

2005-766-CD

B. Fontenoy vs. Clearfield Colonial Courtyard, et al

2005-766-CD

Berneta Fontenoy et al v. Clfd. Colonial e

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 William A. Shaw
 Prothonotary/Clerk of Courts
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**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION**

SUMMONS

**Berneta Fontenoy an alleged
incapacitated person, by her attorney-in-
fact. Betty Lou Gathagan, Plaintiff**

Vs.

NO.: 2005-00766-CD

**Clearfield Colonial Courtyard and
Genya Bannon**

**TO: CLEARFIELD COLONIAL COURTYARD and
GENYA BANNON**

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: 05/27/2005

William A. Shaw
Prothonotary

Issuing Attorney:

John R. Carfley
Post Office Box 249
Philipsburg, PA 16866

GA

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

BERNETA FONTENOY an alleged
incapacitated person, by her attorney-in-fact
BETTY LOU GATHAGAN,
Plaintiff

vs.

CLEARFIELD COLONIAL COURTYARD
and GENYA BANNON
Defendants

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No. 2005-766-CD

FILED

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William A. Shaw

Prothonotary/Clerk of Courts

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PETITION TO COMPROMISE AN INCAPACITATED PERSON'S
ACTION AND FOR APPROVAL OF DISTRIBUTION

AND NOW, comes your Petitioner, Betty Lou Gathagan, Attorney-in-Fact for Berneta Fontenoy, an alleged incapacitated person, who by and through her attorney, John R. Carfley, Esquire, petitions this court for approval to compromise the suit filed in the above matter and in support thereof avers as follows:

1. Your petitioner herein is Betty Lou Gathagan, Attorney-in-Fact for Berneta Fontenoy, an alleged incapacitated person, who was injured in an incident which occurred in June of 2003.
2. A cause of action was filed to the above term and number by Betty Lou Gathagan, Attorney-in-Fact for Berneta Fontenoy.
3. Defendant, Clearfield Colonial Courtyard has now offered the Plaintiffs a cash settlement in the amount of \$25,000.00 in order to compromise this action.
4. Based upon the factual circumstances and the applicable legal principles, it is believed that the terms of the settlement are reasonable and that the same represent an arrangement which is in the best interest of the incapacitated person.
5. The undersigned attorney and the Attorney-in-Fact have entered into a contingent fee agreement providing for the payment of Twenty-five (25%) percent of any proceeds recovered in this action as attorney's fees.
6. A proposed schedule of distribution and allocation of the settlement proceeds is further

attached hereto as Exhibit "A".

7. The medical treatment of the incapacitated person resulted in medical bills and related expenses in excess of \$8,000.00. Counsel has corresponded with the applicable state and federal agencies responsible for the payment of these expenses and has received instructions to deal with the situation in a manner consistent with those instructions contained in that correspondence attached hereto as Exhibit "B".

8. The injuries sustained by the incapacitated person resulted from the administration of improper medication by a representative of the Defendant, which medication resulted in the hospitalization of the Plaintiff in a comatose state for a period of three (3) days.

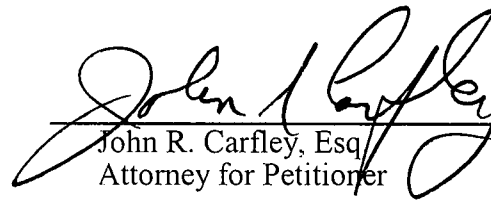
9. Your petitioner requests that the court direct that the net proceeds of this settlement be deposited in an account for the use and benefit of Berneta Fontenoy to be administered by her Attorney-in-Fact and her professional representatives.

10. Counsel has sought the consult of medical professionals concerning the long term effect of the administration of the medications and is convinced that the effect of the drugs was temporary and limited to the three day period of hospitalization as cited and that any causal relationship between this event and the patient's current dementia or long term deterioration of her mental faculties cannot be supported at this time.

11. Counsel is therefore of the opinion that a further cause of action against the above named Defendants is unwarranted.

12. Counsel is further convinced, as a result of this Court's pre-trial findings and rulings in an earlier suit involving similar parties and issues, that further action against the Defendants is inappropriate and would not result in the recovery of additional sums for the benefit of the Plaintiff.

WHEREFORE, it is respectfully requested that an order be issued approving settlement and directing distribution of the settlement proceeds as set forth in this petition and the attached schedules.



John R. Carfley, Esq.
Attorney for Petitioner

Dated: *MAY 26, 2005*

VERIFICATION

I hereby verify that the statements made in this instrument are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Betty Ann Hathagan

Dated: May 26, 2005

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

BERNETA FONTENOY an alleged
incapacitated person, by her attorney-in-fact
BETTY LOU GATHAGAN,
Plaintiff

vs.

CLEARFIELD COLONIAL COURTYARD
and GENYA BANNON
Defendants

No. 05-766-CD

ORDER

AND NOW, this 31st day of May, 2005, upon consideration of the foregoing Petition to Approve Settlement filed in this matter, it is hereby ordered and decreed that the terms of the settlement described in the petition be and are hereby approved. Betty Lou Gathagan, attorney-in-fact for Berneta Fontenoy is hereby authorized to execute a release to discharge liability.

IT IS THE FURTHER ORDER of this court that Betty Lou Gathagan shall deposit the funds in an account to be used for the care and benefit of Berneta Fontenoy.

BY THE COURT:

Frederick J. Zimmerman

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019:5201 Atty Carfley
JUN 01 2005
William A. Shaw
Prothonotary/Clerk of Courts

c/h

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

CIVIL DIVISION

**Berneta Fontenoy
Betty Lou Gathagan**

Vs.

No. 2005-00766-CD

**Clearfield Colonial Courtyard
Genya Bannon**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on June 3, 2005, marked:

Settled, Discontinued and ended.

Record costs in the sum of \$85.00 have been paid in full by Atty. Carfley.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 3rd day of June A.D. 2005.

William A. Shaw, Prothonotary