

DOCKET NO. 174

NUMBER	TERM	YEAR
228	September	1961

Gerald B. Diehl

VERSUS

Martha R. Diehl

Clearfield County, ss:

The Commonwealth of Pennsylvania, to

Wm. T. Davis, Esq Greeting:

Know you, that in confidence of your prudence and fidelity
we have appointed you, and by these presents do give unto
you full power and authority, in pursuance of an order made
in our County Court of Common Pleas, for the County of
Clearfield, in a certain cause there depending, wherein

.....
Gerald B Diehl

..... Plaintiff ,

and

.....
Martha R Diehl

..... Defendant ,

to call before you at a certain day and place by you for that purpose to be appointed, all and every person who
may be named to you on the part of the parties

..... as witnesses in the said cause, and then

and there to examine each of the said witnesses upon their oath or solemn affirmation touching the premises
and reduce their testimony to writing and report with form of Decree

and when you shall have done so, you are to send the same before our Judge at Clearfield, at our said Court,
together with the interrogatories and this writ, and under your hand and seal.

In Testimony Whereof, we have caused the seal of our said Court to be hereunto affixed.

WITNESS, the Hon. John J Pentz, President of our said Court, at Clearfield, the

5th day of January, in the year of our Lord one thousand nine hundred and
sixty-two

Carl E. Walker

Prothonotary

To the Honorable, the Judge, &c.:

The execution of this commission appears in a certain schedule hereunto annexed.

William T. Davis

COMMISSIONER.

No. 228 September Term. 1961

Gerald B Diehl

VERSUS

Martha R Diehl

COMMISSION

Kelley, Johnston & Attorney.
Cimino

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA

GERALD B DIEHL

:

VS

:

NO. 228 September Term 1961

:

MARTHA R DIEHL

:

OCTOBER 7, 1961 COMPLAINT IN DIVORCE filed; One copy certified to the Sheriff.

October 11, 1961, AFFIDAVIT OF SERVICE, filed
NOV., October 11, 1961, at 11:55 o'clock A.M.D.S.T. served the within Complaint in Divorce on Martha R Diehl at corner of Second and Market Streets, Clearfield Borough, Clearfield County, Pennsylvania by handing to her personally a true and attested copy of the original Complaint in Divorce and made known to her the contents thereof. No Answers, Charles G Ammerman, Sheriff.

January 3, 1962 By Motion on Watch Book Wm. L. Davis is appointed Master to take Testimony and report with form of Decree.

Certified from the records this 5th day of January 1962.

Carl E. Walker
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

GERALD B. DIEHL,	:	
Plaintiff	:	
	:	
VS.	:	No. 228, September Term
	:	
	:	IN DIVORCE
	:	
MARTHA R. DIEHL,	:	
Defendant	:	

I. DOCKET ENTRIES AND SCHEDULE:

October 7, 1961: Complaint in Divorce filed; one copy certified to Sheriff.

October 11, 1961: Certified copy of original Complaint in Divorce served upon Martha R. Diehl, the Defendant, at 11:55 A.M., D.S.T., by Charles G. Ammerman, Sheriff of Clearfield County, Pennsylvania, by handing the same to her personally, at the corner of Second and Market Streets in the Borough of Clearfield, Clearfield County, Pennsylvania, and making known to her the contents thereof.

October 13, 1961: Affidavit of Service of Charles G. Ammerman, Sheriff, filed with Prothonotary.

January 3, 1962: By motion on the Watch-Book, William T. Davis was appointed Master.

January 22, 1962: Service of Notice of Master's Hearing, set for February 14, 1962, accepted by Plaintiff and his attorney.

January 22, 1962: Service of Notice of Master's Hearing, set for February 14, 1962, accepted by Defendant, Martha R. Diehl. Said notice was served personally on the defendant by Robert Showers, a constable, in and for Clearfield County, Pennsylvania, on January 22, 1962, at 2:00 P.M., E.S.T., in the Borough of Osceola Mills, Clearfield County, Pennsylvania, by handing to her a copy of the original Notice and making known to her the contents thereof. Affidavit of Service is attached to Master's Report.

February 14, 1962: Master's Hearing held in the office of the Master in Room 25 of the Clearfield Trust

Company Building, Clearfield, Pennsylvania, as per Notice, to wit, February 14, 1962, at 10:00 o'clock, A. M., E.S.T..

There appeared at the hearing Gerald B. Diehl, the Plaintiff; Eugene L. Cimino, attorney for the Plaintiff; Mrs. Mildred Oldham, witness for the Plaintiff; and, William T. Davis, the Master. The Defendant, Martha R. Diehl, did not appear in person nor was she represented by counsel at the hearing.

March 10, 1962: Eugene L. Cimino, Counsel for Plaintiff, Gerald B. Diehl, filed Waiver of Notice of Filing of Master's Report with William T. Davis, Master, as required by Rule 11, Section 14 of the Local Rules of Court of Clearfield County.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERALD B. DIEHL, : No. 228 Sept Term, 1961.
Plaintiff :
vs. :
MARTHA R. DIEHL, : IN DIVORCE
Defendant :

C O M P L A I N T

TO ALL HONORABLE JOHN J. LAMM, JUDGE OF SAID COURT:

AND NOW this 5th day of October, 1961, comes the Plaintiff,
Gerald B. Diehl, and by his Attorney, Eugene L. Cimino, files this
action in divorce of which the following is a statement:

FIRST: The Plaintiff in this action is Gerald B. Diehl.

SECOND: The Plaintiff herein resides at 305 Sarah Street, Osceola
Borough, Clearfield County, Pennsylvania.

THIRD: The Plaintiff, Gerald B. Diehl, has resided in the Common-
wealth of Pennsylvania continuously since the date of his birth on
April 29, 1927.

FOURTH: The Defendant, Martha R. Diehl, is a citizen of the
United States of America and has resided in the Commonwealth of Pennsylvania
continuously since the time of her birth on March 15, 1930.

FIFTH: The Defendant herein, Martha R. Diehl, presently resides
at 15 S.W. Third Avenue, Clearfield Borough, Clearfield County,
Pennsylvania.

SIXTH: The parties hereto were lawfully joined in marriage on
May 6, 1950 by Reverend Grates B. Johnson, pastor of the Centre Street
Methodist Church, Cumberland, Maryland.


SEVENTH: There were two (2) children born of this marriage, to
wit: Roger B. Diehl, a son, was born on June 17, 1954 and David B.
Diehl, a son, was born on March 31, 1959.

EIGHTH: In violation of her marriage vows and of the laws of this Commonwealth, the Defendant did on or about June 15, 1961 in the Borough of Osceola, Clearfield County, Pennsylvania, and at divers other times and places, prior and subsequent thereto, offer such indignities to the person of the plaintiff as to render his condition intolerable and life burdensome.

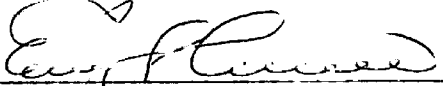
NINTH: This action is not collusive.

TENTH: Plaintiff further avers that no action in divorce has been commenced by either of the parties hereto in any Court or Jurisdiction other than the above, within this Commonwealth or elsewhere.

WHEREFORE, Plaintiff prays that a Decree of Divorce "A Vinculo Matrimonii" be entered divorcing the plaintiff from the bonds of matrimony heretofore existing between the plaintiff and defendant herein.



Gerald B. Diehl,
Plaintiff



Eugene J. Cimino
Attorney For Plaintiff

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF CENTRE :

GERALD B. DIEHL, the plaintiff herein named, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Complaint are true and correct upon his personal knowledge; and that said factual allegations are not made out of levity and collusion, but in truth and sincerity for the purposes of being freed from the bonds of matrimony existing between the parties hereto.

Gerald B. Diehl.
Gerald B. Diehl,
Plaintiff

Sworn and subscribed to before
me this 5th day of October,
1964.

Frederic E. Kraft
Notary Public

My Commission expires: 2-5-65

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

No. 228 Sept Term, 1961
IN DIVORCE

GERALD B. DIEHL, Plaintiff

VS.

MARTHA R. DIEHL, Defendant

COMPLAINT

DATED: October 5th, 1961

To the within named Defendant:

You are required to file
an Answer to the within
Complaint within twenty (20)
days from the service hereof.

Ernest L. Cimino
Ernest L. Cimino

Attorney for Plaintiff

WM. T. HAGERLY

PROSECUUTOR GENERAL
CLEARFIELD COUNTY

ATTORNEYS AT LAW
PHILIPSBURG, PENNA.

RECEIVED BY MAIL, OCT. 10, 1961

908 Aug

Affidavit of Service

Gerald B. Diehl

vs.

Martha R. Diehl

No. 228 September Term, 19 61

Complaint In Divorce

Returnable within _____ days
from date of service hereof.

NOW October 11, 19 61 at 11:55 o'clock A.M. DST

served the within Complaint In Divorce

on Martha R. Diehl

at corner of Second and Market Streets, Clearfield Borough, Clearfield
County, Pennsylvania

by handing to her personally

a true and attested copy of the original Complaint In Divorce and made

known to her the contents thereof.

Costs. Sheriff Ammerman \$8.50
(Paid by Atty Cimino)

Sworn to before me this 12th

day of October A. D. 19 61

Wm T. Hagerty
Prothonotary

So answers,

Charles G. Ammerman
CHARLES G. AMMERMAN
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

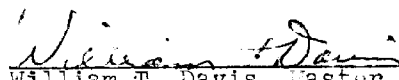
GERALD B. DIEHL,	:	
Plaintiff	:	
	:	
VS.	:	NO. 228, September Term,
	:	1961
	:	
MARTHA R. DIEHL,	:	IN DIVORCE
Defendant	:	

NOTICE OF MASTER'S HEARING

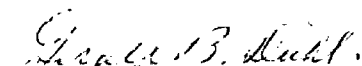
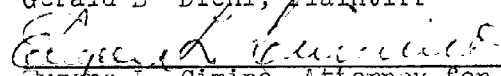
TO: Gerald B. Diehl
305 Sarah Street
Osceola Mills, Pa., and

Eugene L. Cimino, Esq.,
Attorney for Gerald B. Diehl,
Plaintiff

You are hereby notified that I have been appointed Master to take testimony in the above entitled case brought by Gerald B. Diehl against Martha R. Diehl, and that I will hold a hearing on Wednesday, February 14, 1962, at 10:00 A. M., E.S.T., in Room 25 of the Clearfield Trust Company Building, Clearfield, Pennsylvania, for the purpose of taking testimony, at which time and place you may appear with your witnesses and be heard.


William T. Davis, Master

NOW, this 32nd day of January, 1962, service of Notice of Master's Hearing in the above entitled divorce action is hereby accepted.


Gerald B. Diehl, Plaintiff

Eugene L. Cimino, Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

GERALD B. DIEHL,	:	
Plaintiff	:	
VS.	:	No 228, September Term,
	:	1961
	:	
	:	IN DIVORCE
MARTHA R. DIEHL,	:	
Defendant	:	

NOTICE OF MASTER'S HEARING

TO: Martha R. Diehl,
15 S. W. Third Avenue
Clearfield, Pennsylvania

You are hereby notified that I have been appointed Master to take testimony in the above entitled case brought by Gerald B. Diehl against Martha R. Diehl, and that I will hold a hearing on Wednesday, February 14, 1962, at 10:00 A. M., E.S.T., in Room 25 of the Clearfield Trust Company Building, Clearfield, Pennsylvania, for the purpose of taking testimony, at which time and place you may appear with your witnesses and be heard.

William T. Davis
William T. Davis, Master

NOW, this 22nd day of January 1962, service of Notice of Master's Hearing in the above entitled divorce action is hereby accepted.

Martha R. Diehl
Martha R. Diehl, Defendant

GERALD B. DIEHL :
 : No. 228 September Term, 1961
VS. :
 : IN DIVORCE
MARTHA R. DIEHL :

Before me, the undersigned, personally appeared Robert H. H. H., who being duly sworn according to law, deposes and says that he did serve the within Notice of Master's Hearing on Martha R. Diehl, the defendant, on January 22nd, 1962, at 2 Pm o'clock, P. M., E.S.T., at the Barclay's Restaurant, 1111 14th St N.W. by handing to her personally a true and correct copy of the original Notice of Master's Hearing, and made known to her the contents thereof.

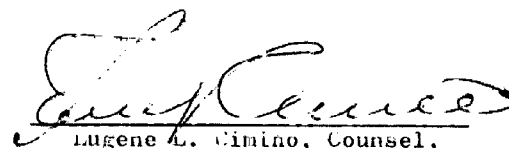
Robert Showers -
Constable,

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERALD B. DIEHL,	:	
Plaintiff	:	
vs.	:	No. 228 September Term, 1961
	:	IN DIVORCE
MARTHA R. DIEHL,	:	
Defendant	:	

Waiver of Notice of Filing
of
Master's Report

AND NOW, this 10th day of March, ~~XXXXXX~~ 1962, the undersigned,
for and in behalf of the Plaintiff and as his Counsel, does hereby
waive the required five (5) day notice of filing of the Master's Report
as required by Rule 11, Section 14 thereof of the local Rules of
Court of Clearfield County, as applicable to divorce procedure.


Eugene L. Cimino, Counsel,
for and in behalf of the
above captioned Plaintiff.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

GERALD B. DIEHL,
Plaintiff

VS.

MARTHA R. DIEHL,
Defendant

:
:
:
:
:
:
:
:
:
:

No. 228, September Term, 1961

IN DIVORCE

MASTER'S REPORT

The undersigned Master, appointed by your Honorable Court to take the testimony of the witnesses in the above entitled case and return the same, together with form of Decree, respectfully reports as follows:

II. SERVICE OF PROCESS:

The complaint was personally served upon the defendant by Charles G. Ammerman, Sheriff of Clearfield County. Said service having been made on October 11, 1961.

The Master's Notice of Hearing was served personally on the defendant on January 22, 1962 by Robert Showers, Constable. The defendant also accepted service of Notice of Master's Hearing on the same date.

III. CAUSE OF DIVORCE:

Indignities.

IV. FINDINGS OF FACT:

1. MARRIAGE: The plaintiff and the defendant were lawfully married by Reverend Crates S. Johnson, pastor

of the Centre Street Methodist Church, Cumberland, Maryland, on May 6, 1950.

2. RESIDENCE: The plaintiff and the defendant were both residents of the Commonwealth of Pennsylvania at the time of their marriage. The plaintiff has been a resident of Clearfield County since April 29, 1927, that being the date of his birth. The defendant was born in Duncansville, Blair County, Pennsylvania. Since the date of their marriage they have resided in Clearfield County, Pennsylvania.

3. CITIZENSHIP: The plaintiff and the defendant, both citizens of the United States, have lived in Clearfield County all of their married life. The plaintiff resides at 305 Sarah Street, Osceola Mills, Clearfield County, Pennsylvania, and the defendant resides at 15 S. W. Third Avenue, Clearfield, Clearfield County, Pennsylvania.

4. AGE AND OCCUPATION: The plaintiff is 34 years of age and is employed as a superintendent for a coal stripping company. The defendant is 31 years of age and is employed part time as a bookkeeper.

5. CHILDREN: There were two children born to this marriage, to wit: Roger E. Diehl, a son, born June 17, 1954 and David A. Diehl, a son, born March 31, 1959. Both children reside with the plaintiff at his home in Osceola Mills, Clearfield County, Pennsylvania.

6. ARMED FORCES: The Master finds that the plaintiff is not now a member of the Armed Forces of the

United States. He was a member of the Armed Forces from May 30, 1945 to August 11, 1946, at which time he was Honorably Discharged. The defendant is not a member of the Armed Forces of the United States and has never been a member of the Armed Forces of the United States. She makes visits with her children in Osceola Mills weekly and has not been wearing a military uniform.

7. FINDINGS ON THE MERITS:

(a) The parties were lawfully married on May 6, 1950 by Reverend Crates S. Johnson, pastor of the Center Street Methodist Church, at Cumberland, Maryland.

(b) Both parties to this divorce, after their marriage, resided in Osceola Mills, Clearfield County, Pennsylvania. They continued to live in Osceola Mills until October 17, 1961, at which time the defendant, Martha R. Diehl, left the home in Osceola Mills, Clearfield County, Pennsylvania, and moved to Clearfield, Pennsylvania. The defendant has resided at 15 S. W. Third Avenue, Clearfield, Clearfield County, Pennsylvania, since October 17, 1961.

(c) The Master finds as a fact that the defendant kept company with another man, other than her husband; that after June 15, 1961, she would go out with this man several nights a week and would stay out until one o'clock and three o'clock in the morning; the defendant persisted in this conduct from June 15, 1961 up until the time of her departure from the home, to wit, October 17, 1961. She neglected her husband and children to the point where she

was going out almost every night and stayed out late and stopped getting up in the mornings to get breakfast and to pack her husband's bucket; she would sleep most of the day and did not take care of the children like she should have done. The defendant on several occasions told her husband that she did not love him and that she was in love with another man and wanted to marry him.

8. DISCUSSION:

The ground on which the plaintiff bases his case is indignities. An indignity to the person is said to be an affront to the personality of the other, a lack of reverence for the personality of one's spouse. The offense is complete when a continued and persistent course of conduct demonstrates that the love and affection upon which the matrimonial status rests has been permanently replaced by hate and estrangement. BOYER Vs. BOYER, 183 Pa. Super. 260. The record establishes this course of conduct by the defendant.

We are aware that a single act or an occasional isolated incident does not entitle the spouse to a divorce on the ground of indignities; we are aware that the law requires such a course of conduct or continued treatment as to render his condition intolerable and his life burdensome. There is no evidence that the plaintiff was the cause of the unwarranted action by the defendant and the Master feels that the plaintiff is the injured and innocent spouse and that he is entitled to a divorce.

The testimony in this case was not controverted,

the defendant not having appeared either in person or by counsel. The plaintiff's testimony was corroborated by his witness. The testimony of the witnesses clearly indicates that the defendant pursued a course of conduct inconsistent with her marriage vows in that she was apparently having relations with a man other than her husband. This was not an isolated incident but was open and flagrant misconduct shamelessly flaunted in the presence of the plaintiff. In such cases, evidence of adultery is admissible on a charge of indignities. See FREEDMAN, LAW OF MARRIAGE AND DIVORCE IN PENNSYLVANIA, Page 728; also, see PHIPPS vs. PHIPPS 165 Pa. Super. 622 , (1950).

The action of the defendant over a considerable period of time showed settled hate and estrangement in that she stated to the plaintiff on occasions that she did not love him. This was compounded by her actions in keeping company with another man, failing to properly take care of her children and in general her failure to live up to her obligations as a wife.

The Master therefore feels that the plaintiff is the injured and innocent spouse and that he is entitled to a divorce on the ground of indignities.

V. CONCLUSIONS OF LAW:

1. The plaintiff and the defendant were legally married and the marital relationship still subsists between them.

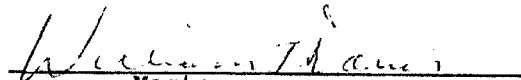
2. The parties are properly before the Court and the Court has jurisdiction. The plaintiff and the defendant are both residents of the Commonwealth of Pennsylvania and the defendant has been personally served.

3. The facts found establish grounds for divorce, a vinculo matrimonii.

VI. RECOMMENDATION OF THE MASTER:

The Master finds that the averment of the Complaint relating to indignities has been sustained by the proof and recommends that the prayer of the plaintiff be granted and that a decree be entered by your Honorable Court divorcing Gerald B. Diehl, the plaintiff, and Martha R. Diehl, the defendant, from the bonds of matrimony now subsisting between them.

All of which is respectfully submitted.


Master

In the Court of Common Pleas of Clearfield County, Pennsylvania

XXXXXXXXXXXXXXXXXXXX

GERALD B. DIEHL	}	Of	SEPTEMBER	Term, 19	61
Plaintiff		No.	228		
VERSUS					
MARTHA R. DIEHL,	}	DIVORCE			
Defendant					

And Now, the 27th day of March 19 62, the
report of the Master is acknowledged. We approve his findings and recommendations; ~~except that~~
~~XXXX~~

We, therefore, DECREE that GERALD B. DIEHL be
divorced and forever separated from the nuptial ties and bonds of matrimony heretofore con-
tracted between ~~himself~~ and MARTHA R. DIEHL.
Thereupon all the rights, duties or claims accruing to either of said parties in pursuance of
said marriage, shall cease and determine, and each of them shall be at liberty to marry again as
though they had never been heretofore married, ~~except that~~

The Prothonotary is directed to pay the Court costs, including Master's fees, as not-
ed herein, out of the deposits received and then remit the balance to the libellant. No Decree
to issue until the costs be fully paid. We do further award to the said _____
_____ his ~~her~~ costs expended in this action.

ATTEST
Carl E. Walker
Prothonotary

BY THE COURT
[Signature]
President Judge

In The Court of Common Pleas
Of Clearfield County, Penna.

No. 228, Sept. Term 1961

GERALD B. DIEHL
Libellant

VERSUS

MARTHA R. DIEHL
Respondent

DECREE

Attorney

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERALD B. DIEHL,	:	
Plaintiff	:	
	:	
VS.	:	No. 228, September Term, 1961
	:	
	:	IN DIVORCE
	:	
MARTHA R. DIEHL,	:	
Defendant	:	

TESTIMONY TAKEN AT MASTER'S HEARING

At a hearing held in the offices of the Master in Room 25 of the ClearfieldTrust Company Building, Clearfield, Pennsylvania, on Wednesday, February 14, 1962, at 10:00 o'clock, A. M., E.S.T., there appeared:

Gerald B. Diehl, the Plaintiff.

Mrs. Mildred Oldham, witness for the Plaintiff.

Eugene L. Cimino, Esq., Attorney for Gerald B. Diehl, the Plaintiff.

William T. Davis, the Master.

No appearance was made on behalf of the Defendant either in person or by counsel.

GERALD B. DIEHL, being duly sworn according to law, testified as follows:

BY MR. CIMINO:

Counsel for the Plaintiff wishes to offer into the record as part of the evidence in this case, all of the papers in this divorce action filed to No. 228, September Term, 1961.

Q. What is your name?

A. Gerald B. Diehl.

Q. Are you the plaintiff in this divorce action?

A. Yes.

Q. Where do you live?

A. 305 Sarah Street, Osceola Mills, Pennsylvania.

Q. That is in Clearfield County?

A. Yes.

Q. You have stated Mr. Diehl that you are the plaintiff in this divorce action. How long have you resided in the Commonwealth of Pennsylvania?

A. Since April 29, 1927.

Q. And that is the date of your birth?

A. Yes.

Q. Then you have been a life long resident of the Commonwealth of Pennsylvania, is that correct?

A. Yes I have.

Q. The defendant, Martha R. Diehl, do you know where she was born?

A. Duncansville, Blair County, Pennsylvania.

Q. Is the defendant, Martha R. Diehl, your wife?

A. Yes.

Q. Is she a citizen of the United States?

A. Yes.

Q. How long has she been a resident of the Commonwealth?

A. She was born March 15, 1930.

Q. She has been a life long resident of the Commonwealth?

A. Yes.

Q. Where does you wife presently reside?

A. 15 S. W. Third Avenue, Clearfield.

Q. Is that in the Borough of Clearfield?

A. Yes.

Q. How long has she resided at that address?

A. Since October 17, 1961.

Q. Will you tell us when, where and by whom you were married?

A. Centre Street Methodist Church, Cumberland, Maryland by Crates S. Johnson, pastor of the church, on May 6, 1950.

Q. Were you married in the pasonage?

A. Yes we were.

Q. Were any children born to this marriage?

A. Yes two.

Q. When were they born and what are their names?

A. Roger E. Diehl born June 17, 1954 and David A. Diehl, born March 31, 1959.

Q. Where do they presently reside?

A. With me at 305 Sarah Street, Osceola Mills, Pennsylvania.

Q. Is there any collusion or agreement between you and your wife to obtain this divorce?

A. No.

Q. Have either you or your wife^{ever} filed for a divorce either here or elsewhere other than the present action?

A. No.

Q. What is your occupation:

A. Superintendent in the coal strippings.

Q. What is your wife's occupation?

A. Housekeeper and bookkeeper.

Q. Were you ever a member of the armed forces?

A. Yes.

Q. When?

A. From May 30, 1945 to August 11, 1946.

Q. Were you honorably discharged?

A. Yes.

Q. Was your wife , the defendant, ever a member of the armed forces?

A. No.

Q. Is she presently a member of the armed forces?

A. No.

Q. She is presently a civilian?

A. Yes.

Q. Mr. Diehl, are you acquainted with the signature of your wife?

A. Yes.

Q. I show you a Notice of Master's Hearing dated January 22, 1962, accepting notice of service of this Master's Hearing signed by her for today. Will you identify that signature?

A. Yes, it is her signature.

Q. You are acquainted with her signature?

A. Yes.

Q. And this is her signature, that is your wife's?

A. Yes it is her signature.

Q. I show you this original filed copy of the Complaint in Divorce. Is this your signature?

A. Yes sir.

Q. Do you know in the Eighth Paragraph of your Complaint you allege indignities as the grounds for divorce occurring on or about June 15, 1961?

A. Yes sir.

Q. Mr. Diehl, would you tell us in your own words, briefly and to the point, just what these indignities consisted of that you allege here?

A. On Thursday, June 15, 1961 when it first started, my wife was out in the back yard with the neighbor girl, Becky Mays, and Becky Mays' boyfriend, George Timchak, was there and Martha and Becky together made a bet that Martha would not go out with George Timchak. Martha took her up on this and I did not know about this and didn't think anything about it at the time. Becky came in the house and said that Martha went out with George Timchak so I stayed up until she came home that night. When she came home she told me where they were and that they did some necking and kissing. I did not think too much about it.

Q. Whose car were they in?

A. His car.

- Q. Go ahead?
- A. On the 16th, the next day when I came home from work, we had supper and she started to get cleaned up and I asked her what she was about to do and she told me that he had a date with George Timchak.
- Q. Your wife told you that?
- A. Yes.
- Q. In the presence of your children?
- A. No, they were not present then. I said, what do you mean you have a date with George Timchak and she said I have a date and I am going out with him tonight. I did not know what to do or say. She took our car and went. No one knew where she was going. She went to the Philipsburg Hospital and she met him there and they got into our car and went out. I stayed home with the children and I stayed up until she came home. I was sitting in the T. V. Room and she walked in and she came in and sat down beside me and proceeded in telling me everything that went on.
- Q. Just exactly as you can, tell us what she told you?
- A. She told me that they met at the Philipsburg Hospital and that they went in our car.
- Q. Where did they go?
- A. To Black Moshannon Park and parked out there. She told me that they did some necking and kissing and then she came home.
- Q. What time did she come home?
- A. Three o'clock in the morning.
- Q. What time did she come home the evening before?
- A. One o'clock.
- Q. Did this course of conduct persist?
- A. It went on two nights a week for the next four weeks.
- Q. After that did it continue?
- A. I objected to her going out and taking the automobile.
- Q. Did you discuss the situation with her?
- A. Yes.
- Q. What kind of an understanding did you have on this matter?

- A. I told her that it was not right for her to take the car and do what she was doing and she did not think anything of it.
- Q. Did you discuss her conduct with this Timchak fellow?
- A. Yes. I told her she should not go out with him and she should stay home with her children.
- Q. How old are the children?
- A. Three and seven.
- Q. The youngest stays at home and the other one goes to school?
- A. Yes.
- Q. What did you wife say about the situation with regard to keeping care of the children and staying home?
- A. She didn't have much to say. She just thought I could keep the children and she wanted to get married to this Timchak. At the time all this was going on, I had to put the children to bed at nights. The children were breaking away from her because the next morning, after she had been out, she had to sleep in to make up for the lost sleep.
- Q. Has she persisted in this course of conduct since June 15, 1961?
- A. Yes.
- Q. What about the past few weeks, what has her course of conduct been?
- A. I don't know, she no longer lives with me. She moved out.
- Q. You state she no longer lives with you. Where is she presently residing?
- A. She moved to Clearfield on October 17, 1961.
- Q. She has been living in Clearfield since that time?
- A. Yes.
- Q. Does she visit the children?
- A. One day a week.
- Q. Will you tell us about her visits?
- A. First she came early Saturday morning on the seven o'clock bus. Then she claimed that seven o'clock

was too early for her to be over town to get the bus. She had to walk to town to get the bus. So from then on she came over on the 12:00 or 1:00 o'clock bus. She would stay all Saturday afternoon and she would get our supper for us and then when she did go to leave, the children would never miss her or anything. They had been used to her going out and not being around that they did not miss her. About seven o'clock in the evening, George Timchak would stop in front of the house and would pick her up and bring her back to Clearfield or wherever it was that they were going.

- Q. Was this an habitual occurrence?
- A. Yes.
- Q. Has your wife, since the occurrences of these incidents, displayed any affections that a wife should?
- A. No.
- Q. Has she told you she no longer loves you?
- A. Yes she has.
- Q. What did she say?
- A. One night when she was getting ready to go out, I asked her what she was about to do and she said she was going out with George and she said that George loves her and that he wants to marry her and she wanted to marry him.
- . I said, what do you mean and she said I got more love out of him since I have seen him than I got out of you all of my life.
- Q. Is George a married man?
- A. No.
- Q. How old is he?
- A. 21 years old.
- Q. Are you acquainted with him and his family?
- A. No.
- Q. Where do they live?
- A. Osceola Mills.
- Q. What is his occupation?
- A. He is a student at Clarion State Teacher's College.
- Q. Does he come home on week ends?
- A. Yes, he comes on Thursday night and goes back Sunday night.

Q. And that is the same party that picks up your wife every Saturday night?

A. Yes.

Q. What were the statements made with regard to the fact that she no longer loves you?

A. She told me one night that she would not have anything more to do with me and she did not love me any more and she wanted to marry George Timchak.

Q. Where do you work?

A. In Houtzdale.

Q. What type of work do you do?

A. I work around the coal strippings.

Q. How many days a week do you work?

A. Six or seven.

Q. What time do you go to work?

A. Between six and seven in the morning.

Q. When do you come home?

A. Four in the afternoon.

Q. Do you provide well for your wife and children?

A. Yes.

Q. What type of home do you have? Is it a new home?

A. Yes, it is a new home.

Q. Is it completely paid for?

A. No.

Q. Are you making payments regularly on the home?

A. Yes.

Q. Have you always provided for your wife and children their material needs and wants?

A. Yes.

Q. Have you given her any cause or provocation for this course of conduct?

A. No.

Q. Are the neighbors familiar with your situation?

A. Yes.

Q. Are they familiar with the circumstances surrounding your wife's conduct and her leaving your home?

A. Yes.

Q. Have any of them come and talked to you about it?

A. Yes.

Q. Is this a source of great shame and embarrassment to you?

A. Yes it is.

Q. Mr. Diehl, up until the time of these occurrences, were you ever aware of any improper conduct on the part of your wife?

A. No.

Q. Since these matters that you have testified to occurred, has she been habitually keeping company with George Timchak?

A. Yes.

BY MR. DAVIS, THE MASTER:

Q. How old are you Mr. Diehl?

A. 34.

Q. How old is your wife?

A. 31.

BY MR. CIMINO:

Q. Mr. Diehl, since the occurrences that you refer to on June 15, 1961 and afterwards, what has the general housekeeping attitude of your wife toward you and the children been as to keeping the home and getting the meals?

A. She quit getting up to get breakfast in the morning and packing my bucket. She moved to another bedroom. As far as the children are concerned, she neglected them to the point where she would sleep in the day time when she should be doing other things around the home. Toward the end, she was going out every other night.

Q. Who takes care of the children now since your wife is not living with you?

A. Mrs. Oldham does.

Q. She provides for their needs and caring for them and getting their meals?

A. Yes she does.

Q. Did your wife display any concern over these children such as parental guidance, etc.?

A. No sir, she just didn't care about them.

Q. How long has Mrs. Oldham been taking care of them?

A. Since October 17, 1961.

Q. Is she related to you?

A. No.

Q. In talking to you wife about her actions, did you try to persuade her otherwise?

A. I pleaded with her to come back for the children's sake. I did everything I could.

Q. You say you did everything you could?

A. Yes.

Q. Did you arrange a vacation?

A. Yes. We had a vacation the week of the 4th of July, 1961. The boss gave me a week's vacation. I thought everything was o.k.

Q. Where did you go?

A. Dewey Beach, Delaware. We had a cabin down there right along the beach and everything seemed to be all right.

Q. Did you take the children?

A. Yes. She acted as if nothing had ever happened. She was nice to me and acted as though nothing went wrong. This went on for a week. At the end of the week, we came home. That was on a Sunday night. At that point, I figured everything was over between her and George Timchak, but when I came home from work on Monday night, she started to get dressed up. I said, where are you going and she said, out with George. I said to her that I thought everything was o.k. now and she said no it wasn't and then she said that she thought it was my vacation and that she would make it as happy as she could for me.

Q. Since the return from the vacation, has your wife persisted in the course of conduct to which you testified to, between her and George Timchak, up until last Saturday?

A. Yes.

Q. And that is the last time you saw her?

A. Yes.

BY MR. DAVIS, THE MASTER:

Q. You say you always provided for your wife and children?

A. Yes.

Q. Are you still providing for your wife?

A. Yes.

Q. In what respect?

A. I am paying her \$25.00 a week since she doesn't make enough money to live on.

Q. You are doing that because of her impecunious condition?

A. Yes.

Q. And you are still doing this?

A. Yes.

Q. Is she working?

A. She does book work. She does work for Osceola Supply Company, but only makes about \$50.00 a month.

BY MR. CIMINO:

Q. Was she not working for some firm here in Clearfield?

A. She worked for McGregor Sportswear for a while but she isn't working there now.

Q. Then her sole means of livelihood is the \$25.00 a week which you give her and the \$50.00 a month from the book work?

A. That is right.

Q. Mr. Diehl, what effect did this course of conduct on the part of your wife have on your daily living routine and your efficiency on the job and on your health?

- A. Well, on the job, that is why I got the vacation. My boss knew something was the matter and he didn't know what it was and he came up to me a few days before and he said, you take off next week. He still didn't know what the trouble was. When I came back, I noticed that I couldn't keep my mind on the job so I went and told the boss the whole story and then he told me that he knew something was wrong and that is why he gave me the vacation when he did.
- Q. How did this finally effect your efficiency on the job?
- A. My mind was more on my home and to try to get her back than it was on my job.
- Q. Is there any danger in connection with your work?
- A. Yes. If I am working around where the shovel is being operated and if I am not watching and the bucket swings past, it could be dangerous.
- Q. You were superintendent of the strippings?
- A. Yes.
- Q. And you could not keep your mind on your job?
- A. I couldn't keep my mind on the job.
- Q. In addition to your being affected on the job, what effect did it have generally on your health?
- A. The first few weeks I lost about ten pounds. I wasn't eating right. I thought I had better come to my senses or I was going to be sick myself.
- Q. Did you make any visits to the doctor?
- A. No.
- Q. Did you discuss this situation with your minister?
- A. No. He moved away the same week and I didn't know the new minister.
- Q. Did this effect your sleeping at night?
- A. When she was out I could not sleep and I stayed up until she came home many nights.
- Q. You were not then getting the rest you needed in order that you could get up and go to work?
- A. That is right.
- Q. Is there anything else you would care to add to your testimony that would be pertinent?
- A. I can't think of anything.

MRS. MILDRED OLDHAM, being duly sworn according to law,
testified as follows:

BY MR. CIMINO:

Q. What is your name?

A. Mildred Oldham.

Q. Where do you live?

A. 308 Stone Street, Osceola Mills, Pa.

Q. Are you acquainted with the plaintiff?

A. Yes.

Q. How do you know him?

A. He is my neighbor.

Q. Do you know of any agreement between Mr. Diehl and his wife for the purpose of obtaining a divorce?

A. No.

Q. You have heard the testimony rendered by this plaintiff. Insofar as your own personal knowledge and observation, is the testimony substantially true and correct?

A. Yes.

Q. Do you know of your own personal knowledge any of the facts?

A. Yes.

Q. Would you tell us in your own words what you observed?

A. For some time, I have known the Diehls. Ever since they moved there I never saw anything out of the way until just before I found out about this. The first time I knew of anything for sure was July 26, 1961.

Q. What do you know?

A. George Timchak pulled in front of the house and picked up Martha.

Q. That is the plaintiff's wife, the defendant herein?

A. Yes. Before that, I noticed for a few weeks her car going out in the evening. We would be on the front porch and I would notice it going and one night a car pulled in in the morning, rather early in the morning. The lights came on over at the Diehls and the house was all lit up. I felt that the children were sick. It was four o'clock in the morning and knowing Martha like I did, I called her. I asked if the children were sick and that I noticed that the lights were all on, and she said, oh no, she

said, Granny, you would be the first to know it if they were. Then she said, I guess I was a little late. I had my suspicions then that she was stepping out on Gerald, then on the 26th I was sure that she was and who the fellow was.

Q. What have you observed since then?

A. It got to be that she went out more frequently. It would be two and three nights a week. On August 5th, his car pulled up the alley between Diehls property and the neighbors with no headlights on and it pulled up in the alley and stopped. I did not see Martha get in the car. Then the car backed out without the lights on. It was George's car. Since that time it has been the same thing about every night. He was very brazen about it. He would come right there and get her.

Q. She comes to Osceola on Saturdays to spend some time with the children. What have you observed about these visits?

A. First she came on the 6:30 bus, it gets in town around 7:00. She would come in the morning and stay all day with the children. Then it got so that she just came half days. She would come out on the 12:30 bus and stay half days. It was mentioned that she didn't spend much time with the children and she said she knew that but it was too cold to get up and come over that early in the morning. She had to walk to the bus.

Q. How long have you been taking care of these children?

A. Since I went over the morning of the 18th of October, 1961. The morning after she left.

Q. You have been acting in the place of a mother and housekeeper for them since that time?

A. Yes.

Q. Is there anything further that you would care to add?

A. I can only say that I feel that Gerald has been doing a marvelous job in taking care of them and she neglected them so. I know the boys were left to go on their own and I know Martha was not home and they were left out on the street playing.

Q. Do you know of any reasons, cause or provocation that Gerald might have given her that she would act this way?

A. No.

Q. Has he always provided for them?

A. Yes.

- Q. Is he a good worker?
- A. Yes.
- Q. Did she have about everything a woman would want?
- A. Yes she did.
- Q. What kind of a home do they have? Do they have a nice home?
- A. It is a beautiful home. It has every convenience that anyone would want. I was close to her and as far as I know she always had her own money. We would go shopping together and I don't think he ever had any words about how she spent the money. She had the use of the car. Their home was something that she should have been proud of.

BY MR. DAVIS, THE MASTER:

- Q. Mrs. Oldham, you did testify that you observed what was going on and knew for sometime what was going on. Can you tell us what effect this had on Mr. Diehl? Did you notice any change in him?
- A. I noticed that he was nervous. He was quiet and didn't have much to say. I could see there was something wrong but at first didn't know whether it was just a little family trouble or what and that they would get over it. I never thought of anything like this. I went to church meetings with Mrs. Diehl and she would take me home and she always dropped me off and then she would put her car in the garage. Then it go so, when we went anywhere together, she would drop me off and then she would go elsewhere she wouldn't go right home.
- Q. I was particularly asking whether this course of conduct showed any visible effects on Mr. Diehl. Did you notice that he was upset and that it effected him?
- A. Yes, he appeared to be nervous and upset. He wasn't himself and I knew something was wrong but up until this came up, I hadn't thought too much about it then I begin to put two and two together.
- Q. Then in your opinion, he did appear to be upset and nervous about something?
- A. Yes he did.

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me at the hearing of the above named cause and that this is a correct transcription of the same.

March 19, 1962

Mary L. Croone

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA. NO. 228, Sept. Term, 1961	
GERALD B. DIEHL, Plaintiff	VS.
MARTHA R. DIEHL, Defendant	
MASTER'S REPORT (Uncontested)	
COSTS: William T. Davis, \$ 75.00 Master's Fee Robert Showers, Osceola Mills, Pa. Constable, Service of Master's Notice \$ 5.00	
<div style="border: 2px solid black; padding: 5px; display: inline-block; text-align: center;"> FILED MAR 21 1962 CARL E. WALKER PROTHONOTARY </div> <div style="margin-top: 10px;"> NEVLING & DAVIS ATTORNEYS-AT-LAW <small>CLEARFIELD TRUST CO. BLDG.</small> CLEARFIELD, PA. </div>	

WAIVER OF NOTICE OF FILING MASTER'S REPORT, dated March 10, 1962,
 signed by Eugene L. Cimino, Counsel for the Plaintiff, is attached
 to and made a part of the within Report.