

05-781-CD

Berneta Fontenoy vs. Southtrust Corp.

2005-781-CD

Berneta Fontenoy et al v. Southtrust Corp

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.

SOUTHTRUST CORPORATION, and/or  
EQUISEARCH SERVICES, INC.

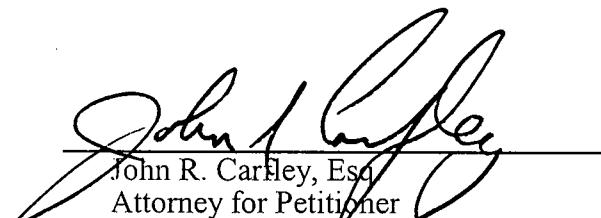
No. 05-781-CD (R)

PRAECIPE

TO THE PROTHONOTARY:

Please issue a Writ of Summons against Defendants in the above matter as follows:

1. SouthTrust Corporation and/or Equisearch Services, Inc., 11 Martine Avenue, Suite 665, White Plains, NY 10606



John R. Carley, Esq.  
Attorney for Petitioner  
P. O. Box 249  
Philipsburg, PA 16866  
814-342-5581  
PA ID No.: 17621

Dated: May 31, 2005

FILED  
01:55 AM  
MAY 31 2005  
2cc & 2wnts  
to Atty Carley  
William A. Shaw  
Prothonotary/Clerk of Courts  
Atty pd. 85.00

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



**SUMMONS**

**Berneta Fontenoy  
Betty Lou Gathagan**

**Vs.**

**NO.: 2005-00781-CD**

**Southtrust Corporation  
Equisearch Services, Inc.**

**TO: SOUTHTRUST CORPORATION  
EQUISEARCH SERVICES, INC.**

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: 05/31/2005

---

William A. Shaw  
Prothonotary

Issuing Attorney:

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

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

BERNETA FONTENOY, an alleged  
(Plaintiff)  
incapacitated person, by her  
Attorney-in-Face, BETTY LOU  
GATHAGAN  
(Street Address)  
603 Sue Street  
Houtzdale, PA 16651  
(City, State ZIP)

CIVIL ACTION

No. 2005-781-CD

Type of Case: Civil

Type of Pleading: Complaint

VS.

SOUTHTRUST CORPORATION and/or  
EQUISEARCH SERVICES, INC.  
(Defendant)

Filed on Behalf of:

Plaintiff

(Plaintiff/Defendant)

11 Martine Avenue, Suite 665  
(Street Address)

White Plains, NY 10606  
(City, State ZIP)

John R. Carfley

(Filed by)

P. O. Box 249  
Philipsburg, PA 16866

(Address)

814-342-5581

(Phone)

(Signature)

FILED 2CC  
01:40 AM JUL 13 2005  
William A. Shaw  
Prothonotary/Clerk of Courts



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. : No. 05-781-CD  
SOUTHTRUST CORPORATION, and/or :  
EQUISEARCH SERVICES, INC. :  
:

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your 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 claims or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

COURT ADMINISTRATOR  
COURTHOUSE  
CLEARFIELD, PA 16830  
(814) 765-2641 Extension 5982

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. : No. 05-781-CD  
SOUTHTRUST CORPORATION, and/or :  
EQUISEARCH SERVICES, INC. :

COMPLAINT

AND NOW comes the Plaintiff, Berneta Fontenoy, an alleged incapacitated person, who by and through her attorney-in-fact, Betty Lou Gathagan, and her attorney, John R. Carfley, Esq., sets forth a claim against the Defendants and in support thereof, avers as follows:

1. The Plaintiff is Berneta Fontenoy, an alleged incapacitated person, recognized to be such by the Court of Common Pleas of Clearfield County, Pennsylvania, with a current residence at Mountain Laurel Nursing Facility located at 650 Leonard Street, Clearfield, PA 16830.
2. The individual representing the said Berneta Fontenoy is Betty Lou Gathagan, a niece, and the duly appointed Attorney-in-Fact for the said individual, which authority, powers and duties were properly transmitted to Ms. Gathagan as the agent for Ms. Fontenoy by a duly executed and recorded instrument dated February 18, 2004, which instrument is filed of record in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, as Instrument No. 200402493.
3. The said Betty Lou Gathagan acts as a successor Attorney-in-Fact by virtue of that instrument hereinabove recited, she having been appointed as such by Margaret Korman, the original Attorney-in-Fact for Berneta C. Fontenoy, which status was affirmed by the Court of Common Pleas of Clearfield County, Pennsylvania, on June 24, 2005. A true and correct copy of said proceedings are set forth in the Docket Entries affixed hereto as Exhibit "A".

4. The Defendant is Southtrust Corporation, believed to be a financial banking institution, with corporate offices located at 11 Martine Avenue, Suite 665, White Plains, NY 10606.
5. The Defendant is EquiSearch Services, Inc., believed, and therefore averred, to be a financial and search institution, incorporated, in part, for the purpose of determining the existence of assets owned by individuals who, for various reasons, have failed to maintain the account in an active status. The corporate address for EquiSearch Services, Inc., is believed, and therefore averred, to be 11 Martine Avenue, Suite 665, White Plains, NY 10606.
6. It is further believed, and therefore averred, that the role of the said Defendant is to advise legal representatives and/or next of kin of the owner of said assets of the existence of the asset and the possibility of said asset escheating to the state of residence and/or domicile of the account holder.
7. The said Berneta Fontenoy, prior to June of 2002, was competent and conducted her own business, social, medical and other affairs without the need of a court appointed guardian and/or a court appointed Attorney in Fact.
8. In June, 2002, the said Berneta Fontenoy was involved in a serious automobile accident in which she sustained a closed head injury resulting in a deterioration of her mental faculties which caused her to become a permanent resident at Mountain Laurel Nursing Home in Clearfield, PA, a facility which provides her with twenty-four hour a day care and attention to deal with her medical and everyday needs.
9. On February 15, 2005, counsel for the Plaintiff was advised of the potential for detrimental action to be undertaken against what has been described as "abandoned property" belonging to the Plaintiff and located in Southtrust Corporation in the State of New York. A true and correct copy of said notice which was delivered to the incapacitated person and/or her agent at her home address at 603 Sue Street,

Houtzdale, PA 16651, and which was then transmitted to the undersigned counsel, is attached hereto as Exhibit "B". Said notice was specific in requiring the person notified of the existence of this asset to take action within thirty (30) days or suffer the possible escheat of the asset to the Commonwealth for inactivity involving the "abandoned property".

10. Ms. Fontenoy's Attorney-in-Fact, acting through counsel, immediately notified Southtrust Corporation and/or EquiSearch Services, Inc. of the receipt of this notice and the intent of the principal and her duly authorized agents to deal with these financial institutions in order to avoid such action. A true and correct copy of the correspondence transmitted to Southtrust Corporation in an attempt to protect account number 26278366 from disposition is attached hereto and is identified as Exhibit "C".
11. It would appear from the content of the document submitted to the account holder that the balance of the account as of February, 2005, was \$116,965.96.
12. After returning the appropriate documents to Southtrust Corporation and Equisearch Services, Inc., who apparently represented Southtrust in this matter, a letter was directed to Southtrust reciting the current health status of the account owner and the manner in which the said individual was represented; a true and correct copy of said letter dated March 4, 2005 is the letter previously identified herein and is attached hereto as Exhibit "C".
13. When that letter failed to elicit any definitive response, a second letter dated March 24, 2005 and a third letter dated April 6, 2005 were forwarded to the appropriate corporate offices in an attempt to initiate a transfer of the account before action was taken detrimental to the interest of the account owner. Copies of those letters are attached hereto as Exhibits "D" and "E" respectively.
14. When these efforts all failed to prompt a legitimate response from the financial institution, a civil action was instituted in the Court of Common Pleas of Clearfield

County, Pennsylvania to Number 2005-00781-CD; a true and correct copy of the Praeclipe and Writ of Summons is attached hereto as Exhibit "F".

15. Service of the Writ of Summons was accomplished by certified mail as provided for under the Pennsylvania Rules of Civil Procedure; a said copy of the letter of transmittal dated June 1, 2005 and the documents evidencing acceptance of service are attached hereto as Exhibits "G" and "H" respectively.
16. It is believed and therefore averred, that at the present time the named Defendants are unlawfully withholding assets owned by the Plaintiff and in essence, are converting those assets from the use of the Plaintiff, all to her detriment, prejudice and injury.
17. The said Defendants have, likewise, refused to provide any information pertaining to this account, including any type of reference to the balance in the account, the interest rate, length of the term negotiated or the type of collateral invested in by the alleged incapacitated person or the type of ownership under which this account is registered.
18. The said Defendants continue to force the Plaintiff to engage counsel in order to recover these assets lawfully belonging to the Plaintiff, all to her economic detriment.
19. The said Defendants are engaging in a de facto conversion of the Plaintiff's assets and are subjecting the Plaintiff to a possible escheat and loss of substantial assets through their dilatory and obstructionist tactics.
20. It is believed that as of February 1, 2005, Defendants were indebted to the Plaintiff in the amount of \$116,965.96, plus interest and costs being the amount of the deposit allegedly made by the Plaintiff as part of her business involvement with this lending institution.
21. On or about March 4, 2005, Plaintiff first made demand upon Defendants for the payment of those sums, together with any interest, costs or other value, but Defendant has refused and continues to refuse to pay to the Plaintiff, or to anyone acting on behalf of the Plaintiff, all or any part of said account.

WHEREFORE, Plaintiff demands that judgment be entered against the Defendants for \$116,956.96 together with interest, costs and such other amounts as this Court would deem appropriate.

COUNT II

COUNSEL FEES AND COSTS

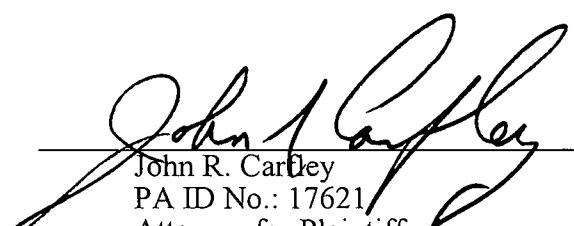
22. Plaintiff hereby incorporates Paragraphs 1 through 21 of this Complaint herein by reference thereto as fully as though set forth at length.
23. Notwithstanding the fact that the Defendants notified and have acknowledged Plaintiff of her ownership of the said account, Defendants have refused, and continue to refuse to cooperate with the Plaintiff in order to allow the Plaintiff, or others acting on behalf of the Plaintiff, as her agents to recover those funds for the use and benefit of the Plaintiff who is currently residing in a full care nursing facility because of her deteriorating mental and physical condition and is in need of these assets to satisfy existing and ongoing obligations.
24. The actions of the Defendants are malicious, willful, intentional and so outrageous as to warrant the imposition of attorney's fees and costs pursuant to Section 42 Pa. C.S.A. §2503 of the Judicial Code.
25. The conduct and actions of the Defendants are likewise dilatory, obdurate and vexatious and occur during the pendency of a matter so as to warrant the issuance of an award of counsel fees as a sanction against the Defendants, all of which is specified under Section 2503 of the Judicial Code, 42 Pa. C.S.A., §2503, et seq.
26. It is further believed, and therefore averred, that the actions of the Defendants constitutes bad faith and therefore warrants the imposition of counsel fees and costs as a sanction against the Defendants.
27. The actions of the Defendants are, likewise, without legal justification and/or basis so as to give rise to a claim for counsel fees and costs.
28. It is believed and therefore averred that Defendants have been supplied with

sufficient information and have been allowed sufficient time to correct any defects in the management of the account and have further been provided with sufficient time to permit closure of the account and transmittal of the funds to Plaintiff for her use and benefit.

29. Under the provisions of the Uniform Commercial Code, the measure of damages for failure to exercise ordinary care in the banking industry is specified under Section 4103(e) of the Code and warrants an award of any other damages the party may suffer as a proximate consequence of the incident if the actions of the Defendants constitute bad faith.

30. It is believed, and therefore averred, that the failure of the Defendants to, in any meaningful way, contact and/or correspond with representatives of the Plaintiff, after being so advised of their role as agents, and representatives of the Plaintiff, constitutes bad faith and, moreover, constitutes an unwarranted delay under the provisions of the Uniform Commercial Code, 13 Pa. C.S.A., §4103 and 4109.

WHEREFORE, Plaintiff demands that judgment be entered in favor of the Plaintiff and against the Defendant for counsel fees and costs incurred in the recovery of this asset in an unliquidated amount in excess of \$25,000.00, together with interest thereon and costs of this proceeding.



John R. Carley  
PA ID No.: 17621  
Attorney for Plaintiff  
P. O. Box 249  
Philipsburg, PA 16866  
814-342-5581

Dated: *July 14, 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.

Dated: 7-12-05

Betty Lou Gathagan

Betty Lou Gathagan

## EXHIBIT “A”

## CLEARFIELD COUNTY - INSTRUMENT SUMMARY LIST

SEARCH PARTY	EXT.	REVERSE PARTY	DIR#	IND#	P	INST.NUM	RECORDED	INST.TYPE	BOOK	PAGE	FILE # / MUNI	L	GENERAL INFORMATION	I.P
FONTENOY, BERNETA		GATHAGAN, BETTY LOU	2	1	D	200402493	Feb 19, 2004	POA ,			NO MUNICIPALITY	0		5
FONTENOY, BERNETA-AN INCAPACITATED	2002-333		1	1	D	200210571	Jul 3, 2002	PO ,			0 P & O GUARDIAN	0		11
FONTENOY, BERNETA-AN INCAPACITATED	2002-333		1	1	D	200321602	Nov 25, 2003	PO ,			0 P & RULE FOR APPROVAL	0		5
FONTENOY, BERNETA-AN INCAPACITATED	2002-333		1	1	D	200400324	Jan 7, 2004	ORDER *			0 ORDER	0		1
FONTENOY, BERNETA-GUARDIANSHIP	2002-333		1	1	D	200509458	Jun 23, 2005	PO ,			0 P & O GUARD	0		6
FONTENOY, BERNETA-GUARDIANSHIP	2002-333		1	1	D	200509576	Jun 27, 2005	PO ,			0 EMERGENCY PETITION FOR TE	0		17
FONTENOY, BERNETA-INCAPACITATED PE	2002-333		1	1	D	200211396	Jul 17, 2002	ORDER			0 ORDER GUARD/PERSON	0		2
FONTENOY, BERNETA-INCAPACITATED PE	2002-333		1	1	D	200211398	Jul 17, 2002	ORDER *			0 ORDER GUARD/STATE	0		2
NO UNVERIFIED INSTRUMENTS FOUND														
														0

## EXHIBIT "B"

February 15, 2005

BERNETA C FONTENOY  
603 SUE ST  
HOUTZDALE PA 16651

Dear SouthTrust Customer:

At SouthTrust, we are committed to meeting your needs and keeping you informed about your account(s). This is why we are contacting you today about your account listed below.

We realize you may have opened this account for some special purpose and intended that it not be actively used. However, there have been no customer deposits or withdrawals on your account for the last two years or more, and your account appears to be inactive. According to your state's abandoned property law, we are required to transfer balances to the state government if an account shows inactivity for a specified period of time.

To classify your account as active, we are required to show proof that we have contacted you. Re-establishing contact is easy. Simply sign your name in the space provided below, update your address if necessary and return this letter in the enclosed envelope within thirty (30) days from the date of this letter. Once we receive the signed letter, we will update your account to show that customer contact has been made.

We value your relationship with us, and we are committed to assisting you in any way possible. Please note that if we don't hear from you, we will be required to transfer your balance to the state government.

If you have any questions or would like further assistance, please contact your branch of account.

Sincerely,

Deposit Application Balancing  
B-024-PF-0037

By signing, and returning this letter, I declare my awareness of the account, and that I am a rightful owner.

Betty Lou Gathagan  
Customer Signature POA

>Last 4 digits of SSN      Phone Number      Date

Account Number: 26278366

Current Balance: \$116,965.96

Escheat State: PENNSYLVANIA

Please return this entire letter in the enclosed envelope.

Please make any address corrections below, which will be applied to all account relationships.

My address information above is correct

Correct Address:

CASE #WST0000179

Bank    BK95 MKT 89  
Property Type    002

## EXHIBIT "C"

JOHN R. CARFLEY  
ATTORNEY AT LAW  
222 PRESQUEISLE STREET  
P. O. BOX 249  
PHILIPSBURG, PENNSYLVANIA 16866

AREA CODE 814  
TELEPHONE 342-5581  
FAX 342-1127

March 4, 2005

SouthTrust Corporation  
11 Martine Avenue, Suite 665  
White Plains, NY 10606

Re: Berneta C. Fontenoy

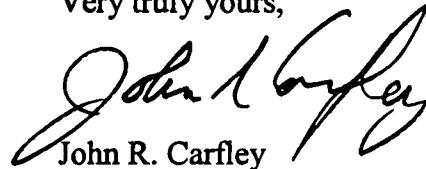
Gentlemen:

Please be advised that I represent Berneta C. Fontenoy who is currently residing at the Mountain Laurel Nursing facility where she is under the full time care of their staff. Ms. Fontenoy is currently represented by a Power of Attorney, Betty Lou Gathagan, whom I likewise represent. Recently, Ms. Gathagan received a notice from your company concerning account number 26278366 which contains a current balance of \$116,965.96. This correspondence notified the owner of the account, i.e. Berneta C. Fontenoy, that this account is in danger of escheating to the State of Pennsylvania as a result of inactivity.

Because of Ms. Fontenoy's present medical condition, I am having the Power of Attorney execute the letter and return it for your records. I am also enclosing a copy of the Power of Attorney vesting authority in Betty Lou Gathagan.

Ms. Gathagan feels that would be more appropriate to have this account located where she can readily access the proceeds for Ms. Fontenoy's needs and in that regard would like to inquire as to the procedures we need to undertake in order to liquidate this account and return it to the Commonwealth of Pennsylvania for deposit in a bank near Ms. Fontenoy's home. Please provide me with that information at your earliest opportunity.

Very truly yours,

  
John R. Carfley

JRC:bjn

Enclosures

## EXHIBIT “D”

JOHN R. CARFLEY  
ATTORNEY AT LAW  
222 PRESQUEISLE STREET  
P. O. BOX 249  
PHILIPSBURG, PENNSYLVANIA 16866

AREA CODE 814  
TELEPHONE 342-5581  
FAX 342-1127

March 24, 2005

SouthTrust Corporation  
11 Martine Avenue, Suite 665  
White Plains, NY 10606

Re: Berneta C. Fontenoy

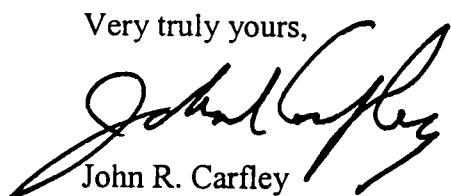
Gentlemen:

At the beginning of March I corresponded with you concerning a notice received by Betty Lou Gathagan, Attorney in Fact for Berneta Fontenoy dealing with account number 26278366 which contains a current balance of \$116,965.96. In that correspondence we requested that you provide us with information to allow us to liquidate the account so that Ms. Gathagan can invest the same in a lending institution in this area in order to be better able to access the monies for Ms. Fontenoy's benefit. You had also advised that this account was in danger of escheating to the Commonwealth of Pennsylvania for lack of activity on the account.

As of this date, we have heard nothing further from you on this matter. At this time we would request that you contact us at your earliest convenience to advise us of the status of this account.

I shall wait to hear from you regarding the above.

Very truly yours,



John R. Carfley

JRC:bjn  
cc: Betty Lou Gathagan

## EXHIBIT "E"

JOHN R. CARFLEY  
ATTORNEY AT LAW  
222 PRESQUEISLE STREET  
P. O. BOX 249  
PHILIPSBURG, PENNSYLVANIA 16866

April 6, 2005

AREA CODE 814  
TELEPHONE 342-5581  
FAX 342-1127

EquiSearch  
c/o Case # WST0000179  
11 Martine Avenue, Suite 665  
White Plains, NY 10606

Re: Berneta C. Fontenoy

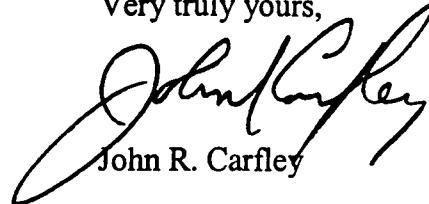
Gentlemen:

Please be advised that I am the attorney representing Berneta Fontenoy who is presently residing at a nursing home in Clearfield, Pennsylvania, having sustained personal injuries in an automobile accident in June of 2002. Your company apparently had located an account at Wachovia Southtrust Corporation which was in danger of escheating to the Commonwealth of Pennsylvania for a lack of activity. I had sent two letters directly to Southtrust Corporation at their headquarters in White Plains, New York, but have not heard anything directly from the Company at this time. Upon review of the file, I came across your correspondence and felt it would be appropriate to likewise provide you with notice of the claim.

The enclosed correspondence as well as the application for disposition of the account has been signed by Betty Lou Gathagan, the registered Power of Attorney for Ms. Fontenoy. I understand that it may take from eight to twelve weeks to process our claim, however I would like to receive some notification that the transfer is in progress in order to assure my client that the danger of the asset being lost as abandoned property has been addressed.

Should you require anything further in this regard, please do not hesitate to contact me. Thank you for your consideration and cooperation in this matter.

Very truly yours,



John R. Carfley

JRC:bjn  
Enclosure  
cc: Betty Lou Gathagan

(Please detach here and return in the enclosed envelope)

Your Name (please print):

John R. Carfley, Attorney for Berneta Fontenoy

Your Present Mailing Address:

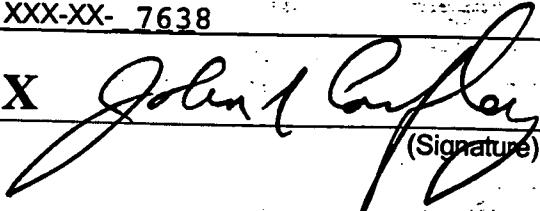
P. O. Box 249

Philipsburg, PA 16866

Your Social Security #

XXX-XX- 7638

CASE# WST0000179

X   
(Signature)

## EXHIBIT “F”

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. :  
:

SOUTHTRUST CORPORATION, and/or  
EQUISEARCH SERVICES, INC. :  
:

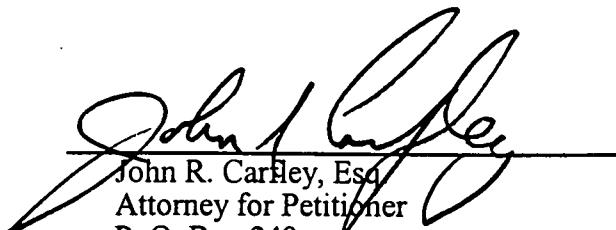
No. 05-781-CJ

PRAECIPE

TO THE PROTHONOTARY:

Please issue a Writ of Summons against Defendants in the above matter as follows:

1. SouthTrust Corporation and/or Equisearch Services, Inc., 11 Martine Avenue, Suite 665, White Plains, NY 10606



John R. Carley, Esq.  
Attorney for Petitioner  
P. O. Box 249  
Philipsburg, PA 16866  
814-342-5581  
PA ID No.: 17621

Dated: May 31, 2005

I hereby certify this to be a true  
and correct copy of the original  
and true copy of the same.

MAY 31 2005

4-01

PROTHONOTARY  
Court of Courts

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

SUMMONS

**Berneta Fontenoy  
Betty Lou Gathagan**

**Vs.**

**NO.: 2005-00781-CD**

**Southtrust Corporation  
Equisearch Services, Inc.**

**TO: SOUTHTRUST CORPORATION  
EQUISEARCH SERVICES, INC.**

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: 05/31/2005

  
\_\_\_\_\_  
William A. Shaw  
Prothonotary

Issuing Attorney:

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

## EXHIBIT “G”

**JOHN R. CARFLEY**  
ATTORNEY AT LAW  
222 PRESQUEISLE STREET  
P. O. BOX 249  
PHILIPSBURG, PENNSYLVANIA 16866

AREA CODE 814  
TELEPHONE 342-5581  
FAX 342-1127

June 1, 2005

**VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

EquiSearch  
c/o Case # WST0000179  
11 Martine Avenue, Suite 665  
White Plains, NY 10606

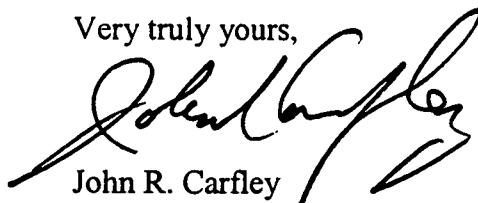
Re: Berneta C. Fontenoy vs. Southtrust, et al.  
No. 2005-00781-CD

Gentlemen:

Please find enclosed an original Writ of Summons issued in the case of Berneta Fontenoy vs. Southtrust Corporation and/or EquiSearch Services, Inc. I attempted to contact your organization on at least three occasions by mail and several times by phone after my client received a notice of the possibility of a rather substantial amount of money escheating to the Commonwealth of Pennsylvania due to a lack of activity in the account. Unfortunately, I have received no return correspondence from your firm and must now regretfully take the steps necessary in order to protect my client's interest.

If you wish to resolve this case amicably, please contact me at my office so that we can discuss the manner in which this account can be transferred to Ms. Fontenoy's Attorney-in-Fact, Betty Lou Gathagan. Any further delay will simply result in the filing of a Complaint and our claim for not only the principal of the account, but also interest and counsel fees associated with the recovery of this asset.

Very truly yours,



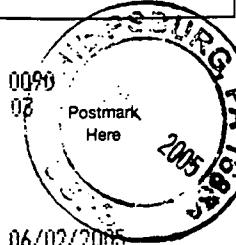
John R. Carfley

JRC:bjn  
Enclosure  
cc: Betty Lou Gathagan

## EXHIBIT "H"

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

2990	
5262	
0028	
0600	
7000	
0600	
2990	
11 MARTINE AVENUE STE 605 White Plains NY 10606	
Recipient's Name (Please Print Clearly) (to be completed by mailer) <b>EquiSearch Services, Inc</b> Street, Apt. No., or PO Box No. City, State, ZIP+4 White Plains NY 10606	
PS Form 3800, February 2000	
See Reverse for Instructions	



<b>SENDER:</b> <ul style="list-style-type: none"> <li><input type="checkbox"/> Complete items 1 and/or 2 for additional services.</li> <li><input type="checkbox"/> Complete items 3, 4a, and 4b.</li> <li><input type="checkbox"/> Print your name and address on the reverse of this form so that we can return this card to you.</li> <li><input type="checkbox"/> Attach this form to the front of the mailpiece, or on the back if space does not permit.</li> <li><input type="checkbox"/> Write "Return Receipt Requested" on the mailpiece below the article number.</li> <li><input type="checkbox"/> The Return Receipt will show to whom the article was delivered and the date delivered.</li> </ul>		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
3. Article Addressed to: <b>EquiSearch Services, Inc</b> <b>11 MARTINE Avenue, STE 605</b> <b>White Plains, NY 10606</b>		4a. Article Number <b>7000 0600 5262 2990</b>
5. Received By: (Print Name) <b>Chadelle Price</b>		4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD
6. Signature: (Addressee or Agent) <b>X Chadelle Price</b>		7. Date of Delivery <b>6/6</b>
8. Addressee's Address (Only if requested and fee is paid)		

Is your RETURN ADDRESS completed on the reverse side?

PS Form 3811, December 1994

102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.

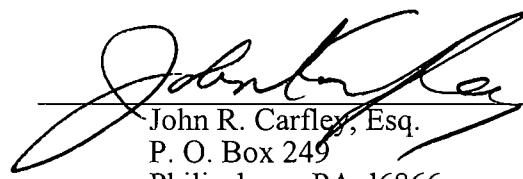
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

BERNETA FONTENOY an alleged  
incapacitated person, by her attorney-in-fact. :  
BETTY LOU GATHAGAN, :  
Plaintiff :  
vs. : No. 05-781-CD  
SOUTHTRUST CORPORATION, and/or :  
EQUISEARCH SERVICES, INC. :  
:

CERTIFICATE OF SERVICE

I hereby verify that a true and correct copy of the within document was served upon the following party at the following address on August 31, 2005, by ordinary mail, first class, postage prepaid.

Greg Birge, Esq.  
Assistant General Counsel  
Choice Point  
1000 Alderman Drive  
Alpharetta, GA 30005

  
John R. Carfley, Esq.  
P. O. Box 249  
Philipsburg, PA 16866  
Attorney for Defendant

FILED 1CC  
01/24/2006 Atty Carfley  
SEP 02 2005  
W.M.  
William A. Shaw  
Prothonotary/Clerk of Courts

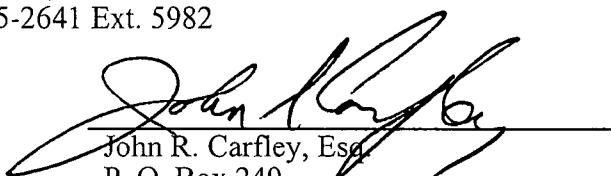
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
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BERNETA FONTENOY an alleged :  
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BETTY LOU GATHAGAN, :  
Plaintiff :  
vs. : No. 05-781-CD  
SOUTHTRUST CORPORATION, and/or :  
EQUISEARCH SERVICES, INC. :  
:

**IMPORTANT NOTICE**

**YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION  
REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS  
FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST  
YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER  
IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE.  
IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR  
TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET  
LEGAL HELP.**

COURT ADMINISTRATOR'S OFFICE  
Clearfield County Courthouse  
Clearfield, PA 16830  
814-765-2641 Ext. 5982



John R. Carfley, Esq.  
P. O. Box 249  
Philipsburg, Pa., 16866  
Attorney for Plaintiff

Dated: August 31, 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. : No. 05-781-CD  
SOUTHTRUST CORPORATION, and/or :  
EQUISEARCH SERVICES, INC. :  
:

FILED  
01/11/06  
SEP 07 2005 Atty Carfley  
GR

William A. Shaw  
Prothonotary/Clerk of Courts

ORDER

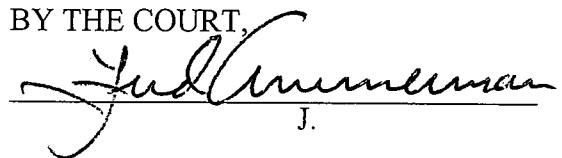
AND NOW, this 7th day of September, 2005, in consideration of the foregoing Petition to Appoint a Guardian over the Person and Estate of Berneta Fontenoy, filed in the Orphans' Court Division of the Count of Common Pleas of Clearfield County, Pennsylvania, to No. 2002-333 and after hearing held in the above matter on that Petition and the Court being satisfied that the said Berneta Fontenoy is in danger of suffering irreversible medical setbacks if a Guardian over the Person and Estate is not appointed to deal with her current condition, it is the Order of this Court that Betty Lou Gathagan and John R. Carfley, Esq., as appropriate, are appointed as Guardians of the Estate of Berneta Fontenoy in order to recover certain accounts, including, but not limited to, those accounts held by the Southtrust Corporation. It is further provided that each of the named Guardians may act independently and/or concurrently as the need arises.

In addition, it is the Order of this Court that Betty Lou Gathagan be and is hereby appointed as Guardian over the Person of Berneta Fontenoy and in that capacity, may act as aforesaid in the best interests of the alleged incapacitated person to handle all personal, business and/or medical matters and decisions which would be handled under normal circumstances.

This appointment shall continue until such time as the Court should vacate this Order and can schedule and conclude a hearing dealing with the appointment of any additional Guardian over the Person or Estate of this individual.

It is the further Order of this Court that a duplicate of this document shall be filed as part of the litigation involving the above named incapacitated person and Southtrust Corporation, which litigation is pending in the Court of Common Pleas of Clearfield County, Pennsylvania, to No. 2005-781-CD, which Order shall authorize those name herein to act for and on behalf of the incapacitated person in the settlement, discontinuance and ending of that proceeding.

BY THE COURT,

  
J.

KAREN L. STARCK  
REGISTER AND RECORDER  
CLEARFIELD COUNTY  
Pennsylvania

INSTRUMENT NUMBER  
**200514306**

RECORDED ON

**Sep 07, 2005**  
**10:56:38 AM**

FILE NUMBER

2002-333

Total Pages: 2

TOTAL \$0.00

CUSTOMER

ARFLEY, JOHN ESQ

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

**SEP 7 2005**

Attest:

  
Reg. of Wills, Rec. of Deeds & Clk. of Orphans' Court

MY COMMISSION EXPIRES  
FIRST MONDAY IN JANUARY 2008

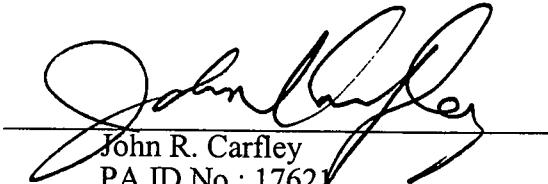
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

BERNETA FONTENOY an alleged  
incapacitated person, by her attorney-in-fact. :  
BETTY LOU GATHAGAN, :  
Plaintiff :  
vs. : No. 05-781-CD  
SOUTHTRUST CORPORATION, and/or  
EQUISEARCH SERVICES, INC. :

PRAECIPE TO SETTLE, DISCONTINUE & END

To the Prothonotary:

Please mark the above captioned matter settled, discontinued and ended.

  
John R. Carfley  
PA ID No.: 17621  
Attorney for Plaintiff  
P. O. Box 249  
Philipsburg, PA 16866  
814-342-5581

Dated: September 21, 2005

FILED  
SEP 29 2005  
07/12/05  
VICTOR J. STAW  
Prothonotary/Clerk of Court

2 Cents to Mail  
Certified or Rec.  
to  
Attor + C/A

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

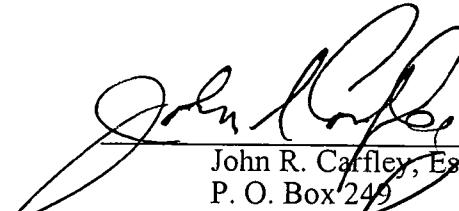
vs. : No. 05-781-CD

SOUTHTRUST CORPORATION, and/or  
EQUISEARCH SERVICES, INC.

CERTIFICATE OF SERVICE

I hereby verify that a true and correct copy of the within document was served upon the following party at the following address on September 21, 2005, by ordinary mail, first class, postage prepaid.

Greg Birge, Esq.  
Assistant General Counsel  
Choice Point  
1000 Alderman Drive  
Alpharetta, GA 30005

  
John R. Carlley, Esq.  
P. O. Box 249  
Philipsburg, PA 16866  
Attorney for Defendant

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

**CIVIL DIVISION**

**Berneta Fontenoy  
Betty Lou Gathagan**

**Vs.** **No. 2005-00781-CD**  
**Southtrust Corporation  
Equisearch Services, Inc.**

**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 September 29, 2005, marked:

Settled, Discontinued and Ended.

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

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 29th day of September A.D. 2005.

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William A. Shaw, Prothonotary