

05-187-CD  
Coccimiglio vs. PA Dept Transportation

DEPARTMENT OF TRANSPORTATION, ETAL.

## Civil Other

Date		Judge
02/09/2005	New Case Filed.	No Judge
	✓ Filing: License Suspension Appeal Paid by: Bowers, S. Casey (attorney for Coccimiglio, Thomas L.) Receipt number: 1895523 Dated: 02/09/2005 Amount: \$85.00 (Check) 2 CC to Atty. Copy to CA	No Judge
02/14/2005	✓ Order, AND NOW, this 14th day of Feb., 2005, upon consideration of Petition for Appeal from Suspension of Operating Privileges and on motion of attorneys for Petitioner, Court Administrator is ordered to schedule this matter for the nex available Driver's License Suspension Appeal date. (See original) By The Court, /s/ Fredric J. Ammerman, President Judge. 3CC Atty Bower	No Judge
02/18/2005	✓ Certificate of Service, 17th day of Feb., 2005, Court certified copy of Court Order, to Office of Chief Counsel, PA Department of Transportation filed by s/Matthew B. Taladay, Esquire. No CC	No Judge
03/04/2005	✓ Affidavit of Service filed, Notice of Appeal of license Suspension and Order for Hearing were served on the PA Department of Transportation, Office of Chief Counsel, on Feb. 14, 2005. Filed by s/ Matthew B. Taladay, Esquire. No CC	No Judge
08/25/2005	✓ Order AND NOW, this 25th day of August 2005, it is the ORDER of the Court that hearing on Defendant's License Suspension Appeal in the above matter has been scheduled for Friday, September 23, 2005 at 11:00 a.m. before the Honorable John K. Reilly Jr. Senior Judge, Specially Presiding. BY THE COURT: /s/ Fredric J. Ammerman. 2CC C/A	John K. Reilly Jr.
09/07/2005	✓ Motion To Quash Appeal, filed by s/ William A. Kuhar, Jr., Esquire. No CC	John K. Reilly Jr.
09/08/2005	✓ Order, NOW, this 6th day of August, 2005, upon consideration of the Motion to Quash Appeal, a rule is entered upon Thomas L. Coccimiglio. Said rule is returnable on the 23rd day of Sept., 2005 at 11:00 a.m. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Kuhar	Fredric Joseph Ammerman
09/23/2005	✓ Motion for Reinstatement of Appeal Nunc Pro Tunc and Reply to Motion to Quash, filed by s/Matthew B. Taladay, Esq. One CC Atty Taladay	John K. Reilly Jr.
	✓ Order NOW, this 23rd day of September, 2005, this being the day and date set for hearing into the above-captioned Appeal from License Suspension, it is the ORDER of this Court that, Appellant having clearly received notice of the original hearing, said Motion to Quash is granted and said appeal dismissed. BY THE COURT: /s/ John J. Reilly Jr., Senior Judge, Specially Presiding. 2CC attys: Bowers and Kuhar.	John K. Reilly Jr.

Date	Judge
03/17/2005	Paul E. Cherry
Certificate of Service copy of Defendant's Third Supplemental Preliminary Memorandum upon Kimberly M. Kubista, Esquire, on 11th day of March 2005. Filed by s/ Benjamin S. Blakley, III, Esquire. No CC	
03/23/2005	Paul E. Cherry
Filing: Divorce Master Fee Paid by: Blakley, Benjamin S. III (attorney for Crytser, Connie L.) Receipt number: 1897936 Dated: 03/23/2005 Amount: \$250.00 (Check)	
04/01/2005	Paul E. Cherry
Filing: Divorce Master Fee Paid by: Kubista, Kimberly M. (attorney for Crytser, Michael L.) Receipt number: 1898620 Dated: 04/01/2005 Amount: \$250.00 (Check)	
07/21/2005	Paul E. Cherry
Motion to Extend Filing of Amended Pre-Trial Statements, filed by s/Kimberly M. Kubista Three CC Attorney K. Kubista	
Order, this 21st day of July, 2005, upon Plaintiff's Motion to Extend Filing of Amended Pre-Trial Statements, it is Ordered that said Motion is granted and the parties shall file all amended pre-trial documents no later than August 20, 2005. By The Court, s/ Paul E. Cherry, Judge. 3CC Atty K. Kubista	
07/22/2005	Paul E. Cherry
Certificate of Service filed. Served a certified copy of motion to Extend Filing of Amended Pre-Trial Statement in the above captioned matter to Benjamin Blakley Esq on July 22, 2005, filed by Kimberly M. Kubista Esq. No CC.	
08/05/2005	Paul E. Cherry
Motion for Continuance, filed by s/Benjamin S. Blakley, III, Esq. Three CC Paul E. Cherry Attorney Blakley	
08/15/2005	Paul E. Cherry
ORDER filed. 3 Cert. to Atty. Blakley AND-NOW, this 10th day of August, 2005, RE: Motion for Continuance, Motion Granted and Master's Conf. for 8-26-05 is hereby continued to 9-23-05.	
08/19/2005	Paul E. Cherry
Amended Pre-Hearing Memorandum, filed by s/ Kimberly M. Kubista Esquire. 2CC atty.	
Amended Inventory and Appraisal, filed by s/ Kimberly M. Kubista Esquire. 2 CC atty.	
08/22/2005	Paul E. Cherry
Certificate of Service, filed. served a certified copy of Amended Pre-hearing Memorandum and a certified copy of Amended Inventory and Appraisal in the above captioned matter on the 19th day of August 2005 to Benjamin Blakley Esq, filed by s/ Kimberly M. Kubista Esq. No CC.	
09/08/2005	Paul E. Cherry
Defendant's Fourth Supplemental Preliminary Memorandum, filed by s/Benjamin S. Blakley III Esq. No CC.	
09/09/2005	Paul E. Cherry
Defendant's Fifth Supplemental Preliminary Memorandum, filed by s/ Benjamin S. Blakley III Esq. 1CC	
09/13/2005	Paul E. Cherry
Motion For Telephone Testimony, filed by s/ Kimberly M. Kubista Esquire. Paul E. Cherry 3CC to Atty	

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

Thomas L. Coccimiglio

Appellant

v.

No. 05-187-CD

Rebecca L. Bickley, Director,  
Bureau of Driver Licensing,  
Pennsylvania Department of  
Transportation

Respondent

PETITION FOR APPEAL

1. The Clearfield County Court of Common Pleas has jurisdiction to hear this appeal under 42 Pa. C.S. § 933 Appeals from Government Agencies, and 75 Pa. C.S. § 1550 Right of Judicial Review.

2. The Clearfield County Court of Common Pleas also has jurisdiction to hear this appeal in that the incident which caused this appeal to be filed occurred at Dubois Regional Medical Center, which is located in Clearfield County, PA.

3. Thomas L. Coccimiglio, **appellant**, lives at RD 3, Box 69 A1, Dubois, PA, 15801.

4. Rebecca L. Bickley, Director of the Bureau of Driver Licensing, Pennsylvania Department of Transportation, **respondent**, sent an Official Notice of Suspension of Driving Privilege (Notice) to Thomas L. Coccimiglio.

5. A copy of the Notice is attached to this petition.

6. The Mail Date of the Notice is January 10, 2005.

7. The Notice indicates the Driving License Suspension is for a violation of §1547 of the Vehicle Code, Chemical Test Refusal which the Notice indicates occurred on February 7, 2004.

**FILED**

03:20 PM 2/10/05  
FEB 09 2005

*Original  
to [signature]*

Filed on Behalf of:  
Appellant

By Hanak, Guido & Taladay  
PO Box 487 Dubois PA 15801

William A. Shaw  
Prothonotary

AK

COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

COMMONWEALTH OF PENNSYLVANIA :  
DEPARTMENT OF TRANSPORTATION :  
vs. : No. 05-187-CD  
THOMAS L. COCCIMIGLIO :

**ORDER**

AND NOW, this 14<sup>th</sup> day of February, 2005, upon consideration of the within Petition for Appeal from Suspension of Operating Privileges and on motion of Hanak, Guido and Taladay, attorneys for Petitioner, Thomas L Coccimiglio, the Court Administrator is ordered to schedule this matter for the next available Driver's License Suspension Appeal date.

Written notice of the time and place of hearing shall be given to the Director of the Bureau of Driver Licensing, Commonwealth of Pennsylvania Department of Transportation, no later than thirty (30) days prior to the hearing.

Supersedeas of the suspension of operating privileges of Petition, as set forth in the Official Notice of the Director of the Bureau of Driver Licensing, Commonwealth of Pennsylvania Department of Transportation, mail date January 10, 2005, is hereby granted.

BY THE COURT:

*Judith J. Krumm*

6K **FILED**  
O 3:11 PM 300 City  
Bower  
FEB 14 2005

William A. Shaw  
Prothonotary

GA

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

Thomas L. Coccimiglio

Appellant

v.

No. 05-187-CD

Rebecca L. Bickley, Director,  
Bureau of Driver Licensing,  
Pennsylvania Department of  
Transportation

Respondent

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2. The Clearfield County Court of Common Pleas also has jurisdiction to hear this appeal in that the incident which caused this appeal to be filed occurred at Dubois Regional Medical Center, which is located in Clearfield County, PA.

3. Thomas L. Coccimiglio, **appellant**, lives at RD 3, Box 69 A1, Dubois, PA, 15801.

4. Rebecca L. Bickley, Director of the Bureau of Driver Licensing, Pennsylvania Department of Transportation, **respondent**, sent an Official Notice of Suspension of Driving Privilege (Notice) to Thomas L. Coccimiglio.

5. A copy of the Notice is attached to this petition.

6. The Mail Date of the Notice is January 10, 2005.

7. The Notice indicates the Driving License Suspension is for a violation of §1547 of the Vehicle Code, Chemical Test Refusal which the Notice indicates occurred on February 7, 2004.

**FILED**

03:20:38 *2/10/05*  
FEB 09 2005

Filed on Behalf of:  
Appellant

By Hanak, Guido & Taladay  
PO Box 487 Dubois PA 15801

William A. Shaw  
Prothonotary

8. The Notice also indicates that the driving privilege suspension is effective on February 14, 2005 and remains in effect for a period of 18 months.

9. Thomas L. Coccimiglio objects to the Notice on the basis that he had been unaware at the time what he was refusing due to his mental condition from the accident.

WHEREFORE, the Defendant respectfully requests this Honorable Court to overturn and dismiss the Notice of Suspension of Driving Privilege and preclude the Pennsylvania Department of Transportation, Bureau of Driver Licensing from suspending Thomas L. Coccimiglio's driving privileges in this matter.

Respectfully submitted,

HANAK, GUIDO and TALADAY



Matthew B. Taladay, Esq.  
Supreme Court No. 49663

S. Casey Bowers, Esq.  
Supreme Court No. 89032

Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Bureau of Driver Licensing  
Mail Date: JANUARY 10, 2005

THOMAS L COCCIMIGIO  
RD 3 BOX 69 A1  
DU BOIS PA 15801

WID # 050036119729070 001  
PROCESSING DATE 01/03/2005  
DRIVER LICENSE # 60032855  
DATE OF BIRTH 06/10/1964

Dear MR. COCCIMIGIO:

This is an Official Notice of the Suspension of your Driving Privilege as authorized by Section 1547B111 of the Pennsylvania Vehicle Code. As a result of your violation of Section 1547 of the Vehicle Code, CHEMICAL TEST REFUSAL, on 02/07/2004:

- Your driving privilege is SUSPENDED for a period of 18 MONTH(S) effective 02/14/2005 at 12:01 a.m.

**COMPLYING WITH THIS SUSPENSION**

You must return all current Pennsylvania driver's licenses, learner's permits, temporary driver's licenses (camera cards) in your possession on or before 02/14/2005. You may surrender these items before, 02/14/2005, for earlier credit; however, you may not drive after these items are surrendered.

YOU MAY NOT RETAIN YOUR DRIVER'S LICENSE FOR IDENTIFICATION PURPOSES. However, you may apply for and obtain a photo identification card at any Driver License Center for a cost of \$10.00. You must present two (2) forms of proper identification (e.g., birth certificate, valid U.S. passport, marriage certificate, etc.) in order to obtain your photo identification card.

You will not receive credit toward serving any suspension until we receive your license(s). Complete the following steps to acknowledge this suspension.

- Return all current Pennsylvania driver's licenses, learner's permits and/or camera cards to PennDOT. If you do not have any of these items, send a sworn notarized letter stating you are aware of the suspension of your driving privilege. You must specify in your letter why you are unable to return your driver's license. Remember: You may not retain your driver's license for identification purposes. Please send these items to:



050036119729070

Pennsylvania Department of Transportation  
Bureau of Driver Licensing  
P.O. Box 68693  
Harrisburg, PA 17106-8693

2. Upon receipt, review and acceptance of your Pennsylvania driver's license(s), learner's permit(s), and/or a sworn notarized letter, PennDOT will send you a receipt confirming the date that credit began. If you do not receive a receipt from us within 3 weeks, please contact our office. Otherwise, you will not be given credit toward serving this suspension. PennDOT phone numbers are listed at the end of this letter.
3. If you do not return all current driver license products, we must refer this matter to the Pennsylvania State Police for prosecution under SECTION 1571(a)(4) of the Pennsylvania Vehicle Code.

Remember, this is an OFFICIAL NOTICE OF SUSPENSION. You must return all current Pennsylvania driver license products to PennDOT by 02/14/2005.

Sincerely,

*Rebecca L. Bickley*

Rebecca L. Bickley, Director  
Bureau of Driver Licensing

INFORMATION 7:00 a.m. to 9:00 p.m.

IN-STATE	1-800-952-4600	TDD IN-STATE	1-800-228-0676
OUT-OF-STATE	717-391-6190	TDD OUT-OF-STATE	717-391-6191
WEB SITE ADDRESS	<u>www.dmv.state.pa.us</u>		

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

COMMONWEALTH OF  
PENNSYLVANIA

vs.

THOMAS LEE COCCIMIGLIO,  
Defendant

No. 05-187-CD

Type of Pleading:  
Certificate of Service

Filed on Behalf of:  
Defendant

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

**FILED**

6/ FEB 18 2005

m/10:20/a  
William A. Shaw  
Prothonotary  
No. 6/C

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

COMMONWEALTH OF  
PENNSYLVANIA,

vs.

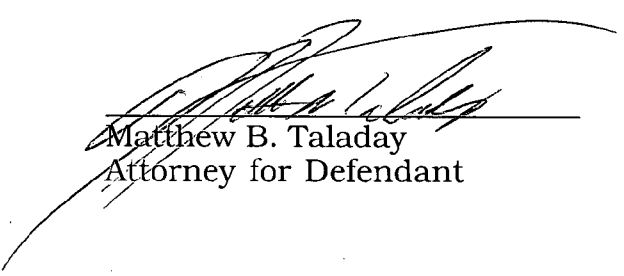
THOMAS LEE COCCIMIGLIO,  
Defendant

No. 05-187-CD

CERTIFICATE OF SERVICE

I certify that on the 17th day of February, 2005, a Court certified copy of the COURT ORDER dated February 14, 2005 was sent via first class mail, postage prepaid, to the following:

Office of Chief Counsel  
PA Department of Transportation  
Third Floor  
Riverfront Office Center  
Harrisburg, PA 17104



Matthew B. Taladay  
Attorney for Defendant

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

COMMONWEALTH OF  
PENNSYLVANIA

vs.

THOMAS LEE COCCIMIGLIO,  
Defendant

No. 05-187-CD

Type of Pleading:  
Affidavit of Service

Filed on Behalf of:  
Defendant

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

FILED <sup>NO</sup> CC  
m/10:31/05  
MAR 04 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

COMMONWEALTH OF  
PENNSYLVANIA,

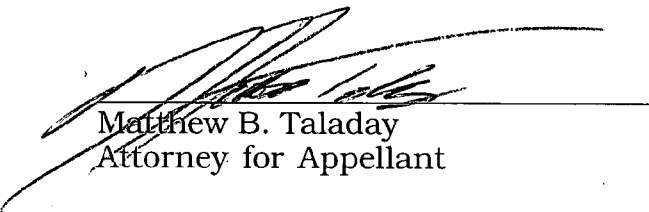
vs.

THOMAS LEE COCCIMIGLIO,  
Defendant

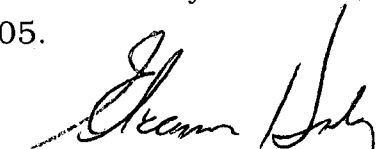
No. 05-187-CD

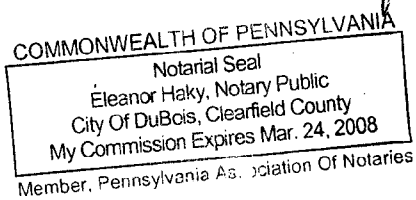
**AFFIDAVIT OF SERVICE**

I hereby affirm that on February 14, 2005, Notice of Appeal of License Suspension and Order for Hearing were served on the PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, Office of Chief Counsel, Third Floor, Riverfront Office Center, Harrisburg, Pennsylvania, 17104, by Certified Mail No. 7099 3220 0011 0187 9195. Return Receipt card is attached hereto as Exhibit "A".

  
Matthew B. Taladay  
Attorney for Appellant

Sworn to and subscribed before  
me this 3rd day of March,  
2005.

  
Notary Public



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. <del>Commonwealth of Pennsylvania</del>  <b>X Department of Transportation</b> <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>OFFICE OF CHIEF COUNSEL  PA DEPT OF TRANSPORTATION  THIRD FLOOR  RIVERFRONT OFFICE CENTER  HARRISBURG PA 17104</p>		<p>B. Received by <u>Printed Name</u> <u>FEB 14 2005</u> Date of Delivery <u>FEB 14 2005</u></p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below <input type="checkbox"/> No</p> <p>OFFICE OF CHIEF COUNSEL  PA DEPT OF TRANSPORTATION  THIRD FLOOR  RIVERFRONT OFFICE CENTER  HARRISBURG PA 17104</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>2. Article Number  (Transfer from service label) 7099 3220 0011 0187 9195</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>PS Form 3811, August 2001</p>		<p>Domestic Return Receipt 102595-02-M-1540</p>	

EXHIBIT "A"

CA

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

COMMONWEALTH OF PENNSYLVANIA

vs.

THOMAS L. COCCIMIGLIO

:  
:  
: No. 05-187-CD  
:  
:

**ORDER**

AND NOW, this 25<sup>th</sup> day of August, 2005, it is the ORDER of the Court that hearing on Defendant's License Suspension Appeal in the above matter has been scheduled for **Friday, September 23, 2005 at 11:00 A.M.** before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding, in the Clearfield County Courthouse, Clearfield, PA. Please report to the Court Administrator's Office. You will be directed from there where this hearing will be heard.

BY THE COURT:



FREDRIC J. AMMERMAN  
President Judge

**FILED**

0/2:20um

AUG 25 2005

acc c/A

LM

William A. Shaw  
Prothonotary

CR

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

Thomas L. Coccimiglio,  
Appellant

No. 2005-187-CD

vs.

Rebecca L. Bickley, Director,  
Bureau of Driver Licensing,  
Pennsylvania Department of  
Transportation,  
Respondent

**Motion to Quash Appeal**

Filed on Behalf of:  
Commonwealth of Pennsylvania,  
Department of Transportation

Counsel for this Party:

William A. Kuhar, Jr., Esquire  
Pa. ID #38885

Office of Chief Counsel  
Firm #052  
1209 State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222

412.565.7555

**FILED** *MB CC*  
*019:30801*  
SEP 07 2005 *(GW)*

William A. Shaw  
Prothonotary/Clerk of Courts



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

THOMAS L. COCCIMIGLIO,	:	
Appellant	:	
	:	
vs.	:	No. 2005-187-CD
	:	
REBECCA L. BICKLEY, DIRECTOR, BUREAU	:	
OF DRIVER LICENSING, PENNSYLVANIA	:	
DEPARTMENT OF TRANSPORTATION,	:	
Respondent.	:	

**MOTION TO QUASH APPEAL**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing, by its attorney, William A. Kuhar, Jr., Assistant Counsel, and requests that this Honorable Court quash this appeal by the appellant/petitioner, Thomas L. Coccimiglio, from a reinstatement of a suspension of his privilege to operate a vehicle in Pennsylvania and, in support thereof, avers the following:

1. On March 26, 2004, the Bureau mailed to the appellant/petitioner, Thomas L. Coccimiglio, an official notice of an eighteen (18) month suspension of his privilege to operate a vehicle in Pennsylvania, which, pursuant to Section 1547(b) of the Vehicle Code, 75 Pa.C.S. §1547(b), was imposed due to his reported refusal on February 7, 2004 to submit to chemical testing of his blood to determine his blood alcohol concentration and/or the presence of a controlled substance or drug in his bloodstream. A copy of that March 26, 2004 suspension notice is attached hereto as Exhibit A.

2. On April 23, 2004, the appellant/petitioner, acting pro se, filed a statutory appeal from the 18 month operating privilege suspension referred to in Paragraph 1 of this Motion. That statutory appeal was docketed at Clearfield County Docket No. 2004-

575-CD. A copy of the appeal petition is attached hereto as Exhibit B.

3. On November 12, 2004, the Honorable John K. Reilly, Jr., Specially Presiding, filed a November 10, 2004 order which dismissed the appellant/petitioner's statutory appeal of the 18 month operating privilege suspension referred to in Paragraph 1 of this Motion. A copy of that November 10, 2004 order is attached hereto as Exhibit C.

4. The appellant/petitioner did not file an appeal to the Commonwealth Court of Pennsylvania from the November 10, 2004 order of Senior Judge Reilly that is referred to in Paragraph 3 of this Motion.

5. On January 10, 2005, the Bureau issued the appellant/petitioner a notice which informed him that the 18 month operating privilege suspension referred to in Paragraph 1 of this Motion was now scheduled to go into effect on February 14, 2005. A copy of that suspension reinstatement notice is attached hereto as Exhibit D.

6. The January 10, 2005 suspension reinstatement notice referred to in Paragraph 5 of this Motion did not advise the appellant/petitioner that he had the right to appeal the Department's reinstatement of the 18 month suspension referred to in Paragraph 1 of this Motion.

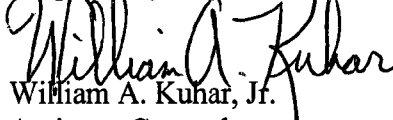
7. The appellant/petitioner, by his attorney, Matthew B. Taladay, Esquire, filed this appeal from the January 10, 2005 suspension reinstatement notice referred to in Paragraph 5 of this motion.

8. A licensee does not have a right to appeal from the Bureau's action in reinstating a suspension of his or her operating privilege in order to obtain judicial review of the merits of that suspension. *Rinck v. Commonwealth*, 429 A.2d 1255 (Pa. Cmwlth. 1981).

9. Based upon the *Rinck* decision, this Court does not have jurisdiction to hear this appeal by the appellant/petitioner.

WHEREFORE, the Department of Transportation's Bureau of Driver Licensing respectfully requests that this Court enter a rule upon the appellant/petitioner to show cause, if any, why this appeal by the appellant/petitioner from the non-appealable action of the Bureau in reinstating the 18 month suspension of his privilege to operate a vehicle in Pennsylvania pursuant to Section 1547(b) of the Vehicle Code should not be quashed.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "William A. Kuhar, Jr.", is written over the typed name.

William A. Kuhar, Jr.  
Assistant Counsel  
Attorney for the Bureau

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Bureau of Driver Licensing  
Mail Date: MARCH 26, 2004

THOMAS L COCCIMIGIO  
RD 3 BOX 69 A1  
  
DU BOIS PA 15801

WID # 040796194210612 001  
PROCESSING DATE 03/19/2004  
DRIVER LICENSE # 60032855  
DATE OF BIRTH 06/10/1964

Dear MR. COCCIMIGIO:

This is an **Official Notice of the Suspension** of your Driving Privilege as authorized by Section 1547B(1) of the Pennsylvania Vehicle Code. As a result of your violation of Section 1547 of the Vehicle Code, CHEMICAL TEST REFUSAL, on 02/07/2004:

Your driving privilege is **SUSPENDED** for a period of **18 MONTH(S)** effective 04/30/2004 at 12:01 a.m.

COMPLYING WITH THIS SUSPENSION

You must return all current Pennsylvania driver's licenses, learner's permits, temporary driver's licenses (camera cards) in your possession on or before 04/30/2004. You may surrender these items before, 04/30/2004, for earlier credit; however, you may not drive after these items are surrendered.

**YOU MAY NOT RETAIN YOUR DRIVER'S LICENSE FOR IDENTIFICATION PURPOSES.** However, you may apply for and obtain a photo identification card at any Driver License Center for a cost of 10.00. You must present two (2) forms of proper identification (e.g., birth certificate, valid U.S. passport, marriage certificate, etc.) in order to obtain your photo identification card.

**You will not receive credit toward serving any suspension until we receive your license(s).** Complete the following steps to acknowledge this suspension.

1. Return all current Pennsylvania driver's licenses, learner's permits and/or camera cards to PennDOT. If you do not have any of these items, send a sworn notarized letter stating you are aware of the suspension of your driving privilege. You must specify in your letter why you are unable to return your driver's license. Remember: You may not retain your driver's license for identification purposes. Please send these items to:  
Pennsylvania Department of Transportation

Exhibit A

Bureau of Driver Licensing  
P.O. Box 68693  
Harrisburg, PA 17106-8693

2. Upon receipt, review and acceptance of your Pennsylvania driver's license(s), learner's permit(s), and/or a sworn notarized letter, PennDOT will send you a receipt confirming the date that credit began. If you do not receive a receipt from us within 3 weeks, please contact our office. Otherwise, you will not be given credit toward serving this suspension. PennDOT phone numbers are listed at the end of this letter.
3. If you do not return all current driver license products, we must refer this matter to the Pennsylvania State Police for prosecution under SECTION 1571(a)(4) of the Pennsylvania Vehicle Code.

PAYING THE RESTORATION FEE

You must pay a restoration fee to PennDOT to be restored from a suspension/revocation of your driving privilege. To pay your restoration fee, complete the following steps:

1. Return the enclosed Application for Restoration. The amount due is listed on the application.
2. Write your driver's license number (listed on the first page) on the check or money order to ensure proper credit.
3. Follow the payment and mailing instructions on the back of the application.

APPEAL

You have the right to appeal this action to the Court of Common Pleas (Civil Division) within 30 days of the mail date, MARCH 26, 2004, of this letter. **If you file an appeal in the County Court, the Court will give you a time-stamped certified copy of the appeal.** In order for your appeal to be valid, you must send this time-stamped certified copy of the appeal by certified mail to:

Pennsylvania Department of Transportation  
Office of Chief Counsel  
Third Floor, Riverfront Office Center  
Harrisburg, PA 17104-2516

Remember, this is an **OFFICIAL NOTICE OF SUSPENSION**. You must return all current Pennsylvania driver license products to PennDOT by 04/30/2004.

040796194210612

Sincerely,

*Rebecca L. Bickley*

Rebecca L. Bickley, Director  
Bureau of Driver Licensing

INFORMATION 7:00 a.m. to 9:00 p.m.

IN STATE	1-800-932-4600	TDD IN STATE	1-800-228-0676
OUT-OF-STATE	717-391-6190	TDD OUT-OF-STATE	717-391-6191
WEB SITE ADDRESS	<u><a href="http://www.dmv.state.pa.us">www.dmv.state.pa.us</a></u>		

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

THOMAS L. COCCIMIGIO,  
Petitioner

vs.

No. 2004-575-CD

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,

Type of Document: Petition for Appeal  
from Order of Department of  
Transportation Suspending Driver's  
License

Commonwealth of Pennsylvania  
Department of Transportation

Filed on behalf of: Thomas L.  
Coccimigio, Petitioner

MAY 05 2004

OFFICE L INSEL  
Vehicle and Transportation Division

Counsel of Record for this party:

Thomas L. Coccimigio  
149 Eastern Avenue  
R.D. #3, Box 59 A1  
DuBois, PA 15801  
PRO SE

WESTERN REGIONAL OFFICE  
MAY 10 2004  
OFFICE OF CHIEF COUNSEL

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

APR 23 2004

Attest.

*W. L. C.*  
Prothonotary/  
Clerk of Courts

Exhibit B

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

THOMAS L. COCCIMIGIO, :  
Petitioner :  
vs. : No.  
COMMONWEALTH OF PENNSYLVANIA, :  
DEPARTMENT OF TRANSPORTATION, :

Commonwealth of Pennsylvania  
Department of Transportation

MAY 05 2004

OFFICE OF CHIEF COUNSEL  
Vehicle & Traffic Law Division

**PETITION FOR APPEAL FROM ORDER  
OF DEPARTMENT OF TRANSPORTATION  
SUSPENDING DRIVER'S LICENSE**

Now, comes Petitioner, Thomas L. Coccimigio, and avers as follows:

1. Petitioner is Thomas L. Coccimigio residing and having a mailing address at 149 Eastern Avenue, R.D. #3, Box 59 A1, DuBois, PA 15801.
2. The adverse party is the Department of Transportation of the Commonwealth of Pennsylvania, having a mailing address of Department of Transportation, Bureau of Driver Licensing, P.O. Box 68693, Harrisburg, Pennsylvania 17106-8693.
3. Petitioner currently possesses a valid driver's license issued to him by the Department of Transportation that has not heretofore been suspended, cancelled, or revoked.
4. By letter or notice dated March 26, 2004, a copy of which is attached hereto labeled Exhibit "A", the Department of Transportation ordered Petitioner to surrender his operators license for a period of eighteen (18) months.

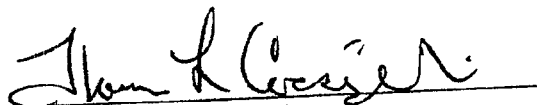


5. The said suspension of Petitioner's operating privileges is improper or unlawful for the following reasons:

- a. The suspension is not supported by the law;
- b. The suspension is not supported by the facts;
- c. Petitioner's refusal to submit to chemical testing was not voluntary;
- d. Petitioner did not receive adequate warning of his obligation to take a blood test exam;
- e. Petitioner was not operating a motor vehicle at or near the time requested to submit to chemical testing; and
- f. Petitioner's arrest was without probable cause and without citation.

WHEREFORE, petitioner respectfully requests that the Court set this matter down forthwith for de novo hearing pursuant to 75 Pa. Cons. Stat. Ann. § 1550 and that the order of the Department of Transportation be set aside.

Respectfully submitted,

  
Thomas L. Coccimigio

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

COMMONWEALTH OF PENNSYLVANIA :

VS. : NO. 04-575-CD

THOMAS L. COCCIMIGIO : License Suspension Appeal

O R D E R

NOW, this 10th day of November, 2004, this being the day and date set for hearing into the above-captioned Appeal from License Suspension; Appellant having failed to appear in person or by counsel, he having received due and proper notice thereof; the Commonwealth having presented a prima facie case in support of the suspension, it is the ORDER of this Court that the Defendant/Appellant be found guilty, said appeal be dismissed and the action of the Department in suspending the Appellant's license affirmed.

BY THE COURT:

/s/ JOHN K. REILLY, JR.

John K. Reilly, Jr.  
Senior Judge  
Specially Presiding

I hereby certify that the foregoing is true and correct.  
Attest: \_\_\_\_\_

NOV 12 2004

Exhibit C

Attest.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Bureau of Driver Licensing  
Mail Date: JANUARY 10, 2005

THOMAS L COCCIMIGIO  
RD 3 BOX 69 A1  
  
DU BOIS PA 15801

WID # 050036119729070 001  
PROCESSING DATE 01/03/2005  
DRIVER LICENSE # 60032855  
DATE OF BIRTH 06/10/1964

Dear MR. COCCIMIGIO:

This is an **Official Notice of the Suspension** of your Driving Privilege as authorized by Section 1547B1III of the Pennsylvania Vehicle Code. As a result of your violation of Section 1547 of the Vehicle Code, CHEMICAL TEST REFUSAL, on 02/07/2004:

Your driving privilege is **SUSPENDED** for a period of 18 MONTH(S) effective 02/14/2005 at 12:01 a.m.

COMPLYING WITH THIS SUSPENSION

You must return all current Pennsylvania driver's licenses, learner's permits, temporary driver's licenses (camera cards) in your possession on or before 02/14/2005. You may surrender these items before, 02/14/2005, for earlier credit; however, you may not drive after these items are surrendered.

**YOU MAY NOT RETAIN YOUR DRIVER'S LICENSE FOR IDENTIFICATION PURPOSES.** However, you may apply for and obtain a photo identification card at any Driver License Center for a cost of \$10.00. You must present two (2) forms of proper identification (e.g., birth certificate, valid U.S. passport, marriage certificate, etc.) in order to obtain your photo identification card.

**You will not receive credit toward serving any suspension until we receive your license(s).** Complete the following steps to acknowledge this suspension.

1. Return all current Pennsylvania driver's licenses, learner's permits and/or camera cards to PennDOT. If you do not have any of these items, send a sworn notarized letter stating you are aware of the suspension of your driving privilege. You must specify in your letter why you are unable to return your driver's license. Remember: You may not retain your driver's license for identification purposes. Please send these items to:  
Pennsylvania Department of Transportation

Exhibit D

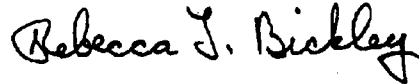
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Bureau of Driver Licensing  
P.O. Box 68693  
Harrisburg, PA 17106-8693

2. Upon receipt, review and acceptance of your Pennsylvania driver's license(s), learner's permit(s), and/or a sworn notarized letter, PennDOT will send you a receipt confirming the date that credit began. If you do not receive a receipt from us within 3 weeks, please contact our office. Otherwise, you will not be given credit toward serving this suspension. PennDOT phone numbers are listed at the end of this letter.
3. If you do not return all current driver license products, we must refer this matter to the Pennsylvania State Police for prosecution under SECTION 1571(a)(4) of the Pennsylvania Vehicle Code.

Remember, this is an **OFFICIAL NOTICE OF SUSPENSION**. You must return all current Pennsylvania driver license products to PennDOT by 02/14/2005.

Sincerely,



Rebecca L. Bickley, Director  
Bureau of Driver Licensing

INFORMATION 7:00 a.m. to 9:00 p.m.

IN STATE	1-800-932-4600	TDD IN STATE	1-800-228-0676
OUT-OF-STATE	717-391-6190	TDD OUT-OF-STATE	717-391-6191
WEB SITE ADDRESS	<u><a href="http://www.dmv.state.pa.us">www.dmv.state.pa.us</a></u>		

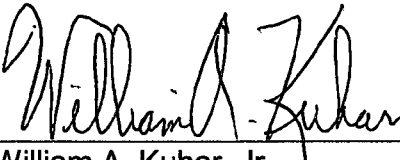
## CERTIFICATE OF SERVICE

The undersigned does hereby certify that, on the date set forth below, he served a true and correct copy of the foregoing Motion to Quash Appeal upon counsel for the defendant/petitioner by regular United States first class mail, postage pre-paid, addressed as follows:

S. Casey Bowers, Esquire  
498 Jeffers Street  
DuBois, PA 15801

Date: \_\_\_\_\_

8/30/2005

  
\_\_\_\_\_  
William A. Kuhar, Jr.

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

THOMAS L. COCCIMIGLIO,  
Appellant

vs.

No. 2005-187-CD

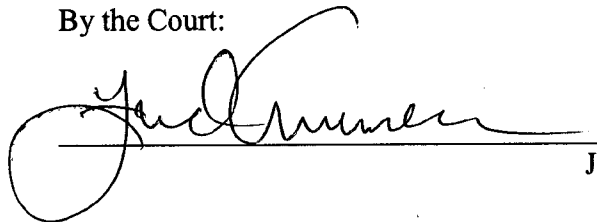
REBECCA L. BICKLEY, DIRECTOR, BUREAU  
OF DRIVER LICENSING, PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION,  
Respondent.

**ORDER OF COURT**

AND NOW, to wit: this 6<sup>th</sup> day of August, 2005, upon consideration of the foregoing Motion to Quash Appeal, a rule is entered upon the appellant/petitioner, Thomas L. Coccimiglio, to show cause, if any, why this appeal from the action of the Department of Transportation's Bureau of Driver Licensing in reinstating an 18 month suspension of his privilege to operate a vehicle in Pennsylvania pursuant to Section 1547(b) of the Vehicle Code should not be quashed for having been filed from a Department action from which no right of appeal lies.

Said rule is returnable on the 23rd day of September, 2005, at 11:00 a.m., before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding, in a yet to be determined courtroom in the Clearfield County Courthouse in Clearfield, Pennsylvania.

By the Court:

  
J.

**FILED** 2cc  
019:30/31  
SEP 07 2005  
Atty Kuhar  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

THOMAS L. COCCIMIGLIO  
Appellant

-vs-

REBECCA L. BICKLEY, Director,  
Bureau of Driver Licensing,  
Pennsylvania Department of  
Transportation,  
Respondent

Type of Case: Civil Division

No. 2005 - 187 CD  
No. 2004 - 575-CD

Type of Pleading:  
Motion for Reinstatement  
of Appeal Nunc Pro Tunc  
and Reply to Motion to  
Quash

Filed on Behalf of:  
Appellant

Counsel of Record for This  
Party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801  
(814) 371-7768

Dated: September 23, 2005

FILED  
10:44 AM  
SEP 23 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

THOMAS L. COCCIMIGLIO	:	
Appellant	:	
	:	
-vs-	:	
	:	No. 2005 - 187 CD
REBECCA L. BICKLEY, Director,	:	No. 2004 - 575-CD
Bureau of Driver Licensing,	:	
Pennsylvania Department of	:	
Transportation,	:	
Respondent	:	

**MOTION FOR REINSTATEMENT OF APPEAL**  
**NUNC PRO TUNC AND REPLY TO MOTION TO QUASH**

AND NOW, comes the Appellant, Thomas L. Coccimiglio, by his attorneys, Hanak, Guido and Taladay, and hereby brings the within Motion for Reinstatement of Appeal Nunc Pro Tunc and Reply to Motion to Quash as follows:

1. On April 23, 2004, Appellant/Petitioner, Thomas L. Coccimiglio, acting pro se, filed a statutory appeal from an 18 month operating privilege suspension at County Docket No. 2004-575-CD.
2. The appeal petition raised a meritorious defense to the suspension in that Thomas Coccimiglio, having been injured in an automobile accident, did not have the cognitive capacity to knowingly refuse chemical testing. Apparently a hearing on this appeal was held on or about November 10, 2004. However, Appellant/Petitioner received no notice of this hearing because of a breakdown in the Court system.



3. Unaware of the hearing and Court ruling dated November 10, 2005, the Appellant again received a Notice of License Suspension dated January 10, 2005.

4. At the time of receipt of the Notice of January 10, 2005, the Appellant/Petitioner was represented by the firm of Hanak, Guido and Taladay with regard to criminal charges pending before this Court. The Appellant/Petitioner requested the law firm to file an appeal of the license suspension.

5. On behalf of the Appellant/Petitioner, the law firm of Hanak, Guido and Taladay, filed an appeal from the January 10, 2005 suspension notice, unaware of the ruling of November 10, 2004, believing this appeal to be a primary appeal of a chemical test refusal suspension.

6. On August 30, 2005, the Commonwealth of Pennsylvania, Department of Transportation by Office of Chief Counsel filed a Motion to Quash Appeal pending at No. 2005-187-CD. Only upon the receipt of this Motion did the Appellant/Petitioner and the law firm of Hanak, Guido and Taladay become aware of the prior Court ruling of November 10, 2004.

7. Appellant/Petitioner believes that he is entitled to nunc pro tunc consideration of the license suspension appeal filed at No. 2004-575-CD in that he had previously not been provided with notice of the suspension hearing or the Court's ruling.

8. For the reasons set forth above, the Petitioner/Appellant seeks the following relief:

(a) An Order of Court denying Motion to Quash Appeal pending at No. 2005-187-CD.

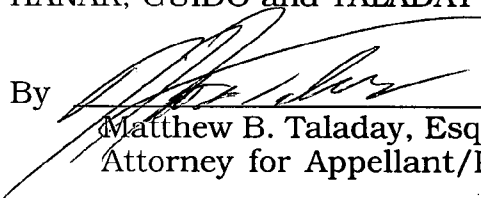
(b) An Order of Court vacating the Order of November 10, 2004 and granting Petitioner/Appellant nunc pro tunc relief in the form of a hearing de novo regarding the merits of this appeal from license suspension by reason of the chemical test refusal.

(c) Such other relief as the Court may deem appropriate.

Respectfully submitted,

HANAK, GUIDO and TALADAY

By



---

Matthew B. Taladay, Esq.  
Attorney for Appellant/Petitioner

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

THOMAS L. COCCIMIGLIO  
Appellant

-vs-

REBECCA L. BICKLEY, Director,  
Bureau of Driver Licensing,  
Pennsylvania Department of  
Transportation,  
Respondent

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No. 2005 - 187 CD  
No. 2004 - 575-CD

**ORDER**

AND NOW, this \_\_\_\_ day of September, 2005, upon  
consideration of the foregoing Motion;

IT IS HEREBY ORDERED that the relief requested in  
Appellant/Defendant's Motion for Reinstatement of Appeal Nunc Pro  
Tunc be granted.

BY THE COURT:

---

J.

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

THOMAS L. COCCIMIGLIO  
Appellant

-vs-

REBECCA L. BICKLEY, Director,  
Bureau of Driver Licensing,  
Pennsylvania Department of  
Transportation,  
Respondent

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No. 2005 - 187 CD  
No. 2004 - 575-CD

**CERTIFICATE OF SERVICE**

I certify that on the 23rd day of February, 2005, a true and  
correct copy of the foregoing Motion was hand delivered to the  
following:

Office of Chief Counsel  
PA Department of Transportation  
Third Floor  
Riverfront Office Center  
Harrisburg, PA 17104



Matthew B. Taladay  
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA :

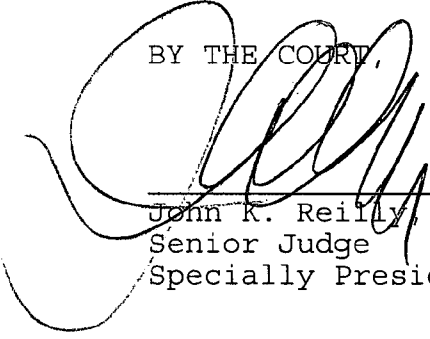
VS. : NO. 05-187-CD

THOMAS L. COCCIMIGLIO : License Suspension Appeal

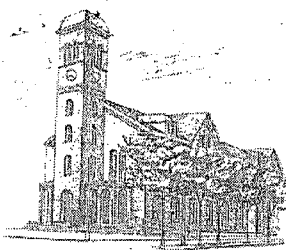
O R D E R

NOW, this 23rd day of September, 2005, this being the day and date set for hearing into the above-captioned Appeal from License Suspension, it is the ORDER of this Court that, Appellant having clearly received notice of the original hearing, said Motion to Quash is granted and said appeal dismissed.

BY THE COURT,

  
John R. Reilly, Jr.  
Senior Judge  
Specially Presiding

FILED 2cc  
01310201  
SEP 23 2005  
William A. Shaw  
Prothonotary/Clerk of Courts  
Atty's:  
Bowers  
Kuhar



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

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

**David S. Ammerman**  
Solicitor

**Jacki Kendrick**  
Deputy Prothonotary

**Bonnie Hudson**  
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

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

Sincerely,

William A. Shaw  
Prothonotary

\_\_\_\_\_ You are responsible for serving all appropriate parties.

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

☒ Plaintiff(s)/Attorney(s)

☒ Defendant(s)/Attorney(s)

\_\_\_\_\_ Other

\_\_\_\_\_ Special Instructions: