

06-108-CD
Jeffrey Madinger et al vs William G. Satterlee

Jeffrey Madinger et al vs William Satterlee
2006-108-CD

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,**
Individually, as Husband and Wife, and
on behalf of their minor children,

Type of Case - **CIVIL**

No. 06-108-CD

Plaintiffs

Type of Pleading – **PRAECIPE
FOR WRIT OF SUMMONS**

vs.

Filed on Behalf of - **PLAINTIFFS**

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,**

Defendant

Filed by- **NICHOLAS
GIANVITO, ESQ.**
Pa. I.D. #67190

LORENZO & GIANVITO, P.C.
410 West Mahoning Street
P.O. Box 495
Punxsutawney, PA 15767
(814) 938-6390

FILED Atty pd 85.00
M 13 D 5 A.D. 2006 2CC&2wnts
JAN 23 2006 to Shiff
William A. Shaw
Prothonotary/Clerk of Courts

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,
Individually, as Husband and Wife, and
on behalf of their minor children,**

No. _____
Plaintiffs

vs.

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,**

Defendant.

PRAECIPE FOR WRIT OF SUMMONS

TO THE PROTHONOTARY:

Please prepare a Writ of Summons in a Civil Action against the defendant,
William G. Satterlee & Sons, Inc., in the above-captioned matter.

LORENZO & GIANVITO, P.C.

Date: 1/20/2006



BY: _____
Nicholas Gianvito, Esq.
Counsel for Plaintiff
Pa. I.D. #67190
410 W. Mahoning St.
P.O. Box 495
Punxsutawney, PA 15767
(814) 938-6390

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

 COPIER

SUMMONS

**Jeffrey Scott Madinger and
Cindy L. Madinger, Individually
and as Husband and Wife, and on
behalf of their minor children**

Vs.

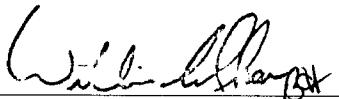
NO.: 2006-00108-CD

**William G. Satterlee & Sons, Inc.,
a Corporation**

TO: WILLIAM G. SATTERLEE & SONS, 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: 01/23/2006



William A. Shaw
Prothonotary

Issuing Attorney:

Nicholas Gianvito
410 West Mahoning
Punxsutawney, PA 15767
(814) 938-6390

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,**
Individually, as Husband and Wife, and
on behalf of their minor children,

Type of Case - **CIVIL**

Plaintiffs

No. **06-108-CD**

Type of Pleading - **COMPLAINT**

vs.

Filed on Behalf of - **PLAINTIFFS**

**WILLIAM G. SATTERLEE &
SONS, INC.,** a Corporation,

Defendant.

Filed by - **NICHOLAS GIANVITO, ESQ.**
Pa. I.D. #67190
LORENZO & GIANVITO, P.C.
410 West Mahoning Street
P.O. Box 495
Punxsutawney, PA 15767
(814) 938-6390

FILED *ice*
m 1/23/06 Atty Gianvito
FEB 8 1 2006
lm

William A. Shaw
Prothonotary/Clerk of Courts

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,**

Individually, as Husband and Wife, and
on behalf of their minor children,

Plaintiffs

vs.

No. 06-108-CD

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation**

Defendant.

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 claim in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

William A. Shaw, Prothonotary
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,
Individually, as Husband and Wife, and
on behalf of their minor children,**

Plaintiffs

vs.

No. 06-108-CD

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation**

Defendant.

CIVIL ACTION COMPLAINT

AND NOW, come the plaintiffs, JEFFREY SCOTT MADINGER AND CINDY L. MADINGER, by their attorneys, LORENZO & GIANVITO, P.C., and presents the following Civil Action Complaint, of which the following is a concise summary:

1. Plaintiffs, Jeffrey Scott Madinger and Cindy Madinger, are adult individuals, Husband and Wife, who reside together in their marital home located at 472 Woodward Road, Penfield, Clearfield County, Pennsylvania, 15849. Said plaintiffs are hereinafter sometimes referred to as "Plaintiff/Husband" and "Plaintiff/Wife", respectively.
2. Plaintiff's, Jeffrey Scott Madinger and Cindy Madinger, are the parents and natural guardians of three children, Jeffrey Madinger, Jr., David Lee Madinger, and Casey Lynn Madinger who reside with them at their above noted address.

3. Defendant, William G. Satterlee & Sons, Inc., is a Corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal place of business located at RD #1, Rochester Mills, Indiana County, Pennsylvania, 15771. Said defendant is hereinafter sometimes referred to as "Defendant/Satterlee".

4. At all material times relevant to this Complaint, said defendant was engaged in the business of selling petroleum products, including the sale and/or distribution of home heating fuel oil.

5. At all times material to this Complaint, defendant Satterlee acted through its agents, servants, and/or employees, and in particular the employee who arrived at the Madinger's residence on March 10, 2004.

6. At all times material to this Complaint, and particularly on March 10, 2004, said plaintiffs were the fee simple owners of real estate located at 472 Woodward Road, Penfield, Clearfield County, Pennsylvania, 15849, and resided therein with their above named children.

7. Sometime prior to Wednesday, March 10, 2004, the Madingers ordered approximately 150 gallons of #2 Fuel Oil from defendant-Satterlee, to be delivered to their above noted residence.

8. On Wednesday, March 10, 2004, an employee of defendant-Satterlee arrived at the Madinger's residence to fill their fuel oil tank, located in the basement of their home. At the same time, the Madingers were in the process of taking their son to work. However, before leaving, the Madingers informed the Satterlee employee that the fuel oil fill pipe was located in the front of the house, approximately half way up the front of the house between the windows.

9. Despite the fact that the Madingers informed the Satterlee employee of the location of the fuel oil pipe, and despite the fact that it was clearly visible from a cursory inspection of the front of the home, the driver located a rusty coffee can located behind the front shrubs, which was covering a plastic drain pipe, and filled the plastic drain pipe with approximately 150 gallons of #2 Fuel Oil.

10. This plastic drain pipe connected directly to the subsurface gravel layer beneath the basement slab of the Madinger residence.

11. As a result of this action by the Satterlee employee, a substantial amount of this oil was then discharged into the drain line behind the house, entering a wetland area in the rear portion of the Madinger property.

12. In addition, a substantial amount of the oil remained in the basement foundation itself. Some of this fuel oil traveled to the sump pump area of the Madinger basement, which was ultimately discharged into a side yard area, and some of it remained in the basement itself.

13. When the Madingers returned home later that day, they detected a strong odor of fuel oil throughout their house. Mr. Madinger went into his basement to investigate, and he discovered that the fuel oil tank was empty. Upon further investigation, he discovered that the fuel oil had leaked into their sump pump, as well as into the wetland area in the rear part of their yard. He then realized that the driver had pumped the fuel oil into the wrong pipe, which was confirmed by a note left by the driver, referencing “the old coffee can is rusted through”.

14. Several weeks after this event, residual amounts of oil continued to remain under the basement slab, and following rainfall events, the oil entered the basement floor

drains and sump pump, and was then discharged into the Madinger's side yard. As a result, the Madingers had to turn off their sump pump, which resulted in flooding to their basement, additional contamination of fuel oil product across the basement floor, and additional damage to items of personal property in their basement.

15. At the present time, the Madinger's are still noting the residual effects from the oil spill, and expect to continue to note these effects indefinitely into the future. They have noted the presence of an oil slick in their toilet water, and they continue to endure the odors of fuel oil in their home, as the odors have seeped into essentially every area in their home, permeating their carpets, as well as the very clothing that they wear.

16. Prior to the event described herein above, the Madingers lived in peaceful possession of their residence with their 2 sons, ages 16 and 19, and their daughter, age 13. They were able to fully enjoy all of the amenities of their home, including drinking water, which was supplied to them via underground well(s) located on their property. In addition to using their well water for drinking, said plaintiffs also used their water for cooking, washing and bathing.

17. Prior to the event described herein above, the Madingers raised livestock on their property, and they were able to feed their livestock from a lower field. Said plaintiffs also derived revenue from the sale of their livestock and livestock products.

18. As a direct and proximate result of the actions of the Satterlee driver, plaintiffs have sustained in the past, and may sustain in the future, the following injuries, damages and/or losses:

a) damage to various items of real and/or personal property, specifics of which will be supplied in discovery in this matter;

- b) lost revenue from the sale of livestock and livestock related products;
- c) plaintiffs were required to install a new fence and fence posts in their rear yard area in order to keep their livestock from feeding in the lower contaminated field;
- d) Plaintiffs have been required to, and will in the future be required to purchase additional supplies of grain and hay in order to feed their livestock;
- e) Plaintiffs have past lost income, and may lose income in the future, as a result of having to take days off of work to meet with various environmental representatives, and to clean up their property;
- f) Plaintiffs had to re-seed their yard and a neighbor's yard;
- g) Plaintiffs have in the past, and will in the future, be required to purchase water for drinking and cooking purposes, since their well water has become unsafe for human consumption;
- h) Plaintiffs have in the past, and will in the future, be required to expend sums of money to use of laundry mat facilities in order to wash and dry their clothes, since their well water now leaves an odor of fuel oil on their clothes;
- i) plaintiffs may in the future be required to seal their basement drain holes with concrete, and purchase of air purifiers;
- j) plaintiffs may in the future be required to locate an alternate source for their water, at additional cost;
- k) plaintiffs may in the future be required to obtain approvals and/or permits from the appropriate county soil conservation district, should they embark upon any future earth disturbance and/or development on their premises;

- l) plaintiffs have sustained a diminution in the value of their residential real estate;
- m) Plaintiffs have been exposed to Federal, State, Municipal, and/or private legal actions based upon the subject oil spill and the resulting pollution, due to Plaintiffs' statutory status as "responsible parties";
- n) monitoring and cleanup costs associated with the fuel oil spill, an amount currently in excess of \$20,000.00;
- o) plaintiffs have sustained a general loss of the peaceful use and enjoyment of their residential real estate;
- p) plaintiffs have suffered an increased risk of future injury and/or disease as a result of exposure to air- and water-born toxins contained within the fuel oil;

COUNT ONE

NEGLIGENCE

- 19. Plaintiff's incorporate all prior paragraphs as though the same were set forth fully herein.
- 20. Defendant/Satterlee held itself out to the public as a professional residential and commercial oil delivery service. By necessary implication, when Defendant/Satterlee enters into oil delivery contracts with any of its customers, those customers are entitled to receive the full and fair benefit of Defendant/Satterlee's experience in exchange for their payment. Said benefits include the competent discharge of contractual obligations and compliance with any and all applicable laws and industry customs/standards prevalent in the area.

21. Pursuant to its contract with the Plaintiffs, and all reasonable and necessary implications drawn therefrom, including the reasonable consumer expectations and intended reliance, Defendant/Satterlee owed a duty to the Plaintiffs to:

- a) exercise reasonable care in the performance of its home heating oil delivery services;
- b) perform said services in a good and workmanlike manner and in accordance with the *Clean Streams Law*, 35 PS § 691.1, *et seq*; and
- c) adhere to all local industry practices and customs, including those which would preclude the delivery of fuel into an unmarked plastic pipe without first confirming that said pipe leads directly into the consumer's fuel oil tank.

22. Defendant/Satterlee, through its agents, servants, and/or employees was negligent and/or careless in the following manner:

- a) Failure to listen to the instructions of the Plaintiffs as to the location of the fuel oil fill pipe in the front of the Madinger residence;
- b) Failing to heed the instructions of the Plaintiffs regarding the location of the fuel oil fill pipe in the front of the Madinger residence;
- c) Failing to perform a full and complete view of the front exterior of the Madinger residence, so as to determine the correct location of the fuel oil fill pipe;
- d) Failure to independently verify that the plastic pipe that was filled with the fuel oil was directly connected to the fuel oil tank;
- e) Failing to note, during the discharge process of the fuel oil, that the fuel oil tank was not being filled, and/or that the fuel oil was being spilled into an area directly underneath the Madinger residence;

f) Violating the above noted statutes, regulations, and/or ordinances, so as to create a public nuisance and expose Plaintiffs to Federal, State, Municipal, and/or private legal actions based upon the subject oil spill and the resulting pollution, due to Plaintiffs' statutory status as "responsible parties";

g) Failing to properly train, instruct, and/or supervise employees in the customs of the industry and/or the appropriate procedures to follow regarding the dispensation of fuel oil into a home residence;

h) Failing to effectuate appropriate and immediate remedial efforts, so as to limit the extent of contamination and ensuing damages;

23. As a direct and proximate result of the above noted negligence of Defendant/Satterlee, Plaintiffs have suffered the injuries, damages, and/or losses, set forth herein above.

WHEREFORE, Plaintiffs demand judgment against Defendant/Satterlee for an amount in excess of \$25,000.00, and/or the maximum jurisdictional amount requiring mandatory arbitration.

COUNT TWO – TORTIOUS INTERFERENCE

WITH PEACEFUL POSSESSION OF PROPERTY

24. Plaintiff's incorporate all prior paragraphs as though the same were set forth fully herein.

25. Defendant/Satterlee's negligent acts and/or omissions, set forth herein above, have drastically diminished the use and enjoyment which Plaintiffs are able to receive from their home, due to the presence of contaminated water supplies, oil vapors, and suspended organic pollutants which still permeate Plaintiff's home. Furthermore,

Plaintiffs have lost the use of the lower portion of their property for use as a grazing pasture for their livestock, due to the settlement of oil pollutants in that area.

26. Plaintiffs have suffered, and continue to suffer, extreme inconvenience, embarrassment, discomfort and other related hardships as a direct result of Defendant/Satterlee's negligent conduct.

WHEREFORE, Plaintiffs demand judgment against Defendant/Satterlee for an amount in excess of \$25,000.00, and/or the maximum jurisdictional amount requiring mandatory arbitration.

COUNT THREE – BREACH OF CONTRACT

27. Plaintiff's incorporate all prior paragraphs as though the same were set forth fully herein.

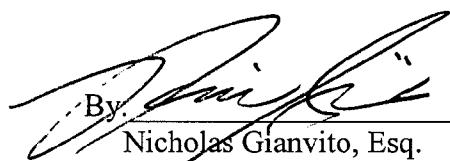
28. Sometime prior to March 10, 2004, the Madinger's entered into a contract with Defendant/Satterlee providing for the purchase, delivery, and dispensation of approximately 150 gallons of #2 Fuel Oil from Defendant/Satterlee. In exchange for valuable consideration paid unto Defendant/Satterlee, Defendant/Satterlee agreed to deliver and dispense the fuel oil requested, in a workmanlike manner, using all reasonable skill, care, diligence, and caution, and consistent with the standards of the industry.

29. Defendant/Satterlee breached his contractual obligations to Plaintiffs by failing to perform its obligations in a workmanlike manner, and/or in failing to exercise the requisite skill, care, diligence, and/or caution required by implication under said contract with the Plaintiff, through its actions and/or inactions, as set forth above.

30. As a direct and proximate result of the breach by Defendant/Satterlees, Plaintiffs have suffered the injuries, damages, and/or losses as set forth herein above.

WHEREFORE, Plaintiffs demand judgment against Defendant/Satterlee for an amount in excess of \$25,000.00, and/or the maximum jurisdictional amount requiring mandatory arbitration.

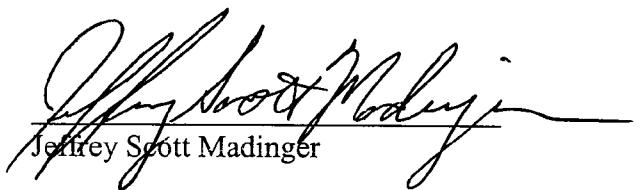
LORENZO & GIANVITO, P.C.


By: _____
Nicholas Gianvito, Esq.
Attorney for Plaintiff
410 West Mahoning St.
Punxsutawney, PA 15767
(814) 938-6390

VERIFIED STATEMENT

I, Jeffrey Scott Madinger, hereby verify that the statements set forth in the foregoing Complaint 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. CS Section 4904, relating to un-sworn falsification to authorities.

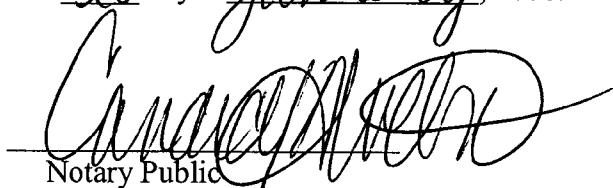
Date 1-28-06



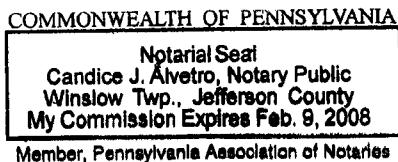
Jeffrey Scott Madinger

Sworn and subscribed before me

this 28 day of January, 2006.



Notary Public



VERIFIED STATEMENT

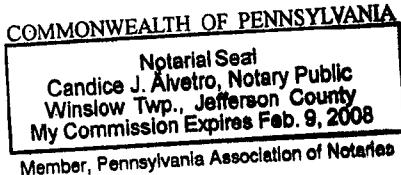
I, Cindy L. Madinger, hereby verify that the statements set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the Penalties of 18 Pa. CS Section 4904, relating to un-sworn falsification to authorities.

Date 1-28-06

Cindy L. Madinger
Cindy L. Madinger

Sworn and subscribed before me
this 28 day of January, 2006.

Candice J. Alvetro
Notary Public



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101193
NO: 06-108-CD
SERVICE # 1 OF 2
SUMMONS & PRAECIPE

PLAINTIFF: JEFFREY SCOTT MADINGER and CINDY L. MADINGER al

vs.

DEFENDANT: WILLIAM G. SATTERLEE & SONS, INC.

SHERIFF RETURN

NOW, January 31, 2006, SHERIFF OF INDIANA COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS & PRAECIPE ON WILLIAM G. and/or LOIS SATTERLEE.

NOW, February 07, 2006 AT 3:00 PM SERVED THE WITHIN SUMMONS & PRAECIPE ON WILLIAM G. and/or LOIS SATTERLEE, DEFENDANT. THE RETURN OF INDIANA COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

01/31/2006
FEB 22 2006
JAS

✓ M. Barb A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101193
NO: 06-108-CD
SERVICE # 2 OF 2
SUMMONS & PRAECIPE

PLAINTIFF: JEFFREY SCOTT MADINGER and CINDY L. MADINGER al
vs.
DEFENDANT: WILLIAM G. SATTERLEE & SONS, INC.

SHERIFF RETURN

NOW, January 31, 2006, SHERIFF OF INDIANA COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS & PRAECIPE ON DAVID E. SATTERLEE.

NOW, February 07, 2006 AT 3:00 PM SERVED THE WITHIN SUMMONS & PRAECIPE ON DAVID E. SATTERLEE, DEFENDANT. THE RETURN OF INDIANA COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101193
NO: 06-108-CD
SERVICES 2
SUMMONS & PRAECIPE

PLAINTIFF: JEFFREY SCOTT MADINGER and CINDY L. MADINGER al
vs.
DEFENDANT: WILLIAM G. SATTERLEE & SONS, INC.

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	LORENZO	17480	20.00
SHERIFF HAWKINS	LORENZO	17480	26.00
INDIANA CO.	LORENZO	17516	60.00

Sworn to Before Me This

So Answers,

____ Day of _____ 2006


Chester A. Hawkins
Sheriff

INDIANA COUNTY SHERIFF'S OFFICE

10493

PLAINTIFF MADINGER **JEFFREY SCOT** **date received:** 1/23/2006 **status:** C

VS **case number:** 06108CD

DEFENDANT SATTERLEE & WILLIAM G ET **paper type:** WRIT

ATTORNEY'S NAME CLEARFIELD COUNTY SHERIFF **LAST DAY OF SERVICE:** 2/23/2006

ATTORNEY'S ADDRESS: **# of services:** 2

ADVANCE CHARGED: \$100.00

RECEIVING DOCKETING: \$9.00 **SURCHARGE:** \$0.00

FOUND SERVICE: \$9.00 **NOTARY FEE:** \$10.00

NOT FOUND \$0.00 **MILEAGE:** \$26.00

ADDITIONAL DEFENDANTS SERVED \$6.00 **POSTAGE:** \$0.00

DEPUTIZATION \$0.00

TOTAL COSTS: \$60.00

REFUND DUE: \$40.00

RETURN OF SERVICE:

NOW 2/7/06 AT 3:00PM SERVED DAVID E SATTERLEE BY HANDING

TO KELLY HELMAN, ADM ASST AT 12475 RTE 119N ROCHESTER

MILLS PA-SNYDER

NOW 2/7/06 AT 3:00PM SERVED WM AND/OR LOIS SATTERLEE

BY HANDING TO ADM ASST AT 12475 RTE 119N ROCHESTER

MILLS PA-SNYDER

SWORN AND SUBSCRIBED BEFORE ME

THIS 17 DAY OF FEB 2006

Loretta J. Wissinger

NOTARIAL SEAL

LORETTA J. WISSINGER, NOTARY PUBLIC
INDIANA, INDIANA CO
MY COMMISSION EXPIRES MARCH 6, 2006

Robert E. Fyock
ROBERT E. FYOCK, SHERIFF
BY: Robert Snyder
DEPUTY ROBERT SNYDER

INDIANA COUNTY SHERIFF'S OFFICE

PLAINTIFF MADINGER JEFFREY SCOT date received: 1/23/2006 status: C

VS case number: 06108CD

DEFENDANT SATTERLEE & WILLIAM G ET paper type: WRIT

ATTORNEY'S NAME CLEARFIELD COUNTY SHERIFF LAST DAY OF SERVICE: 2/23/2006

ATTORNEY'S ADDRESS: # of services: 2

ADVANCE CHARGED: \$100.00

RECEIVING DOCKETING: \$9.00 SURCHARGE: \$0.00

FOUND SERVICE: \$9.00 NOTARY FEE: \$10.00

NOT FOUND: \$0.00 MILEAGE: \$26.00

ADDITIONAL DEFENDANTS SERVED: \$6.00 POSTAGE: \$0.00

DEPUTIZATION: \$0.00

TOTAL COSTS: \$60.00

REFUND DUE: \$40.00

RETURN OF SERVICE:

NOW 2/7/06 AT 3:00PM SERVED DAVID E SATTERLEE BY HANDING

TO KELLY HELMAN, ADM ASST AT 12475 RTE 119N ROCHESTER

MILLS PA-SNYDER

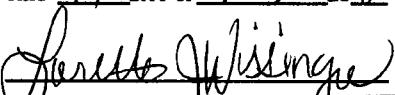
NOW 2/7/06 AT 3:00PM SERVED WM AND/OR LOIS SATTERLEE

BY HANDING TO ADM ASST AT 12475 RTE 119N ROCHESTER

MILLS PA-SNYDER

SWORN AND SUBSCRIBED BEFORE ME

THIS 17 DAY OF FEB 2006

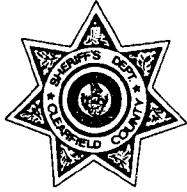


NOTARIAL SEAL

LOHETTA J. WISSINGER, NOTARY PUBLIC
INDIANA, INDIANA CO

MY COMMISSION EXPIRES MARCH 6, 2006


ROBERT E. FYOCK, SHERIFF
BY: 
DEPUTY ROBERT SNYDER



Sheriff's Office Clearfield County

CHESTER A. HAWKINS
SHERIFF

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 101193

TERM & NO. 06-108-CD

SUMMONS & *Pruegge*

vs.

WILLIAM G. SATTERLEE & SONS, INC.

SERVE BY: 02/22/06

MAKE REFUND PAYABLE TO LORENZO & GIANVITO, P.C.

SERVE: DAVID E. SATTERLEE

ADDRESS: 12475 ROUTE 119 NORTH, ROCHESTER MILLS, PA 15771

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depose the SHERIFF OF INDIANA COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, January 31, 2006.

INDIANA COUNTY SHERIFF
2006 FEB - 1 A.M. 58

RESPECTFULLY,

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

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA



Sheriff's Office Clearfield County

CHESTER A. HAWKINS
SHERIFF

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 101193

TERM & NO. 06-108-CD

JEFFREY SCOTT MADINGER and CINDY L. MADINGER al

SUMMONS & PRAECLipe

vs.

WILLIAM G. SATTERLEE & SONS, INC.

SERVE BY: 02/22/06

MAKE REFUND PAYABLE TO LORENZO & GIANVITO, P.C.

SERVE: WILLIAM G. and/or LOIS SATTERLEE

ADDRESS: RD#1, ROCHESTER MILLS, PA 15771

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 INDIANA COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, January 31, 2006.

INDIANA COUNTY SHERIFF

2006 FEB - 1 A q: 45

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,
Individually, as Husband and
Wife, and on behalf of their
minor children,**

Plaintiffs

Type of Case - **CIVIL**

No. *AO-108-CD*

Type of Pleading - **NOTICE OF
INTENT TO TAKE DEFAULT
JUDGMENT**

vs.

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,**

Defendant.

Filed on Behalf of -
PLAINTIFFS

Filed by- **NICHOLAS GIANVITO,
ESQ.**
Pa. I.D. #67190
LORENZO & GIANVITO, P.C.
410 West Mahoning Street
P.O. Box 495
Punxsutawney, PA 15767
(814) 938-6390

FILED *mc*
3/11/08 AM
APR 12 2006 *cm*

William A. Shaw
Prothonotary/Clerk of Courts

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,
Individually, as Husband and
Wife, and on behalf of their
minor children,**

No.

Plaintiffs

Vs.

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,**

Defendant

IMPORTANT NOTICE

TO THE DEFENDANT:

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 to your 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:

William A. Shaw, Prothonotary
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

LORENZO & GIANVITO, P.C.

Date: 4-4-06



BY: 
Nicholas Gianvito, Esq.
Attorney for Plaintiff
410 W. Mahoning St.
Punxsutawney, PA 15767
(814) 938-6390

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
DKT PG. 101193

JEFFREY SCOTT MADINGER & CINDY L. MADINGER

NO. 06-108-CD

-VS-

WILLIAM G. SATTERLEE & SONS, INC.

SUMMONS & PRAECIPE

AMENDED
SHERIFF'S RETURN

NOW APRIL 26, 2006 AMEND RETURN CHANGING SHERIFF COSTS FROM \$26.00 to \$34.00.

SO ANSWERS,


by Marlyn Hamr

CHESTER A. HAWKINS
SHERIFF

SWORN TO BEFORE ME THIS
DAY OF April 2006

FILED

013:3654
APR 26 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,
Individually, as Husband and Wife, and
on behalf of their minor children,

CIVIL DIVISION

No. 06-108-CD

Plaintiffs,

Issue No.

v.

WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,

Pleading:

Defendant.

PRAECIPE FOR APPEARANCE

Code No.

Filed on Behalf of Defendant
William G. Satterlee & Sons, Inc., a
corporation

Counsel of Record for this Party:

David P. Helwig, Esquire
PA ID # 26404

Adam G. Anderson, Esquire
PA ID # 93538

MARKS, O'NEILL, O'BRIEN &
COURTNEY, P.C.
Firm #263

2600 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 391-6171

FILED NO. 1
MAY 01 2006
2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JEFFREY SCOTT MADINGER and) CIVIL DIVISION
CINDY L. MADINGER,)
Individually, as Husband and Wife, and) No. 06-108-CD
on behalf of their minor children,)
)
Plaintiffs,)
)
v.)
)
WILLIAM G. SATTERLEE &)
SONS, INC., a Corporation,)
)
Defendant.)

PRAECLYPE FOR APPEARANCE

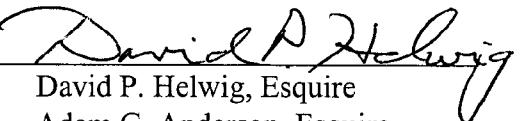
TO: Prothonotary of Clearfield County

Please enter the appearance of MARKS, O'NEILL, O'BRIEN & COURTNEY,
P.C., David P. Helwig, Esquire and Adam G. Anderson, Esquire on behalf of Defendant, William
G. Satterlee & Sons, Inc., a corporation, in the within action.

Respectfully submitted,

MARKS, O'NEILL, O'BRIEN
& COURTNEY, P.C.

BY:


David P. Helwig, Esquire
Adam G. Anderson, Esquire
Attorneys for Defendant
William G. Satterlee & Sons, Inc., a
corporation

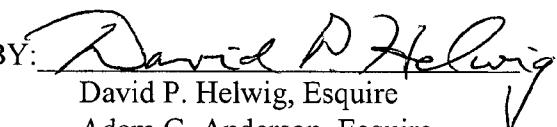
CERTIFICATE OF SERVICE

I the undersigned hereby certify that a true and correct copy of the foregoing document was served on the following counsel of record, by hand delivery and/ or first class mail, postage prepaid on April 28, 2006.

Nicholas Gianvito, Esquire
LORENZO & GIANVITO, P.C.
410 West Mahoning Street
P.O. Box 495
Punxsutawney, PA 15767

MARKS, O'NEILL, O'BRIEN
& COURTNEY, P.C.

BY:


David P. Helwig, Esquire
Adam G. Anderson, Esquire
Attorneys for Defendants
William G. Satterlee & Sons, Inc., a
corporation

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FILED

MAY 08 2006

11:55 AM
William A. Shaw
Prothonotary/Clerk of Courts

1 CENT TO ATT

JEFFREY SCOTT MADINGER and) CIVIL DIVISION
CINDY L. MADINGER,)
Individually, as Husband and Wife, and) No. 06-108-CD
on behalf of their minor children,)
Plaintiffs,)
v.)
WILLIAM G. SATTERLEE &)
SONS, INC., a Corporation,)
Defendant.)

TO Plaintiffs

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN
RESPONSE TO THE ENCLOSED New Matter
WITHIN TWENTY (20) DAYS FROM SERVICE HEREOF.
JUDGMENT MAY BE ENTERED AGAINST YOU.

MARKS O'NEILL, REILLY, O'BRIEN & COURTNEY, P.C.


Attorney for () Defendant Plaintiff Additional Defendant

DEFENDANT'S ANSWER AND NEW MATTER

William G. Satterlee & Sons, Inc. ("Satterlee") responds to Plaintiff's Complaint as follows.

ANSWER

1. Admitted based on information and belief.
2. After reasonable investigation Satterlee is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 2 of the Complaint.
3. Admitted in part and denied in part. Satterlee's address is 12475 Route 119 North, Rochester Mills, Indiana County, Pennsylvania 15771.
4. Admitted.
5. Admitted in part and denied in part. As a corporation Satterlee only can act through its agents, servants and/or employees. Satterlee admits that the person who delivered fuel oil to Plaintiffs on March 10, 2004 was its employee. Satterlee denies the general averment that at all times material to the Complaint Satterlee

acted through its agents, servants and/or employees insofar as the Complaint does not identify a specific act.

6. Admitted based on information and belief.
7. Admitted.
8. Admitted in part and denied in part. Cindy Madinger told Satterlee's employee that the fuel oil fill pipe was in front of the house behind a bush below a window to which she was pointing. After reasonable investigation Satterlee is without knowledge or information sufficient to form a belief as to the truth of the averment that Plaintiffs were in the process of taking their son to work.
9. Admitted in part and denied in part. Satterlee admits that its employee discharged approximately 150 gallons of #2 Fuel Oil into a pipe other than the fuel oil pipe, and that the pipe into which the fuel oil was discharged was covered by a rusty coffee can. Satterlee denies the averment that Plaintiffs informed Satterlee's employee of the location of the fuel pipe insofar as Plaintiffs seek to imply that the information which Cindy Madinger provided about the fuel oil pipe's location was unambiguous, and deny that the fuel oil pipe was clearly visible from a cursory inspection.
10. Admitted based on information and belief.
11. Admitted. The fuel oil which entered the "wetland area" or pond floated on the water's surface and was promptly cleaned up by Satterlee.
12. Admitted in part and denied in part. Based on information and belief Satterlee admits that subsequent to March 10, 2004 some fuel oil was found in Plaintiffs' sump pump and side yard. After reasonable investigation Satterlee is without

knowledge or information sufficient to form a belief as to the source of that fuel oil. Satterlee denies that a substantial amount of the fuel oil delivered by it on March 10, 2004 remained in Plaintiffs' basement foundation. Satterlee believes that most of the fuel oil was discharged into the drain line behind Plaintiff's house which is identified in paragraph 11.

13. Admitted in part based on information and belief. After reasonable investigation Satterlee is without knowledge or information sufficient to form a belief as to the source of the fuel oil in Plaintiffs' sump pump.
14. Admitted in part based on information and belief. After reasonable investigation Satterlee is without knowledge or information sufficient to form a belief as to the source of the fuel oil in Plaintiffs' sump pump and side yard.
15. After reasonable investigation Satterlee is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 15 of the Complaint.
16. After reasonable investigation Satterlee is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 16 of the Complaint. Satterlee does not know what the condition of the Plaintiffs' wells was before March 10, 2004. It has been reported that there was a previous fuel oil spill at Plaintiffs' residence as to which no remedial measures were taken.
17. After reasonable investigation Satterlee is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 16 of the Complaint.
18. Denied in accordance with Pa. R.C.P. 1029(e).

19. Satterlee incorporates paragraphs 1 through 18 of this Answer by reference.
20. Satterlee admits that it is a professional residential and commercial oil delivery service. The remainder of paragraph is denied in accordance with Pa. R.C.P. 1029(e).
21. Denied in accordance with Pa. R.C.P. 1029(e).
22. Denied in accordance with Pa. R.C.P. 1029(e).
23. Denied in accordance with Pa. R.C.P. 1029(e).
24. Satterlee incorporates paragraphs 1 through 23 of this Answer by reference.
25. Denied in accordance with Pa. R.C.P. 1029(e).
26. Denied in accordance with Pa. R.C.P. 1029(e).
27. Satterlee incorporates paragraphs 1 through 26 of this Answer by reference.
28. Admitted in part and denied in part. Satterlee admits that there was a non-written agreement between it and Plaintiffs under which Satterlee was to delivery fuel oil and Plaintiffs were to pay for the fuel which was delivered. Satterlee denies that there was any other agreement and denies that it had any contractual obligation other than to deliver the quantity of fuel oil requested by Plaintiffs.
29. Satterlee denies that it breached any contractual obligation to Plaintiffs.
30. Denied in accordance with Pa. R.C.P. 1029(e).

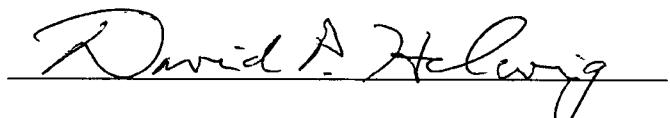
NEW MATTER

1. Counts Two and Three of the Complaint fail to state causes of action.
2. The Complaint fails to state a cause of action insofar as it purports to seek recovery on behalf of Plaintiffs' children.

3. The Complaint fails to state a cause of action insofar as it purports to seek recovery for increased risk of future injury and/or disease.
4. Plaintiffs have failed to take reasonable steps to mitigate their damages, including not taking sufficient measures to ventilate their residence after the events of March 10, 2004.
5. Plaintiffs may not recover for items of damages which have been paid for by anyone other than them or their insurer.

WHEREFORE, William G. Satterlee & Sons, Inc. denies liability to Plaintiffs and requests that judgment be entered in its favor.

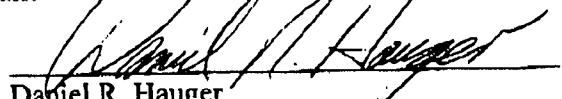
Respectfully submitted,



MARKS, O'NEILL, O'BRIEN & COURTNEY P.C.
Pa. I.D. #263
David P. Helwig
Pa. I.D. #26404
2600 Gulf Tower
707 Grant Street
Pittsburgh, PA. 15219
(412) 391-6171

VERIFICATION

I verify that the facts contained in this Answer and New Matter are true based on personal knowledge, information and/or belief. I make this verification subject to the penalties of 42 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.



Daniel R. Hauger
Authorized representative for
William G. Satterlee & Sons, Inc.

Dated: May 5, 2006

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,**

Individually, as Husband and Wife, and
on behalf of their minor children,

Type of Case - **CIVIL**

No. **06-108-CD**

Plaintiffs

Type of Pleading – **PLAINTIFF'S
REPLY TO DEFENDANT'S
NEW MATTER**

vs.

Filed on Behalf of - **PLAINTIFFS**

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,**

Filed by – **NICHOLAS
GIANVITO, ESQ.**

Pa. I.D. #67190
LORENZO & GIANVITO, P.C.
410 West Mahoning Street
P.O. Box 495
Punxsutawney, PA 15767
(814) 938-6390

Defendant.

FILED
m 11:58 AM NO CC
AUG 21 2006
LS

William A. Shaw
Prothonotary/Clerk of Courts

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,**

Individually, as Husband and Wife, and
on behalf of their minor children,

Plaintiffs

vs.

No. 06-108-CD

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation**

Defendant.

PLAINTIFF'S REPLY TO DEFENDANT'S NEW MATTER

AND NOW, come the plaintiffs, JEFFREY SCOTT MADINGER AND CINDY L. MADINGER, by his attorneys, LORENZO & GIANVITO, P.C., and presents the following Plaintiff's Reply to Defendant's New Matter, of which the following is a concise summary:

1. The averments of Paragraph 1 of Defendant's New Matter constitute conclusions of law to which no reply is necessary. To the extent that a reply may be deemed necessary, said averments are denied.
2. The averments of Paragraph 2 of Defendant's New Matter constitute conclusions of law to which no reply is necessary. To the extent that a reply may be deemed necessary, said averments are denied.

3. The averments of Paragraph 3 of Defendant's New Matter constitute conclusions of law to which no reply is necessary. To the extent that a reply may be deemed necessary, said averments are denied.

4. To the extent that the averments of Paragraph 4 constitute conclusions of law, no reply is necessary. To the extent that the averments of Paragraph 4 constitute averments of fact, it is specifically denied that Plaintiffs failed to take reasonable steps to mitigate their damages. To the contrary, Plaintiffs at all times following the events of March 10, 2004, acted in a reasonable fashion so as to attempt to mitigate the damages sustained solely by the actions of Defendant, acting through its agents, servants, and/or employees.

5. The averments of Paragraph 5 of Defendant's New Matter constitute conclusions of law to which no reply is necessary. To the extent that a reply may be deemed necessary, said averments are denied.

WHEREFORE, Plaintiffs respectfully request this Honorable Court dismiss the New Matter of Defendant, and enter judgment in favor of Plaintiff as prayed for in Plaintiff's Complaint.

Respectfully submitted,

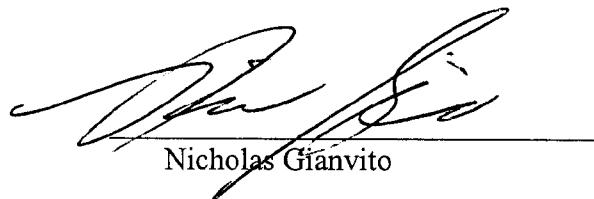
LORENZO & GIANVITO, P.C.



By: 
Nicholas Gianvito, Esq.
Attorney for Plaintiff
410 West Mahoning St.
Punxsutawney, PA 15767
(814) 938-6390

STATE OF PENNSYLVANIA
SS:
COUNTY OF JEFFERSON

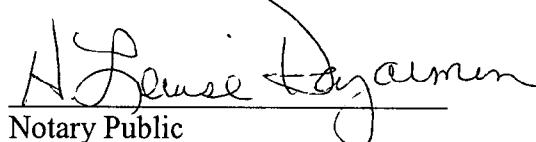
NICHOLAS GIANVITO, ESQ., being duly sworn according to law, depose and say that I am the attorney for the plaintiffs, JEFFREY SCOTT MADINGER and CINDY MADINGER, that I am authorized to make this affidavit on their behalf, that the facts set forth in the foregoing Reply to New Matter are true and correct, not of my own knowledge, but from information supplied to me by said plaintiffs, that the purpose of this affidavit is to expedite the litigation, and that an affidavit of the plaintiffs will be supplied if demanded.



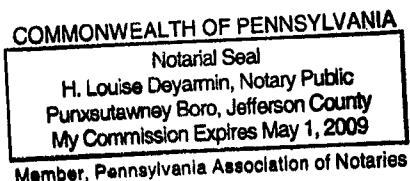
Nicholas Gianvito

Sworn and subscribed before me this

18th day of August, 2006.



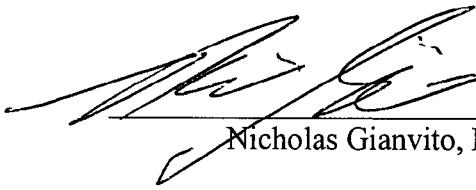
H. Louise Deyamin
Notary Public



CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of August, 2006, true and correct copies of the foregoing Plaintiff's Reply to Defendant's New Matter were forwarded via first-class mail, postage prepaid, to the following:

David P. Helwig, Esq.
Marks, O'Neill, O'Brien & Courtney, P.C.
Suite 2600, Gulf Tower
707 Grant Street
Pittsburgh, PA 15219



—

Nicholas Gianvito, Esq.

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,**
Individually, as Husband and Wife, and
on behalf of their minor children,

Plaintiffs
vs.

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,**

Defendant.

Type of Case - **CIVIL**

No. 06-108-CD

Type of Pleading – **NOTICE OF SERVICE**

Filed on Behalf of - **PLAINTIFFS**

Filed by – **NICHOLAS GIANVITO, ESQ.**
Pa. I.D. #67190
LORENZO & GIANVITO, P.C.
410 West Mahoning Street
P.O. Box 495
Punxsutawney, PA 15767
(814) 938-6390

FILED NO
MJS/2006
AUG 21 2006
2006

William A. Shaw
Prothonotary/Clerk of Courts

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,
Individually, as Husband and Wife, and
on behalf of their minor children,**

No. 06-108-CD

Plaintiffs

vs.

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,**

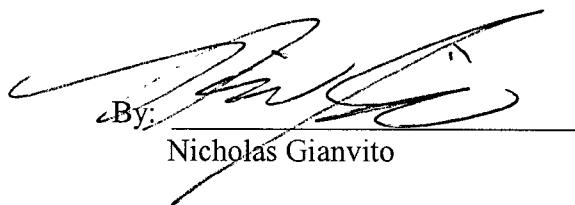
Defendant.

NOTICE OF SERVICE

TO THE PROTHONOTARY:

Please be advised that Plaintiffs' First Set of Interrogatories, First Request for Production of Documents, directed to Defendant, were served upon said defendant via their counsel: David P. Helwig, Marks, O'Neill, O'Brien & Courtney, P.C., Suite 2600 Gulf Tower, 707 Grant Street, Pittsburgh, PA 15219, this 18th day of August, 2006 via regular first class US mail, postage prepaid.

LORENZO & GIANVITO, P.C.


By: _____
Nicholas Gianvito

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,**
Individually, as Husband and Wife, and
on behalf of their minor children,

Type of Case - **CIVIL**

No. **06-108-CD**

Plaintiffs

Type of Pleading - **PLAINTIFF'S
REPLY TO DEFENDANT'S
NEW MATTER**

vs.

Filed on Behalf of - **PLAINTIFFS**

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,**

Filed by - **NICHOLAS
GIANVITO, ESQ.**
Pa. I.D. #67190
LORENZO & GIANVITO, P.C.
410 West Mahoning Street
P.O. Box 495
Punxsutawney, PA 15767
(814) 938-6390

Defendant.

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AUG 31 2006
WS

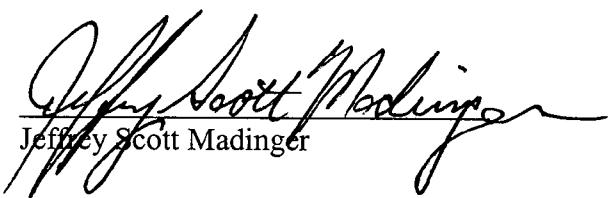
William A. Shaw
Prothonotary/Clerk of Courts

VERIFIED STATEMENT

I, Jeffrey Scott Madinger, hereby verify that the statements set forth in the foregoing Plaintiff's Reply to Defendant's 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. CS Section 4904, relating to un-sworn falsification to authorities.

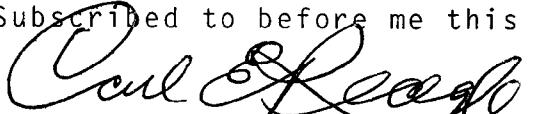
Date Aug 26-06

Jeffrey Scott Madinger

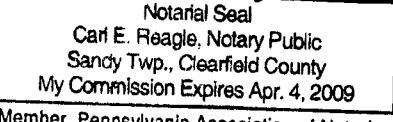


State of Pa.
County of Clearfield:

Subscribed to before me this 26th day of August 2006



COMMONWEALTH OF PENNSYLVANIA

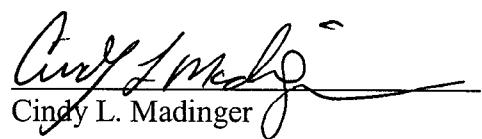


Member, Pennsylvania Association of Notaries

VERIFIED STATEMENT

I, Cindy L. Madinger, hereby verify that the statements set forth in the foregoing Plaintiff's Reply to Defendant's 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. CS Section 4904, relating to un-sworn falsification to authorities.

Date Aug 26-06



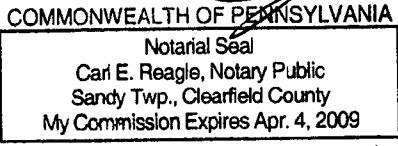
Cindy L. Madinger

State Of Pa.
County of Clearfield

Subscribed to before me this 26th Day of August 2006



Carl E. Reagle



Member, Pennsylvania Association of Notaries

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,**
Individually, as Husband and Wife, and
on behalf of their minor children,

Type of Case - **CIVIL**

Plaintiffs

No. **06-108-CD**

Type of Pleading – **NOTICE OF
DEPOSITIONS**

vs.

Filed on Behalf of - **PLAINTIFFS**

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,**

Filed by – **NICHOLAS GIANVITO, ESQ.**
Pa. I.D. #67190
LORENZO & GIANVITO, P.C.
410 West Mahoning Street
P.O. Box 495
Punxsutawney, PA 15767
(814) 938-6390

Defendant.

FILED

APR 18 2007

4/12/07 (W) (6K)

William A. Shaw

Prothonotary/Clerk of Courts

1 cent to Att'l

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,**
Individually, as Husband and Wife, and
on behalf of their minor children,

Plaintiffs

VS.

No. 06-108-CD

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation**

Defendant.

NOTICE OF DEPOSITIONS

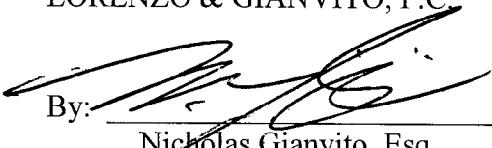
PLEASE TAKE NOTICE that pursuant to the Pennsylvania Rules of Civil Procedure, JEFFREY SCOTT MADINGER and CINDY L. MADINGER, plaintiffs herein, give notice that the depositions of the following individuals will be taken on TUESDAY, MAY 8, 2007 at the law offices of Lorenzo & Gianvito, P.C., 410 W. Mahoning Street, Punxsutawney, PA 15767.

The depositions will be taken upon oral examination for all purposes provided for and allowed by the Pennsylvania Rules of Civil Procedure.

George Zambory 9:00 AM

Daniel Hauger 10:00 AM

LORENZO & GIANVITO, P.C.

By: 

Nicholas Gianvito, Esq.
Attorney for Plaintiffs

April 17, 2007

CERTIFICATE OF SERVICE

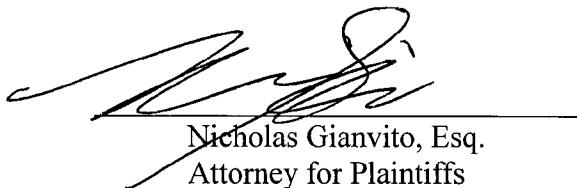
I hereby certify that on the 17th day of April, 2007, a true and correct copy of the foregoing Notice of Depositions was mailed first class mail, postage prepaid to the following:

David P. Helwig, Esq.
Marks, O'Neill, O'Brien & Courtney, P.C.
Suite 2600 Gulf Tower
707 Grant St.
Pittsburgh, PA 15219

George Zambory
327 Scotland Avenue
Punxsutawney, PA 15767

Dan Hauger
% David P. Helwig, Esq.
Marks, O'Neill, O'Brien & Courtney, P.C.
Suite 2600 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

Sargent's Court Reporting
210 Main Street
Johnstown, PA 15901



Nicholas Gianvito, Esq.
Attorney for Plaintiffs

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,**
Individually, as Husband and Wife, and
on behalf of their minor children,

Plaintiffs

vs.

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,**

Defendant.

Type of Case - **CIVIL**

No. **06-108-CD**

Type of Pleading – **NOTICE OF
DEPOSITIONS**

Filed on Behalf of - **PLAINTIFFS**

Filed by – **NICHOLAS GIANVITO, ESQ.**
Pa. I.D. #67190
LORENZO & GIANVITO, P.C.
410 West Mahoning Street
P.O. Box 495
Punxsutawney, PA 15767
(814) 938-6390

FILED

OCT 09 2007
m 112-7064 (6K)
William A. Shaw
Prothonotary/Clerk of Courts
l c Enr to Att

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,
Individually, as Husband and Wife, and
on behalf of their minor children,**

Plaintiffs

vs.

No. 06-108-CD

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation**

Defendant.

NOTICE OF DEPOSITIONS

PLEASE TAKE NOTICE that pursuant to the Pennsylvania Rules of Civil Procedure, JEFFREY SCOTT MADINGER and CINDY L. MADINGER, plaintiffs herein, give notice that the depositions of the following individuals will be taken on **WEDNESDAY, OCTOBER 17, 2007**, at the law offices of Lorenzo & Gianvito, P.C., 410 W. Mahoning Street, Punxsutawney, PA 15767.

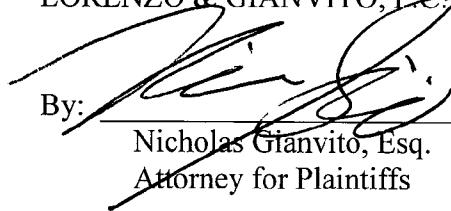
The depositions will be taken upon oral examination for all purposes provided for and allowed by the Pennsylvania Rules of Civil Procedure.

W. Gary Satterlee 10: 00 AM

David E. Satterlee 10:30 AM

October 5, 2007

LORENZO & GIANVITO, P.C.

By: 

Nicholas Gianvito, Esq.
Attorney for Plaintiffs

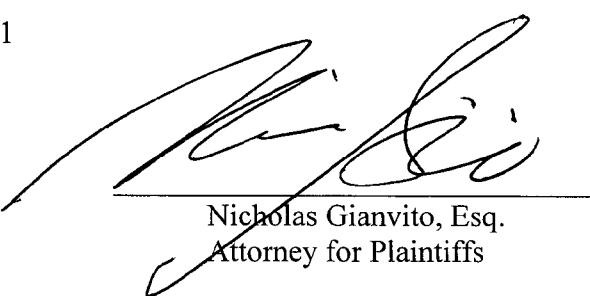
CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of October, 2007, a true and correct copy of the foregoing Notice of Depositions was mailed first class mail, postage prepaid to the following:

David P. Helwig, Esq.
Marks, O'Neill, O'Brien & Courtney, P.C.
Suite 2600 Gulf Tower
707 Grant St.
Pittsburgh, PA 15219

W. Gary Satterlee and David E. Satterlee
% David P. Helwig, Esq.
Marks, O'Neill, O'Brien & Courtney, P.C.
Suite 2600 Gulf Tower
707 Grant St.
Pittsburgh, PA 15219

Sargent's Court Reporting
210 Main Street
Johnstown, PA 15901



Nicholas Gianvito, Esq.
Attorney for Plaintiffs

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

JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,
Individually, as Husband and Wife, and
on behalf of their minor children,

Plaintiffs

Type of Case - CIVIL

No. 06-108-CD

vs.

WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,

Defendant.

Type of Pleading - PRAECIPE
FOR TRIAL LIST

Filed on Behalf of - PLAINTIFFS

Filed by - NICHOLAS GIANVITO, ESQ.
Pa. I.D. #67190

LORENZO & GIANVITO, P.C.
410 West Mahoning Street
P.O. Box 495
Punxsutawney, PA 15767
(814) 938-6390

FILED
MAY 27 2008
NO CC
GK

William A. Shaw
Prothonotary/Clerk of Courts

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,
Individually, as Husband and Wife, and
on behalf of their minor children,**

Plaintiffs

vs.

No. 06-108-CD

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation**

Defendant.

PRAECIPE FOR TRIAL LIST

TO THE PROTHONOTARY:

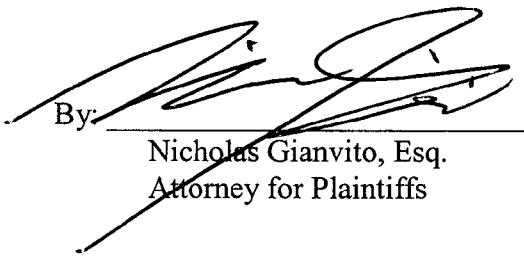
I certify on behalf of the plaintiffs, JEFFREY SCOTT MADINGER, et ux., et al.,
that:

- a) No motions are outstanding, discovery has been completed, and the case is ready for trial;
- b) This case is to be tried by a jury;
- c) Notice of this Praecipe has been given to defense counsel.

Please place this case on the next trial list.

LORENZO & GIANVITO, P.C.

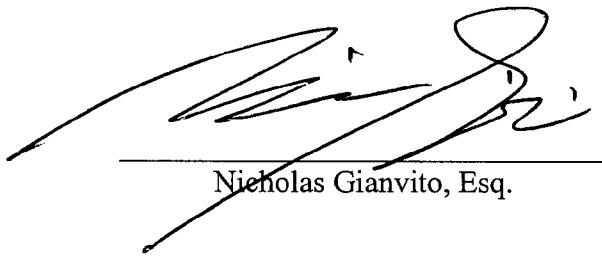
Date: 5/20/08

By: 
Nicholas Gianvito, Esq.
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of May, 2008, a true and correct copy of the foregoing Praeclipe for Trial List was mailed first class mail, postage prepaid to the following:

David P. Helwig, Esq.
Marks, O'Neill, O'Brien & Courtney, P.C.
Suite 2600 Gulf Tower
707 Grant St.
Pittsburgh, PA 15219



Nicholas Gianvito, Esq.

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

FILED

0 11:23a.m. 6K
JUN 10 2008

acc attys:
William A. Shaw
Prothonotary/Clerk of Courts

GIANVITO
Helwig

(60)

JEFFREY SCOTT MADINGER and :
CINDY L. MADINGER, Individually, :
as Husband and Wife, and :
on behalf of their minor children :
:
vs. : No. 06-108-CD
:
WILLIAM G. SATTERLEE & :
SONS, INC., a Corporation :
:

O R D E R

AND NOW, this 9th day of June, 2008, it is the Order of the Court that a pre-trial conference in the above-captioned matter shall be and is hereby scheduled for Tuesday, July 8, 2008 at 11:30 A.M. in Judges Chambers, Clearfield County Courthouse, Clearfield, PA. Additionally, Jury Selection in this matter will be held on July 24, 2008 at 9.00 A.M.

BY THE COURT:


PAUL E. CHERRY
Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JEFFREY SCOTT MADINGER and) CIVIL DIVISION
CINDY L. MADINGER,)
Individually, as Husband and Wife, and) No. 06-108-CD
on behalf of their minor children,)
)
Plaintiffs,)
)
v.)
)
WILLIAM G. SATTERLEE &)
SONS, INC., a Corporation,)
)
Defendant.)

ORDER OF COURT

AND NOW, this 2nd day of July, 2008, it is hereby ORDERED that Defendant's motion to permit its insurance carrier's representative to participate by telephone in the July 8, 2008 Pre-Trial Conference in this action is GRANTED. The representative shall be available by telephone beginning at 11:30 a.m. E.S.T. and continuing until such time as the Conference is concluded.

BY THE COURT:


PAUL E. CHERRY

Judge

FILED acc 444
07/03/08 Helwig
JUL 03 2008
WM

William A. Shaw
Prothonotary/Clerk of Courts

{PI101935.1}

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,
Individually, as Husband and Wife, and
on behalf of their minor children,

CIVIL DIVISION

No. 06-108-CD

Plaintiffs,

Issue No.

v.

WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,

Defendant.

Pleading:

FILED NOCC
m/10:35am
JUL 03 2008
WM
William A. Shaw
Prothonotary/Clerk of Courts

**MOTION TO PERMIT INSURANCE
CARRIER'S REPRESENTATIVE TO
PARTICIPATE IN PRE-TRIAL
CONFERENCE BY TELEPHONE**

Code No.

Filed on Behalf of Defendant
William G. Satterlee & Sons, Inc., a
corporation

Counsel of Record for this Party:

David P. Helwig, Esquire
PA ID # 26404

Adam G. Anderson, Esquire
PA ID # 93538

MARKS, O'NEILL, O'BRIEN &
COURTNEY, P.C.
Firm #263

2600 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 391-6171

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JEFFREY SCOTT MADINGER and)	CIVIL DIVISION
CINDY L. MADINGER,)	
Individually, as Husband and Wife, and)	No. 06-108-CD
on behalf of their minor children,)	
)	
Plaintiffs,)	
)	
v.)	
)	
WILLIAM G. SATTERLEE &)	
SONS, INC., a Corporation,)	
)	
Defendant.)	

**DEFENDANT'S MOTION TO PERMIT INSURANCE CARRIER'S
REPRESENTATIVE TO PARTICIPATE IN PRE-TRIAL CONFERENCE
BY TELEPHONE**

1. A Pre-Trial Conference is scheduled in this action for July 8, 2008 at 11:30 a.m.
2. Local Rule 212.4 requires that the person or corporation having an interest in the case, including a party's insurance carrier, be present in person at the pre-trial conference if the party's counsel does not have full settlement authority.
3. Counsel for Defendant does not have full settlement authority.
4. Defendant's insurer with respect to the claims asserted in this action is Zurich North America/Empire Fire & Marine Insurance Company.
5. The responsible Zurich North America claims representative's office is located in Schaumburg, Illinois, a suburb of Chicago.
6. Personal attendance at the July 8, 2008 pre-trial conference will impose a substantial hardship on the claims representative because of the distance to be traveled, the reduced number of airline flights due to increased jet fuel prices, and the time of day at which the pre-trial conference is scheduled..

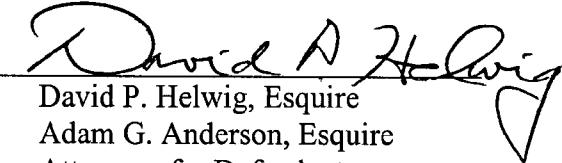
7. The responsible claims representative would be available to participate fully in the pre-trial conference by telephone if the Court will so permit.

8. Plaintiffs' counsel has been advised of this motion and has authorized Defendant's counsel to state that Plaintiffs do not oppose the motion.

WHEREFORE, William G. Satterlee & Sons, Inc. request the Court to permit its insurance carrier's claims representative to participate in the July 8, 2008 pre-trial conference in this action by telephone.

Respectfully submitted,

MARKS, O'NEILL, O'BRIEN
& COURTNEY, P.C.

BY: 
David P. Helwig, Esquire
Adam G. Anderson, Esquire
Attorneys for Defendant
William G. Satterlee & Sons, Inc., a
corporation

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JEFFREY SCOTT MADINGER and)	CIVIL DIVISION
CINDY L. MADINGER,)	
Individually, as Husband and Wife, and)	No. 06-108-CD
on behalf of their minor children,)	
)	
Plaintiffs,)	
)	
v.)	
)	
WILLIAM G. SATTERLEE &)	
SONS, INC., a Corporation,)	
)	
Defendant.)	

ORDER OF COURT

AND NOW, this _____ day of July, 2008, it is hereby ORDERED that Defendant's motion to permit its insurance carrier's representative to participate by telephone in the July 8, 2008 Pre-Trial Conference in this action is GRANTED. The representative shall be available by telephone beginning at 11:30 a.m. E.S.T. and continuing until such time as the Conference is concluded.

BY THE COURT:

PAUL E. CHERRY
Judge

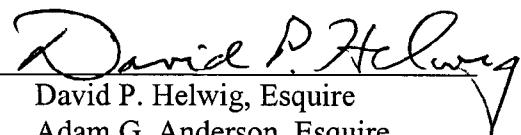
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following counsel of record by first class mail, postage prepaid on July 1, 2008.

Nicholas Gianvito, Esquire
LORENZO & GIANVITO, P.C.
410 West Mahoning Street
P.O. Box 495
Punxsutawney, PA 15767

MARKS, O'NEILL, O'BRIEN
& COURTNEY, P.C.

BY:


David P. Helwig, Esquire
Adam G. Anderson, Esquire
Attorneys for Defendants
William G. Satterlee & Sons, Inc., a
corporation

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

JEFFREY SCOTT MADDINGER : NO. 06-108-CD
and CINDY L. MADDINGER, :
Individually, as Husband and Wife, and :
on behalf of their minor children, :
Plaintiffs :
V. :
: :
WILLIAM G. SATTERLEE & SONS, :
INC., a Corporation, :
Defendant :
:

FILED
010:39 AM
JUL 09 2008

William A. Shaw
Prothonotary/Clerk of Courts
ICC Atty's: Helwig
Gianvito

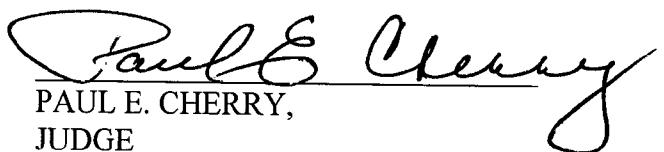
ORDER

AND NOW, this 8th day of July, 2008, following Pre-Trial Conference, it is the
ORDER of this Court as follows:

1. Jury Selection in this matter is scheduled for July 24, 2008, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Trial in this matter is scheduled for September 17, 18 and 19, 2008, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. The deadline for providing any and all outstanding discovery shall be by and no later than thirty (30) days prior to the commencement of trial.
4. Counsel for the parties, if they so desire, may submit a Trial Brief to the Court no more than thirty (30) days prior to the commencement of trial.
5. The deadline for submitting any and all Motions shall be by and no later than thirty (30) days prior to the commencement of trial.

6. Points for Charge shall be submitted to the Court by and no later than thirty (30) days prior to the commencement of trial.
7. Proposed Verdict Slip shall be submitted to the Court by and no later than thirty (30) days prior to the commencement of trial.
8. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,



PAUL E. CHERRY,
JUDGE

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,**
Individually, as Husband and Wife, and
on behalf of their minor children,

Type of Case - **CIVIL**

Plaintiffs

No. 06-108-CD

Type of Pleading – **PRAECIPE
TO DISCONTINUE**

vs.

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation,**

Filed on Behalf of - **PLAINTIFFS**

Defendant.

Filed by – **NICHOLAS GIANVITO**
Pa. I.D. #67190
LORENZO & GIANVITO, P.C.
410 West Mahoning Street
P.O. Box 495
Punxsutawney, PA 15767
(814) 938-6390

FILED 10001
m/f/13/08 Cert. of
DEC 05 2008 Disc. to

William A. Shaw
Prothonotary/Clerk of Courts

Atty
GW

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

**JEFFREY SCOTT MADINGER and
CINDY L. MADINGER,**
Individually, as Husband and Wife, and
on behalf of their minor children,

Plaintiffs

vs.

No. 06-108-CD

**WILLIAM G. SATTERLEE &
SONS, INC., a Corporation**

Defendant.

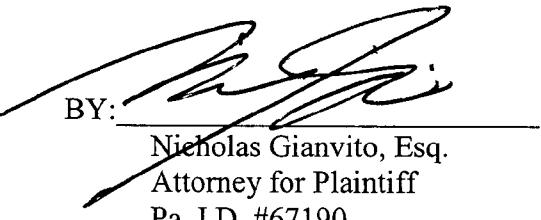
PRAECIPE FOR DISCONTINUANCE

TO THE PROTHONOTARY:

Please mark the above-captioned matter as settled, discontinued and terminated.

LORENZO & GIANVITO, P.C.

Date: Sept 10, 2008

BY: 

Nicholas Gianvito, Esq.
Attorney for Plaintiff
Pa. I.D. #67190
410 West Mahoning St.
PO Box 495
Punxsutawney, PA 15767
(814) 938-6390

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Jeffrey Scott Madinger
Cindy L. Madinger

Vs.
William G. Satterlee & Sons, Inc.

No. 2006-00108-CD

CERTIFICATE OF DISCONTINUATION

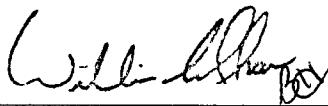
Commonwealth of PA
County of Clearfield

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 December 5, 2008, marked:

Settled, Discontinued and Terminated

Record costs in the sum of \$85.00 have been paid in full by Nicholas Gianvito, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 5th day of December A.D. 2008.



William A. Shaw, Prothonotary