Executrix of the Estate  
of Carol P. Gelardo

SWORN TO and subscribed  
before me this 14th day  
February, 2005.  
Mary T. Franko  
Notary Public

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal  
Mary T. Franko, Notary Public  
City Of Greensburg, Westmoreland County  
My Commission Expires Sept. 4, 2008

Member, Pennsylvania Association Of Notaries

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the within **AFFIDAVIT OF SERVICE** has been delivered by First Class United States mail to all counsel of record this 15<sup>th</sup> day of February, 2005 as follows:

John P. Merlo, Esquire  
27 North Sixth Street  
Indiana, PA 15701  
(Attorney for Plaintiffs)

JOHN M. NOBLE, ESQUIRE  
Attorneys for Defendant,  
Lynda Harwood, Executrix of the Estate  
of Carol P. Gelardo

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,  
Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS,

Additional Defendant.

CIVIL DIVISION

No. 04-1966-CD

**PRAECIPE FOR WRIT TO JOIN  
ADDITIONAL DEFENDANT**

Filed on Behalf of Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

Counsel of Record for this Party:

**JOHN M. NOBLE, ESQUIRE**  
Pa. I.D. #36933

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**  
Firm No. 198  
114 South Main Street  
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840  
Fax No.: (724) 836-0532

**FILED**

**MAR 28 2005**

*m. l. shaw*

William A. Shaw

Prothonotary/Clerk of Courts

*1 cent. 5/3 unit,  
to Acre*

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

No. 04-1966-CD

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS,

Additional Defendant.

**PRAECIPE FOR WRIT TO JOIN ADDITIONAL DEFENDANT**

**TO THE PROTHONOTARY:**

**KINDLY ISSUE** a Writ joining the Commonwealth of Pennsylvania  
Department of Transportation as an Additional Defendant in the above-captioned matter.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**

By:

**John M. Noble, Esquire**  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

**CERTIFICATE OF SERVICE**

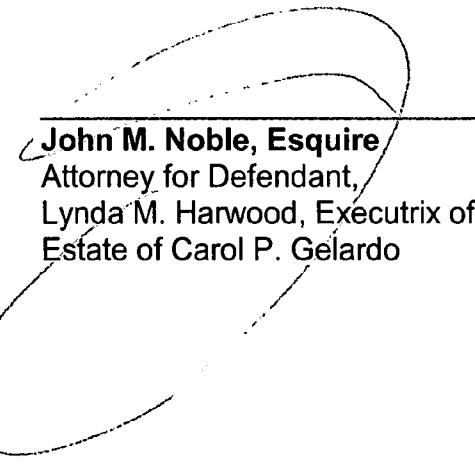
This is to certify that a true and correct copy of the within **PRAECIPE FOR WRIT TO JOIN ADDITIONAL DEFENDANT** has been mailed to all parties and counsel of record by forwarding a copy of same by First Class U.S. Mail, postage prepaid, this the 22<sup>nd</sup> day of March, 2005, addressed as follows:

John P. Merlo, Esquire  
27 North Sixth Street  
Indiana, PA 15701

*(Attorney for Plaintiffs, Gene M. Stewart  
and Virginia Stewart, his wife)*

Virginia Davis  
1 Hummork Court  
Wilmington, DE 19803  
*(Pro Se Additional Defendant)*

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**

By: 

**John M. Noble, Esquire**  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

**WRIT TO JOIN ADDITIONAL DEFENDANT**

Gene M. Stewart; Virginia Stewart;  
Plaintiff(s)

Vs.

Lynda M. Harwood, Executrix of  
the Estate of Carol P. Gelardo

04-1966-CD

Defendant(s)

and

Virginia Davis,

Additional Defendant

and

Commonwealth of Pennsylvania Department of  
Transportation

Additional Defendant

To: Commonwealth of Pennsylvania Department of Transportation:

You are notified that John M. Noble, Esq. has joined you as an additional defendant in this action, which you are required to defend.

Dated: March 28, 2005

---

Prothonotary

Filing Attorney: John M. Noble, Esq.

Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
114 South Main Street  
Greensburg, PA 15601-31-2  
724-836-0532

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

**NOTICE OF INTENT TO SERVE  
SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR  
DISCOVERY PURSUANT TO RULE  
4009.21**

Defendant,

vs.

VIRGINIA DAVIS and  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Additional Defendants.

Filed on Behalf of Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

Counsel of Record for this Party:

**JOHN M. NOBLE, ESQUIRE**  
Pa. I.D. #36933

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**  
Firm No. 198  
114 South Main Street  
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840  
Fax No.: (724) 836-0532

**FILED** *NO CC*  
*MISSION*  
APR 06 2005 *(6K)*

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Additional Defendants.

**NOTICE OF INTENT TO SERVE SUBPOENA TO PRODUCE DOCUMENTS  
AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

**TO: ALL COUNSEL AND PARTIES**

The Defendant, Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, intends to serve a Subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned counsel an objection to the subpoena. If no objection is made, the subpoena will be served.

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.

By:

JOHN M. NOBLE, ESQUIRE  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Gene M. Stewart  
Virginia Stewart  
Plaintiff(s)

Vs.

\*

Lynda M. Harwood  
Carol P. Gelardo  
Virginia Davis  
Defendant(s)

\*

No. 2004-01966-CD

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Pennsylvania State Police, Clearfield Station  
147 Doe Hill Road, Woodland, PA 16881

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

Color copies or reprints of all photographs taken at the scene of an accident occurring on December 18, 2003 on State Route 879, Covington Township, Clearfield County, PA, as reported at Incident No. C03-0766509.

(Address)

Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C., 114 South Main Street, Greensburg, PA 15601

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: John M. Noble, Esquire

ADDRESS: 114 South Main Street  
Greensburg, PA 15601

TELEPHONE: (724) 836-4840

SUPREME COURT ID # 36933

ATTORNEY FOR: Defendant, Lynda M. Harwood,  
Executrix of the Estate of Carol P. Gelardo

BY THE COURT:

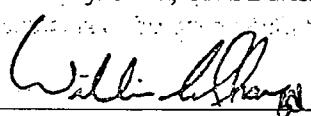
William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Tuesday, March 22, 2005.

Seal of the Court

Deputy

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



**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within **NOTICE OF INTENT TO SERVE SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21** has been served upon all parties and counsel of record by forwarding a copy of same, First Class U.S. Mail, postage prepaid, this the 4<sup>th</sup> day of April, 2005.

John P. Merlo, Esquire  
27 North Sixth Street  
Indiana, PA 15701  
(*Attorney for Plaintiffs*)

Virginia Davis  
1 Hummork Court  
Wilmington, DE 19803  
(*Pro se Additional Defendant*)

Commonwealth of Pennsylvania  
Department of Transportation  
Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(*Pro Se Additional Defendant*)

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**

By:

**JOHN M. NOBLE, ESQUIRE**  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

**CERTIFICATE PREREQUISITE TO  
SERVICE OF A SUBPOENA TO  
PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO  
RULE 4009.21**

Defendant,

vs.

VIRGINIA DAVIS and  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Filed on Behalf of Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

Additional Defendants.

Counsel of Record for this Party:

**JOHN M. NOBLE, ESQUIRE  
PA. I.D. #36933**

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**  
Firm No. 198  
114 South Main Street  
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840  
Fax No.: (724) 836-0532

APR 28 2005  
FILED NO CC  
M 12:32 PM  
APR 28 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Additional Defendants.

**CERTIFICATE PREREQUISITE TO SERVICE  
OF A SUBPOENA TO PRODUCE DOCUMENTS  
OR THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

As a prerequisite to service of a Subpoena to Produce Documents and Things for Discovery Pursuant to 4009.21, the defendant, Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, hereby certifies that:

- (1) A Notice of Intent to serve subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty (20) days prior to the date on which the subpoena is sought to be served;
  
- (2) A copy of the Notice of Intent, including the proposed subpoena, is attached to this certificate;

(3) No objections to the subpoena have been received; and

(4) The subpoena which will be served is identical to the subpoena which was attached to the Notice of Intent to Serve Subpoena.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**

By:

**JOHN M. NOBLE, ESQUIRE**  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

**DATE:** April 26, 2005

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

**NOTICE OF INTENT TO SERVE  
SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR  
DISCOVERY PURSUANT TO RULE  
4009.21**

Defendant,

vs.

VIRGINIA DAVIS and  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Filed on Behalf of Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

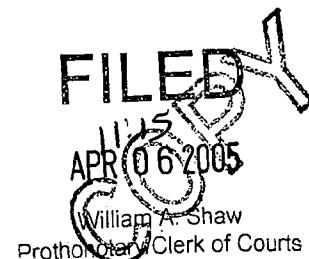
Additional Defendants.

Counsel of Record for this Party:

**JOHN M. NOBLE, ESQUIRE**  
Pa. I.D. #36933

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**  
Firm No. 198  
114 South Main Street  
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840  
Fax No.: (724) 836-0532



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Additional Defendants.

**NOTICE OF INTENT TO SERVE SUBPOENA TO PRODUCE DOCUMENTS  
AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

TO: ALL COUNSEL AND PARTIES

The Defendant, Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, intends to serve a Subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned counsel an objection to the subpoena. If no objection is made, the subpoena will be served.

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.

By:

JOHN M. NOBLE, ESQUIRE  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Gene M. Stewart  
Virginia Stewart  
Plaintiff(s)

Vs.

Lynda M. Harwood  
Carol P. Gelardo  
Virginia Davis  
Defendant(s)

\*

\*

No. 2004-01966-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO

RULE 4009.22

TO: Pennsylvania State Police, Clearfield Station  
147 Doe Hill Road, Woodland, PA 16881

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

Color copies or reprints of all photographs taken at the scene of an accident occurring on December 13, 2003 on State Route 879, Covington Township, Clearfield County, PA, as reported at Incident No. C03-0766509.

(Address)

Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C., 114 South Main Street, Greensburg, PA 15601  
You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: John M. Noble, Esquire

ADDRESS: 114 South Main Street  
Greensburg, PA 15601

TELEPHONE: (724) 836-4840

SUPREME COURT ID # 36933

ATTORNEY FOR: Defendant, Lynda M. Harwood,  
Executrix of the Estate of Carol P. Gelardo

BY THE COURT:

William A. Shaw Prothonotary/Clerk, Civil Division  
DATE: Tuesday, March 22, 2005

Seal of the Court

Deputy

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

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within **NOTICE OF INTENT TO SERVE SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21** has been served upon all parties and counsel of record by forwarding a copy of same, First Class U.S. Mail, postage prepaid, this the 4<sup>th</sup> day of April, 2005.

John P. Merlo, Esquire  
27 North Sixth Street  
Indiana, PA 15701  
(*Attorney for Plaintiffs*)

Virginia Davis  
1 Hummork Court  
Wilmington, DE 19803  
(*Pro se Additional Defendant*)

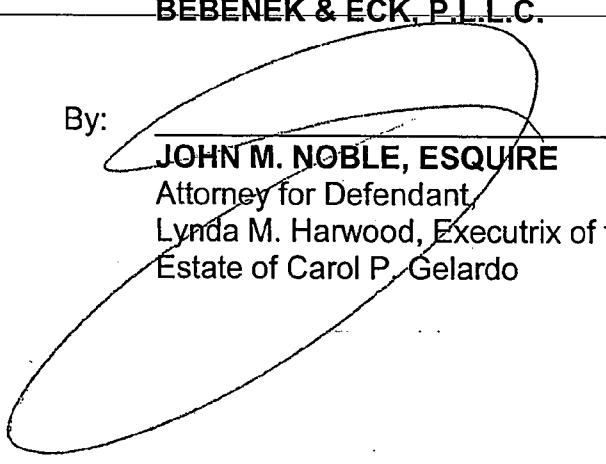
Commonwealth of Pennsylvania  
Department of Transportation  
Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(*Pro Se Additional Defendant*)

---

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.

---

By:

  
JOHN M. NOBLE, ESQUIRE  
Attorney for Defendant  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

**CERTIFICATE OF SERVICE**

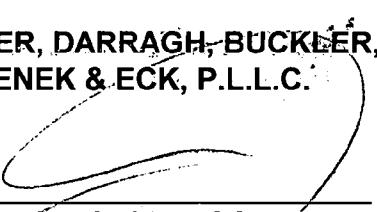
I do hereby certify that the foregoing **Certificate Prerequisite to Service of a Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.21** has been served upon the following this the 26<sup>th</sup> day of April, 2005, by First-Class, U.S. Mail, postage prepaid, addressed as follows:

John P. Merlo, Esquire  
27 North Sixth Street  
Indiana, PA 15701  
*(Attorney for Plaintiffs)*

Virginia Davis  
1 Hummock Court  
Wilmington, DE 19803  
*(Pro se Additional Defendant)*

Commonwealth of Pennsylvania  
Department of Transportation  
Keystone Building  
400 North Street  
Harrisburg, PA 17120  
*(Pro Se Additional Defendant)*

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.

By: 

**JOHN M. NOBLE, ESQUIRE**  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD  
COUNTY, PENNSYLVANIA

GENE M. STEWART, VIRGINIA  
STEWART,

Plaintiffs,

v.

LYNDA M. HARWOOD, Executrix of  
the Estate of Carol P. Gelardo,

Defendant,

v.

VIRGINIA DAVIS,

Additional  
Defendant,

and

COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
TRANSPORTATION,

Additional  
Defendant.

CIVIL DIVISION

NO. 04-1966-CD

**PRAECIPE FOR APPEARANCE**

Filed on behalf of Defendant:

COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
TRANSPORTATION

Counsel of Record for this Party:

Thomas L. Donahoe.  
Sr. Deputy Attorney General  
PA ID #29342

Office of Attorney General  
Torts Litigation Section  
564 Forbes Avenue  
Manor Complex  
Pittsburgh, PA 15219  
(412) 565-2572

**JURY TRIAL DEMANDED**

FILED  
MAY 23 2005  
NO CC  
6P

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD  
COUNTY, PENNSYLVANIA

GENE M. STEWART, VIRGINIA  
STEWART,

Plaintiffs,

v.

LYNDA M. HARWOOD, Executrix of  
the Estate of Carol P. Gelardo,

Defendant,

v.

VIRGINIA DAVIS,

Additional  
Defendant,

and

COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
TRANSPORTATION,

Additional  
Defendant.

CIVIL DIVISION

NO. 04-1966-CD

**PRAECIPE FOR APPEARANCE**

Filed on behalf of Defendant:

COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
TRANSPORTATION

Counsel of Record for this Party:

Thomas L. Donahoe.  
Sr. Deputy Attorney General  
PA ID #29342

Office of Attorney General  
Torts Litigation Section  
564 Forbes Avenue  
Manor Complex  
Pittsburgh, PA 15219  
(412) 565-2572

**JURY TRIAL DEMANDED**

FILED  
MAY 23 2005  
NO CC

William A. Shaw  
Prothonotary/Clerk of Courts

**PRAECIPE FOR APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter my Appearance on behalf of the defendant, Commonwealth of Pennsylvania, Department of Transportation, in connection with the above-captioned case. A trial by a jury of twelve is requested.

THOMAS W. CORBETT, JR.  
Attorney General

By Thomas L. Donahoe  
Thomas L. Donahoe  
Sr. Deputy Attorney General

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praeclipe for Appearance was served upon the following counsel of record and parties of record by mailing the same via first class mail, postage pre-paid, on May 19, 2005.

John P. Merlo, Esq.  
27 North Sixth Street  
Indiana, PA 15701

### (Counsel for Plaintiffs)

Virginia Davis  
1 Hummork Court  
Wilmington, DE 19803

### (Pro Se Additional Defendant)

John M. Noble, Esq.  
Meyer, Darragh, Buckler,  
Benenek & Eck, P.L.L.C.  
114 South Main Street  
Greensburg, PA 15601

### (Counsel for Defendant Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo)

Respectfully submitted,

THOMAS W. CORBETT, JR.  
Attorney General

By Thomas L. Donahoe  
Thomas L. Donahoe  
Sr. Deputy Attorney General

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS and  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Additional Defendants.

CIVIL DIVISION

No. 04-1966-CD

**NOTICE OF SERVICE OF  
INTERROGATORIES DIRECTED TO  
ADDITIONAL DEFENDANT  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION**

Filed on Behalf of Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE  
PA. I.D. #36933

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.  
Firm No. 198  
114 South Main Street  
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840  
Fax No.: (724) 836-0532

**FILED**

MAY 31 2005

5/12/05/w (6)

William A. Shaw  
Prothonotary  
1 cent to ATT)

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

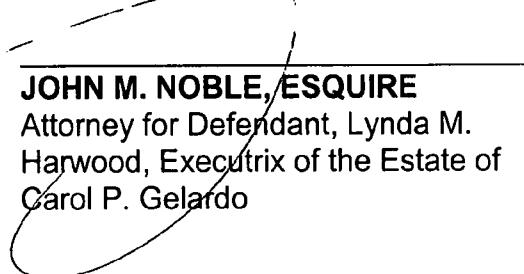
VIRGINIA DAVIS and  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Additional Defendants.

**NOTICE OF SERVICE OF INTERROGATORIES**

Kindly take notice that **INTERROGATORIES DIRECTED TO ADDITIONAL DEFENDANT COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION**, were served upon Additional Defendant, Commonwealth of Pennsylvania Department of Transportation, by depositing an original and one (1) copy in the United States Mail, postage prepaid, addressed to Thomas L. Donahoe, Sr. Deputy Attorney General, Office of Attorney General, 564 Forbes Avenue, Manor Complex, Pittsburgh, PA 15219, on the 26th day of May, 2005.

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**

By: 

**JOHN M. NOBLE, ESQUIRE**  
Attorney for Defendant, Lynda M.  
Harwood, Executrix of the Estate of  
Carol P. Gelardo

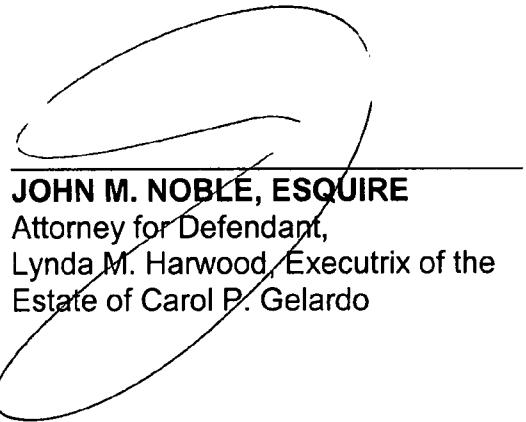
## CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **NOTICE OF SERVICE OF INTERROGATORIES DIRECTED TO ADDITIONAL DEFENDANT** has been served upon Additional Defendant and all counsel of record by forwarding a copy of same, First Class U.S. Mail, postage prepaid, this 26th day of May, 2005.

John P. Merlo, Esquire  
27 North Sixth Street  
Indiana, PA 15701  
(*Attorney for Plaintiffs*)

Virginia Davis  
1 Hummork Court  
Wilmington, DE 19803  
(*Pro se Additional Defendant*)

Thomas L. Donahoe,  
Sr. Deputy Attorney General  
Commonwealth of Pennsylvania  
Office of Attorney General  
Torts Litigation Unit  
564 Forbes Avenue  
Manor Complex  
Pittsburgh, PA 15219  
(*Attorney for Additional Defendant PennDot*)

  
**JOHN M. NOBLE, ESQUIRE**  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

**FILED**

MAY 31 2005

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant

and

VIRGINIA DAVIS,

Additional Defendant

CIVIL DIVISION

No. 04-1966-CD

**PRAECIPE FOR RULE**

Filed on Behalf of Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

Counsel of Record for this Party:

JOHN M. NOBLE, ESQUIRE  
PA. I.D. #36933

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.  
Firm No. 198  
114 South Main Street  
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840  
Fax No.: (724) 836-0532

FILED

FEB 09 2005  
M12-30-05  
William A. Shaw  
Prothonotary/Clerk of Courts

1 copy w/ rule to Attorney

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant

and

VIRGINIA DAVIS,

Additional Defendant

CIVIL DIVISION

No. 04-1966-CD

**PRAECIPE FOR RULE**

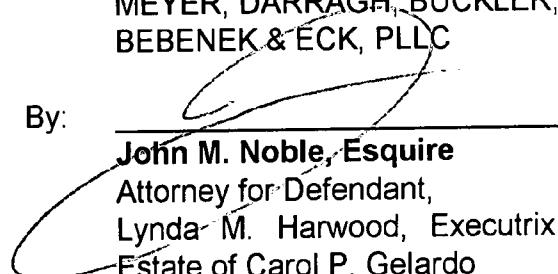
TO THE PROTHONOTARY:

Please issue a Rule compelling plaintiffs to file a complaint in the above-captioned matter within twenty (20) days or suffer judgment of Non Pros.

Respectfully submitted,

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, PLLC

By:

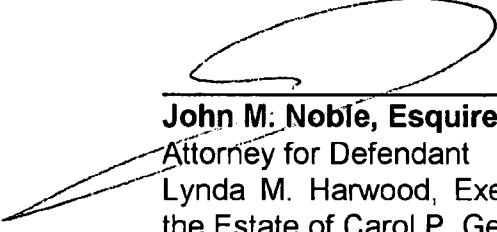
  
John M. Noble, Esquire  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

## CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **PRAECIPE FOR RULE** has been mailed to Additional Defendant and all counsel of record by forwarding a copy of same, First Class U.S. Mail, postage prepaid, this 7<sup>th</sup> day of Feb., 2005

John P. Merlo, Esquire  
27 North Sixth Street  
Indiana, PA 15701  
(*Attorney for Plaintiffs*)

Virginia Davis  
1 Hummork Court  
Wilmington, DE 19803  
(*Pro se Additional Defendant*)

  
John M. Noble, Esquire  
Attorney for Defendant  
Lynda M. Harwood, Executrix of  
the Estate of Carol P. Gelardo

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

Gene M. Stewart  
Virginia Stewart

Vs.  
Lynda M. Harwood  
Carol P. Gelardo  
Virginia Davis

Case No. 2004-01966-CD

RULE TO FILE COMPLAINT

TO: Plaintiffs

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within twenty (20) days from service hereof, or a judgment of non pros may be entered against you.

---

William A. Shaw, Prothonotary

Dated: February 9, 2005

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100370  
NO: 04-1966-CD  
SERVICE # 1 OF 2  
WRIT TO JOIN ADDITIONAL DEFENDANT

PLAINTIFF: GENE M. STEWART; VIRGINIA STEWART

vs.

DEFENDANT: LYNDA M. HARWOOD, Executris of Estate of Carol P. Gelardo AND VIRGINIA DAVIS, Addl. Deft. AND COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, Addl. Deft. and

**SHERIFF RETURN**

---

NOW, April 05, 2005, SHERIFF OF DAUPHIN COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION.

NOW, April 07, 2005 AT 1:50 PM SERVED THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, DEFENDANT. THE RETURN OF DAUPHIN COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

FILED  
010-2787-6W  
APR 25 2005

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100370  
NO: 04-1966-CD  
SERVICE # 2 OF 2  
WRIT TO JOIN ADDITIONAL DEFENDANT

PLAINTIFF: GENE M. STEWART; VIRGINIA STEWART

vs.

DEFENDANT: LYNDA M. HARWOOD, Executris of Estate of Carol P. Gelardo AND VIRGINIA DAVIS, Addl. Deft. AND COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, Addl. Deft.  
and

**SHERIFF RETURN**

---

NOW, April 05, 2005, SHERIFF OF DAUPHIN COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON COMMONWEALTH OF PENNSYLVANIA DEPT OF TRANSPORTATION c/oPa. Office of Attorney General.

NOW, April 07, 2005 AT 2:33 PM SERVED THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON COMMONWEALTH OF PENNSYLVANIA DEPT OF TRANSPORTATION c/oPa. Office of Attorney General,  
DEFENDANT. THE RETURN OF DAUPHIN COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100370  
NO: 04-1966-CD  
SERVICES 2  
WRIT TO JOIN ADDITIONAL DEFENDANT

PLAINTIFF: GENE M. STEWART; VIRGINIA STEWART

vs.

DEFENDANT: LYNDA M. HARWOOD, Executris of Estate of Carol P. Gelardo AND VIRGINIA DAVIS, Addl. Deft. AND COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, Addl. Deft. and

**SHERIFF RETURN**

---

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	MEYER	9157	20.00
SHERIFF HAWKINS	MEYER	9157	36.00
DAUPHIN CO.	MEYER	9158	32.25

Sworn to Before Me This

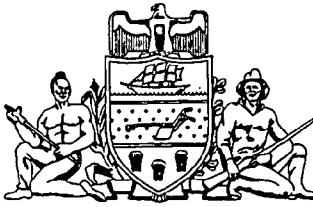
So Answers,

\_\_\_\_ Day of \_\_\_\_\_ 2005



Chester A. Hawkins  
Sheriff

# Office of the Sheriff



Mary Jane Snyder  
Real Estate Deputy

William T. Tully  
Solicitor

J. Daniel Basile  
Chief Deputy

Michael W. Rinehart  
Assistant Chief Deputy

Dauphin County  
Harrisburg, Pennsylvania 17101  
ph: (717) 255-2660 fax: (717) 255-2889

Jack Lotwick  
Sheriff

Commonwealth of Pennsylvania : STEWART GENE M & VIRGINIA  
vs  
County of Dauphin : ATTORNEY GENERAL

**Sheriff's Return**

No. 0632-T - - - 2005  
OTHER COUNTY NO. 04-1966-CD

AND NOW: April 7, 2005 at 1:50PM served the within

WRIT JOIN ADDITIONAL DEFENDANTS upon  
DEPT OF TRANSPORTATION by personally handing  
to NICOLE STROUP, CELRK/TYPIST 1 true attested copy(ies)  
of the original WRIT JOIN ADDITIONAL DEFENDANTS and making known  
to him/her the contents thereof at KEYSTONE BUILDING  
400 NORTH ST  
HARRISBURG, PA 00000-0000

Sworn and subscribed to  
before me this 8TH day of APRIL, 2005

So Answers,

Sheriff of Dauphin County, Pa.

By

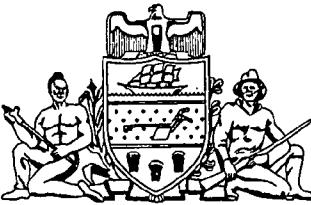
Deputy Sheriff

Sheriff's Costs: \$32.25 PD 04/07/2005  
RCPT NO 205628

WONG

NOTARIAL SEAL  
MARY JANE SNYDER, Notary Public  
Highspire, Dauphin County  
My Commission Expires Sept. 1, 2006

# Office of the Sheriff



Mary Jane Snyder  
Real Estate Deputy

William T. Tully  
Solicitor

J. Daniel Basile  
Chief Deputy

Michael W. Rinehart  
Assistant Chief Deputy

Dauphin County  
Harrisburg, Pennsylvania 17101  
ph: (717) 255-2660 fax: (717) 255-2889

Jack Lotwick  
Sheriff

Commonwealth of Pennsylvania : STEWART GENE M & VIRGINIA  
vs  
County of Dauphin : ATTORNEY GENERAL

## Sheriff's Return

No. 0632-T - - - 2005  
OTHER COUNTY NO. 04-1966-CD

AND NOW: April 7, 2005 at 2:33PM served the within

WRIT JOIN ADDITIONAL DEFENDANTS upon  
ATTORNEY GENERAL by personally handing  
to CATHY STEHMAN, RECEPTIONIST 1 true attested copy(ies)  
of the original WRIT JOIN ADDITIONAL DEFENDANTS and making known  
to him/her the contents thereof at 15TH FLOOR  
STRAWBERRY SQ  
HARRISBURG, PA 00000-0000

Sworn and subscribed to  
before me this 8TH day of APRIL, 2005

So Answers,

Sheriff of Dauphin County, Pa.

By

Deputy Sheriff

Sheriff's Costs: \$32.25 PD 04/07/2005

RCPT NO 205628

WONG

NOTARIAL SEAL  
MARY JANE SNYDER, Notary Public  
Highspire, Dauphin County  
My Commission Expires Sept. 1, 2006



CHESTER A. HAWKINS  
SHERIFF

Sheriff's Office  
Clearfield County

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

OFFICE (814) 765-2641 EXT. 5986  
AFTER 4:00 P.M. (814) 765-1533  
FAX (814) 765-5915

ROBERT SNYDER  
CHIEF DEPUTY

MARILYN HAMM  
DEPT. CLERK

CYNTHIA AUGHENBAUGH  
OFFICE MANAGER

PETER F. SMITH  
SOLICITOR

## DEPUTATION

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

PAGE 100370

TERM & NO. 04-1966-CD

GENE M. STEWART; VIRGINIA STEWART

WRIT TO JOIN ADDITIONAL DEFENDANT

vs.

LYNDA M. HARWOOD, Executris of Estate of Carol P. Gelardo AND VIRGINIA DAVIS, Addl. Deft. AND COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, Addl. Deft.  
and

SERVE BY: 04/27/05

### MAKE REFUND PAYABLE TO MEYER DARRAGH BUCKLER BEBENEK & ECK

SERVE: COMMONWEALTH OF PENNSYLVANIA DEPT OF TRANSPORTATION c/oPa. Office of Attorney General

ADDRESS: STRAWBERRY SQUARE, HARRISBURG, PA 17120

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF DAUPHIN COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, April 05, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA



CHESTER A. HAWKINS  
SHERIFF

Sheriff's Office  
Clearfield County

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

OFFICE (814) 765-2641 EXT. 5986  
AFTER 4:00 P.M. (814) 765-1533  
FAX (814) 765-5915  
ROBERT SNYDER  
CHIEF DEPUTY  
MARILYN HAMM  
DEPT. CLERK  
CYNTHIA AUGHENBAUGH  
OFFICE MANAGER  
PETER F. SMITH  
SOLICITOR

## DEPUTATION

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

PAGE 100370

TERM & NO. 04-1966-CD

GENE M. STEWART; VIRGINIA STEWART

WRIT TO JOIN ADDITIONAL DEFENDANT

VS.

LYNDA M. HARWOOD, Executris of Estate of Carol P. Gelardo AND VIRGINIA DAVIS, Addl. Deft. AND COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, Addl. Deft.  
and

**SERVE BY: 04/27/05**

**MAKE REFUND PAYABLE TO MEYER DARRAGH BUCKLER BEBENEK & ECK**

**SERVE:** COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION

**ADDRESS:** KEYSTONE BLDG., 400 NORTH ST., HARRISBURG, PA 17120

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF DAUPHIN COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, April 05, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

**WRIT TO JOIN ADDITIONAL DEFENDANT**

Gene M. Stewart; Virginia Stewart;  
Plaintiff(s)

Vs.

Lynda M. Harwood, Executrix of  
the Estate of Carol P. Gelardo

04-1966-CD

Defendant(s)

and

Virginia Davis,

Additional Defendant

and

Commonwealth of Pennsylvania Department of  
Transportation

Additional Defendant

To: Commonwealth of Pennsylvania Department of Transportation:

You are notified that John M. Noble, Esq. has joined you as an additional defendant in this action, which you are required to defend.

Dated: March 28, 2005

---

Prothonotary

Filing Attorney: John M. Noble, Esq.

Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
114 South Main Street  
Greensburg, PA 15601-31-2  
724-836-0532

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

**WRIT TO JOIN ADDITIONAL DEFENDANT**

Gene M. Stewart; Virginia Stewart;  
Plaintiff(s)  
Vs.

Lynda M. Harwood, Executrix of  
the Extate of Carol P. Gelardo

04-1966-CD

Defendant(s)

and

Virginia Davis,

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and

Commonwealth of Pennsylvania Department of  
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Additional Defendant

)

To: Commonwealth of Pennsylvania Department of Transportation:

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Dated: March 28, 2005

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Prothonotary

Filing Attorney: John M. Noble, Esq.  
Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C.  
114 South Main Street  
Greensburg, PA 15601-31-2  
724-836-0532

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

GENE M. STEWART and ) CIVIL ACTION - LAW  
VIRGINIA STEWART, his wife )  
Plaintiffs )  
vs. ) NO. 04-1966-CD  
LYNDA M. HARWOOD, EXECUTRIX )  
OF THE ESTATE OF CAROL P. GELARDO, )  
Defendant )  
) TYPE OF CASE:  
) COMPLAINT  
) FILED ON BEHALF OF  
) PLAINTIFFS  
) COUNSEL OF RECORD  
) FOR THIS PARTY:  
) JOHN P. MERLO  
) ATTORNEY AT LAW  
) PA I.D. 18144  
) 27 NORTH SIXTH STREET  
) INDIANA, PA 15701  
) [724] 463-0241

FILED  
m 110 5761 2 cc  
JUN 30 2005  
Any memo  
(68)

William A. Shaw  
Prothonotary/Clerk of Courts

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

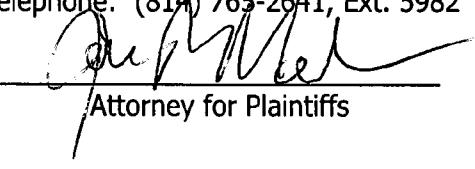
GENE M. STEWART and ) CIVIL ACTION – LAW  
VIRGINIA STEWART, his wife )  
Plaintiffs )  
vs. ) NO. 04-1966-CD  
LYNDA M. HARWOOD, EXECUTRIX )  
OF THE ESTATE OF CAROL P. GELARDO, )  
Defendant )  
-and-

**NOTICE TO PLEAD**

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 other 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.**

Office of the Court Administrator  
Clearfield County Courthouse  
228 Courthouse, 230 East Market Street  
Clearfield, Pennsylvania 16830  
Telephone: (814) 765-2641, Ext. 5982

  
\_\_\_\_\_  
Attorney for Plaintiffs

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

GENE M. STEWART and ) CIVIL ACTION – LAW  
VIRGINIA STEWART, his wife )  
Plaintiffs )  
vs. ) NO. 04-1966-CD  
LYNDA M. HARWOOD, EXECUTRIX )  
OF THE ESTATE OF CAROL P. GELARDO, )  
Defendant )

**COMPLAINT**

AND NOW, comes John P. Merlo on behalf of the plaintiffs, Gene M. Stewart and Virginia Stewart, his wife, who files this Complaint by averring and stating the following:

1. The plaintiff, Gene M. Stewart, is an adult who resides at 288 Stable Road, Indiana, Pennsylvania 15701.
2. The plaintiff, Virginia Stewart, is the wife of Gene M. Stewart, who resides at 288 Stable Road, Indiana, Pennsylvania 15701.
3. The defendant, Lynda M. Harwood, is the Executrix of the Estate of Carol P. Gelardo, deceased, according to the application for Probate filed in the Estate of Carol P. Gelardo, in the Register of Wills Office in Clearfield County, Pennsylvania, on the 23<sup>rd</sup> day of April, 2004.
4. The defendant, Lynda M. Harwood, is an adult who resides at 1701 37<sup>th</sup> Street, Apartment 1510, Phenix City, Alabama 36867-2581.

5. The deceased, Carol P. Gelardo, resided in Covington Township prior to her death, and on the 18<sup>th</sup> day of December, 2003, was the operator of a certain motor vehicle, a 1999 red Toyota Tacoma, VIN #4TAWN74N3X2471457, licensed in the Commonwealth of Pennsylvania, with a plate number of WDA1229.

6. Also on the 18<sup>th</sup> day of December, 2003, the plaintiff, Gene M. Stewart, was the operator of a certain motor vehicle owned by Force Trucking Company, whose address is 7877 Five Points Road, Creekside, Pennsylvania, and was a Ford F-150 pick up truck with a VIN number of 2FTRX18643C857712, with a Pennsylvania registration plate YMB3678.

7. On December 18, 2003, at approximately 4:40P.M.. in the early evening hours, the deceased was operating her motor vehicle in an easterly direction along State Route 879, at an approximate speed of 55 miles per hour. At or about the same time, heading in a westerly direction in the west bound lane, was the plaintiff.

8. The road conditions on that date and at approximately that time were wet due to snow and it was reported that there were, in places, patches of ice.

9. The vehicle operated by the deceased was going in an up-hill direction while the vehicle of the plaintiff was coming down-hill in a westerly direction, at or near the point of impact.

10. The deceased's passenger side tires ran left the roadway and on to the snow-covered berm and shoulder of the roadway, wherein the rear of the defendant's vehicle began to slide back and forth to where the operator lost control of the vehicle.

11. The deceased's vehicle than began to slide sideways crossing into the west-bound lane of State Route 879, and unable to regain control of the vehicle, the deceased's vehicle struck the plaintiff's vehicle in a near head-on manner, after the plaintiff had attempted to take all steps to move out of the way of the deceased's vehicle.

12. At or near the point of the initial impact the deceased's vehicle rolled on to the its passenger side, and slide several feet before coming to rest in the west-bound lane of State Route 879, facing in a southerly direction.

13. As a result of the force of the impact the plaintiff's vehicle continued to move forward for a short distance before coming to rest in the west-bound lane of State Route 879 facing in a southerly direction.

14. As a result of the negligent operation of the vehicle operated by Carol P. Gelardo, she suffered fatal injuries and the plaintiff, Gene M. Stewart, received severe bodily injuries and trauma which necessitated hospitalization, loss of work, loss of the ability to participate in normal activities.

#### **COUNT 1- NEGLIGENCE**

15. The averments contained in paragraphs 1 through 14 are incorporated herein as if specifically restated.

16. At the time aforesaid, the deceased operated her motor vehicle in a negligence and carelessness manner wherein the deceased was driving too fast for the conditions of the roadway; the deceased knowing that the roadway was wet and snowy, was unable to keep control her vehicle; the deceased, at dusk failed to operate and maintain her vehicle on the paved portion of the roadway; that the deceased went off the paved portion of the roadway and in an attempt to re-enter the paved portion of the roadway lost control of her vehicle; the deceased wrongfully crossed the center line of State Route 879 into the plaintiff's lane of travel; the deceased, by her inability to maintain control of her vehicle stuck the plaintiff in a near head-on manner.

17. That the unsafe and improper operation of the deceased's vehicle was the proximate cause of the collision, which resulted in her death; and the serious injuries, pain and suffering that were and are suffered by the plaintiff.

18. The plaintiff has been, and will be in the future, be hindered and prevented from attending his usual and daily duties in the same manner he was able to do one moment prior to the collision caused by the deceased, Carol P. Gelardo.

19. The injuries suffered by the Plaintiff caused him to lose wages and because of the nature of those injuries which will cause his earning capacity to decrease with time.

20. The plaintiff has been obligated to expend large and various sums of money for medicine and medical attendance, in and about endeavoring to cure the injuries which he suffered as a result of the deceased's negligence, the most serious of those injuries was a broken hip, as well as severe trauma to the spinal cord and nervous system.

21. The injuries suffered by the plaintiff will result in the future obligation by the plaintiff to expend large sums of money to treat his injuries, his resulting disabilities and the continued pain and suffering caused by those injuries and impairments.

22. The plaintiff due to his injuries was hospitalized, missed work, suffered extreme pain and is still suffering pain and discomfort doing simple tasks.

23. The plaintiff lost wages in the amount of \$15,000.00, and seeks recovery for his injuries and pain and suffering in excess of \$50,000.00 plus costs, interest and Attorney's fees.

#### **COUNT II- WIFE'S LOSS OF CONSORTIUM**

24. The allegations contained in paragraphs 1 through 23 are incorporated herein by reference as if they were more specifically restated herein.

25. The plaintiff, Virginia Stewart claims loss of consortium during that the period of time that the accident occurred and for period of time equal to his being unable to work or perform those activities normally performed by a husband ..

26. The plaintiffs are husband and wife, were husband and wife at the time of the accident on December 18, 2004 and remain husband wife; and as a result of the injuries suffered by the husband, the wife was deprived of his assistance, aid, comfort and society that a husband would be have been expected to or bestow upon her under circumstances had the injuries not occurred by the negligent act or acts of the deceased Carol P. Gelardo

WHEREFORE, it is respectfully request that the Court enter judgment in favor of the plaintiff and against the Estate of the deceased, Carol P. Gelardo, for the loss of consortium and companionship in the amount in excess of \$50,000.00.

**Count III- AGAINST THE ESTATE**

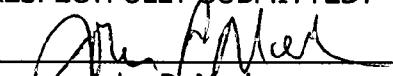
27. That the allegations contained in paragraphs 1 through 26 are incorporated herein as is specifically restated.

28. That Carol P. Gelardo, the deceased, was the operator of the vehicle which through her negligence was the proximate cause of the collision which resulted in fatal injuries to her and the injuries suffered by the plaintiffs.

29. On April 23, 2005, an application for probate was filled naming Linda M. Harwood as the Executrix of the Estate of Carol P. Gelardo, and it is the estate that stands in the place of Carol P. Geraldo and is liable for any act or acts committed by the deceased which caused her death and the injuries of the plaintiffs

WHEREFORE, it is respectfully submitted that judgment be entered in favor of the Plaintiffs and against the Estate of Carol P. Gelardo, in Counts I, II and, III, in the amount of \$15,000.00 for lost wages and an amount in excess of \$50,000.00 for all three counts, plus interest , costs and attorneys fees.

RESPECTFULLY SUBMITTED:

  
John P. Merlo  
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA )  
 )  
COUNTY OF INDIANA ) ss.  
 )

VERIFICATION

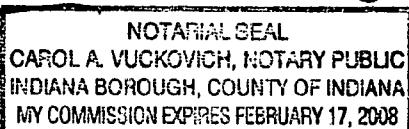
WE, GENE M. STEWART and VIRGINIA STEWART, verify that the information set forth in the foregoing COMPLAINT is true and correct to the best of our knowledge, information and belief. We understand that false statements herein are made subject to the penalties of Pa. C.S. 4904, relating to unsworn falsification to authorities.

Gene M. Stewart  
Gene M. Stewart

Virginia R. Stewart  
Virginia Stewart

Sworn and subscribed to before me  
this 27th day of June, 2005.

Carol A. Vuckovich



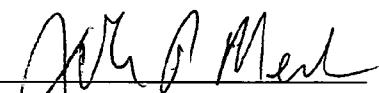
IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

GENE M. STEWART and ) CIVIL ACTION - LAW  
VIRGINIA STEWART, his wife )  
Plaintiffs )  
vs. ) NO. 04-1966-CD  
LYNDA M. HARWOOD, EXECUTRIX )  
OF THE ESTATE OF CAROL P. GELARDO, )  
Defendant )

CERTIFICATE OF SERVICE

AND NOW, this 28<sup>th</sup> day of June, 2005, the undersigned hereby certifies that a true and correct copy of the foregoing Complaint was on this date served by regular U.S. mail, postage prepaid, upon the following:

John M. Noble, Esquire  
114 South Main Street  
Greensburg, PA 15601-3102

  
John P. Merlo

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PA  
CIVIL DIVISION  
NO. 04-1966-CD

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

Plaintiffs

vs.

LYNDA M. HARWOOD, EXECUTRIX  
OF THE ESTATE OF CAROL P.  
GELARDO,

Defendant

COMPLAINT

FILED

JUN 30 2005

William A. Shantz  
Prothonotary/Clerk of Courts

JOHN P. MERLO  
Attorney at Law  
27 North Sixth Street  
Indiana, PA 15701

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS,

Additional Defendant

and

COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Additional Defendant

**TO THE PLAINTIFFS:**

You are hereby notified to plead  
to the enclosed New Matter within twenty  
(20) days from service hereof, or a  
default judgment may be entered against  
you.

John M. Noble, Esquire  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of  
the Estate of Carol P. Gelardo

CIVIL DIVISION

No. 04-1966-CD

**ANSWER AND NEW MATTER TO  
PLAINTIFFS' COMPLAINT**

Filed on Behalf of Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

Counsel of Record for this Party:

**JOHN M. NOBLE, ESQUIRE**  
Pa. I.D. #36933

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**  
Firm No. 198  
114 South Main Street  
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840  
Fax No.: (724) 836-0532

**FILED** <sup>GR</sup>  
m/12/30/05  
AUG 05 2005  
**NO CC**

William A. Shaw  
Prothonotary/Clerk of Courts

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

Plaintiffs,

vs.

No. 04-1966-CD

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS,

Additional Defendant

and

COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Additional Defendant

**ANSWER AND NEW MATTER**

**AND NOW**, comes the Defendant, Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, deceased, by and through her attorneys, Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. and John M. Noble, Esquire, and files the within Answer and New Matter and in support thereof avers as follows:

1-6. Admitted.

7. In reply to paragraph 7 of said Complaint, to the extent that it is inferred and/or otherwise implied, the within answering Defendant denies that any alleged action,

error and/or omission asserted as to decedent Carol P. Gelardo caused, substantially contributed to and/or resulted in the incident complained of and/or resulting alleged injuries and damages to Plaintiff for those reasons set forth more fully herein. It is further denied that decedent's approximate speed was 55 miles per hour as the within answering Defendant is without sufficient information or knowledge so as to form a belief as to the truth of said averments which are therefore denied.

8-9. Admitted.

10-11. In reply to paragraphs 10 and 11 of said Complaint, to the extent that it is inferred and/or otherwise implied, the within answering Defendant denies that any alleged action, error and/or omission asserted as to decedent Carol P. Gelardo caused, substantially contributed to and/or resulted in the incident complained of and/or resulting alleged injuries and damages to Plaintiff for those reasons set forth more fully herein.

12-13. Admitted.

14. In reply to paragraph 14, any and all allegations of negligence are denied for those reasons set forth more fully herein. It is admitted that Carol P. Gelardo suffered fatal injuries. As for the remaining allegations contained in paragraph 14, after reasonable investigation, the within answering Defendant is without sufficient information or knowledge so as to form a belief as to the truth of said averments which are therefore denied. It is further denied that any alleged actions, errors and/or omissions asserted as to decedent Carol P. Gelardo factually caused, substantially contributed to and/or otherwise resulted in the incident complained of and/or resulting alleged injuries and damages.

### **COUNT I - NEGLIGENCE**

15. Paragraph 15 incorporates by reference paragraphs 1 through 14 above as though more fully set forth herein at length.

16-23. In reply to paragraphs 16 through 23, any and all allegations of negligence are denied for those reasons set forth more fully herein. It is admitted that Carol P. Gelardo suffered fatal injuries. As for the remaining allegations contained in paragraphs 16 through 23, after reasonable investigation, the within answering Defendant is without sufficient information or knowledge so as to form a belief as to the truth of said averments which are therefore denied.

### **COUNT II - WIFE'S LOSS OF CONSORTIUM**

24. Paragraph 24 incorporates by reference paragraphs 1 through 23 above as though more fully set forth herein at length.

25-26. Denied.

WHEREFORE, Defendant Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, deceased denies any and all liability to Plaintiffs upon the cause of action alleged and demands judgement in Defendant's favor with costs sustained.

### **COUNT III - AGAINST THE ESTATE**

27. Paragraph 27 incorporates by reference paragraphs 1 through 26 above as though more fully set forth herein at length.

28-29. Denied for those reasons set forth more fully herein.

WHEREFORE, Defendant Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, deceased denies any and all liability to Plaintiffs upon the cause of action alleged and demands judgement in Defendant's favor with costs sustained.

By way of further answer, Defendant asserts the following New Matter.

#### **NEW MATTER**

30. In the event that Plaintiff sustained injuries and damages as alleged, which is expressly denied, then it is believed and therefore averred that Plaintiffs' cause of action remains governed, limited and/or otherwise controlled by virtue of the Pennsylvania Motor Vehicle Financial Responsibility Law and any and all provisions and/or defenses contained therein.

31. In the event that Plaintiff sustained injuries and damages as alleged, which is expressly denied, then it is believed and therefore averred that Plaintiffs' cause of action may be wholly and/or partially barred by the virtue of any and all contributory/comparative negligence deemed applicable to Plaintiff Gene M. Stewart at time of trial, if any.

32. In the alternative to the above, Plaintiffs have failed to allege the "full tort" selection of automobile liability insurance and are therefore prohibited from seeking damages for non-economic loss.

33. As a further affirmative defense, it is believed and therefore averred that no negligent action, error and/or omission asserted as to decedent Carol P. Gelardo factually caused, substantially contributed to and/or otherwise resulted in the incident complained of and/or resulting alleged injuries and damages, rather, it is believed and therefore averred that the incident complained of remains the mere happening of an accident for which there can be no liability on the within answering Defendant.

34. In the alternative to the above, the within answering Defendant believes and therefore avers that treacherous roadway conditions created and/or otherwise caused by the negligent actions, errors and/or omissions of third-parties remain the sole and/or

approximate cause of the incident complained of and resulting alleged injuries and damages claimed by Plaintiff more fully set forth in Plaintiffs' Complaint.

WHEREFORE, Defendant Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, deceased denies any and all liability to Plaintiffs upon the cause of action alleged and demands judgement in Defendant's favor with costs sustained.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**

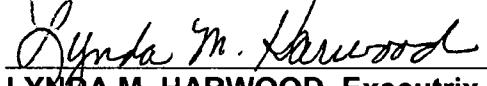
By: \_\_\_\_\_

**John M. Noble, Esquire**  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

**VERIFICATION**

I, LYNDA M. HARWOOD, EXECUTRIX OF THE ESTATE OF CAROL P. GELARDO, hereby verify that the statements set forth in the foregoing **ANSWER AND NEW MATTER** are true and correct to the best of my knowledge, information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
LYNDA M. HARWOOD, Executrix  
of the Estate of Carol P. Gelardo

DATE: 7/18/05

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within **ANSWER AND NEW MATTER** has been mailed to all parties and counsel of record by forwarding a copy of same by First Class U.S. Mail, postage prepaid, this the 3<sup>rd</sup> day of August, 2005, addresed as follows:

John P. Merlo, Esquire  
27 North Sixth Street  
Indiana, PA 15701  
*(Attorney for Plaintiffs, Gene M. Stewart  
and Virginia Stewart, his wife)*

Virginia Davis  
1 Hummork Court  
Wilmington, DE 19803  
*(Pro Se Additional Defendant)*

Thomas L. Donahoe,  
Sr. Deputy Attorney General  
Commonwealth of Pennsylvania  
Office of Attorney General  
Torts Litigation Unit  
564 Forbes Avenue  
Manor Complex  
Pittsburgh, PA 15219  
*(Attorney for Additiaonl Defendant  
Commonwealth of PA, Dept. of Trans.)*

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**

By:

**John M. Noble, Esquire**  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Additional Defendants.

**CERTIFICATE PREREQUISITE TO  
SERVICE OF A SUBPOENA TO  
PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO  
RULE 4009.21**

Filed on Behalf of Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

Counsel of Record for this Party:

**JOHN M. NOBLE, ESQUIRE**  
PA. I.D. #36933

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**  
Firm No. 198  
114 South Main Street  
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840  
Fax No.: (724) 836-0532

**FILED**

AUG 25 2005  
M 12:05 PM (CW)  
William A. Shaw  
Prothonotary/Clerk of Courts  
I CER to ATT

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

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,

vs.

VIRGINIA DAVIS and  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Additional Defendants.

**CERTIFICATE PREREQUISITE TO SERVICE  
OF A SUBPOENA TO PRODUCE DOCUMENTS  
OR THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

As a prerequisite to service of a Subpoena to Produce Documents and Things for Discovery Pursuant to 4009.21, the defendant, Lynda M. Harwood, Executrix of the Estate of Carol P. Gelardo, hereby certifies that:

- (1) A Notice of Intent to serve subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty (20) days prior to the date on which the subpoena is sought to be served;
  
- (2) A copy of the Notice of Intent, including the proposed subpoena, is attached to this certificate;

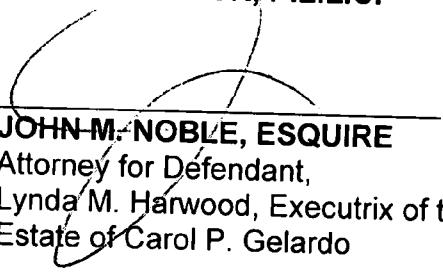
(3) No objections to the subpoena have been received; and

(4) The subpoena which will be served is identical to the subpoena which was attached to the Notice of Intent to Serve Subpoena.

Respectfully submitted,

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**

By:

  
**JOHN M. NOBLE, ESQUIRE**  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

**DATE:**August 23, 2005

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Gene M. Stewart  
Virginia Stewart  
Plaintiff(s)

Vs.

\*

No. 2004-01966-CD

Lynda M. Harwood  
Carol P. Gelardo  
Virginia Davis  
Commonwealth of Pennsylvania Department of  
Transportation  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Commissioner Jeffrey B. Miller, Penna. State Police, 1800 Elmerton Ave.  
(Name of Person or Entity) Harrisburg, PA 17110

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:  
Color copies or reprints of all photographs taken at the scene of an accident occurring on Dec. 18, 2003 on State Route 879, Covington Township, Clearfield County, Pennsylvania as reported at Incident #C03-0766509.

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: John M. Noble, Esquire  
ADDRESS: 114 S. Main St.  
Greensburg, PA 15601  
TELEPHONE: 724-853-2296  
SUPREME COURT ID # 36933  
ATTORNEY FOR: Defendant

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division

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

  
Deputy

DATE: Friday, July 08, 2005  
Seal of the Court

**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:**

Commissioner  
Jeffrey B. Miller  
PA State Police  
1800 Elmerton Ave.  
Harrisburg PA 17110

**COMPLETE THIS SECTION ON DELIVERY****A. Signature****X** Agent  
 Addressee**B. Received by (Printed Name)****JUL 18 2005****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***(Transfer from service label)*

7002 3150 0004 2198 1041

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**CERTIFICATE OF SERVICE**

I do hereby certify that the foregoing **Certificate Prerequisite to Service of a Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.21** has been served upon the following this 23<sup>rd</sup> day of August, 2005, by First-Class, U.S. Mail, postage prepaid, addressed as follows:

John P. Merlo, Esquire  
27 North Sixth Street  
Indiana, PA 15701  
(Attorney for Plaintiffs)

Virginia Davis  
1 Hummork Court  
Wilmington, DE 19803  
(Pro se Additional Defendant)

Commonwealth of Pennsylvania  
Department of Transportation  
Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(Pro Se Additional Defendant)

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.

By:

JOHN M. NOBLE, ESQUIRE  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of the  
Estate of Carol P. Gelardo

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

GENE M. STEWART and ) CIVIL ACTION – LAW  
VIRGINIA STEWART, his wife )  
Plaintiffs )  
vs. ) NO. 04-1966-CD  
LYNDA M. HARWOOD, EXECUTRIX OF )  
THE ESTATE OF CAROL P. GELARDO, )  
Defendant )  
-and- )  
VIRGINIA DAVIS, ) FILED  
Additional Defendant )  
-and- )  
COMMONWEALTH OF PENNSYLVANIA, ) SEP 06 2005  
DEPARTMENT OF TRANSPORTATION, ) M 18:35 am  
Additional Defendant ) William A. Shaw *OK*  
Prothonotary/Clerk of Courts  
1 CEN to APP  
ANSWER TO NEW MATTER  
FILED ON BEHALF OF  
PLAINTIFFS  
COUNSEL OF RECORD  
FOR THIS PARTY:  
JOHN P. MERLO, ESQUIRE  
PA I.D. #18144  
27 NORTH SIXTH STREET  
INDIANA, PA 15701  
TELEPHONE: (724) 463-0241  
FAX (724) 463-6312

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

GENE M. STEWART and	)	CIVIL ACTION - LAW
VIRGINIA STEWART, his wife	)	
	)	
Plaintiffs	)	
	)	
vs.	)	NO. 04-1966-CD
	)	
LYNDA M. HARWOOD, EXECUTRIX OF	)	
THE ESTATE OF CAROL P. GELARDO,	)	
	)	
Defendant	)	
	)	
-and-	)	
	)	
VIRGINIA DAVIS,	)	
Additional Defendant	)	
	)	
-and-	)	
	)	
COMMONWEALTH OF PENNSYLVANIA,	)	
DEPARTMENT OF TRANSPORTATION,	)	
	)	
Additional Defendant	)	

ANSWER TO NEW MATTER

AND NOW, comes John P. Merlo on behalf of Gene M. Stewart and Virginia Stewart, who files this Answer to New Matter by averring and stating the following:

30. Admitted in that the Pennsylvania Motor Vehicle Financial Responsibility Act, and any and all other provisions of the laws of the Commonwealth of Pennsylvania apply.

31. Any allegation of negligence on the part of the Plaintiff, whether in whole or in part, is denied.

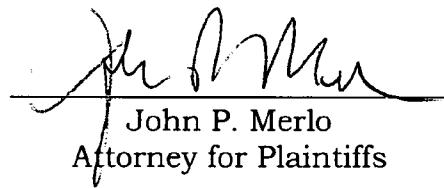
32. The allegation as contained in this paragraph is a conclusion that the Plaintiff, through his employer, has Full tort coverage,

33. The allegation contained in paragraph 33 is specifically denied in that the allegations contained in the complaint as are more fully set forth within the complaint describe with particularity the negligence and actions of the said Carol P. Gelardo and those allegations are incorporated herein as if they were more specifically restated herein.

34. The Plaintiffs, have no information to form a belief as to whether or not the statements contained in paragraph 34 are true or not. It is believed, however, irrespective of the road conditions, the actions of the decedent were the approximate cause of the accident.

WHEREFORE, it is respectfully requested that this Honorable Court dismiss the allegations of any affirmative defense and the contributory negligence as pled and grant the relief sought by the plaintiff in the original complaint as filed.

RESPECTFULLY SUBMITTED:



John P. Merlo  
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA      )  
  )  
COUNTY OF INDIANA                    )      ss.  
  )

VERIFICATION

WE, GENE M. STEWART and VIRGINIA STEWART, verify that the information set forth in the foregoing ANSWER TO NEW MATTER is true and correct to the best of our knowledge, information and belief. We understand that false statements herein are made subject to the penalties of Pa. C.S. 4904, relating to unsworn falsification to authorities.

Gene M. Stewart

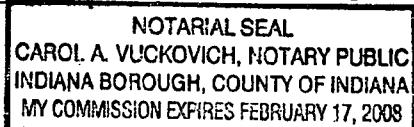
Gene M. Stewart

Virginia Stewart

Virginia Stewart

Sworn and subscribed to before me  
this 31<sup>st</sup> day of August, 2005.

Carol A. Vuckovich



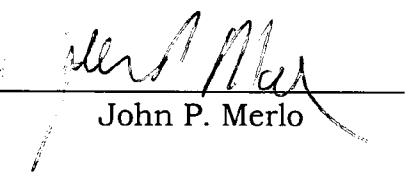
IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

GENE M. STEWART and	)	CIVIL ACTION - LAW
VIRGINIA STEWART, his wife	)	
	)	
Plaintiffs	)	
	)	
vs.	)	NO. 04-1966-CD
	)	
LYNDA M. HARWOOD, EXECUTRIX	)	
OF THE ESTATE OF CAROL P. GELARDO,	)	
	)	
Defendant	)	
	)	

CERTIFICATE OF SERVICE

AND NOW, this 1<sup>st</sup> day of September, 2005, the undersigned hereby certifies that a true and correct copy of the foregoing Complaint was on this date served by regular U.S. mail, postage prepaid, upon the following:

John M. Noble, Esquire  
114 South Main Street  
Greensburg, PA 15601-3102

  
John P. Merlo

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
NO. 04-1966-CD

GENE M. STEWART and  
VIRGINIA STEWART, his wife,  
Plaintiffs

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant

-and-  
VIRGINIA DAVIS,  
Additional Defendant

-and-  
COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,

Additional Defendant

ANSWER TO NEW MATTER

JOHN P. MERLO

Attorney at Law  
27 North Sixth Street  
Indiana, PA 15701

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and  
VIRGINIA STEWART, his wife,  
Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,  
and

VIRGINIA DAVIS and  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Additional Defendants.

CIVIL DIVISION  
No. 04-1966-CD

**NOTICE OF DEPOSITION BY ORAL  
EXAMINATION PURSUANT TO  
Pa.R.C.P. 4007.1**

Filed on Behalf of Defendant,  
Lynda M. Harwood, Executrix of  
the Estate of Carol P. Gelardo

Counsel of Record for this Party:

**JOHN M. NOBLE, ESQUIRE**  
PA. I.D. #36933

**MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.**  
Firm No. 198  
114 South Main Street  
Greensburg, PA 15601-3102

Telephone No.: (724) 836-4840  
Fax No.: (724) 836-0532

FILED *11:37 AM* *no cc*  
JAN 17 2006 *SM*

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENE M. STEWART and  
VIRGINIA STEWART, his wife,

CIVIL DIVISION

No. 04-1966-CD

Plaintiffs,

vs.

LYNDA M. HARWOOD, EXECUTRIX OF  
THE ESTATE OF CAROL P. GELARDO,

Defendant,

and

VIRGINIA DAVIS and  
COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Additional Defendants.

**NOTICE OF DEPOSITION BY ORAL EXAMINATION**  
**PURSUANT TO Pa.R.C.P. 4007.1**

TO: ALL PARTIES

You are hereby given notice that the deposition of the plaintiff, **Gene M. Stewart**, will be taken by oral examination and in accordance with Pennsylvania Rule of Civil Procedure 4007.1 at the offices of John Merlo, Esquire located at 27 North Sixth Street, Indiana, Pennsylvania on **Friday, February 17, 2006 at 10:00 a.m.**, and at any and all adjournments thereof.

The purpose of this deposition is for the discovery of the identity and whereabouts of witnesses, as well as to examine the deponent concerning other matters, not privileged, which are relevant to the subject matter involved in this action.

Respectfully Submitted,

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.

By:

**JOHN M. NOBLE, ESQUIRE**  
Attorney for Defendant,  
Lynda M. Harwood, Executrix of  
the Estate of Carol P. Gelardo

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within **NOTICE OF DEPOSITION BY ORAL EXAMINATION PURSUANT TO Pa.R.C.P. 4007.1** has been served upon all counsel of record by forwarding a copy of same by First Class U.S. Mail, postage prepaid, this the 16th day of January, 2006, addressed as follows:

John P. Merlo, Esquire  
27 North Sixth Street  
Indiana, PA 15701  
(*Attorney for Plaintiffs*)

Virginia Davis  
1 Hummork Court  
Wilmington, DE 19803  
(*Pro se Additional Defendant*)

Thomas L. Donahoe, Sr. Deputy Attorney General  
Commonwealth of Pennsylvania  
Office of Attorney General  
Torts Litigation Unit  
564 Forbes Avenue  
Manor Complex  
Pittsburgh, PA 15219  
(*Attorney for Commonwealth of Pennsylvania  
Department of Transportation, Additional Defendant*)

MEYER, DARRAGH, BUCKLER,  
BEBENEK & ECK, P.L.L.C.

By:

JOHN M. NOBLE, ESQUIRE  
Attorney for Defendant;  
Lynda M. Harwood, Executrix of  
the Estate of Carol P. Gelardo

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

GENE STEWART and  
VIRGINIA STEWART, his wife,

Plaintiffs,

Vs

LYNDA HARWOOD, Executrix  
Of the estate of Carol P.  
Gelardo,

Defendant,

Vs.

VIRGINIA DAVIS,

Additional Defendant.

Civil Division

No. 04-1966-CD

Praecipe to Settle and  
Discontinue

Filed on behalf of  
Plaintiffs, Gene and Virginia  
Stewart

Counsel of Record for this  
Party:

John P. Merlo, Esquire  
PA ID No. 18144

P.O. Box 257  
Blairsville, PA 15717

FILED NO CC + no COA  
m/ 8:40am  
DEC 10 2007  
WAS

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

GENE STEWART and  
VIRGINIA STEWART, his wife,  
Plaintiffs,

Civil Division  
No. 04-1966-CD

Vs

LYNDA HARWOOD, Executrix  
Of the estate of Carol P.  
Gelardo,

Defendant,

Vs.

VIRGINIA DAVIS,

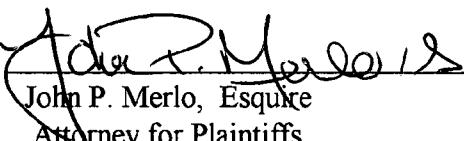
Additional Defendant.

PRAECIPE

TO THE PROTHONOTARY:

Please mark the above captioned matter settled, discontinued, and ended as to all parties of record.

By:

  
John P. Merlo, Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

GENE STEWART and  
VIRGINIA STEWART, his wife,  
Plaintiffs,

Civil Division  
No. 04-1966-CD

Vs

LYNDA HARWOOD, Executrix  
Of the estate of Carol P.  
Gelardo,

Defendant,

Vs.

VIRGINIA DAVIS,

Additional Defendant.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the within Praeclipe to Settle and Discontinue was served as listed below by fax and first class, United States mail, postage prepaid, on this 6<sup>th</sup> day of November, 2007.

John Noble, Esquire  
Meyer Darragh Buckler Bebenek & Eck  
40 North Pennsylvania Ave  
Greensburg, PA 15601  
Fax 724-836-0532

  
John P. Merlo, Esquire  
Attorney for Plaintiffs