

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI ,

Plaintiff

vs.

DAVID V. NGUYEN, d/b/a NAIL TIME, and
NAIL TIME,

Defendant

: CIVIL DIVISION

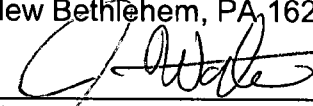
: No. 06-921-CD

: Type of Pleading: Complaint

: Filed on Behalf of Plaintiff

: Counsel of Record for the
: Plaintiff

: LAW OFFICES OF WILLIAM E.
: HAGER, III
: 352 Broad Street
: New Bethlehem, PA 16242

: 
: J. Jeffrey Watson, Esq.
: ID No. 90876

FILED Atty pd 85.00

JUN 08 2006 2cc Shff

William A. Shanley
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI ,

Plaintiff

vs.

DAVID V. NGUYEN, d/b/a NAIL TIME, and
NAIL TIME,

Defendant

: CIVIL DIVISION

: No. _____

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NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing, in writing with the court, your defenses or objections to the claims set forth against you.

You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any claim or relief requested by the plaintiff. You may lose money, 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 GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. (5982)

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI ,

Plaintiff

vs.

DAVID V. NGUYEN, d/b/a NAIL TIME, and
NAIL TIME,

Defendants

: CIVIL DIVISION

:

: No. _____

:

: Type of Pleading: Complaint

:

:

:

:

:

COMPLAINT

AND NOW, comes the Plaintiff, Marcia Mazzoni, by and through her attorneys,
The Law Offices of William E. Hager, III, by J. Jeffrey Watson, Esquire, and bring forth
this Complaint against Defendants, David V. Nguyen, d/b/a Nail Time, and Nail Time,
and aver as follows:

1. Plaintiff, Marcia Mazzoni, is an adult individual residing at, 1713 Rider
Road, Rimersburg, Clarion County, Pennsylvania 16248.

2. Defendant, David V. Nguyen, (hereinafter referred to as "Nguyen") is a an
adult individual doing business as "Nail Time", within the Commonwealth of
Pennsylvania and having a principal place of business at Dubois Mall, Route 255 &
Shaffer Road, Dubois, Clearfield County, Pennsylvania, 15801.

3. Defendant, Nail Time, (hereinafter referred to as "Nail Time") is a business
within the Commonwealth of Pennsylvania and having a principal place of business at

Dubois Mall, Route 255 & Shaffer Road, Dubois, Clearfield County, Pennsylvania, 15801.

4. At all times material hereto, upon knowledge, information and belief, Defendant, David V. Nguyen, and/or his successors and assigns, were doing business as Nail Time.

Count I
Negligence
Marcia Mazzoni v. David V. Nguyen, d/b/a Nail Time

5. At all times material hereto, Defendant, Nguyen, was in ownership, possession, management and control of the premises located at Dubois Mall, Route 255 & Shaffer Road, Dubois, Clearfield County, Pennsylvania, 15801 and known as Nail Time, (hereinafter referred to as "Premises").

6. On or about June 8th, 2004, Plaintiff, Marcia Mazzoni, entered the Premises for the purpose of having a manicure, pedicure and other personal grooming services preformed by Defendant, Nguyen, his agents, employees and/or servants, in the Premises.

7. At all times material hereto, Plaintiff was lawfully upon said Premises and was, at all times material hereto, a business invitee within the scope of her invitation.

8. At all times material hereto, Defendant, Nguyen, his agents, employees and/or servants in fact performed a manicure, pedicure and other personal grooming/beautification services on Plaintiff.

9. At all times material hereto, Defendant, Nguyen, his agents, employees and/or servants directed Plaintiff while her manicure, pedicure and other personal grooming/beautification services were performed upon Plaintiff.

10. During the performance of various grooming/beautification services upon Plaintiff, Defendant, Nguyen, his agents, employees and/or servants instructed Plaintiff, while seated in a wheeled-chair and upon a smooth, uncarpeted surface, to put her hands and feet in dryers.

11. Following direction of the Defendant, Nguyen, his agents, employees and/or servants, Plaintiff had both her hands and feet in dryers while seated in a wheeled-chair and upon a smooth, uncarpeted surface.

12. At the direction of Defendant, Plaintiff had both her hands and feet in dryers while seated in a wheeled-chair and upon a smooth, uncarpeted surface within said Premises, said wheeled-chair slid out from beneath Plaintiff causing her to fall violently upon her buttocks and coccyx with great force and whereby she sustained certain injuries as hereinafter more particularly set forth.

13. At all times material hereto, Defendant, Nguyen, had a duty to Plaintiff to keep the Premises in a reasonably safe condition, to warn her of non-obvious and hidden dangers that existed upon the Premises and had a duty to Plaintiff to make reasonable inspections of dangerous conditions that were concealed to the Plaintiff.

14. Defendant, Nguyen, breached the duty it owed to Plaintiff by failing to warn her of the danger that existed and by otherwise allowing the dangerous and unsafe combination of the wheeled-chair and smooth, uncarpeted surface to remain where invitees, specifically Plaintiff, would be caused to be seated for services, as set forth fully herein.

15. The occurrence of the aforementioned incident and the resulting injuries to Plaintiff, Marcia Mazzoni, were caused directly and proximately by the negligence of

Defendant, Nguyen, individually or by his agents, servants, and/or employees, acting in the scope of their authority and employment, more specifically as set forth below:

(a) In failing to provide adequate warnings concerning the wheeled chair upon the smooth, uncarpeted flooring surface within said Premises;

(b) In failing to provide any adequate sign or other visual warning in the area that Plaintiff was caused to fall;

(c) In failing to provide warning concerning the dangerous and unsafe combination of the wheeled-chair and smooth, uncarpeted surface to remain where invitees, specifically Plaintiff, was caused to be seated for services;

(d) In failing to provide any verbal warning to Plaintiff prior to seating her in the wheeled chair;

(e) In failing to provide any verbal warning to Plaintiff prior to directing her to place her hands and feet in the dryer while seated in the wheeled chair;

(f) In failing to provide any verbal warning to Plaintiff at anytime material hereto;

(g) In concealing a hidden danger, concerning the dangerous and unsafe combination of the wheeled-chair and smooth, uncarpeted surface to remain where invitees, specifically Plaintiff, would be caused to be seated for services;

(h) In concealing a hidden danger, in that Plaintiff was directed to place both her hands and feet in dryers while in a mobile chair leaving no means for Plaintiff to brace herself from a fall;

(i) In failing to provide a static, un-wheeled chair that would be safe for the nature of the flooring and use by Plaintiff;

(j) In failing to provide direction to Plaintiff as to how to safely use the hand and foot nail dryers;

(k) In allowing the aforementioned described dangerous condition to exist of the Premises at the area Plaintiff was caused to fall; and

(l) In failing to have policies and procedures in place so as to prevent the herein alleged occurrence.

16. Defendant, Nguyen, individually or by his agents, servants, and/or employees, acting in the scope of their authority and employment, had actual knowledge or should have known through the exercise of ordinary care and diligence that a dangerous condition existed within said Premises where Plaintiff, Marcia Mazzoni, was caused to fall.

17. As a direct and proximate result of the negligence of Defendant, Nguyen, Plaintiff, Marcia Mazzoni, sustained serious injuries including, but not limited to, general back and neck pain, hip and buttocks pain radiating into her lower extremities, neck and thoracic spine pain and stiffness, sacrum and coccyx pain and stiffness, lower and mid back pain and stiffness, and headaches, requiring medical attention.

18. As a direct and proximate result of the negligence of Defendant, Nguyen, Plaintiff, Marcia Mazzoni, has undergone great physical pain, discomfort and mental anguish and she will continue to endure the same for an indefinite period of time in the future, to her great detriment and loss, physically, emotionally and financially.

19. As a direct and proximate result of the negligence of Defendant, Nguyen, Plaintiff, Marcia Mazzoni, has been, and will in the future be, hindered from attending to her daily duties to her great detriment, loss, humiliation and embarrassment.

20. As a direct and proximate result of the negligence of Defendant, Nguyen, Plaintiff, Marcia Mazzoni, has, and will in the future, suffer a loss of life's pleasures.

21. As a direct and proximate result of the negligence of Defendant, Nguyen, Plaintiff, Marcia Mazzoni, has been compelled, in order to effect a cure for the aforesaid injuries, to expend large sums of money for medicine and medical attention, and will be required to expend large sums of money for the same purposes in the future, to her great detriment and loss.

WHEREFORE, Plaintiff, Marcia Mazzoni, seeks damages from Defendant, Nguyen, in an amount in excess of the compulsory arbitration limits of Clearfield County.

Count II
Negligence
Marcia Mazzoni v. Nail Time

22. Plaintiff sets forth the averments contained paragraphs 1 through 21 by reference as if fully set forth at length herein

23. At all times material hereto, Defendant, Nail Time, was in ownership, possession, management and control of the premises located at Dubois Mall, Route 255 & Shaffer Road, Dubois, Clearfield County, Pennsylvania, 15801 and known as Nail Time, (hereinafter referred to as "Premises").

24. On or about June 8th, 2004, Plaintiff, Marcia Mazzoni, entered the Premises for the purpose of having a manicure, pedicure and other personal grooming services preformed by Defendant, Nail Time, its agents, employees and/or servants, in the Premises.

25. At all times material hereto, Plaintiff was lawfully upon said Premises and was, at all times material hereto, a business invitee within the scope of her invitation.

26. At all times material hereto, Defendant, Nail Time, its agents, employees and/or servants, in fact performed a manicure, pedicure and other personal grooming/beautification services on Plaintiff.

27. At all times material hereto, Defendant, Nail Time, its agents, employees and/or servants directed Plaintiff while her manicure, pedicure and other personal grooming/beautification services were performed upon Plaintiff.

28. During the performance of various grooming/beautification services upon Plaintiff, Defendant, Nail Time, its agents, employees and/or servants instructed Plaintiff, while seated in a wheeled-chair and upon a smooth, uncarpeted surface, to put her hands and feet in dryers.

29. Following direction of the Defendant, Nail Time, its agents, employees and/or servants, Plaintiff had both her hands and feet in dryers while seated in a wheeled-chair and upon a smooth, uncarpeted surface.

30. At the direction of Defendant, Nail Time, its agents, employees and/or servants, Plaintiff had both her hands and feet in dryers while seated in a wheeled-chair and upon a smooth, uncarpeted surface within said Premises, said wheeled-chair slid out from beneath Plaintiff causing her to fall violently upon her buttocks and coccyx with great force and whereby she sustained certain injuries as hereinafter more particularly set forth.

31. At all times material hereto, Defendant, Nail Time, its agents, employees and/or servants, had a duty to Plaintiff to keep the Premises in a reasonably safe

condition, to warn her of non-obvious and hidden dangers that existed upon the Premises and had a duty to Plaintiff to make reasonable inspections of dangerous conditions that were concealed to the Plaintiff.

32. Defendant, Nail Time, its agents, employees and/or servants, breached the duty it owed to Plaintiff by failing to warn her of the danger that existed and by otherwise allowing the dangerous and unsafe combination of the wheeled-chair and smooth, uncarpeted surface to remain where invitees, specifically Plaintiff, would be caused to be seated for services, as set forth fully herein.

33. The occurrence of the aforementioned incident and the resulting injuries to Plaintiff, Marcia Mazzoni, were caused directly and proximately by the negligence of Defendant, Nail Time, its agents, employees and/or servants, acting in the scope of their authority and employment, more specifically as set forth below:

(a) In failing to provide adequate warnings concerning the wheeled chair upon the smooth, uncarpeted flooring surface within said Premises;

(b) In failing to provide any adequate sign or other visual warning in the area that Plaintiff was caused to fall;

(c) In failing to provide warning concerning the dangerous and unsafe combination of the wheeled-chair and smooth, uncarpeted surface to remain where invitees, specifically Plaintiff, was caused to be seated for services;

(d) In failing to provide any verbal warning to Plaintiff prior to seating her in the wheeled chair;

(e) In failing to provide any verbal warning to Plaintiff prior to directing her to place her hands and feet in the dryer while seated in the wheeled chair;

(f) In failing to provide any verbal warning to Plaintiff at anytime material hereto;

(g) In concealing a hidden danger, concerning the dangerous and unsafe combination of the wheeled-chair and smooth, uncarpeted surface to remain where invitees, specifically Plaintiff, would be caused to be seated for services;

(h) In concealing a hidden danger, in that Plaintiff was directed to place both her hands and feet in dryers while in a mobile chair leaving no means for Plaintiff to brace herself from a fall;

(i) In failing to provide a static, un-wheeled chair that would be safe for the nature of the flooring and use by Plaintiff;

(j) In failing to provide direction to Plaintiff as to how to safely use the hand and foot nail dryers;

(k) In allowing the aforementioned described dangerous condition to exist of the Premises at the area Plaintiff was caused to fall; and

(l) In failing to have policies and procedures in place so as to prevent the herein alleged occurrence.

34. Defendant, Nguyen, individually or by his agents, servants, and/or employees, acting in the scope of their authority and employment, had actual knowledge or should have known through the exercise of ordinary care and diligence that a dangerous condition existed within said Premises where Plaintiff, Marcia Mazzoni, was caused to fall.

35. As a direct and proximate result of the negligence of Defendant, Nail Time, its agents, employees and/or servants, Plaintiff, Marcia Mazzoni, sustained

serious injuries including, but not limited to, general back and neck pain, hip and buttocks pain radiating into her lower extremities, neck and thoracic spine pain and stiffness, sacrum and coccyx pain and stiffness, lower and mid back pain and stiffness, and headaches, requiring medical attention.

36. As a direct and proximate result of the negligence of Defendant, Nail Time, its agents, employees and/or servants, Plaintiff, Marcia Mazzoni, has undergone great physical pain, discomfort and mental anguish and she will continue to endure the same for an indefinite period of time in the future, to her great detriment and loss, physically, emotionally and financially.

37. As a direct and proximate result of the negligence of Defendant, Nail Time, its agents, employees and/or servants, Plaintiff, Marcia Mazzoni, has been, and will in the future be, hindered from attending to her daily duties to her great detriment, loss, humiliation and embarrassment.

38. As a direct and proximate result of the negligence of Defendant, Nail Time, its agents, employees and/or servants, Plaintiff, Marcia Mazzoni, has, and will in the future, suffer a loss of life's pleasures.

39. As a direct and proximate result of the negligence of Defendant, Nail Time, its agents, employees and/or servants, Plaintiff, Marcia Mazzoni, has been compelled, in order to effect a cure for the aforesaid injuries, to expend large sums of money for medicine and medical attention, and will be required to expend large sums of money for the same purposes in the future, to her great detriment and loss.

WHEREFORE, Plaintiff, Marcia Mazzoni, seeks damages from Defendant, Nail Time, in an amount in excess of the compulsory arbitration limits of Clearfield County.

Count III
Marcia Mazzoni v. David V. Nguyen, d/b/a Nail Time and Nail Time

VICARIOUS LIABILITY

40. Plaintiffs set forth the averments contained paragraphs 1 through 39 by reference as if fully set forth at length herein.

41. At all times material hereto the events set forth above, all persons working at Premises, were agents, employees, and/or servants, of Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time and were authorized to operate on behalf of Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time.

42. Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time, are liable for the negligence of their agents, employees, and/or servants as described hereinabove and hereinafter.

43. The damages alleged hereinabove were the direct and/or proximate result of the negligence of Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time agents, employees, and/or servants.

44. At all times material hereto the events set forth above, all persons working at Premises, were agents, employees, and/or servants, of Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time and were acting within the scope of their employment and authority.

45. Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time by and through its agents, employees, and/or servants, breached the aforementioned duties of care owed to Plaintiff, Marcia Mazzoni.

46. As a direct and proximate cause of the aforementioned breach by Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time, by and through their

agents, employees and/or servants, of duties of care owed to Plaintiff, dangerous conditions in the Premises as described hereinabove and incorporated by reference herein were allowed to exist.

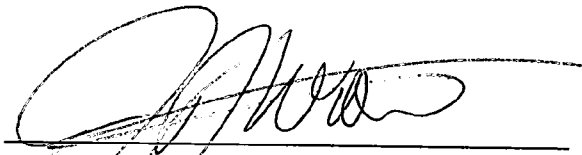
47. As a direct and proximate cause of the aforementioned negligence of the Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time by and through their agents, employees and/or servants Plaintiff was caused to suffer personal injury and damages as set forth hereinabove.

WHEREFORE, Plaintiff, Marcia Mazzoni, seeks damages from David V. Nguyen, d/b/a Nail Time and Nail Time, in an amount in excess of the compulsory arbitration limits of Clearfield County.

Respectfully Submitted:

Dated: June 6, 2006

By:

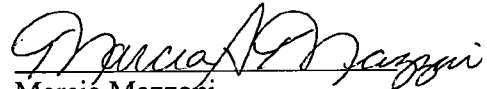


J. Jeffrey Watson, Esq.
Law Offices of William E. Hager, III
Attorney for Plaintiff
352 Broad Street
New Bethlehem, PA 16242
(814) 275-3551

VERIFICATION

I verify that the statements made in the foregoing Complaint in Civil Action are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. Section 4904, relating to unsworn falsification of authorities.

Date: 6/1/06


Marcia Mazzoni

FILED

JUN 08 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

MARCIA MAZZONI,

Plaintiff,

v.

DAVID V. NGUYEN, d/b/a NAIL TIME,
and NAIL TIME,

Defendants.

) No. 2006-921 -CD
)
) TYPE OF PLEADING:
) Entry of Appearance
)
) Filed on Behalf of Defendant
) David V. Nguyen, d/b/a Nail
) Time, and Nail Time
)
) Counsel of Record for the Party
) Tracey G. Benson, Esq.
) Pa. I.D. No. 34984
)
) MILLER, KISTLER, CAMPBELL,
) MILLER, WILLIAMS &
) BENSON, INC.
) 124 N. Allegheny Street
) Bellefonte, PA 16823
) (814) 355-5474
) (814) 355-5340 - Fax

FILED

JUL 07 2006

W/11150/162
William A. Shaw
Prothonotary/Clerk of Courts
1 CENT TO ATT
COPY TO C/A

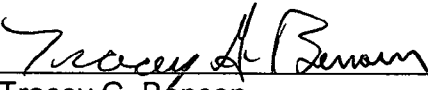
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

PRAECIPE FOR ENTRY OF APPEARANCE

To the Prothonotary of Said Court:

Please enter my appearance on behalf of defendants David V. Nguyen, d/b/a Nail Time, and Nail Time, in the above captioned matter. All papers may be served on the undersigned for purposes of this action.


Tracey G. Benson

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON, INC.
124 North Allegheny Street
Bellefonte, PA 16823
Telephone No. (814) 355-5474

Counsel for Defendants
David N. Nguyen d/b/a Nail Time, and
Nail Time

Dated: July 6, 2006

Dated: July 6, 2006

Prothonotary/Clerk of Courts
William A. Shaw

JUL 07 2006

FILED

In The Court of Common Pleas of Clearfield County, Pennsylvania

Service # 1 of 2 Services

Sheriff Docket # **101627**

MARCIA MAZZONI

Case # 06-921-CD

vs.

DAVID V. NGUYEN d/b/a NAIL TIME and NAIL TIME

TYPE OF SERVICE COMPLAINT

SHERIFF RETURNS

NOW July 13, 2006 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURNED THE WITHIN COMPLAINT "NOT FOUND" AS TO DAVID V. NGUYEN D/B/A NAIL TIME, DEFENDANT. MOVED TO ATLANTA, GA..

SERVED BY: /

FILED
9/3:16/01
JUL 13 2006
um

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101627
NO: 06-921-CD
SERVICE # 2 OF 2
COMPLAINT

PLAINTIFF: MARCIA MAZZONI

vs.

DEFENDANT: DAVID V. NGUYEN d/b/a NAIL TIME and NAIL TIME

SHERIFF RETURN

NOW, June 23, 2006 AT 11:40 AM SERVED THE WITHIN COMPLAINT ON NAIL TIME DEFENDANT AT DUBOIS MALL, RT 255 & SHAFFER RD., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO TOM NGUYEN, OWNER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DEHAVEN /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101627
NO: 06-921-CD
SERVICES 2
COMPLAINT

PLAINTIFF: MARCIA MAZZONI

vs.

DEFENDANT: DAVID V. NGUYEN d/b/a NAIL TIME and NAIL TIME

SHERIFF RETURN

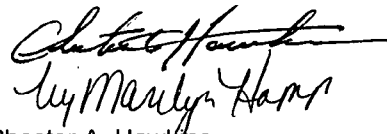
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	HAGER	1263	20.00
SHERIFF HAWKINS	HAGER	1263	40.30

Sworn to Before Me This

_____ Day of _____ 2006

So Answers,



Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

I HEREBY CERTIFY THAT
THE WITHIN IS A TRUE
AND CORRECT COPY.

MARCIA MAZZONI ,

Plaintiff

vs.

DAVID V. NGUYEN, d/b/a NAIL TIME, and
NAIL TIME,

Defendant

: CIVIL DIVISION

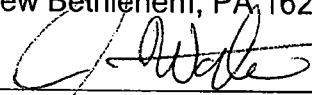
: No. 06-921-CD

: Type of Pleading: Complaint

: Filed on Behalf of Plaintiff

: Counsel of Record for the
: Plaintiff

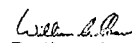
: LAW OFFICES OF WILLIAM E.
: HAGER, III
: 352 Broad Street
: New Bethlehem, PA 16242

: 
: J. Jeffrey Watson, Esq.
: ID No. 90876

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

JUN 08 2006

Attest.


Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI ,	:	CIVIL DIVISION
	:	
Plaintiff	:	No. _____
vs.	:	
	:	Type of Pleading: Complaint
	:	
DAVID V. NGUYEN, d/b/a NAIL TIME, and	:	
NAIL TIME,	:	
	:	
Defendant	:	

NOTICE TO DEFEND

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.

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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 GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. (5982)

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI ,	:	CIVIL DIVISION
	:	
Plaintiff	:	No. _____
vs.	:	
	:	Type of Pleading: Complaint
	:	
DAVID V. NGUYEN, d/b/a NAIL TIME, and	:	
NAIL TIME,	:	
	:	
Defendants	:	

COMPLAINT

AND NOW, comes the Plaintiff, Marcia Mazzoni, by and through her attorneys, The Law Offices of William E. Hager, III, by J. Jeffrey Watson, Esquire, and bring forth this Complaint against Defendants, David V. Nguyen, d/b/a Nail Time, and Nail Time, and aver as follows:

1. Plaintiff, Marcia Mazzoni, is an adult individual residing at, 1713 Rider Road, Rimersburg, Clarion County, Pennsylvania 16248.
2. Defendant, David V. Nguyen, (hereinafter referred to as "Nguyen") is a an adult individual doing business as "Nail Time", within the Commonwealth of Pennsylvania and having a principal place of business at Dubois Mall, Route 255 & Shaffer Road, Dubois, Clearfield County, Pennsylvania, 15801.
3. Defendant, Nail Time, (hereinafter referred to as "Nail Time") is a business within the Commonwealth of Pennsylvania and having a principal place of business at

Dubois Mall, Route 255 & Shaffer Road, Dubois, Clearfield County, Pennsylvania, 15801.

4. At all times material hereto, upon knowledge, information and belief, Defendant, David V. Nguyen, and/or his successors and assigns, were doing business as Nail Time.

Count I
Negligence
Marcia Mazzoni v. David V. Nguyen, d/b/a Nail Time

5. At all times material hereto, Defendant, Nguyen, was in ownership, possession, management and control of the premises located at Dubois Mall, Route 255 & Shaffer Road, Dubois, Clearfield County, Pennsylvania, 15801 and known as Nail Time, (hereinafter referred to as "Premises").

6. On or about June 8th, 2004, Plaintiff, Marcia Mazzoni, entered the Premises for the purpose of having a manicure, pedicure and other personal grooming services preformed by Defendant, Nguyen, his agents, employees and/or servants, in the Premises.

7. At all times material hereto, Plaintiff was lawfully upon said Premises and was, at all times material hereto, a business invitee within the scope of her invitation.

8. At all times material hereto, Defendant, Nguyen, his agents, employees and/or servants in fact performed a manicure, pedicure and other personal grooming/beautification services on Plaintiff.

9. At all times material hereto, Defendant, Nguyen, his agents, employees and/or servants directed Plaintiff while her manicure, pedicure and other personal grooming/beautification services were performed upon Plaintiff.

10. During the performance of various grooming/beautification services upon Plaintiff, Defendant, Nguyen, his agents, employees and/or servants instructed Plaintiff, while seated in a wheeled-chair and upon a smooth, uncarpeted surface, to put her hands and feet in dryers.

11. Following direction of the Defendant, Nguyen, his agents, employees and/or servants, Plaintiff had both her hands and feet in dryers while seated in a wheeled-chair and upon a smooth, uncarpeted surface.

12. At the direction of Defendant, Plaintiff had both her hands and feet in dryers while seated in a wheeled-chair and upon a smooth, uncarpeted surface within said Premises, said wheeled-chair slid out from beneath Plaintiff causing her to fall violently upon her buttocks and coccyx with great force and whereby she sustained certain injuries as hereinafter more particularly set forth.

13. At all times material hereto, Defendant, Nguyen, had a duty to Plaintiff to keep the Premises in a reasonably safe condition, to warn her of non-obvious and hidden dangers that existed upon the Premises and had a duty to Plaintiff to make reasonable inspections of dangerous conditions that were concealed to the Plaintiff.

14. Defendant, Nguyen, breached the duty it owed to Plaintiff by failing to warn her of the danger that existed and by otherwise allowing the dangerous and unsafe combination of the wheeled-chair and smooth, uncarpeted surface to remain where invitees, specifically Plaintiff, would be caused to be seated for services, as set forth fully herein.

15. The occurrence of the aforementioned incident and the resulting injuries to Plaintiff, Marcia Mazzoni, were caused directly and proximately by the negligence of

Defendant, Nguyen, individually or by his agents, servants, and/or employees, acting in the scope of their authority and employment, more specifically as set forth below:

(a) In failing to provide adequate warnings concerning the wheeled chair upon the smooth, uncarpeted flooring surface within said Premises;

(b) In failing to provide any adequate sign or other visual warning in the area that Plaintiff was caused to fall;

(c) In failing to provide warning concerning the dangerous and unsafe combination of the wheeled-chair and smooth, uncarpeted surface to remain where invitees, specifically Plaintiff, was caused to be seated for services;

(d) In failing to provide any verbal warning to Plaintiff prior to seating her in the wheeled chair;

(e) In failing to provide any verbal warning to Plaintiff prior to directing her to place her hands and feet in the dryer while seated in the wheeled chair;

(f) In failing to provide any verbal warning to Plaintiff at anytime material hereto;

(g) In concealing a hidden danger, concerning the dangerous and unsafe combination of the wheeled-chair and smooth, uncarpeted surface to remain where invitees, specifically Plaintiff, would be caused to be seated for services;

(h) In concealing a hidden danger, in that Plaintiff was directed to place both her hands and feet in dryers while in a mobile chair leaving no means for Plaintiff to brace herself from a fall;

(i) In failing to provide a static, un-wheeled chair that would be safe for the nature of the flooring and use by Plaintiff;

(j) In failing to provide direction to Plaintiff as to how to safely use the hand and foot nail dryers;

(k) In allowing the aforementioned described dangerous condition to exist of the Premises at the area Plaintiff was caused to fall; and

(l) In failing to have policies and procedures in place so as to prevent the herein alleged occurrence.

16. Defendant, Nguyen, individually or by his agents, servants, and/or employees, acting in the scope of their authority and employment, had actual knowledge or should have known through the exercise of ordinary care and diligence that a dangerous condition existed within said Premises where Plaintiff, Marcia Mazzoni, was caused to fall.

17. As a direct and proximate result of the negligence of Defendant, Nguyen, Plaintiff, Marcia Mazzoni, sustained serious injuries including, but not limited to, general back and neck pain, hip and buttocks pain radiating into her lower extremities, neck and thoracic spine pain and stiffness, sacrum and coccyx pain and stiffness, lower and mid back pain and stiffness, and headaches, requiring medical attention.

18. As a direct and proximate result of the negligence of Defendant, Nguyen, Plaintiff, Marcia Mazzoni, has undergone great physical pain, discomfort and mental anguish and she will continue to endure the same for an indefinite period of time in the future, to her great detriment and loss, physically, emotionally and financially.

19. As a direct and proximate result of the negligence of Defendant, Nguyen, Plaintiff, Marcia Mazzoni, has been, and will in the future be, hindered from attending to her daily duties to her great detriment, loss, humiliation and embarrassment.

20. As a direct and proximate result of the negligence of Defendant, Nguyen, Plaintiff, Marcia Mazzoni, has, and will in the future, suffer a loss of life's pleasures.

21. As a direct and proximate result of the negligence of Defendant, Nguyen, Plaintiff, Marcia Mazzoni, has been compelled, in order to effect a cure for the aforesaid injuries, to expend large sums of money for medicine and medical attention, and will be required to expend large sums of money for the same purposes in the future, to her great detriment and loss.

WHEREFORE, Plaintiff, Marcia Mazzoni, seeks damages from Defendant, Nguyen, in an amount in excess of the compulsory arbitration limits of Clearfield County.

Count II
Negligence
Marcia Mazzoni v. Nail Time

22. Plaintiff sets forth the averments contained paragraphs 1 through 21 by reference as if fully set forth at length herein

23. At all times material hereto, Defendant, Nail Time, was in ownership, possession, management and control of the premises located at Dubois Mall, Route 255 & Shaffer Road, Dubois, Clearfield County, Pennsylvania, 15801 and known as Nail Time, (hereinafter referred to as "Premises").

24. On or about June 8th, 2004, Plaintiff, Marcia Mazzoni, entered the Premises for the purpose of having a manicure, pedicure and other personal grooming services preformed by Defendant, Nail Time, its agents, employees and/or servants, in the Premises.

25. At all times material hereto, Plaintiff was lawfully upon said Premises and was, at all times material hereto, a business invitee within the scope of her invitation.

26. At all times material hereto, Defendant, Nail Time, its agents, employees and/or servants, in fact performed a manicure, pedicure and other personal grooming/beautification services on Plaintiff.

27. At all times material hereto, Defendant, Nail Time, its agents, employees and/or servants directed Plaintiff while her manicure, pedicure and other personal grooming/beautification services were performed upon Plaintiff.

28. During the performance of various grooming/beautification services upon Plaintiff, Defendant, Nail Time, its agents, employees and/or servants instructed Plaintiff, while seated in a wheeled-chair and upon a smooth, uncarpeted surface, to put her hands and feet in dryers.

29. Following direction of the Defendant, Nail Time, its agents, employees and/or servants, Plaintiff had both her hands and feet in dryers while seated in a wheeled-chair and upon a smooth, uncarpeted surface.

30. At the direction of Defendant, Nail Time, its agents, employees and/or servants, Plaintiff had both her hands and feet in dryers while seated in a wheeled-chair and upon a smooth, uncarpeted surface within said Premises, said wheeled-chair slid out from beneath Plaintiff causing her to fall violently upon her buttocks and coccyx with great force and whereby she sustained certain injuries as hereinafter more particularly set forth.

31. At all times material hereto, Defendant, Nail Time, its agents, employees and/or servants, had a duty to Plaintiff to keep the Premises in a reasonably safe

condition, to warn her of non-obvious and hidden dangers that existed upon the Premises and had a duty to Plaintiff to make reasonable inspections of dangerous conditions that were concealed to the Plaintiff.

32. Defendant, Nail Time, its agents, employees and/or servants, breached the duty it owed to Plaintiff by failing to warn her of the danger that existed and by otherwise allowing the dangerous and unsafe combination of the wheeled-chair and smooth, uncarpeted surface to remain where invitees, specifically Plaintiff, would be caused to be seated for services, as set forth fully herein.

33. The occurrence of the aforementioned incident and the resulting injuries to Plaintiff, Marcia Mazzoni, were caused directly and proximately by the negligence of Defendant, Nail Time, its agents, employees and/or servants, acting in the scope of their authority and employment, more specifically as set forth below:

(a) In failing to provide adequate warnings concerning the wheeled chair upon the smooth, uncarpeted flooring surface within said Premises;

(b) In failing to provide any adequate sign or other visual warning in the area that Plaintiff was caused to fall;

(c) In failing to provide warning concerning the dangerous and unsafe combination of the wheeled-chair and smooth, uncarpeted surface to remain where invitees, specifically Plaintiff, was caused to be seated for services;

(d) In failing to provide any verbal warning to Plaintiff prior to seating her in the wheeled chair;

(e) In failing to provide any verbal warning to Plaintiff prior to directing her to place her hands and feet in the dryer while seated in the wheeled chair;

(f) In failing to provide any verbal warning to Plaintiff at anytime material hereto;

(g) In concealing a hidden danger, concerning the dangerous and unsafe combination of the wheeled-chair and smooth, uncarpeted surface to remain where invitees, specifically Plaintiff, would be caused to be seated for services;

(h) In concealing a hidden danger, in that Plaintiff was directed to place both her hands and feet in dryers while in a mobile chair leaving no means for Plaintiff to brace herself from a fall;

(i) In failing to provide a static, un-wheeled chair that would be safe for the nature of the flooring and use by Plaintiff;

(j) In failing to provide direction to Plaintiff as to how to safely use the hand and foot nail dryers;

(k) In allowing the aforementioned described dangerous condition to exist of the Premises at the area Plaintiff was caused to fall; and

(l) In failing to have policies and procedures in place so as to prevent the herein alleged occurrence.

34. Defendant, Nguyen, individually or by his agents, servants, and/or employees, acting in the scope of their authority and employment, had actual knowledge or should have known through the exercise of ordinary care and diligence that a dangerous condition existed within said Premises where Plaintiff, Marcia Mazzoni, was caused to fall.

35. As a direct and proximate result of the negligence of Defendant, Nail Time, its agents, employees and/or servants, Plaintiff, Marcia Mazzoni, sustained

serious injuries including, but not limited to, general back and neck pain, hip and buttocks pain radiating into her lower extremities, neck and thoracic spine pain and stiffness, sacrum and coccyx pain and stiffness, lower and mid back pain and stiffness, and headaches, requiring medical attention.

36. As a direct and proximate result of the negligence of Defendant, Nail Time, its agents, employees and/or servants, Plaintiff, Marcia Mazzoni, has undergone great physical pain, discomfort and mental anguish and she will continue to endure the same for an indefinite period of time in the future, to her great detriment and loss, physically, emotionally and financially.

37. As a direct and proximate result of the negligence of Defendant, Nail Time, its agents, employees and/or servants, Plaintiff, Marcia Mazzoni, has been, and will in the future be, hindered from attending to her daily duties to her great detriment, loss, humiliation and embarrassment.

38. As a direct and proximate result of the negligence of Defendant, Nail Time, its agents, employees and/or servants, Plaintiff, Marcia Mazzoni, has, and will in the future, suffer a loss of life's pleasures.

39. As a direct and proximate result of the negligence of Defendant, Nail Time, its agents, employees and/or servants, Plaintiff, Marcia Mazzoni, has been compelled, in order to effect a cure for the aforesaid injuries, to expend large sums of money for medicine and medical attention, and will be required to expend large sums of money for the same purposes in the future, to her great detriment and loss.

WHEREFORE, Plaintiff, Marcia Mazzoni, seeks damages from Defendant, Nail Time, in an amount in excess of the compulsory arbitration limits of Clearfield County.

Count III
Marcia Mazzoni v. David V. Nguyen, d/b/a Nail Time and Nail Time

VICARIOUS LIABILITY

40. Plaintiffs set forth the averments contained paragraphs 1 through 39 by reference as if fully set forth at length herein.

41. At all times material hereto the events set forth above, all persons working at Premises, were agents, employees, and/or servants, of Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time and were authorized to operate on behalf of Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time.

42. Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time, are liable for the negligence of their agents, employees, and/or servants as described hereinabove and hereinafter.

43. The damages alleged hereinabove were the direct and/or proximate result of the negligence of Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time agents, employees, and/or servants.

44. At all times material hereto the events set forth above, all persons working at Premises, were agents, employees, and/or servants, of Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time and were acting within the scope of their employment and authority.

45. Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time by and through its agents, employees, and/or servants, breached the aforementioned duties of care owed to Plaintiff, Marcia Mazzoni.

46. As a direct and proximate cause of the aforementioned breach by Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time, by and through their

agents, employees and/or servants, of duties of care owed to Plaintiff, dangerous conditions in the Premises as described hereinabove and incorporated by reference herein were allowed to exist.

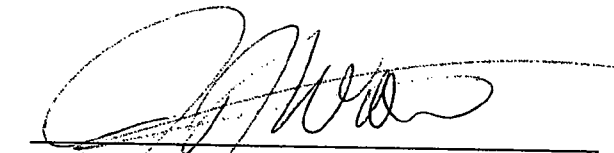
47. As a direct and proximate cause of the aforementioned negligence of the Defendants, David V. Nguyen, d/b/a Nail Time and Nail Time by and through their agents, employees and/or servants Plaintiff was caused to suffer personal injury and damages as set forth hereinabove.

WHEREFORE, Plaintiff, Marcia Mazzoni, seeks damages from David V. Nguyen, d/b/a Nail Time and Nail Time, in an amount in excess of the compulsory arbitration limits of Clearfield County.

Respectfully Submitted:

Dated: June 6, 2006

By:

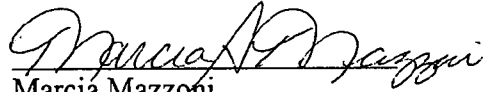


J. Jeffrey Watson, Esq.
Law Offices of William E. Hager, III
Attorney for Plaintiff
352 Broad Street
New Bethlehem, PA 16242
(814) 275-3551

VERIFICATION

I verify that the statements made in the foregoing Complaint in Civil Action are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. Section 4904, relating to unsworn falsification of authorities.

Date: 6/1/06


Marcia Mazzoni

I went to Huffy

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

NOTICE TO PLEAD

TO THE WITHIN NAMED PLAINTIFF:

You are hereby notified to plead to the enclosed New Matter, within twenty (20) days from service hereof or a default judgment may be entered against you.



Tracey G. Benson

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON, INC.
124 North Allegheny Street
Bellefonte, PA 16823
(814) 355-5474

Counsel for Defendants David V. Nguyen d/b/a
Nail Time and Nail Time

Dated: August 11, 2006

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

ANSWER AND NEW MATTER

Defendants David V. Nguyen, d/b/a Nail Time ("Nguyen") and Nail Time, by their counsel, Tracey G. Benson, Esquire and Miller, Kistler, Campbell, Miller, Williams & Benson, Inc. respond to the Complaint of Marcia Mazzoni, and state as follows:

ANSWER

1. Defendants are without knowledge or information sufficient to form a belief as to the truth of any allegations contained in paragraph 1 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

2. Defendants admit only that David V. Nguyen is an adult individual to whom is registered the fictitious name "Nail Time," which has a principal place of business in the DuBois Mall, Route 255 and Shaffer Road, DuBois, Clearfield County, Pennsylvania 15801. Any remaining allegations contained in paragraph 2 of the Complaint are denied.

3. The allegations contained in paragraph 3 of the Complaint, are denied. To the contrary, defendants aver that "Nail Time" is a fictitious name for a business located in the DuBois Mall at Route 255 and Shaffer Road, DuBois, Clearfield County,

Pennsylvania 15801. Any remaining allegations contained in paragraph 3 of the Complaint constitute conclusions of law to which no response is required.

4. It is denied that on the date of the incident alleged in plaintiff's Complaint, that defendant David V. Nguyen was present or otherwise operating or doing business as Nail Time, as alleged. To the contrary, the business located in the DuBois Mall where plaintiff alleges she was injured, was owned by Phong Nguyen and operated by Amy Nguyen and Phong Nguyen on the date alleged.

Count I
Negligence
Marcia Mazzoni v. David V. Nguyen, d/b/a Nail Time

5. Defendant Nguyen denies that at any time material to the allegations contained in the Complaint, he was "in ownership, possession, management and control of the premises located at DuBois Mall, Route 255 and Shaffer Road, DuBois, Clearfield County, Pennsylvania 15801 and known as Nail Time." To the contrary, it is averred that at all times relevant to the incident described in plaintiffs' Complaint, the business was owned by Phong Nguyen and operated by Amy and Phong Nguyen. Any remaining allegations contained in paragraph 5 of the Complaint are denied.

6. Defendant Nguyen denies that either he, his agents, employees and/or servants performed any manicure, pedicure and/or other personal grooming services on plaintiff Marcia Mazzoni on June 8, 2004, as alleged. To the contrary, defendant David V. Nguyen had no ownership interest in the business, and was not present on the premises of the business at the DuBois Mall, on June 8, 2004, in that said business was

owned by Phong Nguyen and operated at that time by Amy Nguyen and Phong Nguyen.

7. The allegations contained in paragraph 7 of the Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed to be required, defendants deny each and every allegation contained in paragraph 7 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

8. Defendant Nguyen denies that any manicure, pedicure, or other personal grooming/beautification services were provided to plaintiff Marcia Mazzoni on the date alleged by David V. Nguyen or his agents, employees and/or servants. Any remaining allegations contained in paragraph 8 of the Complaint are denied pursuant to Pa.R.Civ.P. 1029(e).

9. Defendant Nguyen denies that any manicure, pedicure, or other personal grooming/beautification services were provided to plaintiff Marcia Mazzoni on the date alleged by David V. Nguyen or his agents, employees and/or servants. Any remaining allegations contained in paragraph 9 of the Complaint are denied pursuant to Pa.R.Civ.P. 1029(e).

10. Defendant Nguyen denies that any manicure, pedicure, or other personal grooming/beautification services were provided to plaintiff Marcia Mazzoni on the date alleged by David V. Nguyen or his agents, employees and/or servants. Any remaining allegations contained in paragraph 10 of the Complaint are denied pursuant to Pa.R.Civ.P. 1029(e). Defendant David V. Nguyen is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations contained in

paragraph 10 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

11. Defendant Nguyen denies that any manicure, pedicure, or other personal grooming/beautification services were provided to plaintiff Marcia Mazzoni on the date alleged by David V. Nguyen or his agents, employees and/or servants. Any remaining allegations contained in paragraph 11 of the Complaint are denied pursuant to Pa.R.Civ.P. 1029(e). Defendant David V. Nguyen is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations contained in paragraph 11 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

12. Defendant Nguyen denies that any manicure, pedicure, or other personal grooming/beautification services were provided to plaintiff Marcia Mazzoni on the date alleged by David V. Nguyen or his agents, employees and/or servants. Any remaining allegations contained in paragraph 12 of the Complaint are denied pursuant to Pa.R.Civ.P. 1029(e). Defendant David V. Nguyen is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations contained in paragraph 12 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

13. Defendant Nguyen denies each and every allegation contained in paragraph 13 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

14. Defendant Nguyen denies each and every allegation contained in paragraph 14 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

15. Defendant Nguyen denies each and every allegation contained in paragraphs 15, including subparagraphs (a) through (l), pursuant to Pa.R.Civ.P. 1029(e).

16. Defendant Nguyen denies each and every allegation contained in paragraph 16 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

17. Defendant Nguyen denies each and every allegation contained in paragraph 17 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

18. Defendant Nguyen denies each and every allegation contained in paragraph 18 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

19. Defendant Nguyen denies each and every allegation contained in paragraph 19 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

20. Defendant Nguyen denies each and every allegation contained in paragraph 20 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

21. Defendant Nguyen denies each and every allegation contained in paragraph 21 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

Count II
Negligence
Marcia Mazzoni v. Nail Time

22. Defendants incorporate by reference herein the responses to paragraphs 1 through and including 21 of plaintiff's Complaint as though set forth in full.

23. Defendant Nguyen denies each and every allegation contained in paragraph 23 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

24. Defendants are without knowledge or information sufficient to form a belief as to the truth of any allegations contained in paragraph 24 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

25. The allegations contained in paragraph 25 of the Complaint constitute conclusions of law to which no response is required.

26. Defendant Nguyen is without knowledge or information sufficient to form a belief as to the truth of any allegations contained in paragraph 26 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

27. Defendant Nguyen is without knowledge or information sufficient to form a belief as to the truth of any allegations contained in paragraph 27 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

28. Defendant Nguyen is without knowledge or information sufficient to form a belief as to the truth of any allegations contained in paragraph 28 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

29. Defendant Nguyen is without knowledge or information sufficient to form a belief as to the truth of any allegations contained in paragraph 29 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

30. Defendant Nguyen is without knowledge or information sufficient to form a belief as to the truth of any allegations contained in paragraph 30 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

31. The allegations contained in paragraph 31 of the Complaint constitute conclusions of law to which no response is required.

32. Defendant Nguyen denies each and every allegation contained in paragraph 32 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

33. Defendant Nguyen denies each and every allegation contained in paragraph 33, including subparagraphs (a) through (l), of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

34. Defendant Nguyen denies each and every allegation contained in paragraph 34 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

35. Defendant Nguyen denies each and every allegation contained in paragraph 35 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

36. Defendant Nguyen denies each and every allegation contained in paragraph 36 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

37. Defendant Nguyen denies each and every allegation contained in paragraph 37 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

38. Defendant Nguyen denies each and every allegation contained in paragraph 38 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

39. Defendant Nguyen denies each and every allegation contained in paragraph 39 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

Count III
Marcia Mazzoni v. David V. Nguyen, d/b/a Nail Time and Nail Time

VICARIOUS LIABILITY

40. Defendants incorporate by reference herein the responses to paragraphs 1 through and including 39 of plaintiff's Complaint as though set forth in full.

41. Defendant Nguyen denies that at any time material to the events set forth in plaintiff's Complaint, any persons working at the premises in the DuBois Mall were agents, employees and/or servants of David V. Nguyen, and were otherwise authorized to operate on behalf of defendant Nguyen any beautification equipment as alleged in the Complaint. Defendant Nguyen is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations contained in paragraph 41 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

42. Defendant Nguyen denies each and every allegation contained in paragraph 42 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

43. Defendant Nguyen denies each and every allegation contained in paragraph 43 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

44. Defendant Nguyen denies each and every allegation contained in paragraph 44 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

45. Defendant Nguyen denies each and every allegation contained in paragraph 45 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

46. Defendant Nguyen denies each and every allegation contained in paragraph 46 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

47. Defendant Nguyen denies each and every allegation contained in paragraph 47 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

NEW MATTER

48. The defendants aver that plaintiff's claims are subject to, and limited by the provisions of the Pennsylvania Comparative Negligence Act.

49. The defendants aver that plaintiff's claims are barred by her own contributory negligence.

50. The defendants aver that plaintiff's claims are barred by the doctrine of assumption of the risk.

51. The defendants aver that plaintiff's injuries and/or damages as alleged in the Complaint were directly and proximately caused, in whole or in part, by plaintiff Marcia Mazzoni's own negligent conduct as follows:

- (a) In attempting to move, relocate, reposition, or remove herself from the chair without first determining that she could do so safely;
- (b) In failing to perceive any condition which plaintiff alleges in the Complaint was dangerous and/or hazardous with regard to any property controlled or occupied by the defendants;
- (c) In failing to safeguard herself against the risks of injuries or harm caused by any alleged dangerous or hazardous condition on the premises, or the chair in which plaintiff was seated, that was owned, occupied, or controlled by the defendants;
- (d) In failing to exercise that degree of caution and care that would be expected from a reasonably prudent person under the conditions then and there prevailing; and
- (e) In failing to maintain a proper lookout for hazards, dangers and/or defects involving the chair and/or smooth floor which plaintiff alleges were present on the premises where plaintiff was obtaining manicure, pedicure and/or other beautification services.

52. The defendants aver that any accident as alleged in the Complaint did not involve any real and/or personal property with respect to which these defendants had any ownership rights, duty or control.

53. In the event that it is determined plaintiff sustained any harm or injury as the result of any alleged defective or dangerous condition on premises, or involving personal property, owned, occupied or controlled by the defendants, which is specifically denied, then defendants aver that any such condition was, or should have been, known to plaintiff or obvious to any reasonably prudent person in the area maintaining a proper lookout.

54. The defendants aver that plaintiff has not sustained any injuries or damages as alleged in the Complaint, due to any conduct, errors or omissions on the part of these defendants.

55. The defendants aver that in the event it is judicially determined that the defendants were negligent or otherwise liable to the plaintiff, which is specifically denied, then it is averred that plaintiff did not sustain some or all of the injuries or harm alleged as a direct, proximate, or legal result of any such negligent conduct on the part of these defendants.

56. The defendants aver that to the extent the plaintiff sustained any injuries or harm as alleged in the Complaint, which is denied, then said injuries or harm were directly, proximately, and/or solely caused by the negligence of others over whom these defendants had neither the opportunity nor duty of control.

57. The defendants aver that plaintiff's Complaint fails to state any claim upon which relief can be granted as against some or all of these defendants.

58. The defendants aver that the plaintiff has not sustained some or all of the injuries or harm as alleged in the Complaint.

59. The defendants aver that plaintiff's claims are barred by any applicable statute of limitations.

60. The defendants aver that to the extent plaintiff has sustained any injuries or harm as alleged in the Complaint, said injuries or harm are the direct and/or proximate result of illnesses, conditions, or disease processes which are unrelated to the incident described in the Complaint.

61. The defendants aver that any chair at which plaintiff is alleged to have sat on June 8, 2004, was not purchased, owned, controlled, maintained or used by David V. Nguyen.

62. The defendants aver that to the extent plaintiff sustained any injuries as the result of sitting on a chair as alleged in the Complaint, which is denied, said chair was not located on property owned and controlled by these defendants, but rather was located on property which these defendants believe was leased, controlled and/or maintained by Phong Nguyen.

63. Defendant David V. Nguyen avers that he was not properly served with process in this case in a manner sufficient to vest this Court with personal jurisdiction over him with respect to the claims asserted in plaintiff's Complaint.

64. Defendant David V. Nguyen avers that at any time material to the matters alleged in plaintiff's Complaint, he had no ownership or management interest in the manicure, pedicure or personal grooming business located in the DuBois Mall where plaintiff alleges she sustained her injuries.

65. Defendants aver that at all times material to the allegations contained in plaintiff's Complaint, the business known as "Nail Time" as located in the DuBois Mall was not, and is not, a legal person, and thus is not amenable to suit.

66. Defendants aver that this Court lacks personal and/or subject matter jurisdiction over some or all of the defendants David V. Nguyen, d/b/a Nail Time, and Nail Time as identified in plaintiff's Complaint.

67. Defendants aver that at all times relevant to the claims asserted in plaintiff's Complaint, the Nail Time salon located in the DuBois Mall was under the exclusive ownership, operation and control of Phong Nguyen, also known as Tom Nguyen.

WHEREFORE, defendants David V. Nguyen, d/b/a Nail Time and Nail Time, pray that the Complaint be dismissed with prejudice, and that judgment be entered in favor of the defendants David V. Nguyen, d/b/a Nail Time, and Nail Time, and against plaintiff Marcia Mazzoni.

A JURY TRIAL IS DEMANDED.


Tracey G. Benson

MILLER, KISTLER, CAMPBELL,,
MILLER, WILLIAMS & BENSON, INC.
124 North Allegheny Street
Bellefonte, PA 16823
(814) 355-5474

Counsel for Defendants David V. Nguyen,
d/b/a Nail Time and Nail Time


Dated: August 11, 2006

VERIFICATION

I, **Tracey G. Benson, Esquire**, counsel of record for defendants David V. Nguyen, d/b/a Nail Time and Nail Time, state that the averments and denials of fact contained in the foregoing **Answer and New Matter** are true and correct to the best of my knowledge, information and belief.

I make this Verification pursuant to Pa.R.Civ.P. 1024(c). I have been informed that David V. Nguyen does not currently reside in the United States of America, and is not presently in the jurisdiction.

I make this Verification pursuant to 18 Pa.C.S.A. Section 4904 pertaining to unsworn falsification to authorities.



Tracey G. Benson, Esquire
Counsel for David V. Nguyen,
d/b/a Nail Time, and Nail Time

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Answer and New Matter**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

J. Jeffrey Watson,, Esq.
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON INC.

By: Tracey G. Benson
Tracey G. Benson

Dated: August 11, 2006

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

MARCIA MAZZONI,

Plaintiff,

v.

DAVID V. NGUYEN, d/b/a NAIL TIME,
and NAIL TIME,

Defendants.

Civil Division
No. 2006-921-CD

FILED NO CC
m 11:35/81
AUG 25 2006

William A. Shaw
Prothonotary/Clerk of Courts

NOTICE OF SERVICE OF INTERROGATORIES

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

Please take notice that the undersigned has served the original and two copies of Defendants David V. Nguyen d/b/a Nail time and Nail Time First Set of Interrogatories to Plaintiff by mailing them, first-class, postage prepaid, on this date to the following:

J. Jeffrey Watson, Esquire
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242


Tracey G. Benson, Esquire

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON, INC.
124 North Allegheny Street
Bellefonte, PA 16823
(814) 355-5474

Counsel for Defendants
David V. Nguyen d/b/a Nail Time and Nail Time

Dated: August 24, 2006

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Notice of Service of Interrogatories**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

J. Jeffrey Watson,, Esq.
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON INC.

By: Tracey G. Benson
Tracey G. Benson

Dated: August 24, 2006

CA

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

MARCIA MAZZONI,

Plaintiff,

v.

DAVID V. NGUYEN, d/b/a NAIL TIME,
and NAIL TIME,

Defendants.

Civil Division
No. 2006-921-CD

FILED *icc*
01/31/2007 *Atty*
FEB 13 2007 *Benson*
William A. Shaw
Prothonotary/Clerk of Courts *(GK)*

RULE TO SHOW CAUSE

NOW THIS 12 day of February, 2007, upon consideration of Defendants David V. Nguyen, d/b/a Nail Time and Nail Time's Motion to Compel Discovery Responses from Plaintiff, a Rule is hereby issued upon the Plaintiff to Show Cause why said Motion should not be granted. This rule is returnable for argument on the 27th day of February, 2007 at 10:00 o'clock A.m. in Courtroom # 3 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

NOTICE

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIM SET FORTH IN THE FOLLOWING MOTION FOR SANCTIONS BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITIONER OR MOVANT. YOU MAY LOSE 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 GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 1300 Or 1301

BY THE COURT:

J. 

FILED

FEB 13 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE 2/13/07

☒ You are responsible for serving all appropriate parties.

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

____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

ORDER

AND NOW, this ____ day of _____, 2007 upon consideration of the defendants' Motion to Compel Discovery Responses from Plaintiff, it is hereby ORDERED, ADJUDGED and DECREED that said Motion be, and the same hereby is GRANTED. Plaintiff shall file full and complete responses to the following discovery requests of the defendants:

- Expert Interrogatories Directed to Plaintiff Marcia Mazzoni;
- Defendant David V. Nguyen, d/b/a Nail Time, and Nail Time's First Request for Production of Documents Directed to Plaintiff;
- David V. Nguyen, d/b/a Nail Time, and Nail Time's First Set of Interrogatories Directed to Plaintiff; and
- Defendant David V. Nguyen, d/b/a Nail Time, and Nail Times' Supplemental Interrogatories and Request for Production of Documents Directed to Plaintiff.

The failure by plaintiff to respond to the foregoing discovery requests in compliance with this Order, within twenty (20) days hereof, may result in sanctions, including the imposition of counsel fees incurred by the defendants, upon an appropriate application to the Court.

BY THE COURT:

J

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

MARCIA MAZZONI,

Plaintiff,

v.

DAVID V. NGUYEN, d/b/a NAIL TIME,
and NAIL TIME,

Defendants.

) No. 2006-921 -CD
)
) TYPE OF PLEADING:
) Motion to Compel Discovery
) Responses From Plaintiff
)
) Filed on Behalf of Defendant
) David V. Nguyen, d/b/a Nail
) Time, and Nail Time
)
) Counsel of Record for the Party
) Tracey G. Benson, Esq.
) Pa. I.D. No. 34984
)
) MILLER, KISTLER, CAMPBELL,
) MILLER, WILLIAMS &
) BENSON, INC.
) 124 N. Allegheny Street
) Bellefonte, PA 16823
) (814) 355-5474
) (814) 355-5340 - Fax

FILED ^{ICC}
m 11:31 AM
FEB 12 2007 ^{Attg}
62

William A. Shaw
Prothonotary/Clerk of Courts

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

MOTION TO COMPEL DISCOVERY RESPONSES FROM PLAINTIFF

Defendants David V. Nguyen, d/b/a Nail Time, and Nail Time (collectively referred to as "Nail Time"), by its counsel Tracey G. Benson, Esquire and Miller, Kistler, Campbell, Miller, Williams & Benson, Inc., file this Motion to Compel Discovery Responses from Plaintiff, and state as follows in support thereof:

1. This is a personal injury action commenced with the filing of a Complaint by plaintiff Marcia Mazzoni on or about June 8, 2006. In her Complaint, plaintiff alleges that she sustained personal injuries when she fell out of a chair on the premises of the Nail Time manicure salon located in the DuBois Mall.

2. Defendants filed their Answer and New Matter on August 11, 2006. Thereafter, defendants attempted to commence the discovery process by service on plaintiff various interrogatories, and a request for production of documents, as set forth in correspondence dated August 24, 2006. See Exhibit A attached hereto.

3. When timely discovery responses were not forthcoming from plaintiff, counsel for Nail Time sent a letter to plaintiff's counsel by date of October 26, 2006

requesting that the outstanding discovery responses be provided by November 15, 2006. A copy of that letter is also included in Exhibit A attached hereto.

4. When no discovery responses were forthcoming from plaintiff, counsel for Nail Time sent another letter dated November 29, 2006 requesting responses, and advising that a Motion to Compel would be filed if answers were not received by December 15, 2006. A copy of this correspondence is included in the documents attached hereto as Exhibit A.

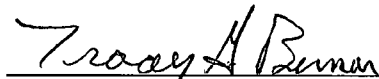
5. By letter of December 6, 2006, counsel for plaintiff advised that the outstanding discovery requests "are still out to my client for completion." He promised to provide responses "as soon possible once said responses are received." A copy of correspondence from plaintiff's counsel is included in the documents attached hereto as Exhibit A.

6. Despite the foregoing attempts to provide plaintiff with a reasonable amount of additional time in order to provide full and complete discovery responses to the interrogatories and the request for production of documents, plaintiff has failed to do so.

7. Counsel for Nail Time cannot proceed with meaningful discovery until plaintiff provides the information sought through the outstanding interrogatories and request for production of documents.

WHEREFORE, Defendants David V. Nguyen d/b/a Nail Time and Nail Time move for an Order compelling plaintiff to provide full and complete responses to the outstanding discovery within twenty (20) days from the date of this Court's Order, or

suffer sanctions including the imposition of counsel fees incurred in an effort to obtain said discovery.


Tracey G. Benson

MILLER, KISTLER, CAMPBELL,,
MILLER, WILLIAMS & BENSON, INC.
124 North Allegheny Street
Bellefonte, PA 16823
(814) 355-5474

Counsel for Defendants David V. Nguyen,
d/b/a Nail Time and Nail Time

Dated: February 9, 2007

EXHIBIT A

LAW OFFICES OF
MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, INC.
A PROFESSIONAL CORPORATION

JOHN R. MILLER, JR.
RICHARD L. CAMPBELL
JOHN R. MILLER, III
TERRY J. WILLIAMS
TRACEY G. BENSON*
SCOTT C. ETTER, Ph.D.
DAVID B. CONSIGLIO**
STACY PARKS MILLER
JULIA R. CRONIN
BRIAN K. MARSHALL

*ALSO ADMITTED IN WEST VIRGINIA
**ALSO ADMITTED IN MARYLAND

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

PLEASE REPLY TO:
BELLEFONTE OFFICE

August 24, 2006

124 NORTH ALLEGHENY STREET
BELLEFONTE, PA. 16823-1695
(814) 355-5474
GENERAL FAX (814) 355-5340
REAL ESTATE FAX (814) 357-0264
AND
720 SOUTH ATHERTON STREET
STATE COLLEGE, PA. 16801-4628
(814) 234-1500
FAX (814) 234-1549

COUNSEL TO THE FIRM
ROBERT K. KISTLER

**Re: Marcia Mazzoni v. David V. Nguyen d/b/a Nail Time
and Nail Time - Civil Action No. 06-921-CD (Clearfield County, PA)**

Dear Mr. Shaw:

Enclosed for filing please find the original and one (1) copy of defendants' Notice of Service of Interrogatories in the above-captioned matter. Please time stamp and return one copy to me in the enclosed self-addressed stamped envelope provided. If you have any questions or need any additional information, please contact me in my Bellefonte office. Thank you:

Very truly yours,

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON, INC.

By: /s/ TRACEY G. BENSON

Tracey G. Benson

TGB/cfs

Enclosures

cc: J. Jeffrey Watson, Esq. (w/enclosure)
bcc: Diane Warholak
(Claim No. AND3415)

LAW OFFICES OF
MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, INC.
A PROFESSIONAL CORPORATION

JOHN R. MILLER, JR.
RICHARD L. CAMPBELL
JOHN R. MILLER, III
TERRY J. WILLIAMS
TRACEY G. BENSON*
SCOTT C. ETTER, Ph.D.
DAVID B. CONSIGLIO**
STACY PARKS MILLER
JULIA R. CRONIN
BRIAN K. MARSHALL

*ALSO ADMITTED IN WEST VIRGINIA
**ALSO ADMITTED IN MARYLAND

J. Jeffrey Watson, Esquire
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242

PLEASE REPLY TO:
BELLEFONTE OFFICE

August 24, 2006

124 NORTH ALLEGHENY STREET
BELLEFONTE, PA. 16823-1695
(814) 355-5474
GENERAL FAX (814) 355-5340
REAL ESTATE FAX (814) 357-0264
AND
720 SOUTH ATHERTON STREET
STATE COLLEGE, PA. 16801-4628
(814) 234-1500
FAX (814) 234-1549

COUNSEL TO THE FIRM
ROBERT K. KISTLER

Re: **Marcia Mazzoni v. David V. Nguyen d/b/a Nail Time
and Nail Time - Civil Action No. 06-921-CD (Clearfield County, PA)**

Dear Mr. Watson:

Enclosed for filing please find the following:

- Notice of Service of Interrogatories;
- Original and two (2) copies of Expert Interrogatories Directed to Plaintiff Marcia Mazzoni;
- Original and two (2) copies of Defendant David V. Nguyen, d/b/a Nail Time, and Nail Time's First Request for Production of Documents Directed to Plaintiff;
- Original and two (2) copies of David V. Nguyen, d/b/a Nail Time, and Nail Time's First Set of Interrogatories Directed to Plaintiff; and
- Original and two(2) copies of Defendant David V. Nguyen, d/b/a Nail Time, and Nail Times' Supplemental Interrogatories and Request for Production of Documents Directed to Plaintiff.

Very truly yours,

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON, INC.

By: **/s/ TRACEY G. BENSON**

Tracey G. Benson

TGB/cfs

Enclosures

bcc: Diane Warholak
(Claim No. AND3415)

LAW OFFICES OF
MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, INC.
A PROFESSIONAL CORPORATION

JOHN R. MILLER, JR.
RICHARD L. CAMPBELL
JOHN R. MILLER, III
TERRY J. WILLIAMS
TRACEY G. BENSON*
SCOTT C. ETTER, Ph.D.
DAVID B. CONSIGLIO**
STACY PARKS MILLER
JULIA R. CRONIN
BRIAN K. MARSHALL

*ALSO ADMITTED IN WEST VIRGINIA
**ALSO ADMITTED IN MARYLAND

J. Jeffrey Watson, Esquire
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242

PLEASE REPLY TO:
BELLEFONTE OFFICE

October 26, 2006

124 NORTH ALLEGHENY STREET
BELLEFONTE, PA. 16823-1695
(814) 355-5474
GENERAL FAX (814) 355-5340
REAL ESTATE FAX (814) 357-0264
AND
720 SOUTH ATHERTON STREET
STATE COLLEGE, PA. 16801-4628
(814) 234-1500
FAX (814) 234-1549

COUNSEL TO THE FIRM
ROBERT K. KISTLER

**Re: Marcia Mazzoni v. David V. Nguyen d/b/a Nail Time
and Nail Time - Civil Action No. 06-921-CD (Clearfield County, PA)**

Dear Mr. Watson:

By letter dated August 24, 2006, I served you with interrogatories, expert interrogatories, medical expense interrogatories, and a request for production of document in reference to the claims of Marcia Mazzoni asserted in her Complaint. To-date, I have not received any responses. Would you please provide me with responses to the foregoing discovery on or before November 15, 2006. If, for some reason, you are unable to respond to the discovery by that date, please contact me so that we can discuss this issue. I need to be able to evaluate the claim, and cannot do so effectively without responses to my discovery. I will look forward to hearing from you soon.

Very truly yours,

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON, INC.

By: **/s/ TRACEY G. BENSON**
Tracey G. Benson

TGB/cfs

bcc: Diane Warholak
(Claim No. AND3415)

LAW OFFICES OF
MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, INC.
A PROFESSIONAL CORPORATION

JOHN R. MILLER, JR.
RICHARD L. CAMPBELL
JOHN R. MILLER, III
TERRY J. WILLIAMS
TRACEY G. BENSON*
SCOTT C. ETTER, Ph.D.
DAVID B. CONSIGLIO**
STACY PARKS MILLER
JULIA R. CRONIN
BRIAN K. MARSHALL

PLEASE REPLY TO:
BELLEFONTE OFFICE

November 29, 2006

124 NORTH ALLEGHENY STREET
BELLEFONTE, PA. 16823-1695
(814) 355-5474
GENERAL FAX (814) 355-5340
REAL ESTATE FAX (814) 357-0264
AND
720 SOUTH ATHERTON STREET
STATE COLLEGE, PA. 16801-4628
(814) 234-1500
FAX (814) 234-1549

COUNSEL TO THE FIRM
ROBERT K. KISTLER

*ALSO ADMITTED IN WEST VIRGINIA
**ALSO ADMITTED IN MARYLAND

J. Jeffrey Watson, Esquire
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242

**Re: Marcia Mazzoni v. David V. Nguyen d/b/a Nail Time
and Nail Time - Civil Action No. 06-921-CD (Clearfield County, PA)**

Dear Mr. Watson:

I am writing regarding my letter of October 26, 2006. I requested at that time that you provide me with your responses to my outstanding discovery requests on or before November 15, 2006. I also asked you to get in touch with me in the event that you could not provide discovery responses by that date. I have not heard from you at all in response to service of the discovery requests, and/or in response to my letter of October 26, 2006.

Because I need complete discovery responses and documents in order to evaluate your client's claim, I will be forced to file a Motion to Compel if I do not receive answers to the outstanding interrogatories, and a response to the outstanding request for production of documents, by Friday, December 15, 2006. I hope that this will not be necessary.

Very truly yours,

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON, INC.

By: /s/ TRACEY G. BENSON
Tracey G. Benson

TGB/cfs

bcc: Diane Warholak
(Claim No. AND3415)

LAW OFFICES
WILLIAM E. HAGER, III
352 BROAD STREET
NEW BETHLEHEM, PA 16242

(814) 275-3551
FAX (814) 275-1141

WILLIAM E. HAGER, III*
J. JEFFREY WATSON

*MEMBER OF PENNSYLVANIA BAR
AND FLORIDA BAR

December 6, 2006

Tracey G. Benson, Esquire
Miller, Kistler, Campbell, Miller,
Williams & Benson, Inc.
124 North Allegheny Street
Bellefonte, PA 16823-1695

**RE: Marcia Mazzoni v. David V. Nguyen d/b/a Nail Time and Nail
Time – Civil Action No.: 06-921-CD (Clearfield County, PA)**

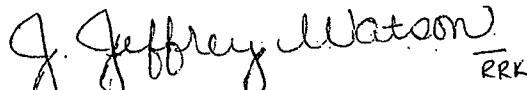
Dear Mr. Benson:

I am in receipt of your letter dated November 29, 2006. Please be advised that your outstanding discovery requests are still out to my client for completion. I will forward these responses to your office as soon as possible once said responses are received.

Should you have any questions regarding the same, please contact my office.

Thank you for your time and attention in this matter.

Very truly yours,


J. Jeffrey Watson, Esquire

JJW/rrk

RECEIVED

DEC 8 2006

MK&C

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Motion to Compel Discovery Responses from Plaintiff**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

J. Jeffrey Watson,, Esq.
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON INC.

By: Tracey G. Benson
Tracey G. Benson

Dated: February 9, 2007

FILED

FEB 12 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

ORDER

AND NOW, this 27th day of Feb., 2007 upon consideration of the defendants' Motion to Compel Discovery Responses from Plaintiff, it is hereby ORDERED, ADJUDGED and DECREED that said Motion be, and the same hereby is GRANTED. Plaintiff shall file full and complete responses to the following discovery requests of the defendants:

- Expert Interrogatories Directed to Plaintiff Marcia Mazzoni;
- Defendant David V. Nguyen, d/b/a Nail Time, and Nail Time's First Request for Production of Documents Directed to Plaintiff;
- David V. Nguyen, d/b/a Nail Time, and Nail Time's First Set of Interrogatories Directed to Plaintiff; and
- Defendant David V. Nguyen, d/b/a Nail Time, and Nail Times' Supplemental Interrogatories and Request for Production of Documents Directed to Plaintiff.

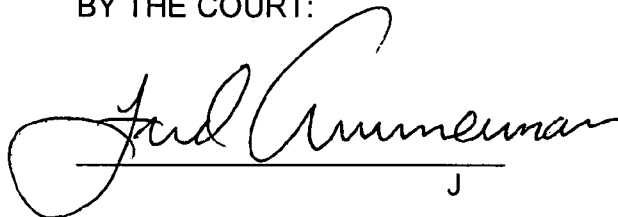
The failure by plaintiff to respond to the foregoing discovery requests in compliance with this Order, within twenty (20) days hereof, may result in sanctions, including the imposition of counsel fees incurred by the defendants, upon an appropriate application to the Court.

BY THE COURT:

FILED

10/10:07/61
FEB 27 2007

2cc
Atty Benson
GW


J

William A. Shaw
Prothonotary/Clerk of Courts

FILED

FEB 27 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE 02/27/07

X You are responsible for serving all appropriate parties.

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

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

CA

[illegible]

TYPE OF PLEADING:
Motion For Judgment of Non
Pros Or For
Imposition Of Other
Appropriate Sanctions

V.

Counsel of Record for the Party
Tracey G. Benson, Esq.
Pa. I.D. No. 34984

**MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS &
BENSON, INC.**
124 N. Allegheny Street
Bellefonte, PA 16823
(814) 355-5474
(814) 355-5340 - Fax

FILED ^{icc}
MAY 04 2007
William A. Shaw (60)

William A. Shaw
Prothonotary/Clerk of Courts

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

**MOTION FOR JUDGMENT OF NON PROS OR FOR
IMPOSITION OF OTHER APPROPRIATE SANCTIONS**

Defendants David V. Nguyen, d/b/a Nail Time, and Nail Time (collectively referred to as "Nail Time"), by its counsel Tracey G. Benson, Esquire and Miller, Kistler, Campbell, Miller, Williams & Benson, Inc., file this Motion For Judgment of Non Pros which seeks dismissal of this litigation for plaintiff's failure to comply with the Order of Court entered on February 27, 2007. Alternatively, defendants seek the imposition of other sanctions deemed appropriate by the Court, including an award of counsel fees. In support of this Motion, defendants and state as follows:

1. This is a personal injury action commenced with the filing of a Complaint by plaintiff Marcia Mazzoni on or about June 8, 2006. In her Complaint, plaintiff alleges that she sustained personal injuries when she fell out of a chair on the premises of the Nail Time manicure salon located in the DuBois Mall.

2. Defendants filed their Answer and New Matter on August 11, 2006. Thereafter, defendants attempted to commence the discovery process by service on plaintiff various interrogatories, and a request for production of documents, as set forth in correspondence dated August 24, 2006.

3. When timely discovery responses were not forthcoming from plaintiff, counsel for Nail Time sent a letter to plaintiff's counsel by date of October 26, 2006 requesting that the outstanding discovery responses be provided by November 15, 2006.

4. When no discovery responses were forthcoming from plaintiff, counsel for Nail Time sent another letter dated November 29, 2006 requesting responses, and advising that a Motion to Compel would be filed if answers were not received by December 15, 2006.

5. By letter of December 6, 2006, counsel for plaintiff advised that the outstanding discovery requests "are still out to my client for completion." He promised to provide responses "as soon possible once said responses are received."

6. In an effort to prompt discovery responses from the plaintiff, defendants filed a Motion to Compel Discovery Responses from Plaintiff on or about February 9, 2007. The matter was scheduled for argument before this Court on February 27, 2007, at which time neither plaintiff, nor her counsel, appeared.

7. On February 27, 2007, the Court entered its Order compelling discovery, as follows:

ORDER

AND NOW, this 27th day of February, 2007 upon consideration of the defendants' Motion to Compel Discovery Responses from Plaintiff, it is hereby ORDERED, ADJUDGED and DECREED that said Motion be, and the same hereby is GRANTED. Plaintiff shall file full and complete responses to the following discovery requests of the defendants:

- Expert Interrogatories Directed to Plaintiff Marcia Mazzoni;
- Defendant David V. Nguyen, d/b/a Nail Time, and Nail Time's First Request for Production of Documents Directed to Plaintiff;
- David V. Nguyen, d/b/a Nail Time, and Nail Time's First Set of Interrogatories Directed to Plaintiff; and
- Defendant David V. Nguyen, d/b/a Nail Time, and Nail Times' Supplemental Interrogatories and Request for Production of Documents Directed to Plaintiff.

The failure by plaintiff to respond to the foregoing discovery requests in compliance with this Order, within twenty (20) days hereof, may result in sanctions, including the imposition of counsel fees incurred by the defendants, upon an appropriate application to the Court.

BY THE COURT:

/s/ Fred Ammerman
J.

A true and correct copy of that Order is attached hereto as Exhibit A.

8. To-date, plaintiff has failed to comply with the Order in any respect, and has failed to tender discovery responses as required.

9. Pursuant to Pa.R.Civ.P. 1019(a)(1), the Court may, on motion, impose sanctions where a party fails to answer interrogatories, respond to a request for production of documents, or otherwise "fails to make discovery or to obey an order of court respecting discovery."

10. Pursuant to Pa.R.Civ.P. 4019(c)(3), the sanctions may include:


(3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or entering a judgment of non-pros or by default against the disobedient party or party advising the disobedience. . . .

Rule 4019(c) also empowers the Court to enter other appropriate sanctions that may be deemed appropriate as punishment for contempt or other failure to participate in discovery.

11. Here, plaintiff has failed to respond to reasonable discovery requests that have been outstanding since August of 2006. As detailed in defendants' Motion to Compel, plaintiff's counsel was given numerous opportunities to voluntarily respond to the outstanding discovery, but failed to do so. This Court provided plaintiff and her counsel with yet another opportunity to respond to the discovery within the twenty (20) day period established by the February 27, 2006 Order. At no time has plaintiff or her counsel come into court with justification or excuse for the failure to comply with the discovery rules or the specific order of this Court.

12. Defendants and their counsel cannot evaluate or defend the claims set forth by plaintiff in her Complaint without the discovery that they have sought for these many months. Plaintiff's lack of diligence in prosecuting her claims, and her failure to acknowledge or otherwise comply with the specific order entered on February 27, 2007, justifies the imposition of a sanction dismissing the claim, with prejudice.

WHEREFORE, defendants David V. Nguyen, d/b/a Nail Time, and Nail Time, request that the instant litigation be dismissed through the entry of a judgment of non pros against plaintiff Marcia Mazzoni. In the alternative, defendants seek the imposition of other sanctions deemed appropriate by the Court, to include an award of attorney fees in an amount sufficient to compensate defendants for their expense incurred in compelling discovery responses from the plaintiff.


Tracey G. Benson

MILLER, KISTLER, CAMPBELL,,
MILLER, WILLIAMS & BENSON, INC.
124 North Allegheny Street
Bellefonte, PA 16823
(814) 355-5474

Counsel for Defendants David V. Nguyen,
d/b/a Nail Time and Nail Time

Dated: May 2, 2007

EXHIBIT A

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

MARCIA MAZZONI,

Plaintiff,

v.

DAVID V. NGUYEN, d/b/a NAIL TIME,
and NAIL TIME,

Defendants.

Civil Division
No. 2006-921-CD

ORDER

AND NOW, this 27th day of Feb., 2007 upon consideration of the defendants' Motion to Compel Discovery Responses from Plaintiff, it is hereby ORDERED, ADJUDGED and DECREED that said Motion be, and the same hereby is GRANTED. Plaintiff shall file full and complete responses to the following discovery requests of the defendants:

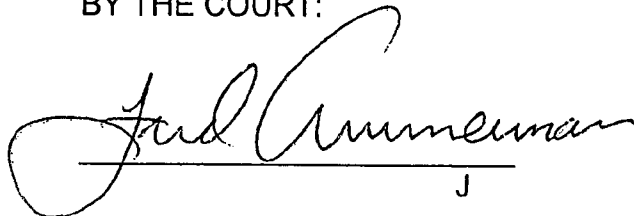
- Expert Interrogatories Directed to Plaintiff Marcia Mazzoni;
- Defendant David V. Nguyen, d/b/a Nail Time, and Nail Time's First Request for Production of Documents Directed to Plaintiff;
- David V. Nguyen, d/b/a Nail Time, and Nail Time's First Set of Interrogatories Directed to Plaintiff; and
- Defendant David V. Nguyen, d/b/a Nail Time, and Nail Times' Supplemental Interrogatories and Request for Production of Documents Directed to Plaintiff.

The failure by plaintiff to respond to the foregoing discovery requests in compliance with this Order, within twenty (20) days hereof, may result in sanctions, including the imposition of counsel fees incurred by the defendants, upon an appropriate application to the Court.

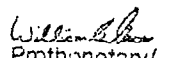
BY THE COURT:

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

FEB 27 2007


J

Attest.


Prothonotary/
Clerk of Courts

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Motion For Judgment of Non Pros or for Imposition of Other Appropriate Sanctions**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

J. Jeffrey Watson,, Esq.
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON INC.

By: Tracey G. Benson
Tracey G. Benson

Dated: May 2, 2007

FILED

MAY 04 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

ORDER

AND NOW, this ____ day of _____, 2007 upon consideration of the defendants' Motion For Judgment of Non Pros or for Imposition of Other Appropriate Sanctions, and in light of the plaintiff's failure to comply with this Court Order requiring that plaintiff respond to the enumerated discovery requests within twenty (20) days of February 27, 2007, it is hereby ORDERED, ADJUDGED and DECREED that said Motion be, and the same hereby is GRANTED. It is further ORDERED that the Prothonotary of Clearfield County shall enter a judgment of non pros against Plaintiff Marcia Mazzoni, and in favor of defendants David V. Nguyen, d/b/a Nail Time and Nail Time.

BY THE COURT:

J

1A

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

MARCIA MAZZONI,

Plaintiff,

v.

DAVID V. NGUYEN, d/b/a NAIL TIME,
and NAIL TIME,

Defendants.

Civil Division
No. 2006-921-CD

RULE TO SHOW CAUSE

NOW THIS 7 day of May, 2007, upon consideration of Defendants David V. Nguyen, d/b/a Nail Time and Nail Time's Motion For Judgment of Non Pros or for Imposition of Other Appropriate Sanctions, a Rule is hereby issued upon the Plaintiff to Show Cause why said Motion should not be granted. This rule is returnable for argument on the 5th day of June, 2007 at 2:00 o'clock p.m. in Courtroom # 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

NOTICE

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIM SET FORTH IN THE FOLLOWING MOTION FOR SANCTIONS BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITIONER OR MOVANT. YOU MAY LOSE 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 GET LEGAL HELP.

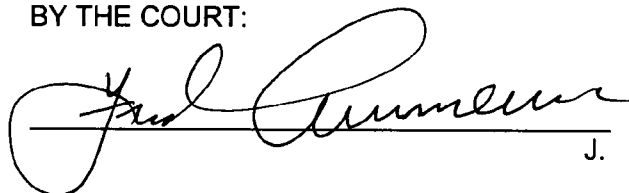
Court Administrator
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 1300 Or 1301

FILED
013:24/01
MAY 07 2007

Att'y Berson
(60)

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT:


J.

FILED

MAY 07 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 5/7/07

☒ You are responsible for serving all appropriate parties.

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

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

William A. Shaw
Prothonotary/Clerk of Courts

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

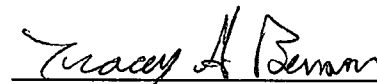
MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

AFFIDAVIT OF SERVICE

I, Tracey G. Benson, Esquire, counsel for defendants David V. Nguyen, d/b/a Nail Time and Nail Time, hereby certify that service of the attached Rule to Show Cause was made upon:

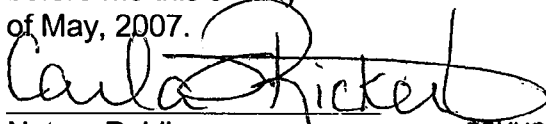
J. Jeffrey Watson, Esquire
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242

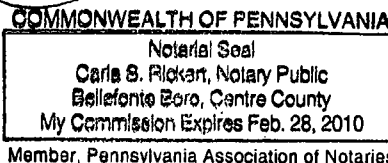
counsel of record for plaintiff, Marcia Mazzoni by depositing the same in the United States First Class Mail, postage prepaid, in Bellefonte, PA, on May 9, 2007.


Tracey G. Benson, Esquire

Counsel for Defendants
David V. Nguyen, d/b/a Nail Time,
and Nail Time

Sworn to and subscribed
before me this 9th day
of May, 2007.


Notary Public



ATTACHMENT

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

MARCIA MAZZONI,

Plaintiff,

v.

DAVID V. NGUYEN, d/b/a NAIL TIME,
and NAIL TIME,

Defendants.

Civil Division
No. 2006-921-CD

RULE TO SHOW CAUSE

NOW THIS 7 day of May, 2007, upon consideration of Defendants David V. Nguyen, d/b/a Nail Time and Nail Time's Motion For Judgment of Non Pros or for Imposition of Other Appropriate Sanctions, a Rule is hereby issued upon the Plaintiff to Show Cause why said Motion should not be granted. This rule is returnable for argument on the 5th day of June, 2007 at 2:00 o'clock p.m. in Courtroom # 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

NOTICE

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIM SET FORTH IN THE FOLLOWING MOTION FOR SANCTIONS BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITIONER OR MOVANT. YOU MAY LOSE 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 GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 1300 Or 1301

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

BY THE COURT:

/S/ Fredric J Ammerman

MAY 07 2007

J.

Attest.

William L. Brown
Prothonotary/
Clerk of Courts

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Affidavit of Service**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

J. Jeffrey Watson,, Esq.
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON INC.

By: Tracey G. Benson
Tracey G. Benson

Dated: May 9, 2007

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI ,

Plaintiff

vs.

DAVID V. NGUYEN, d/b/a NAIL TIME, and
NAIL TIME,

Defendant

: CIVIL DIVISION

: No.06-921-CD

: Type of Document:
: MOTION FOR CONTINUANCE
: OF RETURN OF RULE FOR
: ARGUMENT

: Filed on Behalf of Plaintiff

: Counsel of Record for the
: Plaintiff

: LAW OFFICES OF WILLIAM E.
: HAGER, III
: 352 Broad Street
: New Bethlehem, PA 16242

: 
: J. Jeffrey Watson, Esq.
: ID No. 90876
: (814)275-3551

FILED No cc
m 10:50/30
JUN 01 2007 @60
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI ,

Plaintiff

vs.

DAVID V. NGUYEN, d/b/a NAIL TIME, and
NAIL TIME,

Defendant

: CIVIL DIVISION

: No. No.06-921-CD

MOTION FOR CONTINUANCE OF RETURN OF RULE FOR ARGUMENT

AND NOW, comes the Plaintiff, Marcia Mazzoni, by and through her attorneys,
The Law Offices of William E. Hager, III, by J. Jeffrey Watson, Esquire, and files this
Motion and in support thereof aver as follows:

1. Defendant served discovery requests upon Plaintiff in August of 2006 in
the nature of Interrogatories, Request for Production of Documents and Expert
Interrogatories.

2. Plaintiff, who was already a mother of three, gave birth to twins shortly
thereafter service of the discovery request.

3. As a result of Plaintiff's focus being on the health and welfare of children
and herself, Plaintiff overlooked the outstanding discovery request.

4. As a result of Plaintiff's delinquency in filing discovery responses,
Defendant secured an Order to compel on or about February 27, 2007.

5. On or about May 2, 2007, Defendants filed a Motion for Non Pros and for Imposition of Sanctions related to the outstanding discovery.

6. On May 7, 2007, a Rule to Show Cause with respect to Defendants' Motion was issued by Judge Ammerman being returnable for argument on the 5th day of June, 2007 at 2:00 o'clock p.m. in Courtroom #1.

7. Plaintiff completed the outstanding discovery requests on May 29, 2007 via facsimile and the responses are awaiting verification from Plaintiff.

8. Plaintiff's counsel anticipates that the responses will be completed today, Wednesday, May 30, 2007 and will be sent overnight to Defendants' counsel for receipt by a.m., Friday, June 1, 2007 at the latest.

9. Plaintiff's counsel spoke with Defendants' counsel via telephone today, May 30, 2007, to update him as to the status of this matter as detailed above.

10. During that conversation, Defendants' counsel indicated that he wishes to review the discovery matter with his client before determining whether to withdraw the pending Motion for which argument is scheduled for June 5, 2007.

11. Plaintiff's counsel also informed Defendants' counsel that a scheduling conflict exists in that Plaintiff's counsel is required to attend a custody hearing in Clarion County on the morning of June 5, 2007.

12. It is anticipated that the Custody Hearing will last all day and will preclude Plaintiff's counsel from attending the argument scheduled in this matter on the same date.

13. Plaintiff's counsel works with one other associate who is also required to be in hearing and deposition on that same date.

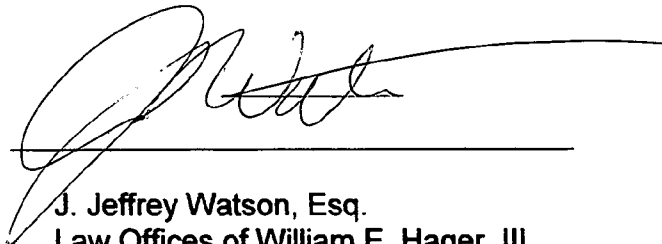
14. Counsel for Defendant does not object to a continuance of the argument on Defendants' Motion and Rule to Show Cause presently scheduled for June 5, 2007 to a later date, so long as the date is available for counsel.

WHEREFORE, Plaintiff, Marcia Mazzoni, respectfully requests that this Court continue the Argument on Defendants' Rule to Show Cause and underlying Motion that is presently scheduled for June 5th, 2007.

Respectfully Submitted:

Dated: May 30, 2007

By:

A handwritten signature in black ink, appearing to read 'J. Jeffrey Watson', written over a horizontal line.

J. Jeffrey Watson, Esq.
Law Offices of William E. Hager, III
Attorney for Plaintiff
352 Broad Street
New Bethlehem, PA 16242
(814) 275-3551

FILED

JUN 01 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI ,

Plaintiff

vs.

DAVID V. NGUYEN, d/b/a NAIL TIME, and
NAIL TIME,

Defendant

: CIVIL DIVISION

: No. No.06-921-CD

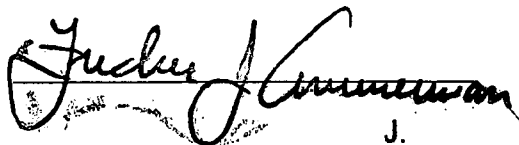
FILED 3CC
013:0060 Atty
JUN 01 2007 Watson
William A. Shaw
Prothonotary/Clerk of Courts (610)

ORDER

AND NOW THIS, 1st day of JUNE, 2007, upon
consideration of Plaintiff's Motion for Continuance of Return of Rule for Argument, a
continuance is hereby GRANTED the rule returnable for argument on the 5th day of
June, 2007 at 2:00 p.m. is hereby continued.

IT IS FURTHER ORDERED, that upon consideration of the Defendants' pending
Motion for Judgment of Non Pros or for Imposition of Other Appropriate Sanctions, a
Rule is hereby issued upon the Plaintiff to Show Cause why said Motion should not be
granted. This rule is returnable for argument on the 19th day of JUNE,
2007, at 2:00 o'clock p m. in Courtroom # 1 of the Clearfield County
Courthouse, Clearfield, Pennsylvania.

BY THE COURT:


J.

FILED

JUN 01 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6/1/07

☒ You are responsible for serving all appropriate parties.

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

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

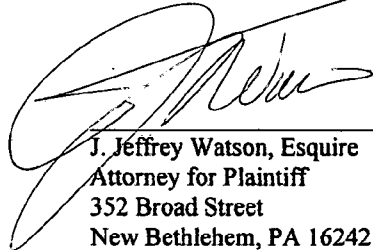
___ Special Instructions:

PROOF OF SERVICE

I, J. Jeffrey Watson, Esq., hereby certify that I mailed a true and correct copy of the Plaintiff's Motion for Continuance of Return of Rule for Argument, via First Class U.S. Mail, postage pre-paid, and sent a copy via facsimile to the following:

Tracey G. Benson, Esq.
MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, Inc.
124 North Allegheny Street
Bellefonte, PA 16823-5474
Fax (814)355-5340

Dated: May 30, 2007



J. Jeffrey Watson, Esquire
Attorney for Plaintiff
352 Broad Street
New Bethlehem, PA 16242
(814) 275-3551

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI ,

Plaintiff

vs.

DAVID V. NGUYEN, d/b/a NAIL TIME, and
NAIL TIME,

Defendant

: CIVIL DIVISION

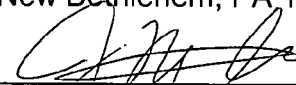
: No.06-921-CD

: Type of Document:
: MOTION FOR CONTINUANCE
: OF RETURN OF RULE FOR
: ARGUMENT

: Filed on Behalf of Plaintiff

: Counsel of Record for the
: Plaintiff

: LAW OFFICES OF WILLIAM E.
: HAGER, III
: 352 Broad Street
: New Bethlehem, PA 16242

: 
: J. Jeffrey Watson, Esq.
: ID No. 90876
: (814)275-3551

FILED ¹⁶cc
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JUN 11 2007

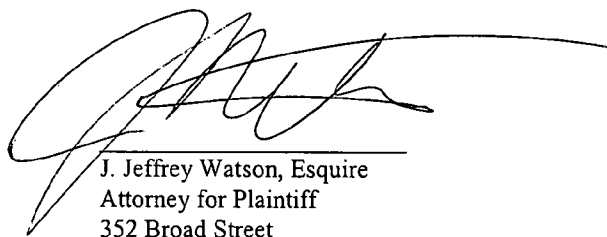
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, J. Jeffrey Watson, Esq., hereby certify that I mailed a true and correct copy of the Court Order granting a continuance in the matter of Mazzoni v. Nguyen et al, No. 06-921-CD, via First Class U.S. Mail, postage pre-paid, and sent a copy via facsimile to the following:

Tracey G. Benson, Esq.
MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, Inc.
124 North Allegheny Street
Bellefonte, PA 16823-5474
Fax (814)355-5340

Dated: June 4, 2007



J. Jeffrey Watson, Esquire
Attorney for Plaintiff
352 Broad Street
New Bethlehem, PA 16242
(814) 275-3551

FILED

JUN 11 2007

William A. Shaw
Prothonotary/Clerk of Courts

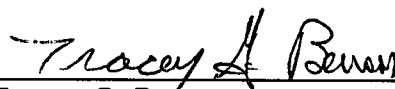
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

PRAECIPE TO WITHDRAW MOTION

TO THE PROTHONOTARY OF SAID COURT:

Please withdraw defendants' Motion for Judgment of Non Pros or for Imposition of Other Appropriate Sanctions filed on or about May 2, 2007. Additionally, please cancel the hearing scheduled in this matter for June 19, 2007 at 2:00 p.m.


Tracey G. Benson

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON, INC.
124 North Allegheny Street
Bellefonte, PA 16823
(814) 355-5474

Counsel or Defendants
David V. Nguyen, d/b/a Nail Time, and
Nail Time

Dated: June 13, 2007

FILED 1cc AH4
m/jl:ldm
JUN 14 2007
Benson
GR

William A. Shaw
Prothonotary/Clerk of Courts

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

MARCIA MAZZONI,

Plaintiff,

v.

DAVID V. NGUYEN, d/b/a NAIL TIME,
and NAIL TIME,

Defendants.

Civil Division
No. 2006-921-CD

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Praecept to Withdraw Motion**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

J. Jeffrey Watson,, Esq.
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON INC.

By: Tracey G. Benson
Tracey G. Benson

Dated: June 13, 2007

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI,	:	CIVIL DIVISION
	:	
Plaintiff	:	No. No.06-921-CD
vs.	:	
	:	
	:	
DAVID V. NGUYEN, d/b/a NAIL TIME,	:	
And NAIL TIME,	:	
	:	
	:	
Defendant	:	


PRAECIPE FOR WITHDRAWAL OF APPEARANCE

TO THE PROTHONOTARY OF THE SAID COURT:

Kindly withdraw my appearance on behalf of the Plaintiff in the above-captioned matter.

Respectfully submitted,

Date: February 8, 2008



J. Jeffrey Watson, Esquire
Law Ofc. of Wm. E. Hager, III
352 Broad Street
New Bethlehem, PA 16242
(814) 275-3551
Supreme Ct. ID#90876

: William E. Hager, III, Esquire
: Attorney for the Plaintiff
: 352 Broad Street
: New Bethlehem, PA 16242
: (814) 275-3551
: Supreme Ct. ID#40361

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI,	:	CIVIL DIVISION
	:	
Plaintiff	:	No. No.06-921-CD
vs.	:	
	:	
DAVID V. NGUYEN, d/b/a NAIL TIME,	:	
And NAIL TIME,	:	
	:	
Defendant	:	

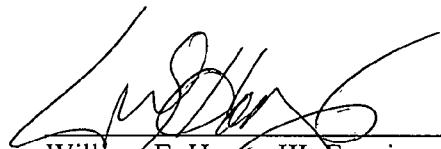
PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY OF THE SAID COURT:

Kindly enter my appearance on behalf of the Plaintiff in the above-captioned matter.

Date: February 8, 2008

Respectfully submitted,



William E. Hager, III, Esquire
Attorney for the Plaintiff
352 Broad Street
New Bethlehem, PA 16242
(814) 275-3551
Supreme Ct. ID#40361

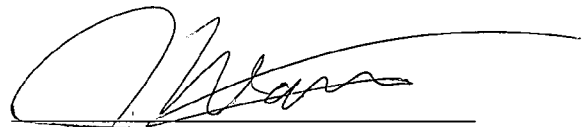
CERTIFICATION OF SERVICE

I certify that a true and correct copy of the foregoing WITHDRAWAL AND ENTRY OF APPEARANCE thereof was this date mailed by First Class U.S. Mail, postage prepaid, to each of the other parties hereto or to his/her counsel as follows:

Tracey G. Benson, Esq.
MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, Inc.
124 North Allegheny Street
Bellefonte, PA 16823-5474
Fax (814)355-5340

Attorneys for Defendant

Dated: February 11, , 2008



J. Jeffrey Watson, Esq.

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

MARCIA MAZZONI,

Plaintiff,

v.

DAVID V. NGUYEN, d/b/a NAIL TIME,
and NAIL TIME,

Defendants.

No. 2006-921 -CD

TYPE OF PLEADING:

Notice of Service of Defendants'

Second Set of Interrogatories

Directed to Plaintiff

Filed on Behalf of Defendant

David V. Nguyen, d/b/a Nail

Time, and Nail Time

Counsel of Record for the Party

Tracey G. Benson, Esq.

Pa. I.D. No. 34984

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS &
BENSON, INC.

124 N. Allegheny Street

Bellefonte, PA 16823

(814) 355-5474

(814) 355-5340 - Fax

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FILED *No CC*
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OCT 08 2008
William A. Shaw
Prothonotary/Clerk of Courts

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


MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

NOTICE OF SERVICE OF INTERROGATORIES

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

Please take notice that the undersigned has served the original and two copies of Defendants David V. Nguyen d/b/a Nail time and Nail Time Second Set of Interrogatories to Plaintiff by mailing them, first-class, postage prepaid, on this date to the following:

William E. Hager, III, Esquire
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242


Tracey G. Benson, Esquire

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON, INC.
124 North Allegheny Street
Bellefonte, PA 16823
(814) 355-5474

Counsel for Defendants
David V. Nguyen d/b/a Nail Time and Nail Time

Dated: October 7, 2008

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

MARCIA MAZZONI,)	
)	
Plaintiff,)	
)	
v.	)	Civil Division
	)	No. 2006-921-CD
DAVID V. NGUYEN, d/b/a NAIL TIME,)	
and NAIL TIME,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Defendant David V. Nguyen, d/b/a Nail Time, and Nail Time's Notice of Service of Second Set of Interrogatories Directed to Plaintiff**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

William E. Hager, III, Esq.
Law Offices of William E. Hager, III
352 Broad Street
New Bethlehem, PA 16242

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON INC.

By: Tracey G. Benson
Tracey G. Benson

Dated: October 7, 2008

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI,

Plaintiff

vs.

DAVID V. NGUYEN, d/b/a NAIL TIME,
And NAIL TIME,

Defendants

:
:
: Civil Action – Law
:
: No: 2006-921-CD
:
: Type of Pleading:
:
: Certificate of Service
:
: Filed on behalf of Plaintiff
:
:
:
: Counsel of Record for this Party:
: William E. Hager, III
: Supreme Court ID # 40361
:
: 352 Broad Street
: New Bethlehem, PA 16242
: (814) 275 – 3551

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FILED
NOV 17 2008
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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI,

Plaintiff

vs.

DAVID V. NGUYEN, d/b/a NAIL TIME,
And NAIL TIME,

Defendants

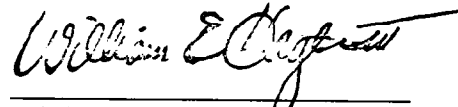
:
:
: Civil Action – Law
:
: No: 2006-921-CD
:
:

CERTIFICATE OF SERVICE

I, William E. Hager, III, hereby certify that on November 14, 2008, I
delivered by regular U.S. Mail a true and correct copy of the Second Set of
Interrogatories Directed to Plaintiff and Request for Production of Documents Directed to
Plaintiff to the following:

Tracey G. Benson, Esquire
124 North Allegheny Street
Bellefonte, PA 16823

Dated: November 14, 2008



William E. Hager, III, Esquire
352 Broad Street
New Bethlehem PA 16242
(814) 275-3551

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI ,

Plaintiff

vs.

DAVID V. NGUYEN, d/b/a NAIL TIME, and
NAIL TIME,

Defendant

: CIVIL DIVISION

: No. 06-921-CD

: Type of Pleading: Praecipe to
Discontinue

: Filed on Behalf of Plaintiff

: Counsel of Record for the
Plaintiff

: LAW OFFICES OF WILLIAM E.
: HAGER, III, LLC
: 352 Broad Street
: New Bethlehem, PA 16242
: (814) 275-3551
: Supreme Ct. ID#40361

FILED

ml 12:00pm
JAN 06 2010

William A. Shaw
Prothonotary/Clerk of Courts

No cc. 1 Cert of
disc issued to
Atty Hager
Copy to C/A

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MARCIA MAZZONI ,

Plaintiff

vs.

DAVID V. NGUYEN, d/b/a NAIL TIME, and
NAIL TIME,

Defendant

: CIVIL DIVISION

: No. 06-921-CD


: Type of Pleading: Praecipe to
Discontinue

PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY:

Kindly mark the above-captioned matter settled and discontinued.

Dated: December 30, 2009

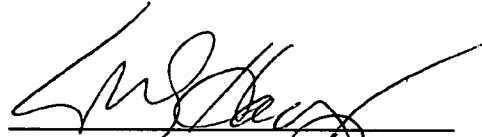

William E. Hager, III, Esquire
352 Broad Street
New Bethlehem PA 16242
(814) 275-3551

PROOF OF SERVICE

I, William E. Hager, III, hereby certify that in on December 30, 2009, I
delivered by regular U.S. Mail a true and correct copy of the Praecepto to
Discontinue to the following:

Tracey G. Benson, Esquire
124 North Allegheny Street
Bellefonte, PA 16823-1695

Dated: Dec. 30, 2009



William E. Hager, III, Esquire
352 Broad Street
New Bethlehem PA 16242
(814) 275-3551

FILED

JAN 06 2010

William A. Shaw
Prothonotary/Clerk of Courts

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

CIVIL DIVISION

Marcia Mazzoni

Vs.

No. 2006-00921-CD

**David V. Nguyen
Nail Time**

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 January 6, 2010, marked:

Settled and discontinued

Record costs in the sum of \$85.00 have been paid in full by William E. Hager III Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 6th day of January A.D. 2010.



William A. Shaw, Prothonotary

