

06-397-CD  
Comm of PA, dept of Trans. Vs  
Bruce A. Brandy

Comm of PA vs Bruce Brandy  
2006-397-CD

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

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION

v.

BRUCE A. BRANDY

: NO. 2006-397-CV

:

: Type of Pleading:

: PETITION TO FILE APPEAL

: NUNC PRO TUNC

:

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:

:

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: Counsel of record for this party:

:

: GARY A. KNARESBORO, ESQUIRE

: Supreme Court I.D. No. 52097

: 33 Beaver Drive, Suite 2

: DuBois, PA 15801

: Phone: (814) 375-2311

: Fax: (814) 375-2314

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FILED

MAR 16 2006

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

MAR 16 2006

012006  
William A. Shaw  
Prothonotary/Clerk of Courts

4 CLEW TO ATM

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

COMMONWEALTH OF PENNSYLVANIA, :  
DEPARTMENT OF TRANSPORTATION :  
: :  
v. : NO.  
: :  
BRUCE A. BRANDY :  
:

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2006, the Petitioner having filed a Petition to File Appeal Nunc Pro Tunc, after receiving Notice of the Department of Transportation suspending the Petitioner's Motor Vehicle Operating Privileges, it is hereby Ordered that after due consideration of the attached Petition to File Appeal Nunc Pro Tunc is hereby granted. The Petitioner shall have 30 days from the date of this Order to perfect his Appeal by filing the proper Petition before this Court, and the Court Administrator's Office is directed to schedule this matter for a Hearing at the next available License Suspension Appeal Hearing date.

It is further Ordered that the Petitioner herein shall send a certified copy of this Order and of the Petition for Appeal by certified United States mail to Pennsylvania Department of Transportation, Office of Chief Counsel, Third Floor, Riverfront Office Center, Harrisburg, PA 17104-2516. This Order shall act as a supersedeas of the action of the Pennsylvania Department of Transportation suspending Petitioner's motor vehicle operating privileges.

BY THE COURT:

---

JUDGE

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

COMMONWEALTH OF PENNSYLVANIA, :  
DEPARTMENT OF TRANSPORTATION :  
v. : NO.  
BRUCE A. BRANDY :  
:

PETITION TO FILE APPEAL NUNC PRO TUNC

AND NOW, comes the Petitioner, Bruce A. Brandy, by and through his attorney, Gary A. Knaresboro, Esquire, and sets forth the following:

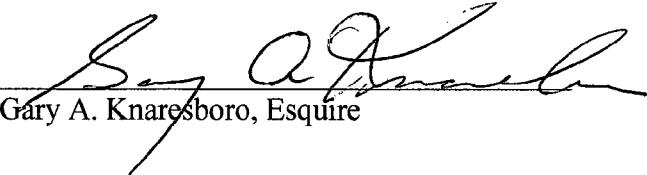
1. That the Petitioner, Bruce A. Brandy resides at 220 Coral Drive, Pittsburgh, PA 15241.
2. That the Petitioner's date of birth is 09/30/1957, and his Pennsylvania Driver License Number is 17950492
3. That on July 21, 2005, the Petitioner was found guilty by District Justice James Hawkins of the offense Driving Under Suspension 75 Pa. C.S.A. Section 1543(a).
4. That on August 23, 2005, the Petitioner filed a timely appeal pro se, entitled Petition for Appeal from Order of Secretary of Transportation Suspending Operator's License/Registration Plate Number, in Allegheny County. A true and correct copy is attached hereto and marked as Attachment "A".
5. That the Petitioner appeared before the Common Pleas Court of Allegheny County on October 12, 2005, whereby the Court issued an Order dismissing the appeal, delaying license suspension for five months, and giving the Petitioner 30

days to appeal. A true and correct copy is attached hereto and marked as Attachment "B".

6. That the Petitioner proceeded pro se in Allegheny County and without the benefit of Counsel.

WHEREFORE, the Petitioner requests this Honorable Court to grant the Petition to File Appeal Nunc Pro Tunc, and direct the Petitioner to perfect an Appeal to Common Pleas Court of Clearfield County within 30 days.

Respectfully submitted,



Gary A. Knaresboro, Esquire

265-PROTH

05 AUG 23 PM 2:12

FILED  
PROTHONOTARY  
ALLEGHENY COUNTY

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

COMMONWEALTH OF PENNSYLVANIA

vs.

Bruce A. Brandy

Defendants,

CIVIL DIVISION, ARBITRATION  
AND STATUTORY APPEALS ONLY

CASE NUMBER: SA-05-861

TYPE OF PLEADING: OPERATOR'S LICENSE SUSPENSION ✓  
REGISTRATION PLATE SUSPENSION

CODE AND CLASSIFICATION: 306

FILED ON BEHALF OF:

Bruce A. Brandy

(Name of party - indicate Plaintiff or Defendant)

NAME, ADDRESS AND TELEPHONE OF:

Counsel of Record  
 Individual, If Pro Se

Bruce A. Brandy

220 Coral Dr.

Pgh., Pa. 15241

412-401-1707

Attorney's State ID#

Attorney's Firm ID#

265-B PROTIN

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

COMMONWEALTH OF PENNSYLVANIA

vs.

Bruce A. Beane

Def.

Statutory Appeal Docket

No. SA \_\_\_\_\_

PETITION FOR APPEAL FROM ORDER OF SECRETARY OF TRANSPORTATION SUSPENDING  
OPERATOR'S LICENSE/REGISTRATION PLATE NUMBER.

TO THE HONORABLE JUDGES OF SAID COURT:

1. Petitioner is Bruce A. Beane an individualresiding at 370 CORAL DR. P.L. PH. 13044-15-8612A. On or about 29 July 2005, 20\_\_\_\_, petitioner received anotice from the PA Dept. of Transportation notifying him/her that his/her present operator's license, bearing  
card number 17950492 was being suspended as of July 29, 2005by reason of violation of Vehicle Code 1543 A

or. (STRIKE OUT THE INAPPLICABLE CLAUSE 2A OR 2B)

2B. On or about July 29, 2005, petitioner received a notice from

the PA Department of Transportation notifying him/her that his/her present registration plate number

was being suspended as of July 29, 2005

by reason of

A copy of said notice is attached hereto and marked Exhibit "A"

3. Petitioner respectfully prays that this appeal be allowed under Section 1550 of the Vehicle Code; that  
a hearing date be granted de novo to determine whether petitioner is subject to suspension of his/her  
license or registration plate number and this appeal act as a supersedeas pending said hearing.I, Bruce A. Beane, depose and say that the averments  
of the facts contained in the within appeal are true and correct to the best of my knowledge.

SWORN TO AND SUBSCRIBED BEFORE ME

This

day of July, 2005

Prothonotary

by

Deputy

(My Term Expires The First Monday in January 2006)

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
STATUTORY APPEALS BRANCH

BRUCE A. BRANDY

Petitioner/Defendant,

vs.

SA 861 OF 2005

Commonwealth of Pennsylvania,  
Department of Transportation,  
Respondent.OCT 12 AM 10:12  
PROTHONOTARY  
ALLEGHENY COUNTY

## ORDER OF COURT

AND NOW ON, OCTOBER 12, 2005, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

## 1.0. The appeal is:

1.1. DISMISSED.  
 1.2. SUSTAINED.  
 1.3. WITHDRAWN.  
 1.4. REMANDED to the Department of Transportation for correction of the record.  
 1.5. REMANDED to the Department of Transportation for to rescind the suspension and to reschedule the departmental hearing. Petitioner releases the Department from its responsibility under 75 Pa. C.S. §1551 to provide notification—within six months of the date of conviction—of any suspension to be imposed if the petitioner fails to attend the departmental hearing and any suspension that might be imposed pursuant to 75 Pa. C.S. §1538(b).

2.0. (Applicable only when Block 1.1 or 1.3 is "Checked") The petitioner requests and Court recommends a 5 month delay in commencement of the suspension

to provide the appellant an opportunity to resolve the underlying conviction; or,  
 for hardship reasons.

2.1. The petitioner acknowledges that the Department of Transportation will not grant a delay unless: (1) a supersedeas is currently in effect and (2) the petitioner does not have any other outstanding suspension, revocation, disqualification, cancellation or recall of driving privileges.

2.2. The petitioner agrees not to appeal the reimposition of the suspension should

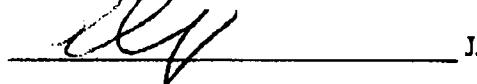
2.2.1 the appeal of underlying conviction remain unresolved for any reason or should the result of the appeal be unfavorable; or,

2.2.2 the petitioner has not received a medical clearance and/or completed the driving test.

2.3. The petitioner is responsible to ensure that the Clerk of Courts provides the Department of Transportation with a certified copy of the form DL-21 showing favorable final disposition of the underlying conviction.

3.0 (If applicable) The petitioner has THIRTY (30) days from the date of this decision to appeal to Commonwealth Court.

BY THE COURT:

 J.

04115

Prothonotary/Clerk of Courts  
William A. Shaw

MAR 16 2006

FILED

*Gary A. Knaresboro, Esquire*

33 BEAVER DRIVE, SUITE 2

DUBOIS, PA 15801

TELEPHONE (814) 375-2311

FAX (814) 375-2314

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

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION

vs.

BRUCE A. BRANDY

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NO. 06-397-CD

R U L E

NOW, this 17<sup>th</sup> day of March, 2006, upon consideration of the attached Petition to File Appeal Nunc Pro Tunc, a Rule is hereby issued upon the Commonwealth of Pennsylvania, Department of Transportation to Show Cause why the Petition should not be granted. Rule Returnable the 6th day of April, 2006, for filing written response. Counsel for the Commonwealth of Pennsylvania, Department of Transportation shall serve a copy of the written response on the Court.

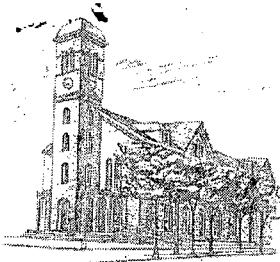
BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

FILED 2006 Atty Knobler  
03/17/2006 MAR 17 2006 100 Atty Kuhar  
GR

William A. Shaw  
Prothonotary/Clerk of Courts



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

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

**David S. Ammerman**  
Solicitor

**Jacki Kendrick**  
Deputy Prothonotary

**Bonnie Hudson**  
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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

Sincerely,

William A. Shaw  
Prothonotary

DATE: 3/17/06

You are responsible for serving all appropriate parties.

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

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

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

COMMONWEALTH OF PENNSYLVANIA :

v. :

NO. 2006-397-CD

BRUCE A. BRANDY :

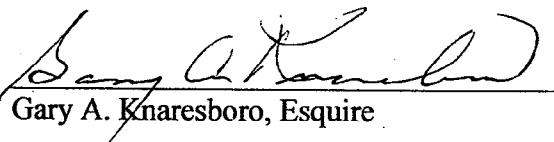
**CERTIFICATE OF SERVICE**

AND NOW, I do certify that on the 20th day of March, 2006, I caused to be served a true and correct copy of the Petition to File Appeal Nunc Pro Tunc, and Rule on the following by U.S. Regular Mail, postage prepaid:

PA Department of Transportation  
1209 State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222

Bruce A. Brandy  
220 Coral Drive  
Pittsburgh, PA 15241

Date: March 20, 2006

  
Gary A. Knaresboro, Esquire

FILED  
M 12 16 2006  
MAR 22 2006  
WM

William A. Shaw  
Prothonotary/Clerk of Courts

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

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION

: NO. 2006-397-C0

v.  
BRUCE A. BRANDY

: Type of Pleading:  
: PETITION TO FILE APPEAL  
: NUNC PRO TUNC

: Counsel of record for this party:

: GARY A. KNARESBORO, ESQUIRE  
: Supreme Court I.D. No. 52097  
: 33 Beaver Drive, Suite 2  
: DuBois, PA 15801  
: Phone: (814) 375-2311  
: Fax: (814) 375-2314

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

MAR 16 2006

: Attest.

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

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

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION

v. : NO.

BRUCE A. BRANDY

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2006, the Petitioner having filed a Petition to File Appeal Nunc Pro Tunc, after receiving Notice of the Department of Transportation suspending the Petitioner's Motor Vehicle Operating Privileges, it is hereby Ordered that after due consideration of the attached Petition to File Appeal Nunc Pro Tunc is hereby granted. The Petitioner shall have 30 days from the date of this Order to perfect his Appeal by filing the proper Petition before this Court, and the Court Administrator's Office is directed to schedule this matter for a Hearing at the next available License Suspension Appeal Hearing date.

It is further Ordered that the Petitioner herein shall send a certified copy of this Order and of the Petition for Appeal by certified United States mail to Pennsylvania Department of Transportation, Office of Chief Counsel, Third Floor, Riverfront Office Center, Harrisburg, PA 17104-2516. This Order shall act as a supersedeas of the action of the Pennsylvania Department of Transportation suspending Petitioner's motor vehicle operating privileges.

BY THE COURT:

JUDGE

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

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION

v. : NO.  
BRUCE A. BRANDY : :

PETITION TO FILE APPEAL NUNC PRO TUNC

AND NOW, comes the Petitioner, Bruce A. Brandy, by and through his attorney, Gary A. Knaresboro, Esquire, and sets forth the following:

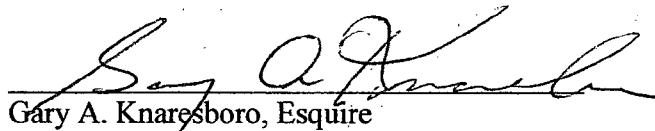
1. That the Petitioner, Bruce A. Brandy resides at 220 Coral Drive, Pittsburgh, PA 15241.
2. That the Petitioner's date of birth is 09/30/1957, and his Pennsylvania Driver License Number is 17950492
3. That on July 21, 2005, the Petitioner was found guilty by District Justice James Hawkins of the offense Driving Under Suspension 75 Pa. C.S.A. Section 1543(a).
4. That on August 23, 2005, the Petitioner filed a timely appeal pro se, entitled Petition for Appeal from Order of Secretary of Transportation Suspending Operator's License/Registration Plate Number, in Allegheny County. A true and correct copy is attached hereto and marked as Attachment "A".
5. That the Petitioner appeared before the Common Pleas Court of Allegheny County on October 12, 2005, whereby the Court issued an Order dismissing the appeal, delaying license suspension for five months, and giving the Petitioner 30

days to appeal. A true and correct copy is attached hereto and marked as Attachment "B".

6. That the Petitioner proceeded pro se in Allegheny County and without the benefit of Counsel.

WHEREFORE, the Petitioner requests this Honorable Court to grant the Petition to File Appeal Nunc Pro Tunc, and direct the Petitioner to perfect an Appeal to Common Pleas Court of Clearfield County within 30 days.

Respectfully submitted,



Gary A. Knaresboro, Esquire

265-PROTH

05 AUG 23 PM 2:12

FILED  
PROTHONOTARY  
ALLEGHENY COUNTY

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

COMMONWEALTH OF PENNSYLVANIA

vs.

Bruce A. Brandy

Defendants,

CIVIL DIVISION, ARBITRATION  
AND STATUTORY APPEALS ONLYCASE NUMBER: SA-05-861TYPE OF PLEADING: OPERATOR'S LICENSE SUSPENSION  
REGISTRATION PLATE SUSPENSION ✓CODE AND CLASSIFICATION: 306

FILED ON BEHALF OF:

Bruce A. Brandy(Name of party - indicate  
Plaintiff or Defendant)

NAME, ADDRESS AND TELEPHONE OF:

 Counsel of Record  
 Individual, If Pro SeBruce A. Brandy  
220 Coral Dr.  
Pgh, Pa. 15241412-401-1707

Attorney's State ID#

Attorney's Firm ID#

265-B PROTIN

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

COMMONWEALTH OF PENNSYLVANIA

vs.

Bruce A. Beasley

Def.

Statutory Appeal Docket

No. SA

PETITION FOR APPEAL FROM ORDER OF SECRETARY OF TRANSPORTATION SUSPENDING  
OPERATOR'S LICENSE/REGISTRATION PLATE NUMBER.

TO THE HONORABLE JUDGES OF SAID COURT

1. Petitioner is Bruce A. Beasley an individualresiding at 370 Coral Dr. P.L. Pa. 15344-15262A. On or about 29 July 2006, 2006, petitioner received anotice from the PA Dept. of Transportation notifying him/her that his/her present operator's license, bearing  
card number 17950492 was being suspended as of 30 July 2006, 2006by reason of violation of Vehicle Code 543 A

or. (STRIKE OUT THE INAPPLICABLE CLAUSE 2A OR 2B)

2B. On or about 30 July 2006, 2006, petitioner received a notice from

the PA Department of Transportation notifying him/her that his/her present registration plate number

was being suspended as of 30 July 2006, 2006

by reason of

A copy of said notice is attached hereto and marked Exhibit "A"

3. Petitioner respectfully prays that this appeal be allowed under Section 1550 of the Vehicle Code; that  
a hearing date be granted de novo to determine whether petitioner is subject to suspension of his/her  
license or registration plate number and this appeal act as a supersedeas pending said hearing.I, Bruce A. Beasley, depose and say that the averments  
of the facts contained in the within appeal are true and correct to the best of my knowledge.

SWEORN TO AND SUBSCRIBED BEFORE ME

This 13 day of July 2006

Prothonotary

by Bruce A. Beasley Deputy

(My Term Expires The First Monday in January 20

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
STATUTORY APPEALS BRANCH

BRUCE A. BRANDY

Petitioner/Defendant,

vs.

SA 861 OF 2005

Commonwealth of Pennsylvania,  
Department of Transportation,  
Respondent.OCT 12 AM 10:12  
PROTHONOTARY  
ALLEGHENY COUNTY

## ORDER OF COURT

AND NOW ON, OCTOBER 12, 2005, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

## 1.0. The appeal is:

1.1. DISMISSED.  
 1.2. SUSTAINED.  
 1.3. WITHDRAWN.  
 1.4. REMANDED to the Department of Transportation for correction of the record.  
 1.5. REMANDED to the Department of Transportation for to rescind the suspension and to reschedule the departmental hearing. Petitioner releases the Department from its responsibility under 75 Pa. C.S. §1551 to provide notification—within six months of the date of conviction—of any suspension to be imposed if the petitioner fails to attend the departmental hearing and any suspension that might be imposed pursuant to 75 Pa. C.S. §1538(b).

2.0. (Applicable only when Block 1.1 or 1.3 is "Checked") The petitioner requests and Court recommends a 5 month delay in commencement of the suspension

to provide the appellant an opportunity to resolve the underlying conviction; or,  
 for hardship reasons.

2.1. The petitioner acknowledges that the Department of Transportation will not grant a delay unless: (1) a supersedeas is currently in effect and (2) the petitioner does not have any other outstanding suspension, revocation, disqualification, cancellation or recall of driving privileges.

2.2. The petitioner agrees not to appeal the reimposition of the suspension should

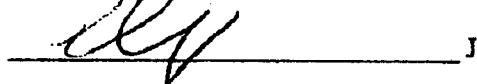
2.2.1 the appeal of underlying conviction remain unresolved for any reason or should the result of the appeal be unfavorable; or,

2.2.2 the petitioner has not received a medical clearance and/or completed the driving test.

2.3. The petitioner is responsible to ensure that the Clerk of Courts provides the Department of Transportation with a certified copy of the form DL-21 showing favorable final disposition of the underlying conviction.

3.0 (If applicable) The petitioner has THIRTY (30) days from the date of this decision to appeal to Commonwealth Court.

BY THE COURT:

 J.OK  
DALLIS

Attachment "B"

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

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION

vs.

BRUCE A. BRANDY

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\*  
\* NO. 06-397-CD  
\*

**R U L E**

NOW, this 17<sup>th</sup> day of March, 2006, upon consideration of the attached Petition to File Appeal Nunc Pro Tunc, a Rule is hereby issued upon the Commonwealth of Pennsylvania, Department of Transportation to Show Cause why the Petition should not be granted. Rule Returnable the 6th day of April, 2006, for filing written response. Counsel for the Commonwealth of Pennsylvania, Department of Transportation shall serve a copy of the written response on the Court.

BY THE COURT,

/s/ Fredric J. Ammerman

---

FREDRIC J. AMMERMAN  
President Judge

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

MAR 17 2006

Attest:

*John A. G.*  
Prothonotary/  
Clerk of Courts

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

Commonwealth of Pennsylvania,  
Department of Transportation

vs.

Bruce A. Brandy

No. 2006-397-CD

Answer and New Matter to Petition  
to File Appeal Nunc Pro Tunc

Filed on Behalf of:  
Commonwealth of Pennsylvania  
Department of Transportation

Counsel for this Party:

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

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

(412) 565-7555

**FILED**  
APR 06 2006  
M T B  
NO  
CC

William A. Shaw  
Prothonotary/Clerk of Courts

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

Commonwealth of Pennsylvania, :  
Department of Transportation :  
vs. : No. 2006-397-CD  
Bruce A. Brandy :  
:

**ANSWER AND NEW MATTER TO PETITION TO FILE APPEAL NUNC PRO  
TUNC**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing (Bureau), by its attorney, William A. Kuhar, Jr., Assistant Counsel, and files the following Answer and New Matter to the Petition to File Appeal Nunc Pro Tunc filed by Bruce A. Brandy:

**ANSWER**

1. Paragraph 1 of the Petition to File Appeal Nunc Pro Tunc is admitted.
2. Paragraph 2 of the Petition to File Appeal Nunc Pro Tunc is admitted.
3. It is admitted that, on July 21, 2005, the petitioner, Bruce A. Brandy, was convicted in District Court No. 46-3-04 in Clearfield County on the charge of violating 75 Pa.C.S. §1543(a) on July 9, 2005. It is denied, however, that that conviction resulted from the magisterial district judge of District Court No. 46-3-04 finding the petitioner guilty of violating 75 Pa.C.S. §1543(a) on July 9, 2005 following a trial on that charge on July 21, 2005. Instead, it is averred that, on July 21, 2005, the petitioner entered a guilty plea to the charge of violating 75 Pa.C.S. §1543(a) on July 9, 2005 and/or paid the fine and costs for the July 9, 2005 violation of 75 Pa.C.S. §1543(a).
4. It is admitted that, on August 23, 2005, the petitioner filed with the Office of the Prothonotary of Allegheny County a timely appeal from a July 29, 2005 notice from the Bureau that, effective July 29, 2005, his driving privilege was scheduled to be suspended for one year due to his July 21, 2005 conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005.
5. It is admitted that the petitioner appeared in Allegheny County Common Pleas Court on October 12, 2005 for a hearing on his appeal from the one year driving privilege suspension referred to in Paragraph 4 of this Answer. It is also admitted that, on that date, the Honorable Robert C. Gallo of the Allegheny County Common Pleas Court entered an order dismissing the petitioner's appeal and recommending a 5 month delay in the commencement of the appealed suspension "to provide [the petitioner] an opportunity to resolve the underlying conviction; or, for hardship reasons". It is further admitted that that Judge Gallo's October 12, 2005 order included the following language: "**(If applicable):** The petitioner has THIRTY (30) days from the date of this decision to appeal to Commonwealth Court." (Emphasis added). It is admitted that a copy of Judge Gallo's October 12,

2005 order is attached to the petitioner's Petition to File Appeal Nunc Pro Tunc as Attachment B.

6. It is admitted that the petitioner filed his appeal from the July 29, 2005 suspension notice referred to in Paragraph 4 of this Answer and New Matter *pro se* and that he was not represented by counsel at the October 12, 2005 hearing in Allegheny County Common Pleas Court on that appeal.

## **NEW MATTER**

### **Motion to Deny Petition to File Appeal Nunc Pro Tunc from Allegheny County Common Pleas Court Order Dimissing Driving Privilege Suspension Appeal due to Petitioner's Consent to Entry of that Order**

7. The petitioner never appealed the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and attached to his Petition to File Appeal Nunc Pro Tunc as Attachment B, to the Commonwealth Court of Pennsylvania. A copy of the docket entries for the petitioner's appeal from the July 29, 2005 suspension notice referred to in Paragraph 4 of this Answer and New Matter, which establishes that fact, is attached hereto as Exhibit 1.

8. The petitioner consented to the entry of the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and is attached to the petitioner's Petition to File Appeal Nunc Pro Tunc as Attachment B.

Wherefore, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of the October 12, 2005 order of the Allegheny County Common Pleas Court dismissing his appeal of the one year suspension of his driving privilege due to his July 21, 2005 conviction for violating 75 Pa.C.S. 1543(a) on July 9, 2005, this Court deny that petition with prejudice.

### **Motion to Deny Petition to File Appeal Nunc Pro Tunc from Allegheny County Common Pleas Court Order Dismissing Driving Privilege Suspension Appeal due to Failure to Allege Facts Entitling Petitioner to Such Relief.**

9. The Bureau incorporates by reference Paragraph 7 of this Answer and New Matter.

10. The petitioner had 30 days from the date on which a copy of the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and is attached to his Petition to File Appeal Nunc Pro Tunc as Attachment B, was mailed to him to file a timely appeal of that order to Commonwealth Court. See Pa.R.A.P. Nos. 108 and 903.

11. As indicated by the docket entry page attached to this Answer and New Matter as Department Exhibit 1, a copy of the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and is attached to his Petition to File Appeal Nunc Pro Tunc as Attachment B, was mailed to the petitioner on October 12, 2005.

12. In order for the petitioner to be entitled leave to file a *nunc pro tunc* appeal to

Commonwealth Court of the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and is attached to his Petition to File Appeal Nunc Pro Tunc as Attachment B, the petitioner must prove to the court that his failure to file a timely appeal of that order to Commonwealth Court resulted from fraud or a breakdown in the operations of the Allegheny County Common Pleas Court or was due to non-negligent circumstance, *i.e.*, that he attempted to file a timely appeal of Judge Gallo's October 12, 2005 order to Commonwealth Court but that unforeseeable and unavoidable events precluded him from actually doing so. *Criss v. Wise*, 781 A.2d 1156 (Pa. 2001).

13. The petitioner does not aver in his Petition to File Appeal Nunc Pro Tunc facts from which it can be concluded as a matter of law that his failure to file a timely appeal to the Commonwealth Court from the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and is attached to his Petition to File Appeal Nunc Pro Tunc as Attachment B, resulted from fraud or a breakdown in the operations of the Allegheny County Common Pleas Court, or was due to non-negligent circumstance. Moreover, the fact that the petitioner was not represented by counsel in his appeal from the Bureau's suspension of his driving privilege does not entitle him to leave to appeal Judge Gallo's October 12, 2005 order *nunc pro tunc*. Cf. *Kase v. Commonwealth*, 489 A.2d 586 (Pa. Cmwlth. 1985)(Licensee does not have right to effective assistance of counsel in appeal from suspension of his driving privilege).

Wherefore, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of the October 12, 2005 order of the Allegheny County Common Pleas Court dismissing his appeal of the one year suspension of his driving privilege due to his July 21, 2005 conviction for violating 75 Pa.C.S. 1543(a) on July 9, 2005, this Court deny that petition with prejudice.

**Motion to Deny Petition to File Appeal Nunc Pro Tunc from Allegheny County Common Pleas Court Order Dismissing Driving Privilege Suspension Appeal due to Lack of Jurisdiction to Grant Such Relief**

14. This Court lacks jurisdiction to grant the petitioner leave to file a *nunc pro tunc* appeal to Commonwealth Court from a final order of another common pleas court; specifically, the October 12, 2005 order by Judge Robert C. Gallo of the Allegheny County Common Pleas Court that is referred to in Paragraph 5 of this Answer and New Matter, and which is attached to the petitioner's Petition to File Appeal Nunc Pro Tunc as Attachment B.

Wherefore, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of the October 12, 2005 order of the Allegheny County Common Pleas Court dismissing his appeal of the one year suspension of his driving privilege due to his July 21, 2005 conviction for violating 75 Pa.C.S. 1543(a) on July 9, 2005, this Court deny that petition without prejudice to the petitioner's ability to file that petition with the Court of Common Pleas of Allegheny County.

**Motion to Deny Petition to File Appeal Nunc Pro Tunc from Reinstatement of Driving Privilege Suspension Due to Agreement by Petitioner not to Do So**

15. On November 10, 2005, the Bureau mailed to the petitioner at his address of record with the Bureau on that date – 220 Coral Dr., Pittsburgh, PA, 15241 - a notice which, in accordance with the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, informed the petitioner that the one year driving privilege suspension referred to in Paragraph 4 of this Answer and New Matter was now scheduled to take effect March 12, 2006, which is 5 months after October 12, 2005. A copy of that suspension reinstatement notice is attached hereto as Exhibit 2.

16. The October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and is attached to the petitioner's Petition to File Appeal Nunc Pro Tunc as Attachment B, included the following language: **"The petitioner agrees not to appeal the reimposition of the suspension should ... the appeal of the underlying conviction remain unresolved for any reason or should the result of the appeal be unfavorable ..."**

17. The Bureau has, as of the date of this Answer and New Matter, not received from the Office of the Clerk of Courts of Clearfield County a report of the petitioner's acquittal on the charge of violating 75 Pa.C.S. §1543(a) on July 9, 2005 in either a timely filed appeal from his July 21, 2005 conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005 or in an appeal which the petitioner was granted leave to file *nunc pro tunc* from that summary conviction. Therefore, it is believed and averred that the petitioner did not file a timely appeal from his July 21, 2005 conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005 and, as of the date of this Answer and New Matter, has neither petitioned this Court for leave to appeal that summary conviction *nunc pro tunc* nor been granted such relief by this Court.

Wherefore, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of the Bureau's reinstatement of the one year suspension of his driving privilege due to his July 21, 2005 conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005, this Court deny that petition with prejudice.

**Motion to Deny Petition to File Appeal Nunc Pro Tunc from Reinstatement of Driving Privilege Suspension to Relitigate Merits of Suspension due to Lack of Right to Do So**

18. The Bureau incorporates by reference Paragraph 15 of this Answer and New Matter.

19. Following the dismissal or withdrawal of a licensee's appeal from a suspension of his driving privilege, the licensee does not have the right to appeal the Bureau's action in reinstating that suspension in order to relitigate the merits of the suspension. *Rinck v. Commonwealth*, 429 A.2d 1255 (Pa. Cmwlth. 1981).

Wherefore, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of the Bureau's reinstatement of the one year suspension of his driving privilege due to his July 21, 2005 conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005 in order to relitigate the merits of that suspension,

this Court deny that petition with prejudice.

**Motion to Deny Petition to File Appeal Nunc Pro Tunc from Reinstatement of Driving Privilege Suspension due to Failure to Allege Facts Entitling Petitioner to Such Relief.**

20. The Bureau incorporates by reference Paragraph 15 of this Answer and New Matter.

21. Although a licensee does, following the dismissal or withdrawal of his appeal from a suspension of his driving privilege, have a right to appeal the Bureau's action in reinstating that suspension in order to litigate the issues of whether the Bureau unreasonably delayed in reinstating the suspension and whether he was prejudiced by that delay by the Bureau, *Davis v. Department of Transportation*, 552 A.2d 338 (Pa. Cmwlth. 1988), *Rea v. Department of Transportation, Bureau of Driver Licensing*, 572 A.2d 236 (Pa. Cmwlth. 1990), a common pleas court lacks jurisdiction to hear the appeal of the Bureau's reinstatement of the suspension where the licensee files that appeal more than 30 days after the mail date of the notice of reinstatement of the suspension, *Department of Transportation v. Shain*, 538 A.2d 994 (Pa. Cmwlth. 1988), *Department of Transportation, Bureau of Driver Licensing v. Karff*, 529 A.2d 76 (Pa. Cmwlth. 1988), unless the licensee can prove to the court that his failure to file a timely appeal from the reinstatement of the suspension was caused by fraud or a breakdown in the operations of the court or the Bureau or was due to non-negligent circumstance, i.e., that he attempted to file a timely appeal of that action by the Bureau **to the common pleas court of the county of his residence** but that unforeseeable and unavoidable events precluded him from actually doing so. *Kulick v. Department of Transportation, Bureau of Driver Licensing*, 666 A.2d 1148 (Pa. Cmwlth. 1995); *Criss*.

22. The petitioner does not aver in his Petition to File Appeal Nunc Pro Tunc facts from which it can be concluded as a matter of law that his failure to file a timely appeal of the Bureau's reinstatement of the one year driving privilege suspension referred to in Paragraph 4 of this Answer and New Matter resulted from fraud or a breakdown in the operations of either the court or the Bureau or was due to non-negligent circumstance.

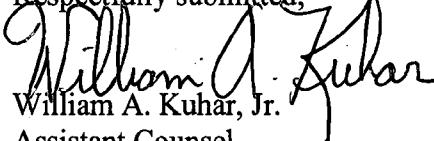
Wherefore, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of the Bureau's reinstatement of the one year suspension of his driving privilege due to his July 21, 2005 conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005 in order to litigate the issues of whether the Bureau unreasonably delayed in reinstating that suspension and whether he was prejudiced by that delay by the Bureau, this Court deny that petition with prejudice.

**Motion to Deny Petition to File Appeal Nunc Pro Tunc from Summary Criminal Conviction  
due to Failure to Join Proper Party**

23. The Bureau is not a proper party to a licensee's appeal to a common pleas court from a summary conviction in a district court for a violation of 75 Pa.C.S. §1543(a). The plaintiff/appellee in such a proceeding would be the Commonwealth of Pennsylvania, which would be represented by the office of the district attorney for the county in which the alleged summary offense took place.

WHEREFORE, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of his July 21, 2005 summary criminal conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005, this Court deny that petition without prejudice to the petitioner's ability to re-file his Petition to File Appeal Nunc Pro Tunc with this Court, but naming the Commonwealth of Pennsylvania as the plaintiff/respondent and serving a copy of that petition upon the Office of the District Attorney of Clearfield County.

Respectfully submitted,



William A. Kuhar, Jr.

Assistant Counsel

Attorney for the Bureau of Driver Licensing

You can use your browser **BACK** button to return to previous page.

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**SA-05-000861**

**Commonwealth of PA vs Brandy**

<i>Filing Date:</i>	08/23/2005	<i>Case Type:</i>	Operator License Suspension
<i>Filing Time:</i>	2:16:10	<i>Court Type:</i>	Arbitration
<i>Related Cases:</i>		<i>Current Status:</i>	Order of Court - Dismissed
<i>Judge:</i>	Gallo Robert C.	<i>Jury Requested:</i>	No
<i>Amount In Dispute:</i>	\$ .00		

\*Click on PartyID hyperlink to see Alternative name for the party.

Parties								
- Litigants -								
ID	LName	FName	MI	Type	Address	Phone	Attorney	
PADOT	Commonwealth of PA Department of Transportation	---	---	Plaintiff	No Default Address Available	--	Rapach Andrew M,	
@1337133	Brandy	Bruce	A	Defendant	220 Coral Dr. Pittsburgh PA 15241	--	Pro Se,	

- Attorney -								
ID	LName	FName	MI	Type	Address			Phone
62016	Rapach	Andrew	M	Plaintiff's Attorney	1209 State Office Building 300 Liberty Avenue Pittsburgh PA 15222			(412) 5657555
PROSE	Pro Se	---	---	Defendant's Attorney	No Default Address Available			--

-- Non Litigants --								
ID	LName	FName	MI	Type	Address		Phone	
JGALLO	Gallo	Robert	C.	Judge	No Default Address Available		(412)3503831	

\*Click on DocketType hyperlink to see Judgments for that Docket.

Docket Entries						
Filing Date	Docket Type	Docket Text			Filing Party	Document
10/12/2005	Order of Court - Dismissed	Order of court dated 10/12/05. The appeal of the defendant is dismissed with a five (5) month delay. JUDGE, J. Notices sent by Prothonotary.			Gallo Robert C.	<a href="#">Document 1</a>
08/23/2005	Appeal from OLS	Petition and affidavit filed. This appeal shall act as a supersedeas in any case except a case pertaining to section 1503, 1504, 1509, 1514, 1519 or 1572. Hearing date 10/12/05.			Brandy Bruce A	<a href="#">Document 2</a>

*Exhibit 1*

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

BRUCE A BRANDY  
220 CORAL DR  
PITTSBURGH PA 15241

WID # 053077374440067 001  
PROCESSING DATE 11/03/2005  
DRIVER LICENSE # 17950492  
DATE OF BIRTH 09/30/1957

Dear MR. BRANDY:

This is an **Official Notice of the Suspension** of your Driving Privilege as authorized by Section 1543 of the Pennsylvania Vehicle Code. As a result of your 07/21/2005 conviction of violating Section 1543A of the Vehicle Code **DRIVING WHILE SUSP/REVOKE** on 07/09/2005:

Your driving privilege is **SUSPENDED** for a period of 1 **YEAR(S)** effective 03/12/2006 at 12:01 a.m.

Before PennDOT can restore your driving privilege, you must follow the instructions in this letter for **COMPLYING WITH THIS SUSPENSION**, **PAYING THE RESTORATION FEE** and **PROVIDING PROOF OF INSURANCE**. You should follow **ALL** instructions very carefully. Even if you have served all the time on the suspension/revocation, we cannot restore your driving privilege until all the requirements are satisfied.

**COMPLYING WITH THIS SUSPENSION**

You must return all current Pennsylvania driver's licenses, learner's permits, temporary driver's licenses (camera cards) in your possession on or before 03/12/2006. You may surrender these items before, 03/12/2006, for earlier credit; however, you may not drive after these items are surrendered.

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

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

Exhibit 2

053077374440067

1. Return all current Pennsylvania driver's licenses, learner's permits and/or camera cards to PennDOT. If you do not have any of these items, send a sworn notarized letter stating you are aware of the suspension of your driving privilege. You must specify in your letter why you are unable to return your driver's license. Remember: You may not retain your driver's license for identification purposes. Please send these items to:  
Pennsylvania Department of Transportation  
Bureau of Driver Licensing  
P.O. Box 68693  
Harrisburg, PA 17106-8693
2. Upon receipt, review and acceptance of your Pennsylvania driver's license(s), learner's permit(s), and/or a sworn notarized letter, PennDOT will send you a receipt confirming the date that credit began. If you do not receive a receipt from us within 3 weeks, please contact our office. Otherwise, you will not be given credit toward serving this suspension. PennDOT phone numbers are listed at the end of this letter.
3. If you do not return all current driver license products, we must refer this matter to the Pennsylvania State Police for prosecution under SECTION 1571(a) (4) of the Pennsylvania Vehicle Code.

PROVIDING PROOF OF INSURANCE

Within the last 30 days of your suspension/revocation, we will send you a letter asking that you provide proof of insurance at that time. This letter will list acceptable documents and what will be needed if you do not own a vehicle registered in Pennsylvania.

**IMPORTANT:** Please make sure that PennDOT is notified if you move from your current address. You may notify PennDOT of your address change by calling any of the phone numbers listed at the end of this letter.

Remember, this is an **OFFICIAL NOTICE OF SUSPENSION**. You must return all current Pennsylvania driver license products to PennDOT by 03/12/2006.

053077374440067

Sincerely,



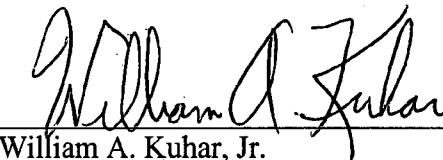
Janet L. Dolan, Acting Director  
Bureau of Driver Licensing

SEND FEE/LICENSE/DL-16LC/TO:  
Department of Transportation  
Bureau of Driver Licensing  
P.O. Box 68693  
Harrisburg, PA 17106-8693

INFORMATION (7:00 AM TO 9:00 PM)  
IN STATE 1-800-932-4600  
OUT-OF-STATE 717-391-6190  
TDD IN STATE 1-800-228-0676  
TDD OUT-OF-STATE 717-391-6191

**VERIFICATION**

I, William A. Kuhar, Jr., Esquire, Commonwealth of Pennsylvania, Department of Transportation, hereby attest that I am authorized to make this verification on behalf of the Commonwealth of Pennsylvania, Department of Transportation, and that the averments contained and set forth in the foregoing Answer and New Matter to Petition to File Appeal Nunc Pro Tunc are true and correct to the best of my knowledge, information and belief and that this verification is made subject to the penalties of 19 Pa.C.S. 4904 relating to unsworn falsification to authorities.



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William A. Kuhar, Jr.

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

Commonwealth of Pennsylvania,  
Department of Transportation

vs.

No. 2006-397-CD

Bruce A. Brandy

**ORDER OF COURT**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2006,

upon consideration of the Petition to File Appeal Nunc Pro Tunc filed by the petitioner, Bruce A. Brandy, and the Answer and New Matter to Petition to File Appeal Nunc Pro Tunc filed by the Pennsylvania Department of Transportation's Bureau of Driver Licensing, it is hereby ORDERED, ADJUDGED AND DECREED that the Petition to File Appeal Nunc Pro Tunc is denied \_\_\_\_\_

---

---

By the Court:

---

J.

## CERTIFICATE OF SERVICE

The undersigned does hereby certify that, on the date set forth below, he served a true and correct copy of the foregoing Answer and New Matter to Petition to File Appeal Nunc Pro Tunc upon the following persons by regular United States first class mail, postage pre-paid, addressed as follows:

The Honorable Fredric J. Ammerman  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

Gary A. Knaresboro, Esquire  
33 Beaver Drive, Ste. 2  
DuBois, PA 15801

Date: 4/5/2006

William A. Kuhar  
William A. Kuhar, Jr.

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

Commonwealth of Pennsylvania,  
Department of Transportation

vs.

Bruce A. Brandy

No. 2006-397-CD

Answer and New Matter to Petition  
to File Appeal Nunc Pro Tunc

Filed on Behalf of:  
Commonwealth of Pennsylvania  
Department of Transportation

Counsel for this Party:

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

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

(412) 565-7555

FILED  
APR 10 2006  
WM

William A. Shaw  
Prothonotary/Clerk of Courts

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

Commonwealth of Pennsylvania,  
Department of Transportation

No. 2006-397-CD

vs.

Bruce A. Brandy

**ANSWER AND NEW MATTER TO PETITION TO FILE APPEAL NUNC PRO  
TUNC**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing (Bureau), by its attorney, William A. Kuhar, Jr., Assistant Counsel, and files the following Answer and New Matter to the Petition to File Appeal Nunc Pro Tunc filed by Bruce A. Brandy:

**ANSWER**

1. Paragraph 1 of the Petition to File Appeal Nunc Pro Tunc is admitted.
2. Paragraph 2 of the Petition to File Appeal Nunc Pro Tunc is admitted.
3. It is admitted that, on July 21, 2005, the petitioner, Bruce A. Brandy, was convicted in District Court No. 46-3-04 in Clearfield County on the charge of violating 75 Pa.C.S. §1543(a) on July 9, 2005. It is denied, however, that that conviction resulted from the magisterial district judge of District Court No. 46-3-04 finding the petitioner guilty of violating 75 Pa.C.S. §1543(a) on July 9, 2005 following a trial on that charge on July 21, 2005. Instead, it is averred that, on July 21, 2005, the petitioner entered a guilty plea to the charge of violating 75 Pa.C.S. §1543(a) on July 9, 2005 and/or paid the fine and costs for the July 9, 2005 violation of 75 Pa.C.S. §1543(a).
4. It is admitted that, on August 23, 2005, the petitioner filed with the Office of the Prothonotary of Allegheny County a timely appeal from a July 29, 2005 notice from the Bureau that, effective July 29, 2005, his driving privilege was scheduled to be suspended for one year due to his July 21, 2005 conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005.
5. It is admitted that the petitioner appeared in Allegheny County Common Pleas Court on October 12, 2005 for a hearing on his appeal from the one year driving privilege suspension referred to in Paragraph 4 of this Answer. It is also admitted that, on that date, the Honorable Robert C. Gallo of the Allegheny County Common Pleas Court entered an order dismissing the petitioner's appeal and recommending a 5 month delay in the commencement of the appealed suspension "to provide [the petitioner] an opportunity to resolve the underlying conviction; or, for hardship reasons". It is further admitted that that Judge Gallo's October 12, 2005 order included the following language: "**(If applicable):** The petitioner has THIRTY (30) days from the date of this decision to appeal to Commonwealth Court." (Emphasis added). It is admitted that a copy of Judge Gallo's October 12,

2005 order is attached to the petitioner's Petition to File Appeal Nunc Pro Tunc as Attachment B.

6. It is admitted that the petitioner filed his appeal from the July 29, 2005 suspension notice referred to in Paragraph 4 of this Answer and New Matter *pro se* and that he was not represented by counsel at the October 12, 2005 hearing in Allegheny County Common Pleas Court on that appeal.

#### **NEW MATTER**

##### **Motion to Deny Petition to File Appeal Nunc Pro Tunc from Allegheny County Common Pleas Court Order Dimissing Driving Privilege Suspension Appeal due to Petitioner's Consent to Entry of that Order**

7. The petitioner never appealed the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and attached to his Petition to File Appeal Nunc Pro Tunc as Attachment B, to the Commonwealth Court of Pennsylvania. A copy of the docket entries for the petitioner's appeal from the July 29, 2005 suspension notice referred to in Paragraph 4 of this Answer and New Matter, which establishes that fact, is attached hereto as Exhibit 1.

8. The petitioner consented to the entry of the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and is attached to the petitioner's Petition to File Appeal Nunc Pro Tunc as Attachment B.

Wherefore, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of the October 12, 2005 order of the Allegheny County Common Pleas Court dismissing his appeal of the one year suspension of his driving privilege due to his July 21, 2005 conviction for violating 75 Pa.C.S. 1543(a) on July 9, 2005, this Court deny that petition with prejudice.

##### **Motion to Deny Petition to File Appeal Nunc Pro Tunc from Allegheny County Common Pleas Court Order Dismissing Driving Privilege Suspension Appeal due to Failure to Allege Facts Entitling Petitioner to Such Relief.**

9. The Bureau incorporates by reference Paragraph 7 of this Answer and New Matter.

10. The petitioner had 30 days from the date on which a copy of the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and is attached to his Petition to File Appeal Nunc Pro Tunc as Attachment B, was mailed to him to file a timely appeal of that order to Commonwealth Court. See Pa.R.A.P. Nos. 108 and 903.

11. As indicated by the docket entry page attached to this Answer and New Matter as Department Exhibit 1, a copy of the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and is attached to his Petition to File Appeal Nunc Pro Tunc as Attachment B, was mailed to the petitioner on October 12, 2005.

12. In order for the petitioner to be entitled leave to file a *nunc pro tunc* appeal to

Commonwealth Court of the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and is attached to his Petition to File Appeal Nunc Pro Tunc as Attachment B, the petitioner must prove to the court that his failure to file a timely appeal of that order to Commonwealth Court resulted from fraud or a breakdown in the operations of the Allegheny County Common Pleas Court or was due to non-negligent circumstance, *i.e.*, that he attempted to file a timely appeal of Judge Gallo's October 12, 2005 order to Commonwealth Court but that unforeseeable and unavoidable events precluded him from actually doing so. *Criss v. Wise*, 781 A.2d 1156 (Pa. 2001).

13. The petitioner does not aver in his Petition to File Appeal Nunc Pro Tunc facts from which it can be concluded as a matter of law that his failure to file a timely appeal to the Commonwealth Court from the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and is attached to his Petition to File Appeal Nunc Pro Tunc as Attachment B, resulted from fraud or a breakdown in the operations of the Allegheny County Common Pleas Court, or was due to non-negligent circumstance. Moreover, the fact that the petitioner was not represented by counsel in his appeal from the Bureau's suspension of his driving privilege does not entitle him to leave to appeal Judge Gallo's October 12, 2005 order *nunc pro tunc*. *Cf. Kase v. Commonwealth*, 489 A.2d 586 (Pa. Cmwlth. 1985)(Licensee does not have right to effective assistance of counsel in appeal from suspension of his driving privilege).

Wherefore, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of the October 12, 2005 order of the Allegheny County Common Pleas Court dismissing his appeal of the one year suspension of his driving privilege due to his July 21, 2005 conviction for violating 75 Pa.C.S. 1543(a) on July 9, 2005, this Court deny that petition with prejudice.

**Motion to Deny Petition to File Appeal Nunc Pro Tunc from Allegheny County Common Pleas Court Order Dismissing Driving Privilege Suspension Appeal due to Lack of Jurisdiction to Grant Such Relief**

14. This Court lacks jurisdiction to grant the petitioner leave to file a *nunc pro tunc* appeal to Commonwealth Court from a final order of another common pleas court; specifically, the October 12, 2005 order by Judge Robert C. Gallo of the Allegheny County Common Pleas Court that is referred to in Paragraph 5 of this Answer and New Matter, and which is attached to the petitioner's Petition to File Appeal Nunc Pro Tunc as Attachment B.

Wherefore, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of the October 12, 2005 order of the Allegheny County Common Pleas Court dismissing his appeal of the one year suspension of his driving privilege due to his July 21, 2005 conviction for violating 75 Pa.C.S. 1543(a) on July 9, 2005, this Court deny that petition without prejudice to the petitioner's ability to file that petition with the Court of Common Pleas of Allegheny County.

**Motion to Deny Petition to File Appeal Nunc Pro Tunc from Reinstatement of Driving Privilege Suspension Due to Agreement by Petitioner not to Do So**

15. On November 10, 2005, the Bureau mailed to the petitioner at his address of record with the Bureau on that date – 220 Coral Dr., Pittsburgh, PA, 15241 - a notice which, in accordance with the October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, informed the petitioner that the one year driving privilege suspension referred to in Paragraph 4 of this Answer and New Matter was now scheduled to take effect March 12, 2006, which is 5 months after October 12, 2005. A copy of that suspension reinstatement notice is attached hereto as Exhibit 2.

16. The October 12, 2005 order by Judge Gallo that is referred to in Paragraph 5 of this Answer and New Matter, and is attached to the petitioner's Petition to File Appeal Nunc Pro Tunc as Attachment B, included the following language: **"The petitioner agrees not to appeal the reimposition of the suspension should ... the appeal of the underlying conviction remain unresolved for any reason or should the result of the appeal be unfavorable ...."**

17. The Bureau has, as of the date of this Answer and New Matter, not received from the Office of the Clerk of Courts of Clearfield County a report of the petitioner's acquittal on the charge of violating 75 Pa.C.S. §1543(a) on July 9, 2005 in either a timely filed appeal from his July 21, 2005 conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005 or in an appeal which the petitioner was granted leave to file *nunc pro tunc* from that summary conviction. Therefore, it is believed and averred that the petitioner did not file a timely appeal from his July 21, 2005 conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005 and, as of the date of this Answer and New Matter, has neither petitioned this Court for leave to appeal that summary conviction *nunc pro tunc* nor been granted such relief by this Court.

Wherefore, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of the Bureau's reinstatement of the one year suspension of his driving privilege due to his July 21, 2005 conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005, this Court deny that petition with prejudice.

**Motion to Deny Petition to File Appeal Nunc Pro Tunc from Reinstatement of Driving Privilege Suspension to Relitigate Merits of Suspension due to Lack of Right to Do So**

18. The Bureau incorporates by reference Paragraph 15 of this Answer and New Matter.

19. Following the dismissal or withdrawal of a licensee's appeal from a suspension of his driving privilege, the licensee does not have the right to appeal the Bureau's action in reinstating that suspension in order to relitigate the merits of the suspension. *Rinck v. Commonwealth*, 429 A.2d 1255 (Pa. Cmwlth. 1981).

Wherefore, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of the Bureau's reinstatement of the one year suspension of his driving privilege due to his July 21, 2005 conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005 in order to relitigate the merits of that suspension,

this Court deny that petition with prejudice.

**Motion to Deny Petition to File Appeal Nunc Pro Tunc from Reinstatement of Driving Privilege Suspension due to Failure to Allege Facts Entitling Petitioner to Such Relief.**

20. The Bureau incorporates by reference Paragraph 15 of this Answer and New Matter.

21. Although a licensee does, following the dismissal or withdrawal of his appeal from a suspension of his driving privilege, have a right to appeal the Bureau's action in reinstating that suspension in order to litigate the issues of whether the Bureau unreasonably delayed in reinstating the suspension and whether he was prejudiced by that delay by the Bureau, *Davis v. Department of Transportation*, 552 A.2d 338 (Pa. Cmwlth. 1988), *Rea v. Department of Transportation, Bureau of Driver Licensing*, 572 A.2d 236 (Pa. Cmwlth. 1990), a common pleas court lacks jurisdiction to hear the appeal of the Bureau's reinstatement of the suspension where the licensee files that appeal more than 30 days after the mail date of the notice of reinstatement of the suspension, *Department of Transportation v. Shain*, 538 A.2d 994 (Pa. Cmwlth. 1988), *Department of Transportation, Bureau of Driver Licensing v. Karff*, 529 A.2d 76 (Pa. Cmwlth. 1988), unless the licensee can prove to the court that his failure to file a timely appeal from the reinstatement of the suspension was caused by fraud or a breakdown in the operations of the court or the Bureau or was due to non-negligent circumstance, i.e., that he attempted to file a timely appeal of that action by the Bureau to the **common pleas court of the county of his residence** but that unforeseeable and unavoidable events precluded him from actually doing so. *Kulick v. Department of Transportation, Bureau of Driver Licensing*, 666 A.2d 1148 (Pa. Cmwlth. 1995); *Criss*.

22. The petitioner does not aver in his Petition to File Appeal Nunc Pro Tunc facts from which it can be concluded as a matter of law that his failure to file a timely appeal of the Bureau's reinstatement of the one year driving privilege suspension referred to in Paragraph 4 of this Answer and New Matter resulted from fraud or a breakdown in the operations of either the court or the Bureau or was due to non-negligent circumstance.

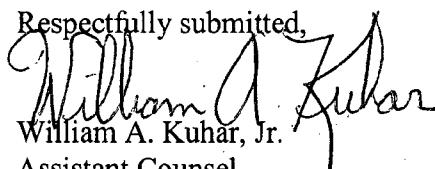
Wherefore, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of the Bureau's reinstatement of the one year suspension of his driving privilege due to his July 21, 2005 conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005 in order to litigate the issues of whether the Bureau unreasonably delayed in reinstating that suspension and whether he was prejudiced by that delay by the Bureau, this Court deny that petition with prejudice.

**Motion to Deny Petition to File Appeal Nunc Pro Tunc from Summary Criminal Conviction  
due to Failure to Join Proper Party**

23. The Bureau is not a proper party to a licensee's appeal to a common pleas court from a summary conviction in a district court for a violation of 75 Pa.C.S. §1543(a). The plaintiff/appellee in such a proceeding would be the Commonwealth of Pennsylvania, which would be represented by the office of the district attorney for the county in which the alleged summary offense took place.

WHEREFORE, the Bureau requests that, if, by his Petition to File Appeal Nunc Pro Tunc, the petitioner is requesting this Court to grant him leave to file a *nunc pro tunc* appeal of his July 21, 2005 summary criminal conviction for violating 75 Pa.C.S. §1543(a) on July 9, 2005, this Court deny that petition without prejudice to the petitioner's ability to re-file his Petition to File Appeal Nunc Pro Tunc with this Court, but naming the Commonwealth of Pennsylvania as the plaintiff/respondent and serving a copy of that petition upon the Office of the District Attorney of Clearfield County.

Respectfully submitted,



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

You can use your browser **BACK** button to return to previous page.

[\[New Case Number\]](#) [\[Docket Report\]](#) [\[Account Information\]](#) [\[Home\]](#)

**SA-05-000861**

**Commonwealth of PA vs Brandy**

Filing Date:	08/23/2005	Case Type:	Operator License Suspension
Filing Time:	2:16:10	Court Type:	Arbitration
Related Cases:		Current Status:	Order of Court - Dismissed
Judge:	Gallo Robert C.	Jury Requested:	No
Amount In Dispute:	\$ .00		

\*Click on PartyID hyperlink to see Alternative name for the party.

Parties							
-- Litigants --							
ID	LName	FName	MI	Type	Address	Phone	Attorney
PADOT	Commonwealth of PA Department of Transportation	---	---	Plaintiff	No Default Address Available	--	Rapach Andrew M,
@1337133	Brandy	Bruce	A	Defendant	220 Coral Dr. Pittsburgh PA 15241	--	Pro Se,

-- Attorney --							
ID	LName	FName	MI	Type	Address	Phone	
62016	Rapach	Andrew	M	Plaintiff's Attorney	1209 State Office Building 300 Liberty Avenue Pittsburgh PA 15222	(412) 5657555	
PROSE	Pro Se	---	--	Defendant's Attorney	No Default Address Available	--	

-- Non Litigants --							
ID	LName	FName	MI	Type	Address	Phone	
JGALLO	Gallo	Robert	C.	Judge	No Default Address Available	(412)3503831	

\*Click on DocketType hyperlink to see Judgments for that Docket.

Docket Entries						
Filing Date	Docket Type	Docket Text			Filing Party	Document
10/12/2005	Order of Court - Dismissed	Order of court dated 10/12/05. The appeal of the defendant is dismissed with a five (5) month delay. JUDGE, J. Notices sent by Prothonotary.			Gallo Robert C.	<a href="#">Document 1</a>
08/23/2005	Appeal from OLS	Petition and affidavit filed. This appeal shall act as a supersedeas in any case except a case pertaining to section 1503, 1504, 1509, 1514, 1519 or 1572. Hearing date 10/12/05.			Brandy Bruce A	<a href="#">Document 2</a>

**Exhibit 1**

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

BRUCE A BRANDY  
220 CORAL DR  
PITTSBURGH PA 15241

WID # 053077374440067 001  
PROCESSING DATE 11/03/2005  
DRIVER LICENSE # 17950492  
DATE OF BIRTH 09/30/1957

Dear MR. BRANDY:

This is an **Official Notice of the Suspension** of your Driving Privilege as authorized by Section 1543 of the Pennsylvania Vehicle Code. As a result of your 07/21/2005 conviction of violating Section 1543A of the Vehicle Code **DRIVING WHILE SUSP/REVOKE** on 07/09/2005:

Your driving privilege is **SUSPENDED** for a period of 1 **YEAR(S)** effective 03/12/2006 at 12:01 a.m.

Before PennDOT can restore your driving privilege, you must follow the instructions in this letter for **COMPLYING WITH THIS SUSPENSION**, **PAYING THE RESTORATION FEE** and **PROVIDING PROOF OF INSURANCE**. You should follow **ALL** instructions very carefully. Even if you have served all the time on the suspension/revocation, we cannot restore your driving privilege until all the requirements are satisfied.

**COMPLYING WITH THIS SUSPENSION**

You must return all current Pennsylvania driver's licenses, learner's permits, temporary driver's licenses (camera cards) in your possession on or before 03/12/2006. You may surrender these items before, 03/12/2006, for earlier credit; however, you may not drive after these items are surrendered.

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

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

Exhibit 2

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

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

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

PROVIDING PROOF OF INSURANCE

Within the last 30 days of your suspension/revocation, we will send you a letter asking that you provide proof of insurance at that time. This letter will list acceptable documents and what will be needed if you do not own a vehicle registered in Pennsylvania.

**IMPORTANT:** Please make sure that PennDOT is notified if you move from your current address. You may notify PennDOT of your address change by calling any of the phone numbers listed at the end of this letter.

Remember, this is an **OFFICIAL NOTICE OF SUSPENSION**. You must return all current Pennsylvania driver license products to PennDOT by 03/12/2006.

053077374440067

Sincerely,



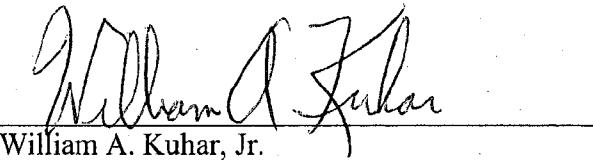
Janet L. Dolan, Acting Director  
Bureau of Driver Licensing

SEND FEE/LICENSE/DL-16LC/TO:  
Department of Transportation  
Bureau of Driver Licensing  
P.O. Box 68693  
Harrisburg, PA 17106-8693

INFORMATION (7:00 AM TO 9:00 PM)  
IN STATE 1-800-932-4600  
OUT-OF-STATE 717-391-6190  
TDD IN STATE 1-800-228-0676  
TDD OUT-OF-STATE 717-391-6191

**VERIFICATION**

I, William A. Kuhar, Jr., Esquire, Commonwealth of Pennsylvania, Department of Transportation, hereby attest that I am authorized to make this verification on behalf of the Commonwealth of Pennsylvania, Department of Transportation, and that the averments contained and set forth in the foregoing Answer and New Matter to Petition to File Appeal Nunc Pro Tunc are true and correct to the best of my knowledge, information and belief and that this verification is made subject to the penalties of 19 Pa.C.S. 4904 relating to unsworn falsification to authorities.



William A. Kuhar, Jr.

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

Commonwealth of Pennsylvania,  
Department of Transportation

vs.

No. 2006-397-CD

Bruce A. Brandy

**ORDER OF COURT**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2006,

upon consideration of the Petition to File Appeal Nunc Pro Tunc filed by the petitioner, Bruce A. Brandy, and the Answer and New Matter to Petition to File Appeal Nunc Pro Tunc filed by the Pennsylvania Department of Transportation's Bureau of Driver Licensing, it is hereby ORDERED, ADJUDGED AND DECREED that the Petition to File Appeal Nunc Pro Tunc is denied \_\_\_\_\_

---

---

By the Court:

---

J.

## CERTIFICATE OF SERVICE

The undersigned does hereby certify that, on the date set forth below, he served a true and correct copy of the foregoing Answer and New Matter to Petition to File Appeal Nunc Pro Tunc upon the following persons by regular United States first class mail, postage pre-paid, addressed as follows:

The Honorable Fredric J. Ammerman  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

Gary A. Knaresboro, Esquire  
33 Beaver Drive, Ste. 2  
DuBois, PA 15801

Date: 4/5/2006

William A. Kuhar  
William A. Kuhar, Jr.

CA

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

Commonwealth of Pennsylvania,  
Department of Transportation

vs.

No. 2006-397-CD

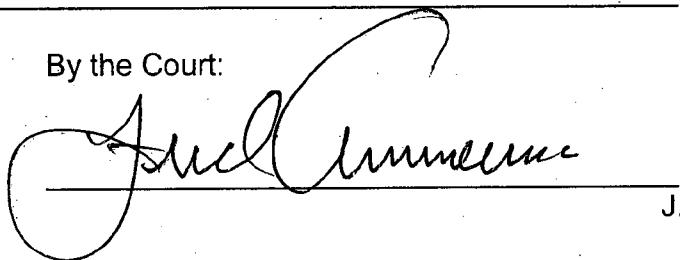
Bruce A. Brandy

**ORDER OF COURT**

AND NOW, this 21<sup>ST</sup> day of April, 2006,

upon consideration of the Petition to File Appeal Nunc Pro Tunc filed by the petitioner, Bruce A. Brandy, and the Answer and New Matter to Petition to File Appeal Nunc Pro Tunc filed by the Pennsylvania Department of Transportation's Bureau of Driver Licensing, it is hereby ORDERED, ADJUDGED AND DECREED that the Petition to File Appeal Nunc Pro Tunc is denied. \_\_\_\_\_

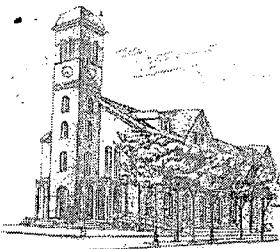
By the Court:

  
John Dunnigan  
J.

FILED *2cc Atty*  
*of 4:00 PM* *Knaresboro*  
APR 24 2006 *1cc Atty Kuhar*

William A. Shaw  
Prothonotary/Clerk of Courts

@



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

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

**David S. Ammerman**  
Solicitor

**Jacki Kendrick**  
Deputy Prothonotary

**Bonnie Hudson**  
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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

Sincerely,

William A. Shaw  
Prothonotary

DATE: 4/24/06

You are responsible for serving all appropriate parties.

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

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

CA

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

Commonwealth of Pennsylvania, \*  
Department of Transportation, \*  
Plaintiff \*  
vs. \* NO. 06-397-CD  
Bruce A. Brandy, \*  
Defendant \*

ORDER

NOW, this 24<sup>th</sup> day of April, 2006, the Court noting that two copies of the Answer and New Matter to Petition to File Appeal Nunc Pro Tunc submitted by the Plaintiff were filed on April 6, 2006 and April 10, 2006, respectively; it is the ORDER of this Court that the second document filed on April 10, 2006 be marked as a duplicate and voided.

BY THE COURT,

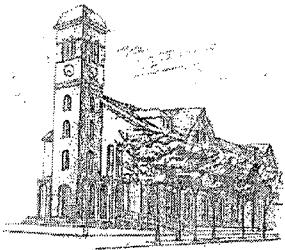


FREDRIC J. AMMERMAN  
President Judge

FILED  
04/06/06  
APR 24 2006

cc:Attn:  
Kumar  
Knaresboro  
(GR)

William A. Shaw  
Prothonotary/Clerk of Courts



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

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

**David S. Ammerman**  
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William A. Shaw  
Prothonotary

DATE: 4/24/06

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Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions: