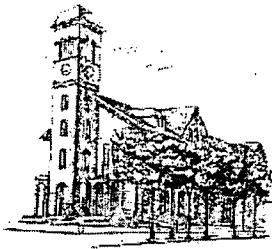


07-1578-CD

William Brilla vs Brian Marshall al



COPY

Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts **Jacki Kendrick**
Deputy Prothonotary/Clerk of Courts **Bonnie Hudson**
Administrative Assistant **David S. Ammerman**
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

August 17, 2009

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

RE: William M. Brilla

vs

Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller, et al, Inc.
No. 07-1578-CD
Superior Court No. 676 WDA 2009

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office. Please also find enclosed one transcript.

Sincerely,

William A. Shaw
Prothonotary

FILED
10/2/09
AUG 17 2009

WAS
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(c)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

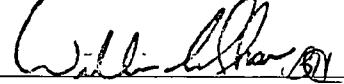
THE UNDERSIGNED, Clerk (or Prothonotary) of the Court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

07-1578-CD
William M. Brilla
Vs.
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell & Miller, et al, Inc.

In compliance with Pa. R.A.P. 1931 (c).

The documents compromising the record have been numbered from **No. 1 to**
33, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is
August 17, 2009.



William A. Shaw
Prothonotary/Clerk of Courts

(seal)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 07-1578-CD
William M. Brilla
Vs.
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller et al, Inc.

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	09/26/07	Praecipe to Proceed In Forma Pauperis	02
02	10/04/07	Praecipe to Proceed In Forma Pauperis	18
03	10/05/07	Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	66
04	10/05/07	Order, Re: In Forma Pauperis is Granted	01
05	10/15/07	Amended Certificate of Service	07
06	12/04/07	Preliminary Objections with Rule scheduling argument	05
07	12/06/07	Certificate of Service	02
08	01/04/08	Praecipe to Reinstate Complaint	05
09	01/04/08	Plaintiff's Answer to the Defendant's Preliminary Objections and New Matter	109
10	01/07/08	Motion to Strike and Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction	06
11	01/11/08	Order, Re: Motion to Strike the Answer in New Matter to Preliminary Objections is Granted	01
12	04/23/08	Petition for Judgment of Non Pros with Rule filed April 25, 2008, scheduling argument	05
13	04/29/08	Certificate of Service	02
14	05/29/08	Transcript of Proceedings, Defendants' Preliminary Objections held before Judge Paul E. Cherry on January 8, 2008	Separate Cover
15	05/30/08	Certificate of Merit	02
16	05/30/08	Praecipe to Reinstate Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	03
17	07/29/08	Order, Re: Petition for Judgment of Non Pros is Denied	01
18	09/18/08	Sheriff Return	08
19	01/07/09	Defendants' Preliminary Objections to Plaintiff's Complaint	04
20	01/15/09	Rule scheduling argument on Preliminary Objections to Plaintiff's Complaint	01
21	01/19/09	Certificate of Service	02
22	02/04/09	Answer and New Matter to Defendants' Preliminary Objections	10
23	03/17/09	Certificate of Service	02
24	03/19/09	Motion to Dismiss for Failure to File Certificate of Merit	08
25	03/23/09	Order, Re: Preliminary Objections in the Nature of Demurrer/Legal Insufficiency of a Pleading is Granted. Complaint filed by Plaintiff is Dismissed with Prejudice.	01
26	04/21/09	Notice of Appeal	09
27	04/29/09	Appeal Docket Sheet, 676 WDA 2009	03
28	06/04/09	Order, Re: filing of a statement of errors complained of on appeal	01
29	08/10/09	Letters, Re: Notification of mailing appeal mailed to William M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	05
		Mailed Appeal August 10, 2009	
30	08/10/09	Letter, Re: Appeal Mailed to Superior Court	06
31	08/13/09	Letter from Superior Court, Re: Return appeal due to missing item	02
32	08/17/09	Rule 1925(a) Opinion	02
33	08/17/09	Letters, Re: Notification of mailing appeal mailed to William M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c)	05

Date: 8/17/2009

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 02:31 PM

ROA Report

Page 1 of 3

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brilla vs. Brian K. Marshall Esq. et al

Civil Other-COUNT

Date	Judge
9/26/2007	New Case Filed. No Judge Filing: Praeclipe to Proceed In Forma Pauperis RE: Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff.
10/4/2007	Praeclipe to Proceed In Forma Pauperis, filed by s/ William M. Brilla, Pro Se. No Judge 1CC Plff.
10/5/2007	Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se. 2CC Plff Order, this 5th day of Oct., 2007, Praeclipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff
10/15/2007	Amended Certificate of Service, filed. That the above captioned Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct was served on the 11th day of October 2007 by mailing by First Class mail to Miller, Kistler, Campbell, Miller, filed by s/ William M. Brilla-plff. 2CC plff.
12/4/2007	Preliminary Objections, filed by s/ James A. Naddeo, Esquire. 2CC Atty. No Judge Naddeo Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
12/6/2007	Certificate of Service, certified copy of Preliminary Objections served upon William M. Brilla by First Class Mail on the 5th day of Dec., 2007. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
1/4/2008	Praeclipe to Reinstate Complaint, filed by s/ William M. Brilla, Plaintiff, Pro Se. 7CC Plff., No fee (IFP); 1 Complaint Reinstated to Plaintiff Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter, filed by s/ William M. Brilla, Plaintiff Pro Se. 7CC Plff
1/7/2008	Motion to Strike And Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction by the Court, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo
1/11/2008	Order, this 8th day of Jan., 2008, the Motion to Strike the Answer in New Matter to Preliminary Objections is granted. By The Court, /s/ Paul E. Cherry, Judge. CC to Plff, Naddeo
1/23/2008	Petition for Judgment of Non Pros, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
1/25/2008	Rule, this 25th day of April, 2008, it is Ordered that a Rule be granted upon the Plaintiff. Rule Returnable and argument thereon to be held the 17th of June, 2008, at 11:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
1/29/2008	Certificate of Service, a certified copy of Petition for Judgment of Non Pros was served on William M. Brilla by First-Class Mail on the 28th day of April, 2008. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
5/29/2008	Transcript of Proceedings, filed. Defendants' Preliminary Objections, Held Before Paul E. Cherry, Judge, on Tuesday, Jan. 8, 2008.
5/30/2008	Certificate of Merit, filed by William M. Brilla, Plaintiff, Pro Se. 2CC Plff

Date: 8/17/2009

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 02:31 PM

ROA Report

Page 2 of 3

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavs.Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
5/30/2008	Praecipe to Reinstate Civil Complaint & Claim For Damages Resulting From Paul E. Cherry Negligence & Professional Misconduct, filed by s/ William M. Brilla, plaintiff Pro Se. 1CC Plff.; 1CC & 2 Compl. Reinstated to Sheriff; no fee, IFP
7/29/2008	Order AND NOW, this 28th day of July 2008, upon consideration of the Petition for Judgment of Non Pros and after oral argument, said Petition is DENIED. Personal service was made on both defendants as of June 5, 2008 BY THE COURT: /s/ Charles C. Brown Jr., SJSP. No Copies (Cert. Copie to Judge Brown, Atty. Naddeo and W. Brilla on 12-31-08)
9/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. Paul E. Cherry June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
1/7/2009	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ James Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo
1/15/2009	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon Paul E. Cherry the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
1/19/2009	Certificate of Service, filed. That a certified copy of Rule and Defendant's Preliminary Objections to Plaintiff's Complaint was served on the 19th day of January 2009 by first class mail to William M. Brilla, filed by s/ James A. Naddeo Esq. No CC.
2/4/2009	Answer & New Matter to Defendants' Preliminary Objections, filed by s/ Paul E. Cherry William M. Brilla, Plaintiff, Pro Se. 2CC W. Brilla
3/17/2009	Certificate of Service, filed. That a true and correct copy of Notice of Intent to Enter Judgment of Non Pros on Professional Liability Claim in the above-captioned case was served by first class mail on the 17th day of March 2009 to William M. Brilla, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
3/19/2009	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo
3/23/2009	Order, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint, said preliminary objections in the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo
4/21/2009	Notice of Appeal, filed by Plaintiff 1 Cert. to Plaintiff and 1 Cert. Superior Court. Paul E. Cherry
4/29/2009	Appeal Docket Sheet from Superior Court # 676 WDA 2009, filed. Paul E. Cherry

Date: 8/17/2009

Time: 02:31 PM

Page 3 of 3

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavs.Brian K. Marshall Esq, et al

Civil Other-COUNT

Date		Judge
3/4/2009	Order this 29th day of May 2009, pursuant to PA.R.A.P. 1925(b), it is ORDERED as follows: 1) Plaintiff William M. Brilla shall file of record a statement of errors complained of on appeal within twenty-one (21) days of the filing of this Order. 2) The statement shall be served on this Court pursuant to PA.R.A.P. 1925(b) (1). 3) Plaintiff William M. Brilla is hereby notified that any issue not properly included in the timely filed statement shall be deemed waived by the appellate court. BY THE COURT: /s/ Charles C. Brown Jr. Sr. J. Specially Presiding. 2CC plff @ PO Box 43, 133 Second St., Kylertown PA 16849 and 2CC Atty Naddeo.	Charles C. Brown Jr.
3/10/2009	August 10, 2009, Mailed Appeal to Superior Court. August 10, 2009, Letters, Re: Notification of mailing appeal mailed to Williar M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c). Letter, Re: Appeal Mailed to Superior Court, August 10, 2009.	Paul E. Cherry
3/13/2009	Letter w/original record returned due to: Missing Item (s) Trial Court Opinion Paul E. Cherry or Rule 1925 (a), Statement in Lieu of	
3/17/2009	Rule 1925(a) Opinion, BY THE COURT: /s/Charles C. Brown, Jr., Senior Judge, Specially Presiding Two CC Attorney Naddeo One CC Plaintiff One CC D. Mikesell and Law Library August 17, 2009, Mailed Appeal to Superior Court. August 17, 2009, Letters, Re: Notification of mailing appeal mailed to Williar M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	Paul E. Cherry

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

AUG 17 2009

Attest.

Paul E. Cherry
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

William M. Brilla

Vs.

Case No. 2007-01578-CD

Brian K. Marshall Esq and
Miller, Kistler, Campbell, Miller, Et al, Inc.

Copy
FILED

AUG 20 2009
S. M. Wooten
William A. Shaw
Prothonotary/Clerk of Courts
no 9c

CERTIFICATE OF CONTENTS

NOW, this 17th day of August, 2009, the undersigned, Prothonotary or Deputy
Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, the said Court
of record, does hereby certify that attached is the original record of the case currently on Appeal.

An additional copy of this Certificate is enclosed with the original hereof and the Clerk or
Prothonotary of the Superior Court is hereby directed to acknowledge receipt of the Appeal
Record by executing such copy at the place indicated by forthwith returning the same to this
Court.

By: William A. Shaw
William A. Shaw, Prothonotary

AUG 18 2009

Record, Etc. Received:

Date: _____

S. Acton
(Signature & Title)

07-1578-CD

In the Superior Court of
Pennsylvania

Sitting at Pittsburgh

No. 676 WDA 2009

William B. Brilla, Appellant

1

Brian K. Marshall, Esq. & Miller, Kistler, Campbell, Miller et al.

Appeal from the Order entered on March 23, 2009, by the Honorable Charles C. Brown, S.J., Court of Common Pleas, Civil Div. of the County of Clearfield at No.

CERTIFIED FROM THE RECORD

ORDER OF COURT

"Appellant was directed to file a statement of matters complained of pursuant to Pa.R.A.P. 1925(b). Appellant has failed to file the required statement. Failure to file a 1925(b) statement, when ordered to do so, acts as a waiver of issues on appeal. **Commonwealth v. Castillo**, 585 Pa. 395, 888 A.2d 775 (2005); **Commonwealth v. Schofield**, 585 Pa. 389, 888 A.2d 771 (2005). Therefore the motion to quash appeal is hereby GRANTED.

Date: September 11, 2009

“Per Curiam”

S
FILED
M 12 5 7 874
OCT 22 2009
(610)

William A. Shaw
Prothonotary/Clerk of Courts

Testimony Whereof, I have hereunto set my hand and the seal of said Court at
Pittsburgh, Pennsylvania
this 20th Day of October 2009

this 20th Day of October

2009

Eleanor R. Valecho
Deputy Prothonotary

FILED

OCT 22 2009

William A. Shaw
Prothonotary/Clerk of Courts



COPY

Karen Reid Bramblett, Esq.
Prothonotary
Eleanor R. Valecko
Deputy Prothonotary

Superior Court of Pennsylvania

Western District

310 Grant Street, Suite 600
Pittsburgh, PA 15219-2297
(412) 565-7592
www.superior.court.state.pa.us

CERTIFICATE OF REMITTAL/REMAND OF RECORD

TO: Mr. Shaw
Prothonotary

RE: Brilla, W. v. Marshall, B.
676 WDA 2009
Trial Court: Clearfield County Court of Common Pleas

Trial Court Docket No: 07-1578-CD

Annexed hereto pursuant to Pennsylvania Rules of Appellate Procedure 2571 and 2572 is the entire record for the above matter.

Original Record contents:

Item	Filed Date	Description
Original Record	August 18, 2009	1 Part
Transcripts	August 18, 2009	1
Remand/Remittal Date:	Certified Copy of Order	

ORIGINAL RECIPIENT ONLY - Please acknowledge receipt by signing, dating, and returning the enclosed copy of this certificate to our office. Copy recipients (noted below) need not acknowledge receipt.

Very truly yours,

A handwritten signature in cursive script that reads "Eleanor R. Valecko".

Eleanor R. Valecko
Deputy Prothonotary

/smc
Enclosure
cc: William M. Brilla
The Honorable Charles C. Brown, Jr., Senior Judge

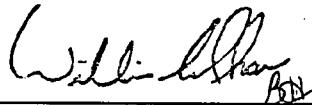
5
FILED
m10:57AM
OCT 22 2009
610

William A. Shaw
Prothonotary/Clerk of Courts
Orig. mailed to Sup Ct.

Brilla, W. v. Marshall, B.
676 WDA 2009

Letter to: Mr. William A. Shaw

Acknowledgement of Certificate of Remittal/Remand of Record (to be returned):



Signature

10/22/09

Date

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

Printed Name

11.17 A.M.

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 676 WDA 2009

Page 1 of 3

April 27, 2009



William M. Brilla, Appellant

V.

Brian K. Marshall, Esq., & Miller, Kistler, Campbell, Miller, et al., Inc.

Initiating Document: Notice of Appeal IFP

Case Status: Active

Case Processing Status: April 24, 2009

Awaiting Original Record

FILED

E

Journal Number:

Case Category: Civil

CaseType:

Trespass *William A. Chayw*
Prothonotary/Clerk of Courts

Consolidated Docket Nos.:

Related Docket Nos.:

SCHEDULED EVENT

Next Event Type: Case Initiation

Next Event Due Date: April 24, 2009

Next Event Type: Receive Docketing Statement

Next Event Due Date: May 11, 2009

Next Event Type: Original Record Received

Next Event Due Date: June 23, 2009

676 WDA 2009

AUG 18 2009

Record - 1 part
Trans. - 1

Appeal Docket Sheet

Docket Number: 676 WDA 2009

Page 3 of 3

April 27, 2009

Superior Court of Pennsylvania



Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
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TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield

Division: Civil

Date of OrderAppealed From: March 23, 2009

Judicial District: 46

Date Documents Received: April 24, 2009

Date Notice of Appeal Filed: April 21, 2009

Order Type: Order

OTN:

Judge: Cherry, Paul E.
Judge

Lower Court Docket No.: 07-1578-CD

Brown Jr., Charles C.
Senior Judge

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description
----------------------	------------	---------------------

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES			
Filed Date	Docket Entry/Document Name	Party Type	Filed By
April 24, 2009	Notice of Appeal IFF	Appellant	Brilla, William M.
April 27, 2009	Docketing Statement Exited (Civil)		Western District Filing Office

FILED
APP 29 2009
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(c)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

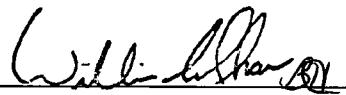
THE UNDERSIGNED, Clerk (or Prothonotary) of the Court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

07-1578-CD
William M. Brilla
Vs.
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell & Miller, et al, Inc.

In compliance with Pa. R.A.P. 1931 (c).

The documents comprising the record have been numbered from **No. 1 to**
33, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is
August 17, 2009.



William A. Shaw
Prothonotary/Clerk of Courts

(seal)

Date: 8/17/2009

Time: 02:31 PM

Page 1 of 3

Cle~~ar~~field County Court of Common Pleas

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav~~s~~. Brian K. Marshall Esq, et al

User: BHUDSON

Civil Other-COUNT

Date	Judge
9/26/2007	New Case Filed. No Judge
	Filing: Prae c ipe to Proceed In Forma Pauperis RE: Civil Complaint & Claim No Judge for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff.
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10/5/2007	Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se. No Judge 2CC Plff Order, this 5th day of Oct., 2007, Prae c ipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff
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Date: 8/17/2009

Time: 02:31 PM

Page 2 of 3

Clearfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
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9/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
1/7/2009	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ James Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo
1/15/2009	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon Paul E. Cherry the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
1/19/2009	Certificate of Service, filed. That a certified copy of Rule and Defendant's Preliminary Objections to Plaintiff's Complaint was served on the 19th day of January 2009 by first class mail to William M. Brilla, filed by s/ James A. Naddeo Esq. No CC.
2/4/2009	Answer & New Matter to Defendants' Preliminary Objections, filed by s/ Paul E. Cherry William M. Brilla, Plaintiff, Pro Se. 2CC W. Brilla
3/17/2009	Certificate of Service, filed. That a true and correct copy of Notice of Intent to Enter Judgment of Non Pros on Professional Liability Claim in the above-captioned case was served by first class mail on the 17th day of March 2009 to William M. Brilla, filed by s/ James A. Naddeo Esq. 2CC Atty. Naddeo.
3/19/2009	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo
3/23/2009	Order, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint, said preliminary objections in the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo
4/21/2009	Notice of Appeal, filed by Plaintiff 1 Cert. to Plaintiff and 1 Cert. Superior Court.
4/29/2009	Appeal Docket Sheet from Superior Court # 676 WDA 2009, filed.

Date: 8/17/2009

Time: 02:31 PM

Page 3 of 3

Clearfield County Court of Common Pleas

ROA Report

Case: 2007-01578-CD

User: BHUDSON

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
6/4/2009	Charles C. Brown Jr.
	Order this 29th day of May 2009, pursuant to Pa.R.A.P. 1925(b), it is ORDERED as follows: 1) Plaintiff William M. Brilla shall file of record a statement of errors complained of on appeal within twenty-one (21) days of the filing of this Order. 2) The statement shall be served on this Court pursuant to Pa.R.A.P. 1925 (b) (1). 3) Plaintiff William M. Brilla is hereby notified that any issue not properly included in the timely filed statement shall be deemed waived by the appellate court. BY THE COURT: /s/ Charles C. Brown Jr. Sr. J. Specially Presiding. 2CC plff @ PO Box 43, 133 Second St., Kylertown PA 16849 and 2CC Atty Naddeo.
8/10/2009	Paul E. Cherry
	August 10, 2009, Mailed Appeal to Superior Court. August 10, 2009, Letters, Re: Notification of mailing appeal mailed to Williar M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).
8/13/2009	Paul E. Cherry
	Letter w/original record returned due to: Missing Item (s) Trial Court Opinion Paul E. Cherry or Rule 1925 (a), Statement in Lieu of
8/17/2009	Paul E. Cherry
	Rule 1925(a) Opinion, BY THE COURT: /s/Charles C. Brown, Jr., Senior Judge, Specially Presiding Two CC Attorney Naddeo One CC Plaintiff One CC D. Mikesell and Law Library August 17, 2009, Mailed Appeal to Superior Court. August 17, 2009, Letters, Re: Notification of mailing appeal mailed to Williar M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).

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

AUG 17 2009

Attest.


William E. Hudson
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

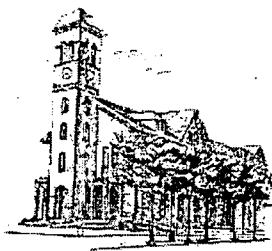
No. 07-1578-CD

William M. Brilla

Vs.

**Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller et al, Inc.**

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
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02	10/04/07	Praeclipe to Proceed In Forma Pauperis	18
03	10/05/07	Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	66
04	10/05/07	Order, Re: In Forma Pauperis is Granted	01
05	10/15/07	Amended Certificate of Service	07
06	12/04/07	Preliminary Objections with Rule scheduling argument	05
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14	05/29/08	Transcript of Proceedings, Defendants' Preliminary Objections held before Judge Paul E. Cherry on January 8, 2008	Separate Cover
15	05/30/08	Certificate of Merit	02
16	05/30/08	Praeclipe to Reinstate Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	03
17	07/29/08	Order, Re: Petition for Judgment of Non Pros is Denied	01
18	09/18/08	Sheriff Return	08
19	01/07/09	Defendants' Preliminary Objections to Plaintiff's Complaint	04
20	01/15/09	Rule scheduling argument on Preliminary Objections to Plaintiff's Complaint	01
21	01/19/09	Certificate of Service	02
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Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts **Jacki Kendrick**
Deputy Prothonotary/Clerk of Courts **Bonnie Hudson**
Administrative Assistant **David S. Ammerman**
Solicitor

PO Box 549, Clearfield, PA 16830 • Phone: (814) 765-2641 Ext. 1330 • Fax: (814) 765-7659 • www.clearfieldco.org

Charles C. Brown, Jr., Sr. Judge, Sp. Presiding
Centre County Court of Common Pleas
Allegheny & High Street
Bellefonte, PA 16823

Paul E. Cherry, Judge
Clearfield County Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

William M. Brilla
PO Box 43
133 Second Street
Kylertown, PA 16847

James A. Naddeo, Esq.
PO Box 552
207 East Market Street
Clearfield, PA 16830

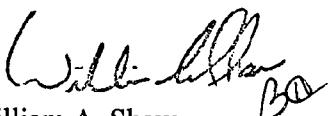
William M. Brilla
Vs.
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller, et al, Inc.

Court No. 07-1578-CD; Superior Court No. 676 WDA 2009

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on August 10, 2009.

Sincerely,



William A. Shaw

Prothonotary/Clerk of Courts

FILED
0123384
AUG 17 2009
bby William A. Shaw
Prothonotary/Clerk of Courts



37

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 07-1578-CD

William M. Brilla

Vs.

**Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller et al, Inc.**

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32	08/17/09	Rule 1925(a) Opinion	02

Date: 8/17/2009

Time: 10:25 AM

Page 1 of 3

CLEARFIELD COUNTY COURT OF COMMON PLEAS

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavas, Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
9/26/2007	New Case Filed. No Judge
	Filing: Praeclipe to Proceed In Forma Pauperis RE: Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff.
10/4/2007	Praeclipe to Proceed In Forma Pauperis, filed by s/ William M. Brilla, Pro Se No Judge 1CC Plff.
10/5/2007	Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se. 2CC Plff Order, this 5th day of Oct., 2007, Praeclipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff
10/15/2007	Amended Certificate of Service, filed. That the above captioned Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct was served on the 11th day of October 2007 by mailing by First Class mail to Miller, Kistler, Campbell, Miller, filed by s/ William M. Brilla-plff. 2CC plff.
12/4/2007	Preliminary Objections, filed by s/ James A. Naddeo, Esquire. 2CC Atty. No Judge Naddeo Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
12/6/2007	Certificate of Service, certified copy of Preliminary Objections served upon William M. Brilla by First Class Mail on the 5th day of Dec., 2007. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
1/4/2008	Praeclipe to Reinstate Complaint, filed by s/ William M. Brilla, Plaintiff, Pro Se. 7CC Plff., No fee (IFP); 1 Complaint Reinstated to Plaintiff Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter, filed by s/ William M. Brilla, Plaintiff Pro Se. 7CC Plff
1/7/2008	Motion to Strike And Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction by the Court, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo
1/11/2008	Order, this 8th day of Jan., 2008, the Motion to Strike the Answer in New Matter to Preliminary Objections is granted. By The Court, /s/ Paul E. Cherry, Judge. CC to Plff, Naddeo
1/23/2008	Petition for Judgment of Non Pros, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
1/25/2008	Rule, this 25th day of April, 2008, it is Ordered that a Rule be granted upon the Plaintiff. Rule Returnable and argument thereon to be held the 17th of June, 2008, at 11:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
1/29/2008	Certificate of Service, a certified copy of Petition for Judgment of Non Pros was served on William M. Brilla by First-Class Mail on the 28th day of April, 2008. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
1/29/2008	Transcript of Proceedings, filed. Defendants' Preliminary Objections, Held Before Paul E. Cherry, Judge, on Tuesday, Jan. 8, 2008.
1/30/2008	Certificate of Merit, filed by William M. Brilla, Plaintiff, Pro Se. 2CC Plff

Civil Other-COUNT

Date	Judge
5/30/2008	Praecipe to Reinstate Civil Complaint & Claim For Damages Resulting From Paul E. Cherry Negligence & Professional Misconduct, filed by s/ William M. Brilla, plaintiff Pro Se. 1CC Plff.; 1CC & 2 Compl. Reinstated to Sheriff; no fee, IFP
7/29/2008	Order AND NOW, this 28th day of July 2008, upon consideration of the Petition for Judgment of Non Pros and after oral argument, said Petition is DENIED. Personal service was made on both defendants as of June 5, 2008 BY THE COURT: /s/ Charles C. Brown Jr., SJSP. No Copies (Cert. Copie to Judge Brown, Atty. Naddeo and W. Brilla on 12-31-08)
9/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. Paul E. Cherry June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
1/7/2009	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ James Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo
1/15/2009	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon Paul E. Cherry the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
1/19/2009	Certificate of Service, filed. That a certified copy of Rule and Defendant's Preliminary Objections to Plaintiff's Complaint was served on the 19th day of January 2009 by first class mail to William M. Brilla, filed by s/ James A. Naddeo Esq. No CC.
2/4/2009	Answer & New Matter to Defendants' Preliminary Objections, filed by s/ Paul E. Cherry William M. Brilla, Plaintiff, Pro Se. 2CC W. Brilla
3/17/2009	Certificate of Service, filed. That a true and correct copy of Notice of Intent to Enter Judgment of Non Pros on Professional Liability Claim in the above-captioned case was served by first class mail on the 17th day of March 2009 to William M. Brilla, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
3/19/2009	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo
3/23/2009	Order, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint, said preliminary objections in the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo
4/21/2009	Notice of Appeal, filed by Plaintiff 1 Cert. to Plaintiff and 1 Cert. Superior Court. Paul E. Cherry
4/29/2009	Appeal Docket Sheet from Superior Court # 676 WDA 2009, filed. Paul E. Cherry

Date: 8/17/2009

Time: 10:25 AM

Page 3 of 3

Clearfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavs, Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
3/4/2009	Charles C. Brown Jr.
	Order this 29th day of May 2009, pursuant to P.A.R.A.P. 1925(b), it is ORDERED as follows: 1) Plaintiff William M. Brilla shall file of record a statement of errors complained of on appeal within twenty-one (21) days of the filing of this Order. 2) The statement shall be served on this Court pursuant to P.A.R.A.P. 1925 (b) (1). 3) Plaintiff William M. Brilla is hereby notified that any issue not properly included in the timely filed statement shall be deemed waived by the appellate court. BY THE COURT: /s/ Charles C. Brown Jr. Sr. J. Specially Presiding. 2CC plff @ PO Box 43, 133 Second St., Kylertown PA 16849 and 2CC Atty Naddeo.
3/10/2009	Paul E. Cherry
	August 10, 2009, Mailed Appeal to Superior Court. August 10, 2009, Letters, Re: Notification of mailing appeal mailed to William M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c). Letter, Re: Appeal Mailed to Superior Court, August 10, 2009.
3/13/2009	Paul E. Cherry
	Letter w/original record returned due to: Missing Item (s) Trial Court Opinion Paul E. Cherry or Rule 1925 (a), Statement in Lieu of
3/17/2009	Paul E. Cherry
	Rule 1925(a) Opinion, BY THE COURT: /s/Charles C. Brown, Jr., Senior Judge, Specially Presiding Two CC Attorney Naddeo One CC Plaintiff One CC D. Mikesell and Law Library

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

AUG 17 2009

Attest,

William E. Cherry
Prothonotary/
Clerk of Courts

FILED

AUG 17 2009

William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. BRILLA,)
Plaintiff,)
vs.)
BRIAN K. MARSHALL, ESQ.)
and MILLER, KISTLER, CAMPBELL,)
MILLER ET AL., INC.)
Defendants)

No. 07-1578-CD

5 **FILED** 2cc Atty Nadelo
7/10/04 11:11 AM 1cc Piff
AUG 17 2009
William A. Shaw
Prothonotary/Clerk of Courts /CC Law
Library

RULE 1925(a) OPINION

In this case Appellant William M. Brilla has sued his former wife's attorney, Appellee Brian K. Marshall, Esquire., and his law firm, Miller, Kistler, Campbell, Miller, et al., Inc.

Appellees' counsel filed a Preliminary Objection in the nature of a demurrer. This Court granted the demurrer and dismissed the suit with prejudice.

This appealed followed.

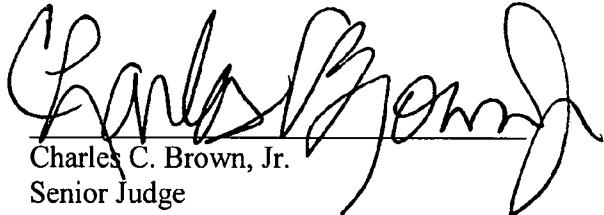
Initially, Appellant, contrary to this Court's Order dated May 29, 2009, has not filed a statement of errors complained of on an appeal in accordance with Pa.R.A.P. 1925 (b). For that reason alone, this appeal should be dismissed.

Further, Appellant has cited no authority for his having standing to sue his former wife's attorney under the circumstances of this case. This Court is convinced there is none. In short, Appellees owed no duty to Appellant.

32

This Court respectfully requests the Superior Court to dismiss the appeal for the reasons stated above.

BY THE COURT:



Charles C. Brown, Jr.
Senior Judge

cc: William M. Brilla
James A. Naddeo, Esquire
Court Administrator

FILED

AUG 17 2009

William A. Shaw
Prothonotary/Clerk of Courts



The Superior Court of Pennsylvania
Office of the Prothonotary

GRANT BUILDING

310 GRANT STREET, SUITE 600
PITTSBURGH, PA 15219-2297

KAREN REID BRAMBLETT, ESQUIRE
PROTHONOTARY

(412) 565-7592

FAX: (412) 565-7711

ELEANOR R. VALECKO
DEPUTY PROTHONOTARY

WEBSITE: www.superior.pacourts.us

August 11, 2009

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

FILED

AUG 13 2009

8/12:45/09
William A. Shaw
Prothonotary/Clerk of Courts

RE: Brilla, W. v. Marshall, B.
676 WDA 2009
Trial Court Docket No: 07-1578-CD

Dear Mr. Shaw:

We are in receipt of the original record in the above-captioned matter. Please be advised that the following items appear to be missing from the original record:

Missing Item(s): Trial Court Opinion or Rule 1925(a), Statement in Lieu of

Please resubmit the record or submit a supplemental record with the missing items by August 17, 2009. If you have any questions, please contact me. Thank you for your assistance in this matter.

Very truly yours,

Eleanor R. Valecko
Eleanor R. Valecko
Deputy Prothonotary

/lmm

(#31)



The Superior Court of Pennsylvania
Office of the Prothonotary

GRANT BUILDING

310 GRANT STREET, SUITE 600
PITTSBURGH, PA 15219-2297

KAREN REID BRAMBLETT, ESQUIRE
PROTHONOTARY

(412) 565-7592

FAX: (412) 565-7711

WEBSITE: www.superior.pacourts.us

ELEANOR R. VALECKO
DEPUTY PROTHONOTARY

August 11, 2009

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

RE: Brilla, W. v. Marshall, B.
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Dear Mr. Shaw:

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Please resubmit the record or submit a supplemental record with the missing items by August 17, 2009. If you have any questions, please contact me. Thank you for your assistance in this matter.

Very truly yours,

Eleanor R. Valecko
Eleanor R. Valecko
Deputy Prothonotary

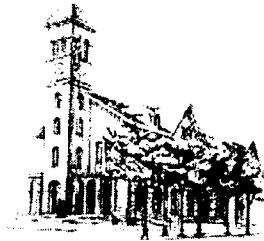
/Imm

RECEIPT ACKNOWLEDGED:

Aug. 13, 2009 DATE: Aug. 13, 2009

cc: Court Admin.

William A. Shaw



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts **Jacki Kendrick**
Deputy Prothonotary/Clerk of Courts **Bonnie Hudson**
Administrative Assistant **David S. Ammerman**
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

August 10, 2009

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

RE: William M. Brilla
vs
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller, et al, Inc.
No. 07-1578-CD
Superior Court No. 676 WDA 2009

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office. Please also find enclosed one transcript. No opinion has been filed as of this date. The Court has directed my office to forward the record.

Sincerely,

William A. Shaw
Prothonotary

AUG 11 2009

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

William M. Brilla

Vs.

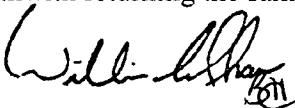
Case No. 2007-01578-CD

Brian K. Marshall Esq. and
Miller, Kistler, Campbell, Miller, et al, Inc.

CERTIFICATE OF CONTENTS

NOW, this 10th day of August, 2009, the undersigned, Prothonotary or Deputy Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, the said Court of record, does hereby certify that attached is the original record of the case currently on Appeal.

An additional copy of this Certificate is enclosed with the original hereof and the Clerk or Prothonotary of the Superior Court is hereby directed to acknowledge receipt of the Appeal Record by executing such copy at the place indicated by forthwith returning the same to this Court.

By: 
William A. Shaw, Prothonotary

Record, Etc. Received:

Date: _____

(Signature & Title)

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

William M. Brilla

Vs.

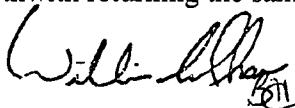
Case No. 2007-01578-CD

Brian K. Marshall Esq. and
Miller, Kistler, Campbell, Miller, et al, Inc.

CERTIFICATE OF CONTENTS

NOW, this 10th day of August, 2009, the undersigned, Prothonotary or Deputy Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, the said Court of record, does hereby certify that attached is the original record of the case currently on Appeal.

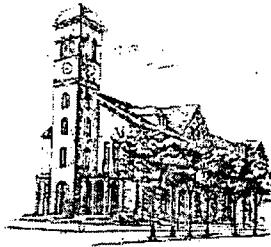
An additional copy of this Certificate is enclosed with the original hereof and the Clerk or Prothonotary of the Superior Court is hereby directed to acknowledge receipt of the Appeal Record by executing such copy at the place indicated by forthwith returning the same to this Court.

By: 
William A. Shaw, Prothonotary

Record, Etc. Received:

Date: _____

(Signature & Title)



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts **Jacki Kendrick**
Deputy Prothonotary/Clerk of Courts **Bonnie Hudson**
Administrative Assistant **David S. Ammerman**
Solicitor

PO Box 549, Clearfield, PA 16830 • Phone: (814) 765-2641 Ext. 1330 • Fax: (814) 765-7659 • www.clearfieldco.org

August 10, 2009

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

FILED

070:4767
AUG 10 2009

Shaw
William A. Shaw
Prothonotary/Clerk of Courts

RE: William M. Brilla
vs
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller, et al, Inc.
No. 07-1578-CD
Superior Court No. 676 WDA 2009

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office. Please also find enclosed one transcript. No opinion has been filed as of this date. The Court has directed my office to forward the record.

Sincerely,

William A. Shaw
Prothonotary

630

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(c)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the Court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

07-1578-CD
William M. Brilla
Vs.
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell & Miller, et al, Inc.

In compliance with Pa. R.A.P. 1931 (c).

The documents comprising the record have been numbered from No. 1 to 29, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is
August 10, 2009.



William A. Shaw
Prothonotary/Clerk of Courts

(seal)

Date: 8/10/2009

Time: 10:11 AM

Page 1 of 3

Cle~~a~~field County Court of Common Pleas

ROA Report

Case: 2007-01578-CD

User: BHUDSON

Current Judge: Paul E. Cherry

William M. Brilla vs. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
9/26/2007	New Case Filed. No Judge
	Filing: Prae c ipe to Proceed In Forma Pauperis RE: Civil Complaint & Claim No Judge for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff.
10/4/2007	Prae c ipe to Proceed In Forma Pauperis, filed by s/ William M. Brilla, Pro Se. No Judge 1CC Plff.
10/5/2007	Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se. No Judge 2CC Plff
	Order, this 5th day of Oct., 2007, Prae c ipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff
10/15/2007	Amended Certificate of Service, filed. That the above captioned Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct was served on the 11th day of October 2007 by mailing by First Class mail to Miller, Kistler, Campbell, Miller, filed by s/ William M. Brilla-plff. 2CC plff.
12/4/2007	Preliminary Objections, filed by s/ James A. Naddeo, Esquire. 2CC Atty. No Judge Naddeo
	Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Paul E. Cherry Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
12/6/2007	Certificate of Service, certified copy of Preliminary Objections served upon Paul E. Cherry William M. Brilla by First Class Mail on the 5th day of Dec., 2007. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
1/4/2008	Prae c ipe to Reinstate Complaint, filed by s/ William M. Brilla, Plaintiff, Pro Se. 7CC Plff., No fee (IFP); 1 Complaint Reinstated to Plaintiff
	Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter, Paul E. Cherry filed by s/ William M. Brilla, Plaintiff Pro Se. 7CC Plff
1/7/2008	Motion to Strike And Motion to Dismiss Pursuant to Plaintiff's Admission of Paul E. Cherry Lack of Jurisdiction by the Court, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo
1/11/2008	Order, this 8th day of Jan., 2008, the Motion to Strike the Answer in New Paul E. Cherry Matter to Preliminary Objections is granted. By The Court, /s/ Paul E. Cherry, Judge. CC to Plff, Naddeo
1/23/2008	Petition for Judgment of Non Pros, filed by s/ James A. Naddeo Esq. 2CC Paul E. Cherry Atty Naddeo.
1/25/2008	Rule, this 25th day of April, 2008, it is Ordered that a Rule be granted upon Paul E. Cherry the Plaintiff. Rule Returnable and argument thereon to be held the 17th of June, 2008, at 11:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
1/29/2008	Certificate of Service, a certified copy of Petition for Judgment of Non Pros Paul E. Cherry was served on William M. Brilla by First-Class Mail on the 28th day of April, 2008. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
1/29/2008	Transcript of Proceedings, filed. Defendants' Preliminary Objections, Held Paul E. Cherry Before Paul E. Cherry, Judge, on Tuesday, Jan. 8, 2008.
1/30/2008	Certificate of Merit, filed by William M. Brilla, Plaintiff, Pro Se. 2CC Plff Paul E. Cherry

Date: 8/10/2009

Time: 10:11 AM

Page 2 of 3

Clearfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
5/30/2008	Praecipe to Reinstate Civil Complaint & Claim For Damages Resulting From Paul E. Cherry Negligence & Professional Misconduct, filed by s/ William M. Brilla, plaintiff Pro Se. 1CC Plff.; 1CC & 2 Compl. Reinstated to Sheriff; no fee, IFP
7/29/2008	Order AND NOW, this 28th day of July 2008, upon consideration of the Petition for Judgment of Non Pros and after oral argument, said Petition is DENIED. Personal service was made on both defendants as of June 5, 2008. BY THE COURT: /s/ Charles C. Brown Jr., SJSP. No Copies (Cert. Copies to Judge Brown, Atty. Naddeo and W. Brilla on 12-31-08)
7/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. Paul E. Cherry June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
7/7/2009	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ James Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo
7/15/2009	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
7/19/2009	Certificate of Service, filed. That a certified copy of Rule and Defendant's Preliminary Objections to Plaintiff's Complaint was served on the 19th day of January 2009 by first class mail to William M. Brilla, filed by s/ James A. Naddeo Esq. No CC.
7/4/2009	Answer & New Matter to Defendants' Preliminary Objections, filed by s/ Paul E. Cherry William M. Brilla, Plaintiff, Pro Se. 2CC W. Brilla
7/17/2009	Certificate of Service, filed. That a true and correct copy of Notice of Intent to Enter Judgment of Non Pros on Professional Liability Claim in the above-captioned case was served by first class mail on the 17th day of March 2009 to William M. Brilla, filed by s/ James A. Naddeo Esq. 2CC Atty. Naddeo.
7/19/2009	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo
7/23/2009	Order, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint, said preliminary objections in the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo
7/21/2009	Notice of Appeal, filed by Plaintiff 1 Cert. to Plaintiff and 1 Cert. Superior Court.
7/29/2009	Appeal Docket Sheet from Superior Court # 676 WDA 2009, filed. Paul E. Cherry

Date: 8/10/2009

Time: 10:11 AM

Page 3 of 3

Clelfeld County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavs, Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge	
8/4/2009	Order this 29th day of May 2009, pursuant to Pa.R.A.P. 1925(b), it is ORDERED as follows: 1) Plaintiff William M. Brilla shall file of record a statement of errors complained of on appeal within twenty-one (21) days of the filing of this Order. 2) The statement shall be served on this Court pursuant to Pa.R.A.P. 1925 (b) (1). 3) Plaintiff William M. Brilla is hereby notified that any issue not properly included in the timely filed statement shall be deemed waived by the appellate court. BY THE COURT: /s/ Charles C. Brown Jr. Sr. J. Specially Presiding. 2CC plff @ PO Box 43, 133 Second St., Kylertown PA 16849 and 2CC Atty Naddeo.	Charles C. Brown Jr.
8/10/2009	August 10, 2009, Mailed Appeal to Superior Court. August 10, 2009, Letters, Re: Notification of mailing appeal mailed to William M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	Paul E. Cherry

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

AUG 10 2009

Attest.

William E. Cherry
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 07-1578-CD

William M. Brilla

VS.

**Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller et al, Inc.**

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	09/26/07	Praeclipe to Proceed In Forma Pauperis	02
02	10/04/07	Praeclipe to Proceed In Forma Pauperis	18
03	10/05/07	Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	66
04	10/05/07	Order, Re: In Forma Pauperis is Granted	01
05	10/15/07	Amended Certificate of Service	07
06	12/04/07	Preliminary Objections with Rule scheduling argument	05
07	12/06/07	Certificate of Service	02
08	01/04/08	Praeclipe to Reinstate Complaint	05
09	01/04/08	Plaintiff's Answer to the Defendant's Preliminary Objections and New Matter	109
10	01/07/08	Motion to Strike and Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction	06
11	01/11/08	Order, Re: Motion to Strike the Answer in New Matter to Preliminary Objections is Granted	01
12	04/23/08	Petition for Judgment of Non Pros with Rule filed April 25, 2008, scheduling argument	05
13	04/29/08	Certificate of Service	02
14	05/29/08	Transcript of Proceedings, Defendants' Preliminary Objections held before Judge Paul E. Cherry on January 8, 2008	Separate Cover
15	05/30/08	Certificate of Merit	02
16	05/30/08	Praeclipe to Reinstate Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	03
17	07/29/08	Order, Re: Petition for Judgment of Non Pros is Denied	01
18	09/18/08	Sheriff Return	08
19	01/07/09	Defendants' Preliminary Objections to Plaintiff's Complaint	04
20	01/15/09	Rule scheduling argument on Preliminary Objections to Plaintiff's Complaint	01
21	01/19/09	Certificate of Service	02
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24	03/19/09	Motion to Dismiss for Failure to File Certificate of Merit	08
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27	04/29/09	Appeal Docket Sheet, 676 WDA 2009	03
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29	08/10/09	Letters, Re: Notification of mailing appeal mailed to William M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	05

FILED

AUG 10 2009

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(c)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the Court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

07-1578-CD
William M. Brilla
Vs.
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell & Miller, et al, Inc.

In compliance with Pa. R.A.P. 1931 (c).

The documents comprising the record have been numbered from No. 1 to 29, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is August 10, 2009.



William A. Shaw
Prothonotary/Clerk of Courts

(seal)

Date: 8/10/2009

Time: 10:11 AM

Page 1 of 3

Clearfield County Court of Common Pleas

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

User: BHUDSON

Civil Other-COUNT

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10/5/2007	Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se. No Judge 2CC Plff Order, this 5th day of Oct., 2007, Praeclipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff
10/15/2007	Amended Certificate of Service, filed. That the above captioned Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct was served on the 11th day of October 2007 by mailing by First Class mail to Miller, Kistler, Campbell, Miller, filed by s/ William M. Brilla-plff. 2CC plff.
12/4/2007	Preliminary Objections, filed by s/ James A. Naddeo, Esquire. 2CC Atty. No Judge Naddeo Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
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1/4/2008	Praeclipe to Reinstate Complaint, filed by s/ William M. Brilla, Plaintiff, Pro Se. 7CC Plff., No fee (IFP); 1 Complaint Reinstated to Plaintiff Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter, Paul E. Cherry filed by s/ William M. Brilla, Plaintiff Pro Se. 7CC Plff
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5/29/2008	Transcript of Proceedings, filed. Defendants' Preliminary Objections, Held Before Paul E. Cherry, Judge, on Tuesday, Jan. 8, 2008. Paul E. Cherry
5/30/2008	Certificate of Merit, filed by William M. Brilla, Plaintiff, Pro Se. 2CC Plff Paul E. Cherry

Date: 8/10/2009

Time: 10:11 AM

Page 2 of 3

Clearfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
5/30/2008	Praecipe to Reinstate Civil Complaint & Claim For Damages Resulting From Paul E. Cherry Negligence & Professional Misconduct, filed by s/ William M. Brilla, plaintiff Pro Se. 1CC Plff.; 1CC & 2 Compl. Reinstated to Sheriff; no fee, IFP
7/29/2008	Order AND NOW, this 28th day of July 2008, upon consideration of the Petition for Judgment of Non Pros and after oral argument, said Petition is DENIED. Personal service was made on both defendants as of June 5, 2008 BY THE COURT: /s/ Charles C. Brown Jr., SJSP. No Copies (Cert. Copies to Judge Brown, Atty. Naddeo and W. Brilla on 12-31-08)
9/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. Paul E. Cherry June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
1/7/2009	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ James Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo
1/15/2009	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon Paul E. Cherry the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
1/19/2009	Certificate of Service, filed. That a certified copy of Rule and Defendant's Preliminary Objections to Plaintiff's Complaint was served on the 19th day of January 2009 by first class mail to William M. Brilla, filed by s/ James A. Naddeo Esq. No CC.
2/4/2009	Answer & New Matter to Defendants' Preliminary Objections, filed by s/ Paul E. Cherry William M. Brilla, Plaintiff, Pro Se. 2CC W. Brilla
3/17/2009	Certificate of Service, filed. That a true and correct copy of Notice of Intent to Enter Judgment of Non Pros on Professional Liability Claim in the above-captioned case was served by first class mail on the 17th day of March 2009 to William M. Brilla, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
3/19/2009	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo
3/23/2009	Order, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint, said preliminary objections in the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo
4/21/2009	Notice of Appeal, filed by Plaintiff 1 Cert. to Plaintiff and 1 Cert. Superior Court. Paul E. Cherry
4/29/2009	Appeal Docket Sheet from Superior Court # 676 WDA 2009, filed. Paul E. Cherry

Date: 8/10/2009

Time: 10:11 AM

Page 3 of 3

Clearfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavv, Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
6/4/2009	Charles C. Brown Jr.
	Order this 29th day of May 2009, pursuant to Pa.R.A.P. 1925(b), it is ORDERED as follows: 1) Plaintiff William M. Brilla shall file of record a statement of errors complained of on appeal within twenty-one (21) days of the filing of this Order. 2) The statement shall be served on this Court pursuant to Pa.R.A.P. 1925 (b) (1). 3) Plaintiff William M. Brilla is hereby notified that any issue not properly included in the timely filed statement shall be deemed waived by the appellate court. BY THE COURT: /s/ Charles C. Brown Jr. Sr. J. Specially Presiding. 2CC plff @ PO Box 43, 133 Second St., Kylertown PA 16849 and 2CC Atty Naddeo.

8/10/2009 August 10, 2009, Mailed Appeal to Superior Court. Paul E. Cherry
August 10, 2009, Letters, Re: Notification of mailing appeal mailed to William
M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet
and Document listing required by Pa.R.A.P. 1931(c).

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

AUG 10 2009

Attest.

William E. Cherry
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

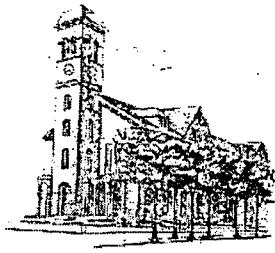
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William M. Brilla

vs.

Brian K. Marshall, Esq. and
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COPY

Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts	Jacki Kendrick Deputy Prothonotary/Clerk of Courts	Bonnie Hudson Administrative Assistant	David S. Ammerman Solicitor
--	--	--	---------------------------------------

PO Box 549, Clearfield, PA 16830 • Phone: (814) 765-2641 Ext. 1330 • Fax: (814) 765-7659 • www.clearfieldco.org

Charles C. Brown, Jr., Sr. Judge, Sp. Presiding
Centre County Court of Common Pleas
Allegheny & High Street
Bellefonte, PA 16823

Paul E. Cherry, Judge
Clearfield County Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

William M. Brilla
PO Box 43
133 Second Street
Kylertown, PA 16847

James A. Naddeo, Esq.
PO Box 552
207 East Market Street
Clearfield, PA 16830

William M. Brilla
Vs.
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller, et al, Inc.

Court No. 07-1578-CD; Superior Court No. 676 WDA 2009

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on August 10, 2009.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

FILED
OCT 10 2009
AUG 10 2009
William A. Shaw
Prothonotary/Clerk of Courts

429

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 07-1578-CD

William M. Brilla

vs.

Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller et al, Inc.

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	09/26/07	Præcipe to Proceed In Forma Pauperis	02
02	10/04/07	Præcipe to Proceed In Forma Pauperis	18
03	10/05/07	Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	66
04	10/05/07	Order, Re: In Forma Pauperis is Granted	01
05	10/15/07	Amended Certificate of Service	07
06	12/04/07	Preliminary Objections with Rule scheduling argument	05
07	12/06/07	Certificate of Service	02
08	01/04/08	Præcipe to Reinstate Complaint	05
09	01/04/08	Plaintiff's Answer to the Defendant's Preliminary Objections and New Matter	109
10	01/07/08	Motion to Strike and Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction	06
11	01/11/08	Order, Re: Motion to Strike the Answer in New Matter to Preliminary Objections is Granted	01
12	04/23/08	Petition for Judgment of Non Pros with Rule filed April 25, 2008, scheduling argument	05
13	04/29/08	Certificate of Service	02
14	05/29/08	Transcript of Proceedings, Defendants' Preliminary Objections held before Judge Paul E. Cherry on January 8, 2008	Separate Cover
15	05/30/08	Certificate of Merit	02
16	05/30/08	Præcipe to Reinstate Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	03
17	07/29/08	Order, Re: Petition for Judgment of Non Pros is Denied	01
18	09/18/08	Sheriff Return	08
19	01/07/09	Defendants' Preliminary Objections to Plaintiff's Complaint	04
20	01/15/09	Rule scheduling argument on Preliminary Objections to Plaintiff's Complaint	01
21	01/19/09	Certificate of Service	02
22	02/04/09	Answer and New Matter to Defendants' Preliminary Objections	10
23	03/17/09	Certificate of Service	02
24	03/19/09	Motion to Dismiss for Failure to File Certificate of Merit	08
25	03/23/09	Order, Re: Preliminary Objections in the Nature of Demurrer/Legal Insufficiency of a Pleading is Granted. Complaint filed by Plaintiff is Dismissed with Prejudice.	01
26	04/21/09	Notice of Appeal	09
27	04/29/09	Appeal Docket Sheet, 676 WDA 2009	03
28	06/04/09	Order, Re: filing of a statement of errors complained of on appeal	01

Date: 8/10/2009

Time: 09:54 AM

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Clearfield County Court of Common Pleas

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavs. Brian K. Marshall Esq, et al

User: BHUDSON

Civil Other-COUNT

Date	Judge
7/26/2007	New Case Filed. No Judge
	Filing: Praeclipe to Proceed In Forma Pauperis RE: Civil Complaint & Claim No Judge for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff.
8/4/2007	Praeclipe to Proceed In Forma Pauperis, filed by s/ William M. Brilla, Pro Se. No Judge 1CC Plff.
8/5/2007	Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se. No Judge 2CC Plff
	Order, this 5th day of Oct., 2007, Praeclipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff
8/15/2007	Amended Certificate of Service, filed. That the above captioned Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct was served on the 11th day of October 2007 by mailing by First Class mail to Miller, Kistler, Campbell, Miller, filed by s/ William M. Brilla-plff. 2CC plff.
8/4/2007	Preliminary Objections, filed by s/ James A. Naddeo, Esquire. 2CC Atty. No Judge Naddeo
	Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
8/6/2007	Certificate of Service, certified copy of Preliminary Objections served upon Paul E. Cherry William M. Brilla by First Class Mail on the 5th day of Dec., 2007. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
8/4/2008	Praeclipe to Reinstate Complaint, filed by s/ William M. Brilla, Plaintiff, Pro Se. 7CC Plff., No fee (IFP); 1 Complaint Reinstated to Plaintiff Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter, Paul E. Cherry filed by s/ William M. Brilla, Plaintiff Pro Se. 7CC Plff
8/7/2008	Motion to Strike And Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction by the Court, filed by s/ James A. Naddeo, Esquire. Paul E. Cherry 2CC Atty. Naddeo
8/11/2008	Order, this 8th day of Jan., 2008, the Motion to Strike the Answer in New Matter to Preliminary Objections is granted. By The Court, /s/ Paul E. Cherry, Judge. CC to Plff, Naddeo
8/23/2008	Petition for Judgment of Non Pros, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo
8/25/2008	Rule, this 25th day of April, 2008, it is Ordered that a Rule be granted upon Paul E. Cherry the Plaintiff. Rule Returnable and argument thereon to be held the 17th of June, 2008, at 11:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
8/29/2008	Certificate of Service, a certified copy of Petition for Judgment of Non Pros Paul E. Cherry was served on William M. Brilla by First-Class Mail on the 28th day of April, 2008. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
8/29/2008	Transcript of Proceedings, filed. Defendants' Preliminary Objections, Held Paul E. Cherry Before Paul E. Cherry, Judge, on Tuesday, Jan. 8, 2008.
8/30/2008	Certificate of Merit, filed by William M. Brilla, Plaintiff, Pro Se. 2CC Plff Paul E. Cherry

Date: 8/10/2009

Time: 09:54 AM

Page 2 of 3

Clearfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
7/30/2008	Praecipe to Reinstate Civil Complaint & Claim For Damages Resulting From Paul E. Cherry Negligence & Professional Misconduct, filed by s/ William M. Brilla, plaintiff Pro Se. 1CC Plff.; 1CC & 2 Compl. Reinstituted to Sheriff; no fee, IFP
7/29/2008	Order AND NOW, this 28th day of July 2008, upon consideration of the Petition for Judgment of Non Pros and after oral argument, said Petition is DENIED. Personal service was made on both defendants as of June 5, 2008. BY THE COURT: /s/ Charles C. Brown Jr., SJSP. No Copies (Cert. Copies to Judge Brown, Atty. Naddeo and W. Brilla on 12-31-08)
7/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. Paul E. Cherry June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
7/7/2009	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ James Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo
7/15/2009	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
7/19/2009	Certificate of Service, filed. That a certified copy of Rule and Defendant's Preliminary Objections to Plaintiff's Complaint was served on the 19th day of January 2009 by first class mail to William M. Brilla, filed by s/ James A. Naddeo Esq. No CC.
7/4/2009	Answer & New Matter to Defendants' Preliminary Objections, filed by s/ Paul E. Cherry William M. Brilla, Plaintiff, Pro Se. 2CC W. Brilla
7/17/2009	Certificate of Service, filed. That a true and correct copy of Notice of Intent to Enter Judgment of Non Pros on Professional Liability Claim in the above-captioned case was served by first class mail on the 17th day of March 2009 to William M. Brilla, filed by s/ James A. Naddeo Esq. 2CC Atty. Naddeo.
7/19/2009	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo
7/23/2009	Order, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint, said preliminary objections in the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo
7/21/2009	Notice of Appeal, filed by Plaintiff 1 Cert. to Plaintiff and 1 Cert. Superior Court. Paul E. Cherry
7/29/2009	Appeal Docket Sheet from Superior Court # 676 WDA 2009, filed. Paul E. Cherry

Date: 8/10/2009
Time: 09:54 AM
Page 3 of 3

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavs.Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
8/4/2009	Charles C. Brown Jr.

Order this 29th day of May 2009, pursuant to P.A.R.A.P. 1925(b), it is
ORDERED as follows:

1) Plaintiff William M. Brilla shall file of record a statement of errors
complained of on appeal within twenty-one (21) days of the filing of this Order.
2) The statement shall be served on this Court pursuant to P.A.R.A.P. 1925
(b) (1).
3) Plaintiff William M. Brilla is hereby notified that any issue not properly
included in the timely filed statement shall be deemed waived by the
appellate court. BY THE COURT: /s/ Charles C. Brown Jr. Sr. J. Specially
Presiding. 2CC plff @ PO Box 43, 133 Second St., Kylertown PA 16849 and
2CC Atty Naddeo.

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

AUG 10 2009

Attest,

William E. Cherry
Prothonotary
Clerk of Courts

William E. Cherry
Prothonotary
Clerk of Courts

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

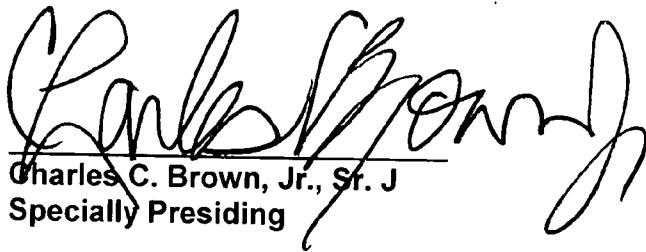
WILLIAM M. BRILLA)
Plaintiff)
v.) No. 2007-01578-CD
BRIAN K. MARSHALL, ESQ. and)
MILLER, KISTLER, CAMPBELL,)
MILLER, ET AL., INC.)
Defendants)

ORDER

AND NOW, this 29th day of May, 2009, pursuant to Pa.R.A.P. 1925(b), it
is ORDERED as follows:

- 1) Plaintiff William M. Brilla shall file of record a statement of errors complained of on appeal within twenty-one (21) days of the filing of this Order.
- 2) The statement shall be served on this Court pursuant to Pa.R.A.P. 1925(b)(1).
- 3) Plaintiff William M. Brilla is hereby notified that any issue not properly included in the timely filed statement shall be deemed waived by the appellate court.

BY THE COURT:


Charles C. Brown, Jr., Sr. J.
Specially Presiding

FILED
04/09/2009
JUN 04 2009
2cc PIAF
Po Box 43
133 Second St.
Kykertown, PA 16847
William A. Sharp
Prothonotary/Clerk of Courts
2cc Atty Nadeo

28

FILED

JUN 04 2019

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/14/09

 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 Other

 Special Instructions:

Appeal Docket Sheet

Docket Number: 676 WDA 2009

Page 1 of 3

April 27, 2009

Superior Court of Pennsylvania



William M. Brilla, Appellant

v.

Brian K. Marshall, Esq., & Miller, Kistler, Campbell, Miller, et al., Inc.

Initiating Document: Notice of Appeal IFP

Case Status: Active

Case Processing Status: April 24, 2009

Awaiting Original Record

Journal Number:

Case Category: Civil

Case Type:

Trespass William J. Shaw
Prothonotary/Clerk of Courts

Consolidated Docket Nos.:

Related Docket Nos.:

07-1578-CD
COP E
APR 27 2009
M/12:50/W C

SCHEDULED EVENT

Next Event Type: Case Initiation

Next Event Due Date: April 24, 2009

Next Event Type: Receive Docketing Statement

Next Event Due Date: May 11, 2009

Next Event Type: Original Record Received

Next Event Due Date: June 23, 2009

Appeal Docket Sheet

Docket Number: 676 WDA 2009

Page 2 of 3

April 27, 2009

Superior Court of Pennsylvania



COUNSEL INFORMATION

Appellant Brilla, William M.

Pro Se: ProSe Appoint Counsel Status:

IFP Status: Yes

Appellant Attorney Information:

Attorney: Brilla, William M.

Bar No.: Law Firm:

Address: 133 Second Street
P.O. Box 43
Kylertown, PA 16847

Phone No.: (814)345-5454 Fax No.:

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee Marshall, Brian K

Pro Se: Appoint Counsel Status:

IFP Status:

Appellee Attorney Information:

Attorney: Naddeo, James A.

Bar No.: 6820 Law Firm: Law Office of Naddeo & Lewis, LLC

Address: 207 East Market Street
PO Box 552
Clearfield, PA 16830

Phone No.: (814)765-1601 Fax No.: (814)765-8142

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee Miller, Kistler, Campbell, Miller, et al., Inc.

Pro Se: Appoint Counsel Status:

IFP Status:

Appellee Attorney Information:

Attorney: Naddeo, James A.

Bar No.: 6820 Law Firm: Law Office of Naddeo & Lewis, LLC

Address: 207 East Market Street
PO Box 552
Clearfield, PA 16830

Phone No.: (814)765-1601 Fax No.: (814)765-8142

Receive Mail: No

E-Mail Address:

Receive E-Mail: No

FEE INFORMATION

Appeal Docket Sheet

Docket Number: 676 WDA 2009

Page 3 of 3

April 27, 2009

Superior Court of Pennsylvania



Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield

Division: Civil

Date of OrderAppealed From: March 23, 2009

Judicial District: 46

Date Documents Received: April 24, 2009

Date Notice of Appeal Filed: April 21, 2009

Order Type: Order

OTN:

Judge: Cherry, Paul E.
Judge

Lower Court Docket No.: 07-1578-CD

Brown Jr., Charles C.
Senior Judge

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description
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Date of Remand of Record:

BRIEFS

DOCKET ENTRIES			
Filed Date	Docket Entry/Document Name	Party Type	Filed By
April 24, 2009	Notice of Appeal IFP	Appellant	Brilla, William M.
April 27, 2009	Docketing Statement Exited (Civil)		Western District Filing Office

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla Plaintiff

v.

Brian K. Marshall, Esq. Defendants
&
Miller, Kistler, Campbell,
Miller, Et al., Inc.

720 South Atherton Street
State College, PA 16801-4628
814-234-1500

Civil Docket Number:
07-1578-CD

Case Type:
Civil – Cause of Action

Pleading Type:
Notice Of Appeal

Judge:
Charles C. Brown Jr.

Filed by:
Plaintiff, Pro Se

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454

S FILED

APR 21 2009
01:30 PM
William A. Shaw
Prothonotary/Clerk of Courts

I CERT TO PLFF.

I CERT TO SUPER. CT.

#26

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla	Plaintiff	Civil Docket Number:
		07-1578-CD
v.		
Brian K. Marshall, Esq.	Defendants	Pleading Type:
&		Notice Of Appeal
Miller, Kistler, Campbell,		
Miller, Et al., Inc.		

NOTICE OF APPEAL

Notice is hereby given that William M. Brilla, above named Plaintiff, hereby appeals to the Superior Court of Pennsylvania from the Order entered in this matter on March 23, 2009, following a hearing for Preliminary Objections. This order (Exhibit A) has been entered in the docket as evidenced by the attached copy of the docket entry (Exhibit B).

ENTRY OF APPERANCE

The Plaintiff is without the financial resources to secure counsel, and will be proceeding Pro se in his appeal.

CONTINUATION OF IN FORMA PAUPERIS

The Plaintiff, in conformity with the Pa.R.A.P., Rule 551, respectfully requests that he be allowed to proceed in forma pauperis, in the Superior Court of Pennsylvania, and in support thereof avers as follows:

1. A previous IFP order was approved by Judge Paul E. Cherry, Clearfield County Court of Common Pleas, in this matter on October 5, 2007, as evidenced by the attached docket entry (Exhibit B).
2. The Plaintiff avows that his financial condition has not improved sufficiently to be able to pay the costs and fees on appeal.

REQUEST FOR TRANSCRIPT

A record of the testimony presented during the hearing on the Defendants Preliminary Objections was not made by the Court, and a transcript of the proceedings will not be available.

PROOF OF SERVICE

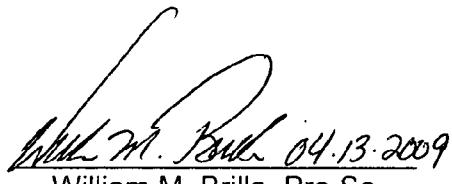
The Defendant certifies under penalty of law that this Notice of Appeal has been served on the following people, in the manner, and date, indicated:

- a. Judge Charles C. Brown Jr., Clearfield County Court of Common Pleas, via USPS 1st class mail, April 13, 2009.
- b. Counsel for the Plaintiff, James A. Naddeo, Esq., via USPS 1st class mail,
~~April 13~~²¹, 2009, at:

Naddeo & Lewis, LLC.
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

AFFIDAVIT

I verify that the statements made in this Notice of Appeal are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



William M. Brilla 04.13.2009
William M. Brilla, Pro Se

EXHIBIT A

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

WILLIAM M. BRILLA,
Plaintiff,
vs.
BRIAN K. MARSHALL, ESQ.
and MILLER, KISTLER, CAMPBELL,
MILLER ET AL., INC.
Defendants

)
)
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)

No. 07-1578-CD

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

MAR 23 2009

ORDER

Attest.

William
William
Prothon.
Clerk of

AND NOW, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint filed by Defendants, Brian K. Marshall, Esq., and Miller, Kistler, Campbell, Miller, et al., Inc., and after oral argument, said preliminary objection in the nature of Demurrer/Legal Insufficiency of a Pleading is **GRANTED**.

The Complaint filed by Plaintiff, William M. Brilla, is **DISMISSED WITH PREJUDICE**.

Each party is to bear its own fees, costs and expenses.

BY THE COURT:

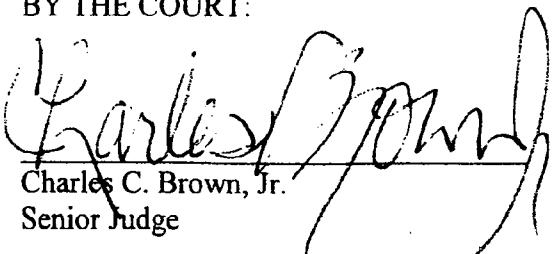

Charles C. Brown, Jr.
Senior Judge

EXHIBIT B

Civil Other-COUNT

Date	Judge
9/26/2007	New Case Filed. No Judge
	Filing: Praeclipe to Proceed In Forma Pauperis RE: Civil Complaint & Clair No Judge for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff.
10/4/2007	Praeclipe to Proceed In Forma Pauperis, filed by s/ William M. Brilla, Pro Se No Judge 1CC Plff.
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	Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Paul E. Cherry Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
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7/1/2009
01:27 PM

Centre County Court of Common Pleas

User: BILLSHAW

Page 2 of 2

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
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9/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. Paul E. Cherry June 5, 2008 at 10:00 am Served the within Complaint & Praeipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praeipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
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3/19/2009	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo
3/23/2009	Order, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint, said preliminary objections in the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo

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

MAR 21 2009

FILED
APR 21 2009
William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. BRILLA,
Plaintiff

vs.

BRIAN K. MARSHALL, ESQ.
and MILLER, KISTLER, CAMPBELL,
MILLER ET AL., INC.
Defendants

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)
)
)
)
)
)
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No. 07-1578-CD

FILED

MAR 23 2009

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William A. Shaw
Prothonotary/Clerk of Courts

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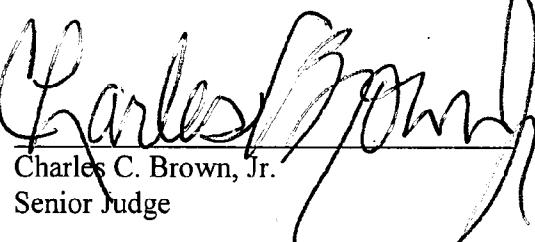
ORDER

AND NOW, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint filed by Defendants, Brian K. Marshall, Esq., and Miller, Kistler, Campbell, Miller, et al., Inc., and after oral argument, said preliminary objection in the nature of Demurrer/Legal Insufficiency of a Pleading is **GRANTED**.

The Complaint filed by Plaintiff, William M. Brilla, is **DISMISSED WITH PREJUDICE**.

Each party is to bear its own fees, costs and expenses.

BY THE COURT:


Charles C. Brown, Jr.
Senior Judge

#25

William A Shaw
Prothonotary/Clerk of Courts

MAR 23 2009

FILED

DATE: 3-23-09
You are responsible for serving all appropriate parties.
The Prothonotary's Office has provided service to the following parties:
Plaintiff(s) Defendants(s) Plaintiff(s) Attorney
Defendant(s) Plaintiff(s) Attorney
Special Instructions:

CA

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

*

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No. 07-1578-CD

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Type of Pleading:

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**MOTION TO DISMISS FOR
FAILURE TO FILE
CERTIFICATE OF MERIT
AS REQUIRED**

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Filed on behalf of:
Defendants

*

*

Counsel of Record for
this party:

*

*

James A. Naddeo, Esq.
Pa I.D. 06820
&
Trudy G. Lumadue, Esq.
Pa I.D. 202049

*

*

NADDEO & LEWIS, LLC.
207 E. Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

*

Dated: March 19, 2009

*

FILED *1cc*
03/33/09 *Atty Naddeo*
MAR 19 2009

S
William A. Shaw
Prothonotary/Clerk of Courts

#24

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

WILLIAM M. BRILLA,
Plaintiff,

*

*

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v.

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No. 07-1578-CD

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BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

*

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*

MOTION TO DISMISS FOR FAILURE TO FILE CERTIFICATE OF MERIT AS
REQUIRED

NOW COME the Defendants, and by their undersigned attorney, respectfully move this Court to dismiss the claims filed by Plaintiff, William M. Brilla, and in support aver as follows:

1. On or about October 5, 2007, Plaintiff initiated this suit against both Defendants by the filing of a Complaint docketed to Civil Docket Number 2007-1578-CD.

2. Plaintiff's claim asserts professional liability claims against Defendant, Brian K. Marshall, Esquire.

3. Plaintiff failed to file a Certificate of Merit as required by Rule 1042.3 (a) (within 60 days of the filing of the Complaint).

4. Neither did Plaintiff file a motion to extend the time for filing the Certificates of Merit as provided at Rule

1042.3 (d) of the Pennsylvania Rules of Civil Procedure which permits at most an extension of 60 days.

5. That on or about May 30, 2008, Plaintiff filed a Certificate of Merit as to Defendant, Brian K. Marshall, Esquire. True and correct copy is attached hereto as Exhibit "A."

6. That the Certificate of Merit as to Brian K. Marshall, Esquire fails to meet the requirement set forth for time for filing at Rule 1042.3 (a) of the Pennsylvania Rules of Civil Procedure.

7. That although Plaintiff has failed to comply with the Pennsylvania Rules of Civil Procedure as indicated herein, because Plaintiff has filed a Certificate of Merit as to Brian K. Marshall, Esquire, Rule 1042.7 (a)(2) prevents Defendant from filing a Praecept to the prothonotary to have a judgment of non pros entered against Plaintiff as to Defendant Marshall.

8. That Defendants believe and therefore aver that the Court has authority in its own right to dismiss Plaintiff's claims for failure to comply and/or failure to substantially comply with the Rules of Pennsylvania Civil Procedure as stated herein.

9. The Supreme Court has held that failure to comply with the rules set forth regarding the requirement of a Certificate of Merit is fatal and the same warrants an entry of

a judgment of non pros when there is no compliance or a lack of substantial compliance by Plaintiff. Womer v. Hilliker, 908 A.2d 269 (Pa. 2006); Stroud v. Abington Memorial Hospital, 546 F.Supp. 2d. 238 (E.D. Pa. 2008); Varner v. Classic Communities Corp., 890 A.2d 1068 (Pa.Super. 2006); Ditch v. Waynesboro Hospital, 917 A.2d 317 (Pa.Super. 2007), appeal granted in part, 934 A.2d 1150 (Pa. 2007).

10. The case of Lopez v. Brady, 2008 WL 4415585 (M.D.Pa. 2008) held that a plaintiff's pro se status is not a viable basis upon which to excuse compliance with Rule 1042.3.

WHEREFORE, Defendant, Brian K. Marshall, Esquire, respectfully requests that this Court enter a Rule upon Plaintiff to show cause why the relief requested herein should not be granted and Plaintiff's claims against Defendant Marshall be dismissed.

NADDEO & LEWIS, LLC

By James A. Naddéo
James A. Naddéo
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla

Plaintiff

Civil Docket Number:
07-1578-CD

v.

Brian K. Marshall, Esq.

Defendants

Case Type:
Civil – Cause of Action

&

Miller, Kistler, Campbell,
Miller, Et al., Inc.

Pleading Type:
Certificate Of Merit
Pa.R.C.P., Rule 1042.3(a)(1)

720 South Atherton Street
State College, PA 16801-4628
814-234-1500

Hearing Type:
Trial by Jury

Judge:
Paul E. Cherry

Filed by:
Plaintiff, Pro Se

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454

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

MAR 11 2009

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

FILED
01/31/09
MAY 30 2009

William A. Shaw
Prothonotary/Clerk of Courts
2cc Difff

Exhibit "A"

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

William M. Brilla	Plaintiff	|
v.	Civil Docket Number: 07-1578-CD	
Brian K. Marshall, Esq.	Defendants	|
& Miller, Kistler, Campbell, Miller, Et al., Inc.		

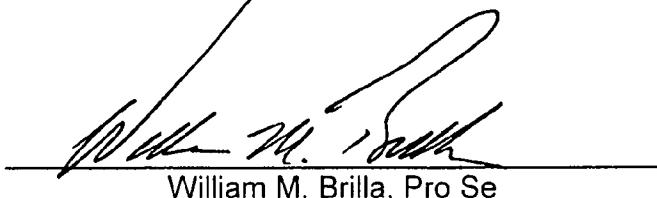
CIVIL COMPLAINT & CLAIM FOR DAMAGES RESULTING FROM NEGLIGENCE &
PROFESSIONAL MISCONDUCT

CERTIFICATE OF MERIT AS TO BRIAN K. MARSHALL, ESQ.

I, William M. Brilla, acting Pro Se, certify that an appropriate license professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill, or knowledge exercised or exhibited by this defendant in the treatment, practice, or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm.

VERIFCATION

I verify that the statements made in this Certificate Of Merit are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



William M. Brilla, Pro Se

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendant.

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No. 07 - 1578 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Motion to Dismiss for Failure to File Certificate of Merit as Required in the above-captioned case was served on the following and in the following manner on the 19th day of March, 2009:

First-Class Mail, Postage Prepaid

William M. Brilla
133 Second Street
PO Box 43
Kylertown, PA 16847

NADDEO & LEWIS, LLC

By 
James A. Naddeo
Attorney for Defendants

FILED

MAR 19 2009

William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

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No. 07-1578-CD

RULE

AND NOW, this _____ day of _____, 2009, it is hereby ORDERED that a Rule be granted upon the Plaintiff, William M. Brilla, to show cause why the relief requested in Defendants' Motion to Dismiss for Failure to File Certificate of Merit as Required filed by the Defendants should not be granted.

Rule Returnable and argument thereon to be held the _____ of _____, 2009, at _____ m., in Courtroom _____ of the Clearfield County Courthouse, Clearfield, Pennsylvania.

NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION, YOU MUST TAKE ACTION 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
CLEARFIELD, PA 16830
(814) 765-2641, Ext. 5982

BY THE COURT,

Judge

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

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* No. 07-1578-CD

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Type of Pleading:

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CERTIFICATE OF SERVICE

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Filed on behalf of:

Defendants

*

Counsel of Record for
this party:

*

*

James A. Naddeo, Esq.

Pa I.D. 06820

&

Trudy G. Lumadue, Esq.

Pa I.D. 202049

*

NADDEO & LEWIS, LLC.

207 E. Market Street

P.O. Box 552

Clearfield, PA 16830

(814) 765-1601

*

Dated: March 17, 2009

*

s
FILED 2cc
03/17/2009 Atty Naddeo
William A. Shaw
Prothonotary/Clerk of Courts
LS

#23

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendant.

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No. 07 - 1578 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Notice of Intention to Enter Judgment of Non Pros on Professional Liability Claim in the above-captioned case was served on the following and in the following manner on the 17th day of March, 2009:

First-Class Mail, Postage Prepaid

William M. Brilla
133 Second Street
PO Box 43
Kylertown, PA 16847

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla

Plaintiff

Civil Docket Number:

07-1578-CD

v.

Brian K. Marshall, Esq.

Defendants

Case Type:

Civil – Cause of Action

Negligence & Professional Misconduct

&
Miller, Kistler, Campbell,
Miller, Et al., Inc.

720 South Atherton Street
State College, PA 16801-4628
814-234-1500

Pleading Type:

Answer & New Matter To Defendants'
Preliminary Objections

Judge:

Charles C. Brown, Jr.

Filed by:

Plaintiff, Pro Se

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454

FILED
01/13/09 2009
FEB 04 2009 W. Brilla
S
William A. Shaw
Prothonotary/Clerk of Courts
GD
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

William M. Brilla	Plaintiff	Civil Docket Number: 07-1578-CD
v.		
Brian K. Marshall, Esq. & Miller, Kistler, Campbell, Miller, Et al., Inc.	Defendants	Case Type: Civil – Cause of Action Negligence & Professional Misconduct
<hr/> 720 South Atherton Street State College, PA 16801-4628 814-234-1500		Pleading Type: Answer & New Matter To Defendants' Preliminary Objections

PLAINTIFFS' ANSWER TO DEFENDANTS'
PRELIMINARY OBJECTIONS

NOW COMES the Plaintiff, William M. Brilla, Pro Se, who files this Answer & New Matter to the Defendants' Preliminary Objections To Plaintiff's Complaint, and in support thereof avers as follows:

1. Denied. Complaint was initiated and filed on September 26, 2007, as evidenced by the attached docket entry, EXHIBIT A. Any discrepancy regarding the filing date of the Plaintiff's complaint is due to the failure of the Office of the Prothonotary to follow the Pennsylvania Rules of Civil Procedure as they apply to initiation of litigation, including a praecipe for IFP status.
2. Admitted.
3. Admitted.
4. Admitted, however no response is necessary.

5. Admitted in part, and denied in part. By way of further answer, response is provided in the following New Matter section.
6. Admitted.
7. Denied. Plaintiff denies that his initial complaint was in anyway deficient, strict proof demanded at trial. By way of further answer, the plaintiff specifically reiterates the duties owed to him by the Defendant's in the following New Matter section.

NEW MATTER

- I. PRELIMINARY OBJECTIONS HAVE ALREADY BEEN FILED
8. Defendants have already responded to the Plaintiff's complaint with Preliminary Objections filed December 4, 2007. Said Preliminary Objections were limited to jurisdiction, venue and service, as provided for by Pa.R.C.P., Rule 1028(a.)(1.), and Pa.R.C.P., Rule 400, Et. seq.
9. Pa.R.C.P., Rule 1028(b.), provides **ALL** Preliminary Objections **SHALL** be raised at one time. Defendants failed to plead any legal insufficiency with regard to Pa.R.C.P., Rule 1028(a.)(4.) at that time. As such, the present Preliminary Objections, filed by the Defendants', are barred by statute.
- II. LEGAL INSUFFICIENCY
10. The Plaintiff steadfastly denies that his initial complaint failed to adequately allege a duty owed to him by the Defendant's, as stated in the Defendants' second set of Preliminary Objections. However, for the record, the Plaintiff now summarizes these duties owed to him, as provided for by statute:

- a. Professional Responsibility - 204 Pa. C.S.A. §81.1(1)(2)(5)(9)(12)
 - i. The Defendants have a special responsibility for the quality of justice [§81.1(1) **DUTY OWED**].
 - ii. The Defendants' ignored that responsibility when they advised their client to violate an Order of Court, and failed to provide her with an informed understanding of her legal rights and obligations, and explain the practical implications of the contemptuous act they recommend she take against the Plaintiff [§81.1(2) **DUTY OWED**].
 - iii. The advice provided was given for the specific purpose of damaging the Plaintiff's custodial rights and failed to be consistent with requirements of honest dealings with others [§81.1(2) **DUTY OWED**].
 - iv. The advice the Defendants provided their client with failed to conform to the requirements of the law, was illegitimate, and given for the sole purpose of harassing and intimidating the Plaintiff, in arrogant ignorance of their duty to uphold the legal process [§81.1(5) **DUTY OWED**].
 - v. The defendants' failed to ethically uphold the legal process when the interests of their client conflicted with her, and their, legal responsibility. The Defendants' displayed a complete lack of moral judgment, and provided advice to their client outside of the bounds of law, in total disrespect of

the professional duties owed to the Defendant as person involved in the legal system [**§81.1(9) DUTY OWED**].

vi. The Defendants failed in their obligation to self-govern their actions and neglectfully compromised their profession, and the public interest (inclusive of the Defendant), which it serves [**§81.1(12) DUTY OWED**].

b. Professional Misconduct - 204 Pa. C.S.A. §81.4(a.)(c.)(d.)

i. The Defendants' have committed professional misconduct through the acts chronicled above [**§81.4(a.)**].

ii. The Defendants' engaged in conduct involving dishonesty and misrepresentation, to the detriment of the Plaintiff [**§81.4(c.)**].

iii. The Defendants engaged in conduct prejudicial to the administration of justice by recommending their client violate an Order of Court [**§81.4(d.)**].

III. CERTIFICATE OF MERIT

11. The Plaintiff's complaint is a professional liability action as contemplated by Pa.R.C.P., Rule 1042.1(b.)(2.).

12. The Plaintiff has filed the required Certificate Of Merit in accordance with Pa.R.C.P., Rule 1042.3(a.)(1.) which states:

An appropriate licensed professional has supplied a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm.

Official Note: A certificate of merit, based on the statement of an appropriate licensed professional required by subdivision (a)(1), must be filed as to the other licensed professionals for whom the defendant is responsible. The statement is not required to identify the specific licensed professionals who deviated from an acceptable standard of care.

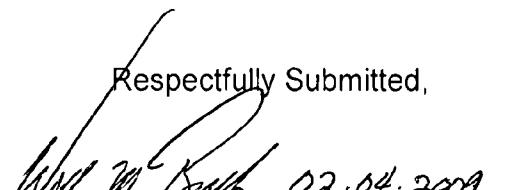
13. As such, the Defendants allegation that the Plaintiff has failed to adequately allege a duty owed to him is a frivolous argument. Any challenge to the legal merits of the Plaintiff's case must be brought about by a challenge to the Certificate Of Merit filed by the Plaintiff.
14. The Defendants' have failed to challenge the Certificate Of Merit filed in this matter.

WHEREFORE, the Plaintiff, William M. Brilla, respectfully requests that this Honorable Court dismiss the Defendants' second attempt to file Preliminary Objections, for any or all of the reasons stated herein, with prejudice, and immediately prepare for the next phase of this case, according to the Pennsylvania Rules Of Civil Procedure.

AFFIDAVIT

I verify that the statements made in this Answer & New Matter are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S., § 4904, relating to unsworn falsification to authorities.

Respectfully Submitted,



William M. Brilla, Pro se

02.04.2009

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

William M. Brilla	Plaintiff	Civil Docket Number: 07-1578-CD
v.		
Brian K. Marshall, Esq. & Miller, Kistler, Campbell, Miller, Et al., Inc.	Defendants	Case Type: Civil – Cause of Action Negligence & Professional Misconduct
<hr/> 720 South Atherton Street State College, PA 16801-4628 814-234-1500		Pleading Type: Answer & New Matter To Defendants' Preliminary Objections

CERTIFICATE OF SERVICE

I, William M. Brilla, acting Pro Se, hereby certify that the foregoing Answer & New Matter, was served on counsel for the Defendants' in the following manner:

1. Attorney James A. Naddeo, via USPS 1st class mail, on February 4, 2009.

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454

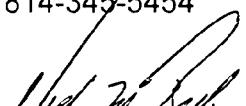

02.04.2009
William M. Brilla, Pro Se

EXHIBIT A

Date: 1/21/2009
Time: 09:25 AM

Page 1 of 2

Cle~~a~~field County Court of Common Pleas

ROA Report

User: GLKNISLEY

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav~~s~~. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge	
9/26/2007	New Case Filed. Filing: Prae c ipe to Proceed In Forma Pauperis RE: Civil Complaint & Clair No Judge for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff.	No Judge
10/4/2007	Prae c ipe to Proceed In Forma Pauperis, filed by s/ William M. Brilla, Pro Se No Judge 1CC Plff.	No Judge
10/5/2007	Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se. 2CC Plff. Order, this 5th day of Oct., 2007, Prae c ipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff	No Judge
10/15/2007	Amended Certificate of Service, filed. That the above captioned Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct was served on the 11th day of October 2007 by mailing by First Class mail to Miller, Kistler, Campbell, Miller, filed by s/ William M. Brilla-plff. 2CC plff.	No Judge
12/4/2007	Preliminary Objections Objections, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo	No Judge Paul E. Cherry
12/6/2007	Certificate of Service, certified copy of Preliminary Objections served upon William M. Brilla by First Class Mail on the 5th day of Dec., 2007. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.	Paul E. Cherry
1/4/2008	Prae c ipe to Reinstate Complaint, filed by s/ William M. Brilla, Plaintiff, Pro Se. 7CC Plff., No fee (IFP); 1 Complaint Reinstated to Plaintiff Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter, filed by s/ William M. Brilla, Plaintiff Pro Se. 7CC Plff	Paul E. Cherry
1/7/2008	Motion to Strike And Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction by the Court, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo	Paul E. Cherry
1/11/2008	Order, this 8th day of Jan., 2008, the Motion to Strike the Answer in New Matter to Preliminary Objections is granted. By The Court, /s/ Paul E. Cherry, Judge. CC to Plff, Naddeo	Paul E. Cherry
4/23/2008	Petition for Judgment of Non Pros, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.	Paul E. Cherry
4/25/2008	Rule, this 25th day of April, 2008, it is Ordered that a Rule be granted upon the Plaintiff. Rule Returnable and argument thereon to be held the 17th of June, 2008, at 11:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo	Paul E. Cherry
4/29/2008	Certificate of Service, a certified copy of Petition for Judgment of Non Pros was served on William M. Brilla by First-Class Mail on the 28th day of April, 2008. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.	Paul E. Cherry
5/29/2008	Transcript of Proceedings, filed. Defendants' Preliminary Objections, Held Before Paul E. Cherry, Judge, on Tuesday, Jan. 8, 2008.	Paul E. Cherry

Date: 1/21/2009

Clerk of the Court County Court of Common Pleas

User: GLKNISLEY

Time: 09:25 AM

Page 2 of 2

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavas, Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
5/30/2008	Praeclipe to Reinstate Civil Complaint & Claim For Damages Resulting From Paul E. Cherry Negligence & Professional Misconduct, filed by s/ William M. Brilla, plaintiff Pro Se. 1CC Plff.; 1CC & 2 Compl. Reinstated to Sheriff; no fee, IFP
7/29/2008	Order AND NOW, this 28th day of July 2008, upon consideration of the Charles E. Brown Petition for Judgment of Non Pros and after oral argument, said Petition is DENIED. Personal service was made on both defendants as of June 5, 2008. BY THE COURT: /s/ Charles C. Brown Jr., SJSP. No Copies (Cert. Copie: to Judge Brown, Atty. Naddeo and W. Brilla on 12-31-08)
9/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. Paul E. Cherry June 5, 2008 at 10:00 am Served the within Complaint & Praeclipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praeclipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
1/7/2009	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ James Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo
1/15/2009	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon Paul E. Cherry the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
1/19/2009	Certificate of Service, filed. That a certified copy of Rule and Defendant's Paul E. Cherry Preliminary Objections to Plaintiff's Complaint was served on the 19th day of January 2009 by first class mail to William M. Brilla, filed by s/ James A. Naddeo Esq. No CC.

FILED

FEB 04 2009

William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

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* No. 07-1578-CD

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

WILLIAM M. BRILLA,
Plaintiff,

*

*

v.

* No. 07 - 1578 - CD

*

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendant.

*

*

*

*

*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Rule and Defendant's Preliminary Objections to Plaintiff's Complaint filed in the above-captioned case was served on the following and in the following manner on the 19th day of January, 2009:

First-Class Mail, Postage Prepaid

William M. Brilla
133 Second Street
PO Box 43
Kylertown, PA 16847

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Defendants

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

No. 07-1578-CD

RULE

AND NOW, this 15th day of JANUARY, 2009, it is hereby ORDERED that a Rule be granted upon the Plaintiff, William M. Brilla, to show cause why the relief requested in Defendants' Preliminary Objections to Plaintiff's Complaint filed by the Defendants should not be granted.

Rule Returnable and argument thereon to be held the 11th of March, 2009, at 9:00 A.m., in Courtroom 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
Honorable Judge Charles C. Brown, Jr., Presiding.

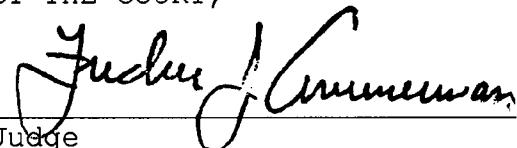
NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION, YOU MUST TAKE ACTION 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
CLEARFIELD, PA 16830
(814) 765-2641, Ext. 5982

BY THE COURT,


Judge

FILED
04/00/09 2CC
JUL 15 2009 Atty Nadeo
S William A. Shaw
Prothonotary/Clerk of Courts
(61)

#80

FL FORM

JUL 15 2009

William A. Sharpe
Prothonotary/Clerk of Courts

DATE: 11/15/09

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 Other

Special Instructions:

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

* No. 07-1578-CD

* Type of Pleading:

* **DEFENDANTS' PRELIMINARY
OBJECTIONS TO PLAINTIFF'S
COMPLAINT**

* Filed on behalf of:
* Defendants

* Counsel of Record for
* this party:

* James A. Naddeo, Esq.
* Pa I.D. 06820
* &
* Trudy G. Lumadue, Esq.
* Pa I.D. 202049

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

January 7, 2009

FILED 2cc
01339821 JAN 07 2009 Amy Naddeo
S

William A. Shaw
Prothonotary/Clerk of Courts

#19

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

*

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No. 07-1578-CD

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DEFENDANTS' PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT

NOW COME the Defendants, and by their undersigned attorney, file the following preliminarily objections to Plaintiff's Complaint pursuant to Pa. R.C.P. 1028 as follows:

I. Preliminary Objection in the Nature of Demurrer/Legal Insufficiency of a Pleading

1. On or about October 5, 2007 plaintiff commenced this civil action against defendants.

2. Plaintiff did not make service upon defendants until June 5, 2008.

3. Defendants filed a petition for judgment of non pros which the court denied by Order dated July 28, 2008. Said Order was not filed of record until December 22, 2008.

4. Defendants received notice of the July 28, 2008 Order and service of the same by the Court on or about December 22, 2008.

5. Defendants now file the herein preliminary objections to the complaint filed by plaintiff.

6. Plaintiff's complaint admits that Defendant, Marshall was counsel to plaintiff's former spouse and that Defendant, Miller, Kistler, Campbell, Miller is the law firm representing his former spouse. See Paragraph 33 of Plaintiff's Complaint along with Exhibits B, C and D which defendants incorporate herein by reference as if set forth in full.

7. The complaint filed by plaintiff is legally insufficient in that even if all of the facts averred therein are taken as true, it fails to state a claim upon which relief may be granted for the following reason:

a. Plaintiff's claim sounds in negligence (professional misconduct) and plaintiff has failed to adequately allege a duty owed to plaintiff by defendants.

WHEREFORE, Defendants, Brian K. Marshall and Miller, Kistler, Campbell, Miller, respectfully request this Honorable Court to dismiss Plaintiff's Complaint in its entirety with prejudice, award costs and attorney's fees to Defendants to the extent that the same may be permitted by law and grant such

other relief as may be just and appropriate.

Respectfully submitted,

By: James A. Nacdeo
James A. Nacdeo
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104229
NO: 07-1578-CD
SERVICE # 1 OF 2
COMPLAINT & PRAECIPE

PLAINTIFF: WILLIAM M. BRILLA

vs.

DEFENDANT: BRIAN K. MARSHALL, ESQ. and
MILLER, KISTLER, CAMPBELL, MILLER, ET AL, INC.

SHERIFF RETURN

NOW, June 03, 2008, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT & PRAECIPE ON BRIAN K. MARSHALL, ESQ..

NOW, June 05, 2008 AT 10:00 AM SERVED THE WITHIN COMPLAINT & PRAECIPE ON BRIAN K. MARSHALL, ESQ., DEFENDANT. THE RETURN OF CENTRE COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

FILED
01/03/08
SEP 18 2008
WAK

William A. Shaw
Prothonotary/Clerk of Courts

#18

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104229
NO: 07-1578-CD
SERVICE # 2 OF 2
COMPLAINT & PRAECIPE

PLAINTIFF: WILLIAM M. BRILLA

vs.

DEFENDANT: BRIAN K. MARSHALL, ESQ. and
MILLER, KISTLER, CAMPBELL, MILLER, ET AL, INC.

SHERIFF RETURN

NOW, June 03, 2008, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT & PRAECIPE ON MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, INC..

NOW, June 05, 2008 AT 10:00 AM SERVED THE WITHIN COMPLAINT & PRAECIPE ON MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, INC., DEFENDANT. THE RETURN OF CENTRE COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104229
NO: 07-1578-CD
SERVICES 2
COMPLAINT & PRAECIPE

PLAINTIFF: WILLIAM M. BRILLA

vs.

DEFENDANT: BRIAN K. MARSHALL, ESQ. and
MILLER, KISTLER, CAMPBELL, MILLER, ET AL, INC.

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
	NO COSTS	IFP	

Sworn to Before Me This

So Answers,

____ Day of _____ 2008


Chester A. Hawkins
Sheriff

CHIEF'S OFFICE

CENTRE COUNTY

Clearfield County sheriff

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

PS

SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN

INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. Please type or print legibly. Do not detach any copies.

1. Plaintiff(s)

William M Brilla

2. Case Number

07-1578-CD

3. Defendant(s)

Brian K Marshall esq.

4. Type of Writ or Complaint:

Complaint 501560

SERVE

→
AT

5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levyed, Attached or Sold.
Brian K Marshall Esq.

6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code)
720 South Atherton Street, State College, PA 16801

7. Indicate unusual service: Reg Mail Certified Mail Deputize Post Other

Now, 20 . I, SHERIFF OF CENTRE COUNTY, PA., do hereby depose the Sheriff of County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff. Sheriff of Centre County

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE

NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whom ever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.

9. Print/Type Name and Address of Attorney/Originator
Clearfield County sheriff

1 NORTH SECOND STREET AUTE 116

CLEARFIELD PA 16830

10. Telephone Number
(814) 765-2641

11. Date

12. Signature

13. I acknowledge receipt of the writ or complaint as indicated above.	SIGNATURE of Authorized CCSD Deputy of Clerk and Title	14. Date Filed	15. Expiration/Hearing Date
--	--	----------------	-----------------------------

TO BE COMPLETED BY SHERIFF

16. Served and made known to Brian K Marshall esq. , on the 5 day of June , 2008 , at 10:00 AM o'clock, m., at 720 South Atherton Street, State College, PA 16801 , County of Centre

Commonwealth of Pennsylvania, in the manner described below:

Defendant(s) personally served.
 Adult family member with whom said Defendant(s) resides(s). Relationship is defendant
 Adult in charge of Defendant's residence.
 Manager/Clerk of place of lodging in which Defendant(s) resides(s).
 Agent or person in charge of Defendant's office or usual place of business.
 and officer of said Defendant company.

Other _____

On the day of , 20 , at o'clock, M.

Defendant not found because:

Moved Unknown No Answer Vacant Other _____

Remarks:

Advance Costs 0.00	Docket	Service	Sur Charge	Affidavit	Mileage 0.00	Postage	Misc.	Total Costs 0.00	Costs Due or Refund 0.00
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17. AFFIRMED and subscribed to before me this 9

20 day of June , 2008

23. COMMUNIYALITY OF PENNSYLVANIA

Notary Seal
Corinne H. Peters, Notary Public
Bellefonte Boro, Centre County
My Commission Expires 2009

So Answer.

18. Signature of Dep. Sheriff

21. Signature of Sheriff

19. Date

20/6/08

22. Date

SHERIFF OF CENTRE COUNTY

Amount Pd. Page

24. LACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE
OF AUTHORIZED AUTHORITY AND THAT IT
Pertains to the Plaintiff(s)

25. Date Received

SHERIFF'S OFFICE

CENTRE COUNTY

Clearfield County sheriff

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN

INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. Please type or print legibly. Do not detach any copies.

1. Plaintiff(s) William M Brilla	2. Case Number 07-1578-CD
3. Defendant(s) Brian K Marshall esq.	4. Type of Writ or Complaint: Complaint 501560

SERVE → AT	5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levyed, Attached or Sold. Miller, Kistler, Campbell, Miller, Williams & Benson Inc.
	6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code) 720 South Atherton Street, State College, PA 16801

7. Indicate unusual service: Reg Mail Certified Mail Deputize Post Other

Now, 20 I SHERIFF OF CENTRE COUNTY, PA., do hereby depose the Sheriff of County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff. Sheriff of Centre County

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE

NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN -- Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.

9. Print/Type Name and Address of Attorney/Originator Clearfield County sheriff 1 NORTH SECOND STREET AUTE 116 CLEARFIELD PA 16830	10. Telephone Number (814) 765-2641	11. Date
	12. Signature	

SPACE BELOW FOR USE OF SHERIFF ONLY - DO NOT WRITE BELOW THIS LINE

13. I acknowledge receipt of the writ or complaint as indicated above. SIGNATURE of Authorized CCSO Deputy or Clerk and Title 14. Date Filed 15. Expiration/Hearing Date

TO BE COMPLETED BY SHERIFF

16. Served and made known to Brian K Marshall esq., on the 5 day of June 2008, at 10:00 AM o'clock, m., at 720 South Atherton Street, State College, PA 16801, County of Centre

Commonwealth of Pennsylvania, in the manner described below:

- Defendant(s) personally served.
- Adult family member with whom said Defendant(s) resides(s). Relationship is attorney in firm
- Adult in charge of Defendant's residence.
- Manager/Clerk of place of lodging in which Defendant(s) resides(s).
- Agent or person in charge of Defendant's office or usual place of business.
and officer of said Defendant company.
- Other _____

On the _____ day of _____, 20_____, at _____ o'clock, _____ M.

Defendant not found because:

- Moved Unknown No Answer Vacant Other _____

Remarks:

Advance Costs 0.00	Docket	Service	Sur Charge	Affidavit	Mileage 0.00	Postage	Misc.	Total Costs 0.00	Costs Due or Refund 0.00
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17. AFFIRMED and subscribed to before me this 9

So Answer.

18. Signature of Dep. Sheriff

21. Signature of Sheriff

19. Date

22. Date

23. COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
Corinne H. Peters, Notary Public
My Commission Expires: June 2009, Centre County

SHERIFF OF CENTRE COUNTY

Amount Pd. Page

24. I ACKNOWLEDGE RECEIPT OF THIS SHERIFF'S RETURN SIGNATURE
OF AUTHORIZED AUTHORITY AND TITLE
Pennsylvania Association of Notaries

25. Date Received



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office
Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641
FAX (814) 765-5915
ROBERT SNYDER
CHIEF DEPUTY
MARILYN HAMM
DEPT. CLERK
CYNTHIA AUGHENBAUGH
OFFICE MANAGER
KAREN BAUGHMAN
CLERK TYPIST
PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 104229

TERM & NO. 07-1578-CD

WILLIAM M. BRILLA

COMPLAINT & PRAECIPE

VS.

BRIAN K. MARSHALL, ESQ. and
MILLER, KISTLER, CAMPBELL, MILLER, ET AL, INC.

SERVE BY: 06/29/08
COURT DATE:

MAKE REFUND PAYABLE TO IPP ORDER ATTACHED

SERVE: BRIAN K. MARSHALL, ESQ.

ADDRESS: 720 SOUTH ATHERTON ST., STATE COLLEGE, PA 16801-4628

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF CENTRE COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, June 03, 2008.

RESPECTFULLY,

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

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office
Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641
FAX (814) 765-5915
ROBERT SNYDER
CHIEF DEPUTY
MARILYN HAMM
DEPT. CLERK
CYNTHIA AUGHENBAUGH
OFFICE MANAGER
KAREN BAUGHMAN
CLERK TYPIST
PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 104229

TERM & NO. 07-1578-CD

WILLIAM M. BRILLA

COMPLAINT & PRAECIPE

vs.

BRIAN K. MARSHALL, ESQ. and
MILLER, KISTLER, CAMPBELL, MILLER, ET AL, INC.

SERVE BY: 06/29/08
COURT DATE:

MAKE REFUND PAYABLE TO IPP ORDER ATTACHED

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

ADDRESS: 720 SOUTH ATHERTON ST., STATE COLLEGE, PA 16801-4628

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF CENTRE COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, June 03, 2008.

RESPECTFULLY,

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

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

104229

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

WILLIAM M. BRILLA : NO. 07-1578-CD

v. :

BRIAN K. MARSHALL, ESQ. :
&
MILLER, KISTLER, CAMPBELL,
MILLER, Et al., Inc. :

ORDER

NOW this 5th day of October, 2007, upon consideration of the Praeclipe to Proceed in Forma Pauperis, filed by William M. Brilla, Pro-Se, it is hereby the Order of this Court that the Praeclipe shall be and is hereby GRANTED and that he shall be allowed to proceed In Forma Pauperis.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

MAY 30 2008

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

FILED
OCT 05 2007
3:00 PM
2007
GK

William A. Shaw
Prothonotary/Clerk of Courts

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

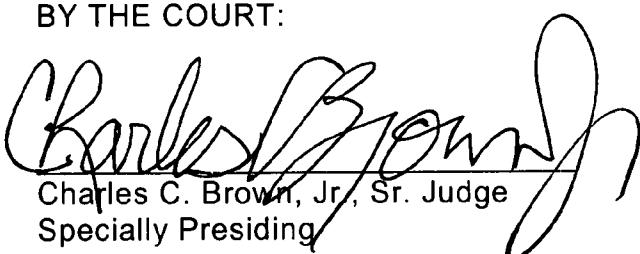
WILLIAM M. BRILLA,)
Plaintiff)
v.) No. 07-1578-CD
BRIAN K. MARSHALL, ESQ., and)
MILLER, KISTLER, CAMPBELL,)
MILLER, ET AL, INC.,)
Defendants)

ORDER

AND NOW, this 28th day of July, 2008, upon consideration of the
Petition for Judgment of Non Pros and after oral argument, said Petition is
DENIED.

Personal service was made on both defendants as of June 5, 2008.

BY THE COURT:


Charles C. Brown, Jr., Sr. Judge
Specially Presiding

FILED

09:11 AM
JUL 29 2008

William A. Shaw
Prothonotary/Clerk of Courts

No Copies

12-31-08 CERT. TO

JUDGE BROWN
ATTY NARDEO
William Brilla

#17

FILED

JUL 29 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla

Plaintiff

Civil Docket Number:
07-1578-CD

v.

Brian K. Marshall, Esq.

Defendants

&
Miller, Kistler, Campbell,
Miller, Et al., Inc.

720 South Atherton Street
State College, PA 16801-4628
814-234-1500

Case Type:
Civil – Cause of Action

Pleading Type:
Praecep to Reinstate
Pa.R.C.P., Rule 401(b)(1)
Pa.R.C.P., Rule 401(b)(2)

Hearing Type:
Trial by Jury

Judge:
Paul E. Cherry

Filed by:
Plaintiff, Pro Se

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454

FILED
03:34 PM
MAY 30 2008

William A. Shaw
Prothonotary/Clerk of Courts
ICC Pff
ICC & 2 Compl. Reinstate
to Sheriff
No Fee - IPP
AL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla	Plaintiff	
v.		Civil Docket Number:
Brian K. Marshall, Esq.		07-1578-CD
&		
Miller, Kistler, Campbell,		
Miller, Et al., Inc.		

PRAECIPE TO REINSTATE

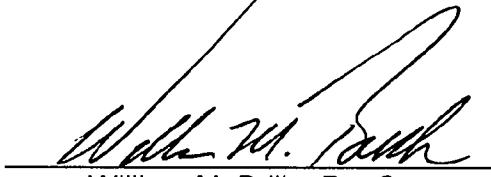
CIVIL COMPLAINT & CLAIM FOR DAMAGES RESULTING FROM NEGLIGENCE & PROFESSIONAL MISCONDUCT

NOW COMES the plaintiff, William M. Brilla, pro se, who, in accordance with Pa.R.C.P. 401(b)(1), files with the Prothonotary, Clearfield County Court of Common Pleas, this Praecipe to Reinstate, presents his original process, and avers:

1. Original Process was filed with the Clearfield County Court of Common Pleas, on September 26, 2007.
2. Defendants have objected to the original manner of service, contemplated by Pa.R.C.P., Rule 400.
3. As the defendants have now responded to the complaint filed by the plaintiff, and more than 30 days have elapsed, reinstatement is necessary at this time.

VERIFCATION

I verify that the statements made in this Praeclipe to Reinstate are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



William M. Brilla

William M. Brilla, Pro Se

FILED

MAY 30 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla	Plaintiff	Civil Docket Number: 07-1578-CD
v.		
Brian K. Marshall, Esq. & Miller, Kistler, Campbell, Miller, Et al., Inc.	Defendants	Case Type: Civil – Cause of Action
<hr/> 720 South Atherton Street State College, PA 16801-4628 814-234-1500		Pleading Type: Certificate Of Merit Pa.R.C.P., Rule 1042.3(a)(1)
		Hearing Type: Trial by Jury
		Judge: Paul E. Cherry
		Filed by: Plaintiff, Pro Se
		William M. Brilla 133 Second Street P.O. Box 43 Kylertown, PA 16847 814-345-5454

FILED
013:34 PM
MAY 30 2008

William A. Shaw
Prothonotary/Clerk of Courts
ACC P15

#15

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla Plaintiff

v.

Brian K. Marshall, Esq. Defendants
&
Miller, Kistler, Campbell,
Miller, Et al., Inc.

Civil Docket Number:
07-1578-CD

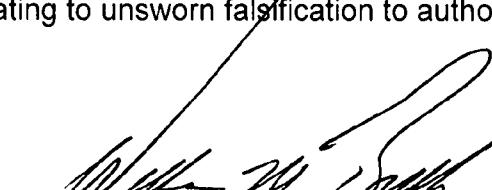
CIVIL COMPLAINT & CLAIM FOR DAMAGES RESULTING FROM NEGLIGENCE &
PROFESSIONAL MISCONDUCT

CERTIFICATE OF MERIT AS TO BRIAN K. MARSHALL, ESQ.

I, William M. Brilla, acting Pro Se, certify that an appropriate license professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill, or knowledge exercised or exhibited by this defendant in the treatment, practice, or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm.

VERIFCATION

I verify that the statements made in this Certificate Of Merit are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.


William M. Brilla, Pro Se

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

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No. 07-1578-CD

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Type of Pleading:

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CERTIFICATE OF SERVICE

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Filed on behalf of:

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Defendants

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Counsel of Record for
this party:

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James A. Naddeo, Esq.

*

Pa I.D. 06820

*

&

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Trudy G. Lumadue, Esq.

*

Pa I.D. 202049

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NADDEO & LEWIS, LLC.

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207 E. Market Street

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P.O. Box 552

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Clearfield, PA 16830

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(814) 765-1601

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FILED

APR 29 2008

0/10243 (C)

William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. BRILLA,

Plaintiff,

*

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v.

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No. 07 - 1578 - CD

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BRIAN K. MARSHALL, ESQ.

*

And MILLER, KISTLER,

*

CAMPBELL, MILLER ET AL, INC.

*

Defendant.

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CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Petition for Judgment of Non Pros was served on the following and in the following manner on the 28th day of April, 2008:

First-Class Mail, Postage Prepaid

William M. Brilla
133 Second Street
PO Box 43
Kylertown, PA 16847

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Defendants

William A Shaw
Prothonotary/Clerk of Courts

APR 29 2008

FILED

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
and MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

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No. 07-1578-CD

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Type of Pleading:

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**PETITION FOR JUDGMENT
OF NON PROS**

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Filed on behalf of:

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Defendants

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BY:

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James A. Naddeo, Esq.

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Pa I.D. 06820

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&

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Trudy G. Lumadue, Esq.

*

Pa I.D. 202049

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NADDEO & LEWIS, LLC.

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207 E. Market Street

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P.O. Box 552

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Clearfield, PA 16830

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(314) 765-1601

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Dated: April 23, 2008

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OB:25 LM Naddeo
APR 23 2008
LM

William A. Shaw
Prothonotary/Clerk of Courts

12

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

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No. 07-1578-CD

RULE

AND NOW, this 25th day of April, 2008, it is hereby ORDERED that a Rule be granted upon the Plaintiff, William M. Brilla, to show cause why the relief requested in Petition for Judgment of Non Pros filed by the Defendants should not be granted.

Rule Returnable and argument thereon to be held the 17th of June, 2008, at 11:00 A.m., in Courtroom 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

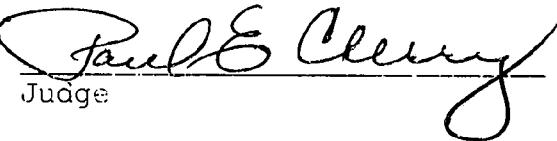
NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION, YOU MUST TAKE ACTION 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
CLEARFIELD, PA 16830
(814) 765-2641, Ext. 5982

BY THE COURT,


Paul E. Cleary
Judge

FILED ^{2cc}
013:4984 Amy Nadeau
APR 25 2008

William A. Shaw
Prothonotary/Clerk of Courts

(6)

(12)

FILED

APR 25 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 4/25/08

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 DIVISION

WILLIAM M. BRILLA,
Plaintiff,

*

*

v.

*

No. 07-1578-CD

*

BRIAN K. MARSHALL, ESQ.

*

And MILLER, KISTLER,

*

CAMPBELL, MILLER ET AL, INC.

*

Defendants.

*

PETITION FOR JUDGMENT OF NON PROS

NOW COME the Defendants, and by their undersigned attorney, respectfully petition this Court pursuant to Pa. R.C.P. No. 1037(c) for the entry of judgment of non pros against Plaintiff, William M. Brilla, and in support aver as follows:

1. On or about October 5, 2007, Plaintiff attempted to initiate this suit by the filing of a Complaint docketed to Civil Docket Number 2007-1578-CD.

2. On or about December 4, 2007, Defendants filed preliminary objections to Plaintiff's complaint for failure to follow the procedures for service of original process as required by Pennsylvania Rules of Civil Procedure (400, 401, 402 and 405).

3. Plaintiff attempted to answer the preliminary objections but said answer was stricken by the Court at Defendants' request for being untimely.

4. That at argument held January 8, 2008 regarding Defendants' preliminary objections Your Honorable Court directed Plaintiff from the bench to make proper service. No order was entered by the Court regarding the granting or denying of Defendants' Preliminary Objections as filed.

5. To date, Plaintiff has failed to properly serve the Defendants as directed by the Court on January 8, 2008.

WHEREFORE, Defendants respectfully requests that this Court enter judgment of non pros against Plaintiff and in favor of Defendants.

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Defendants

V E R I F I C A T I O N

I, Brian K. Marshall, Defendant, verify that the statements made in the foregoing Petition for Judgment of Non Pros are true and correct upon my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

By:



Brian K. Marshall
Defendant

Dated: 4/23/08

1A
FILED

JAN 11 2008

0/9:30/08

William A. Shaw

Prothonotary/Clerk of Courts

Court to Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MAP 006 (G)

CIVIL DIVISION

WILLIAM M. BRILLA

:

VS.

: NO. 07-1578-CD

BRIAN K. MARSHALL, ESQUIRE, and :

MILLER, KISTLER, CAMPBELL, :

MILLER, ET AL., INC. :

O R D E R

AND NOW, this 8th day of January, 2008, this being the date set for argument on Preliminary Objections filed on behalf of Defendants; following presentation of issues before the Court and upon consideration of same, it is the ORDER of this Court that said Motion to Strike the Answer in New Matter to Preliminary Objections be and is hereby granted.

BY THE COURT,

Paul E. Cleary

Judge

#11

FILED

JAN 11 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1-11-08

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 P.O. Box 43 Kutztown, PA 1684

Defendant(s) Defendant(s) Attorney

Special Instructions:

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
and MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

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* No. 07-1578-CD

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Type of Pleading:

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* MOTION TO STRIKE AND
* MOTION TO DISMISS
* PURSUANT TO PLAINTIFF'S
* ADMISSION OF LACK OF
* JURISDICTION BY THE
* COURT

*

* Filed on behalf of:
* Defendants

*

*

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BY:

*

*

* James A. Naddeo, Esq.
* Pa I.D. 06820

*

* &
* Trudy G. Lumadue, Esq.
* Pa I.D. 202049

*

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

*

*

Dated: January 7, 2008

*

FILED 2cc
01/31/08 Atty Naddeo
JAN 07 2008 (GK)

William A. Shaw
Prothonotary/Clerk of Courts

#10

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

WILLIAM M. BRILLA,
Plaintiff,

*

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v.

*

No. 07-1578-CD

*

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

*

*

*

MOTION TO STRIKE AND MOTION TO DISMISS PURSUANT TO PLAINTIFF'S
ADMISSION OF LACK OF JURISDICTION BY THE COURT

NOW COME the Defendants, and by their undersigned attorney, move this Court to strike Plaintiff's Answer to Defendant's Preliminary Objections & New Matter in its entirety and in the alternative to the extent that it is nonresponsive and fails to conform to rule or law, and further to dismiss the complaint filed by Plaintiff for lack of jurisdiction, and state as follows:

MOTION TO STRIKE

1. On or about October 5, 2007, Plaintiff attempted to initiate this suit by the filing of a Complaint docketed to Civil Docket Number 2007-1578-CD.

2. On or about December 4, 2007, Defendants filed preliminary objections to Plaintiff's complaint for failure to follow the procedures for service of original process as

required by Pennsylvania Rules of Civil Procedure (400, 401, 402 and 405).

3. That Defendants Preliminary Objections contained a Rule to Show Cause which included a notice to the Plaintiff to plead.

4. On January 4, 2008, Plaintiff filed Plaintiff's Answer to the Defendant's (sic) Preliminary Objections & New Matter. Defendants incorporate by reference said document filed by Plaintiff and make it a part hereof.

5. Plaintiff's filing is not timely pursuant to Pennsylvania Rule of Civil Procedure 1026 and Defendants therefore request the filing by Plaintiff to be stricken in its entirety.

6. In the alternative, Plaintiff's filing does not respond to the averments made by Defendants in their Preliminary Objections as required by Pa.R.C.P. 1029 and so should be stricken for failure to conform to rule or law.

7. In the alternative, Plaintiff's filing contains averments that are irrelevant to the objections filed by Defendants and are therefore nonresponsive.

8. Plaintiff's averments beyond paragraph 18 of its filing purport to state new causes of actions and name additional defendants, none of which conform to the laws or rules required for stating additional causes of actions or

naming additional defendants. Defendants therefore request that paragraphs 19 through 47 and Sections I through IX along with corresponding Exhibits "H" through "O" be stricken for failure to conform to rule or law.

WHEREFORE, Defendants respectfully request this Court strike Plaintiff's filing entitled "Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter" in its entirety, and in the alternative in part as requested herein.

MOTION TO DISMISS PURSUANT TO PLAINTIFF'S ADMISSION OF LACK OF JURISDICTION BY THE COURT

9. Defendants incorporate by reference paragraphs 1 through 8 as if set forth in full herein.

10. That due to failure of Plaintiff to deny the averments made in Defendants' Preliminary Objections, which contained a notice to plead and therefore require a response, all of the averments in Defendants' Preliminary Objections shall be deemed admitted by the Court pursuant to Pa.R.C.P. 1029.

11. In addition, Plaintiff admits at paragraph 13 of Plaintiff's Answer to the Defendant's (sic) Preliminary Objections & New Matter, which Defendants incorporate herein by reference as if set forth in full herein, that Plaintiff attempted to serve process upon the Defendants by regular first class mail.

12. That personal jurisdiction may not be had over the Defendants without proper service of process as required by the Pennsylvania Rules of Civil Procedure.

WHEREFORE, Defendants respectfully request this Court grant their preliminary objections by way of dismissal of Plaintiff's Complaint.

NADDEO & LEWIS, LLC

By James Naddeo
James A. Naddeo
Attorney for Defendants

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

WILLIAM M. BRILLA,

Plaintiff,

*

*

v.

*

No. 07 - 1578 - CD

*

BRIAN K. MARSHALL, ESQ.

*

And MILLER, KISTLER,

*

CAMPBELL, MILLER ET AL, INC.

*

Defendant.

*

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CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Motion to Strike and Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction by the Court was served on the following and in the following manner on the 7th day of January, 2008:

First-Class Mail, Postage Prepaid

William M. Brilla
133 Second Street
PO Box 43
Kylertown, PA 16847

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla	Plaintiff	Civil Docket Number: 07-1578-CD
v.		
Brian K. Marshall, Esq. & Miller, Kistler, Campbell, Miller, Et al., Inc.	Defendants	Case Type: Civil – Cause of Action
720 South Atherton Street State College, PA 16801-4628 814-234-1500		Pleading Type: Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter
		Hearing Type: Trial by Jury
		Judge: Paul E. Cherry
		Filed by: Plaintiff, Pro Se
		William M. Brilla 133 Second Street P.O. Box 43 Kylertown, PA 16847 814-345-5454

'FILED 7CC AFF
1/4/08
JAN 04 2008
GR

William A. Shaw
Prothonotary/Clerk of Courts

#9

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla

Plaintiff

v.

Brian K. Marshall, Esq.

Defendants

&

Miller, Kistler, Campbell,
Miller, Et al., Inc.

Civil Docket Number:
07-1578-CD

PLAINTIFF'S ANSWER TO THE DEFENDANT'S PRELIMINARY OBJECTIONS

NOW COMES the plaintiff, William M. Brilla, pro se, who, in answer to the defendant's preliminary objections, regarding original service of process and lack of jurisdiction, avers the following:

1. In accordance with Pa.R.C.P., Rule 1018.1, the plaintiff served notice, on the defendants, of his complaint. That notice gave the defendants 20 days to respond to his complaint with their defenses, or objections. The defendants failed to respond within the prescribed period of time.

Exhibit A

2. The plaintiff is destitute. The court has recognized this by approving an order for In Forma Pauperis, on December 4, 2006, in the matter of Brilla R. v. Brilla W.

Exhibit B

3. On September 26, 2007, the plaintiff attempted to file his complaint, against the defendants, with the Office of the Prothonotary, Clearfield County Court of Common Pleas.

4. The prothonotary refused to file the plaintiff's complaint due failure to pay the required fee.
5. The prothonotary refused to accept the plaintiff's previous IFP order, in the matter of Brilla R. v. Brilla W., for initiating the complaint against the defendants, stating a new IFP praecipe, and order, would be required.
6. The plaintiff hastily prepared a new Praecipe to Proceed In Forma Pauperis, at the Clearfield Public Library, on September 26, 2007, re-averring his financial condition.
7. The prothonotary filed this praecipe on September 26, 2007, but failed to simultaneously file the plaintiff's complaint as required by, Pa.R.C.P., Rule 240(c)(1)(i).

Exhibit C

8. This subsequently led to the prothonotary stamping the complaint as filed on October 5, 2007.

Exhibit A

9. The plaintiff is also a pro se litigant and asked, in his complaint, that the court provide guidance and direction, serve notice upon him of deficiencies in his pleadings, and by it's authority, order him into compliance with rules of the court, of which he may be unaware.
10. The court demonstrated it's understanding of plaintiff's condition, and it's willingness to guide the plaintiff in procedural considerations. This is evidenced by a letter sent to the plaintiff, by the court, directing him to file an entirely new

IFP praecipe, including full financial information, in order for the matter to proceed.

Exhibit D

11. The plaintiff complied with this ruling by the court, and filed the requested praecipe, on October 4, 2007.

Exhibit E

12. At that time, the court did not address the plaintiff's procedural deficiencies regarding Pa.R.C.P., Rules 400 through 405, relating to Service of Original Process, although both the original, and the subsequent Amended Certificate of Service, stated the service was by first class mail.

Exhibits F & G

13. The plaintiff served notice by first class mail, due to the high cost of certified mail, and his impoverished status.
14. The defendants could have readily acknowledged this fact, and accepted service of the original process, by filing an Acceptance of Service, as provided for in Pa.R.C.P., Rule 402(b), but did not. The plaintiff understands that it was not incumbent upon them to do so.
15. In order for the plaintiff to address the defendants' objection to the court's Lack of Jurisdiction Due to Improper Service, with regard to Pa.P.C.P., Rule 400, he must now ask that the court order, and direct, the Clearfield County Sheriff, to serve his original process on the defendants, as mandated by his IFP order.
16. This measure results in arguably unnecessary cost to the Clearfield County Court of Common Pleas. At this time, the plaintiff asks that the defendants voluntarily

accept his original service of the complaint, and file with the court, an Acceptance of Service, as provided for in Pa.R.C.P., Rule 402(b).

17. Should the defendants refuse to honor this request, the plaintiff asks that the court, on the date of hearing, have the Clearfield County Sheriff present in the courtroom, to serve the defendants with his complaint, in accordance with the Pa.R.C.P., Rule 401(b)(4).

18. The plaintiff has filed with the prothonotary, as required by Pa.R.C.P., Rule 401(b)(1), a praecipe to have his complaint reinstated. Praecipe attached to and incorporated herein.

WHEREFORE, the plaintiff respectfully requests that the court dismiss the defendant's objections, on the basis of paragraph 1, or rule as answered, on the basis of paragraphs 2 through 18, and serve the defendants by sheriff, if necessary, on the date of hearing.

NEW MATTER

I. PLAINTIFF'S OBJECTION TO COUNSEL SELECTED BY THE DEFENDANTS

THE PLAINTIFF objects to the defendants use of James A. Naddeo, of the firm Naddeo & Lewis, LLC, as counsel, for the following reasons:

19. During the period of time the plaintiff's complaint transpired, he was employed by Bob's Army and Navy Store, Inc., 229 East Market Street, Clearfield, PA 16830.

20. This is evidenced by his uncashed payroll check from the week of September 10 through 17, 2005, in the amount of \$4.17. This sum was the plaintiff's net pay after missing approximately 2 days of work, to attend to the medical needs of his

child William Daniel Gray Brilla, as referenced in his complaint.

Exhibit H

21. It is known by the plaintiff, through this employment, that James A. Naddeo, in the past, had acted as counsel for, Bob's Army & Navy Store, Inc., and the Grimminger family, as well.
22. Attorney Marshall has alleged in the matter of Brilla R. v. Brilla W., in his Answer & New Matter, that the plaintiff did nothing during this period of time to attend to the medical needs of the child. The plaintiff has no reason to believe that the defendants will not attempt to do so in the instant matter. Afore mentioned pleading attached to, and incorporated herein.

Exhibit I – Specifically paragraphs 19, 20, 21, & 22

23. As such, this makes Bob's Army & Navy Store, Inc., and people in the Grimminger and Semelsberger families witnesses to the plaintiff's employment. The plaintiff has considered using this evidence and these witnesses, if necessary, to refute the claims made by Brian K. Marshall. He has also considered using these individuals as character witnesses, if necessary.
24. The plaintiff, upon being served with the defendants' Preliminary Objections, shortly thereafter, contacted Patti Semelsberger, vice president of Bob's Army & Navy Store, Inc., and she confirmed the past, and ongoing, legal relationship with Attorney Naddeo.

THEREFORE, for the reasons stated above, the plaintiff respectfully requests that Attorney James A. Naddeo, recuse himself as counsel, for the defendants. Should Attorney Naddeo decline to do so, the plaintiff asks that, on the date of hearing, the

court would dismiss Attorney Naddeo for conflict of interest, due to prior, and present, legal commitments, and order the defendants to seek alternative counsel.

II. OBJECTION TO THE DATE ENTERED BY THE PROTHONOTARY

THE PLAINTIFF objects to the date entered on his compliant and in support thereof avers:

25. As prescribed by Pa.R.C.P., Rule 240(c)(1)(i), the Prothonotary of the Clearfield County Court of Common Pleas, had an obligation to file both the IFP praecipe, as supplied, and the plaintiff's civil complaint, at the same time. A financial determination was not required prior to filing the complaint, and it was not within the authority of the prothonotary to require such measures.
26. The plaintiff subsequently provided, upon ruling by the court, a second Praeceppe to Proceed In Forma Pauperis, with complete financial disclosure.
27. Although the plaintiff did not agree with the courts ruling that an entirely new IFP praecipe was necessary, he nonetheless complied with the courts ruling on the subject, in a good faith effort to honor the wishes of the court, and in order for the matter to proceed.
28. Exhibits C, D, and E, document these facts.

THEREFORE, for the reasons stated above, the plaintiff, respectfully requests that the court address this issue, and order the prothonotary to correct the record, and document the complaint as being filed on September 26, 2007.

III. FIRST ADDITIONAL CAUSE OF ACTION: 18 Pa.C.S. § 5109. Barratry

THE PLAINTIFF, at this time, alleges an additional cause of action, and further violation of the Rules of Professional Conduct, the defendants having now committed against him the crime of barratry, and avers as follows:

29. The defendants have purposefully and deliberately repeated their malicious and vexatious attack on the plaintiff, by incorporating their original Emergency Petition to Modify Custody, in an Answer & New Matter, filed in response to William M. Brilla's compliant, in the matter of Brilla R. v. Brilla W., Petition for Civil Contempt for Disobedience of Custody Order. All of the relevant pleadings attached to and incorporated herein.

Exhibit I: Answer to Petition for Civil Contempt, and New Matter. (Respondent)

Exhibit J: Petition for Civil Contempt for Disobedience of Custody Order. (Petitioner)

Exhibit K: Answer to New Matter. (Petitioner)

30. In that Answer & New Matter, the defendants, filed with the court, on behalf of their client, Rhonda L. Brilla, a pleading that contained statements the defendants, and their client, knew to be false. Specifically, that William M. Brilla did nothing to attend to the emergency medical needs of his minor son.

Answer & New Matter: paragraph 19

19. On or about September 15, 2005, the Respondent returned from Hawaii on an emergency basis because the minor child, William D. Brilla, had been bitten on the ear by the Petitioner's dog (believed to have occurred on Monday, September 12, 2005), and **the petitioner either refused to, or was otherwise unable to, obtain proper medical care for the minor child.**

31. It is the recollection of the plaintiff, this allegation was refuted by the defendant's own witness in the matter, during testimony given on, November 8, 2007.
32. It is the recollection of the plaintiff that, Brian K. Marshall, was questioned by the court, regarding the testimony of Janet (Morris). Attorney Marshall, in his response to the court, stated Ms. (Morris) would testify that she had provided transportation for William M. Brilla, and his minor son, to the Philipsburg Area Hospital emergency room, on or about September 14, 2005.
33. There is no excusable reason that attorney Marshall should not have possessed the knowledge held by Janet (Morris), prior to filing the Answer & New Matter.
34. Further misleading, and aggravated comments contained in the pleading are:
 - a. Misleading and vexatious insinuations that it was not William M. Brilla, who during the short period he had custody, took the child to his pediatrician, Dr. Killian Breck, on the advice of the emergency room physician.
 - b. Misleading and vexatious insinuations that it was not William M. Brilla who took the child to Dr. Jason McChesney, on the advice of Dr. Killian Breck, during the short period he had custody.
 - c. Misleading and vexatious insinuations that it was not William M. Brilla who twice took the child to Centre Community hospital, for IV therapy, on the advice of Dr. Jason McChesney, during the short period he had custody.

- d. Misleading and vexatious insinuations that somehow William M. Brilla was unable to provide care for his child, other than through Rhonda L. Brilla.
- 35. The averments contained in the pleading, and those made in the court, stand in direct contradiction to each other.
- 36. All of these attempts to mischaracterize William M. Brilla were addressed in his complaint against the defendants, and continue to be used maliciously and vexatiously against him.

THE PLAINTIFF asks, who then performed these acts for the minor child? The plaintiff demands that the defendants, and their client Rhonda L. Brilla, and their witness Janet (Morris), be compelled to fully answer these allegations, contained in paragraphs 19, 20, 21, 22 and 23, of the Answer & New Matter.

IV. RHONDA L. BRILLA AS DEFENDANT IN THE PRESENT MATTER

THE PLAINTIFF, for the reasons set forth above, and in accordance with Pa.R.C.P., Rule 401(b)(2), now names Rhonda L. Brilla as an additional defendant in the matter of William M. Brilla v. Brian K. Marshall, Esq. & Miller, Kistler, Campbell, Miller, Et al, Inc., so included and referenced in the attached Praecept for Reinstatement.

V. SECOND ADDITIONAL CAUSE OF ACTION: 18 Pa.C.S. § 4904(a)(1.) & (b.) Unsworn Falsification to Authorities.

THE PLAINTIFF, at this time, alleges an additional cause of action, and further violation of the Rules of Professional Conduct, by the first named defendants, and the

active participation of the second named defendant, Rhonda L. Brilla, in the commission of these additional crimes against him, and avers as follows:

37. On or about October 17, 2007, attorney Marshall prepared for his client, the respondent's Answer and New Matter, to William M. Brilla's, Petition for Civil Contempt for Disobedience of Custody Order.
38. The Answer and New Matter, contained statements attorney Brian K. Marshall knew to be false and misleading.
39. Attorney Marshal knew the statement, regarding emergency care, to be false and misleading, for the reasons stated above, regarding the testimony of Janet (Morris).
40. Attorney Marshall knew the statements regarding follow-up care to be false and misleading, since in his original investigation into the matter in September 2005, he petitioned the court, and was granted an order allowing telephone testimony from Dr. Breck, and Dr. McChesney. The doctors would have born witness to the fact that it was William M. Brilla, who by his own means, presented the child for medical care.
41. It was this knowledge that forced the defendants to withdraw the Emergency Petition to Modify Custody, by praecipe on October 4, 2005, and not the contention made in the Answer & New Matter, that the fears of Rhonda L. Brilla abated.

EXHIBIT L

42. On or about October 17, 2007, Rhonda L. Brilla signed an averment as part of the Answer & New Matter. She did so knowing the pleading contained false and misleading statements, as set forth above.
43. On or about October 18, 2007, attorney Marshall filed, with the court, the Answer & New Matter, that contained false and misleading statements known by both himself and Rhonda L. Brilla, to be false and misleading.

VI. THIRD ADDITIONAL CAUSE OF ACTION: 18 Pa.C.S. § 903 Criminal Conspiracy

THE PLAINTIFF, at this time, alleges an additional cause of action, and further violation of the Rules of Professional Conduct, by the first named defendants, and the active participation of the second named defendant, Rhonda L. Brilla, in the commission of these additional crimes against him, and avers as follows:

44. The defendants, together, have committed multiple crimes against the plaintiff.
45. The defendants, together, have knowingly and willfully committed these acts against the plaintiff in an effort to harass, discredit and malign him, and cause him further pain and suffering.
46. The acts of the defendants are outside the normal bounds of the attorney / client relationship, and taken together are evidence of a criminal conspiracy against the plaintiff.
47. These present acts lend further credence to the plaintiff's original allegations, against the defendants, as presented in his original complaint.

VII. INVOLVEMENT OF THE DISTRICT ATTORNEY

AS THE defendants have now committed crimes against plaintiff, in response to a civil matter, he now asks for the involvement of the Clearfield County District Attorney for prosecution of the crimes committed against him. As such, the plaintiff has filed private criminal complaints against the defendants, as evidenced by the attached exhibits.

EXHIBITS M & N

VIII. PREVIOUS FINDINGS BY THE COURT

THE PLAINTIFF, submits the Order of the Court, dated December 10, 2007, in the matter of Brilla R. v. Brilla W., Civil Contempt for Disobedience of Custody Order, as evidence against the first named defendants, in that Rhonda L. Brilla was found to be in contempt for following the illegitimate and unlawful recommendations of counsel.

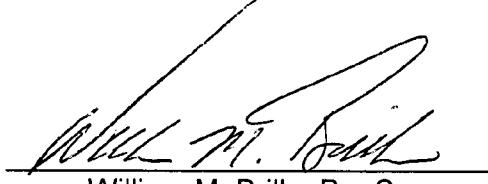
EXHIBIT O

IX. PROGRESSION OF COMPLAINT TO TRIAL BY JURY

THE PLAINTIFF asks that the court, on the date of hearing, address any additional procedural requirements for progression of his complaint to trial by jury, and serve notice upon him of any and all additional requirements, and order him to comply with these requirements, and schedule additional hearings, as necessary.

X. VERIFCATION

I verify that the statements made in this Answer & New Matter are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



William M. Brilla

William M. Brilla, Pro Se

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla	Plaintiff	v.	Civil Docket Number: <u>2007-1578-C0</u>
Brian K. Marshall, Esq. & Miller, Kistler, Campbell, Miller, Et al., Inc.	Defendants		

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. 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.

PA LAWYER REFERAL SERVICE

100 S STREET
P.O. BOX 186
HARRISBURG, PA 17108-0186-86

(800) 692-7375

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

OCT 05 2007

Attest.

Willie Brilla
Pennsylvania

EXHIBIT B

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

RHONDA L. BRILLA Plaintiff)
vs.)
WILLIAM M. BRILLA Defendant)
No. 2002-1648-CD

ORDER

NOW THIS the 4th day of December, 2006, upon
consideration of the Praeipe for In Forma Pauperis, filed by the defendant, it is hereby
the order of this court that the defendants praecipe shall by granted, and that he shall
be allowed to proceed In Forma Pauperis, in the above captioned matter.

BY THE COURT:

/s/ Paul E. Cherry

1

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

DEC 05 2006

Attest

William H.
Prothonotary
Clerk of Courts

EXHIBIT C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla Plaintiff

v.

Brian K. Marshall, Esq. Defendants
&
Miller, Kistler, Campbell,
Miller, Et al., Inc.

Civil Docket Number:

2007-1578-C0

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

SEP 26 2007

Attest.

William M. Brilla
Prothonotary/
Clerk of Court

PRAECLPTE TO PROCEED IN FORMA PAUPERIS

AND NOW, this the 26 day of September 2007, the plaintiff requests that he be allowed to proceed In Forma Pauperis, in the above captioned matter, in support thereof avers:

1. A previous IFP order was granted by Judge Paul E. Cherry, on or about December 4, 2006, in the matter of Brilla v. Brilla.
2. The plaintiff financial circumstances have not changed since that time.
3. This praecipe is being filed simultaneously with the plaintiff's Civil Complaint & Claim For damages Resulting From Negligence & Professional Misconduct, as provide for in Pa.R.C.P., Rule 240 (c)(1)(i), which states:

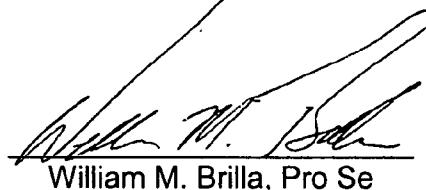
If the petition is filed simultaneously with the commencement of the action or with the taking of the appeal, the prothonotary shall docket the action and the petition or shall accept the appeal and petition without the payment of any filing fee.

4. The plaintiff disputes the need to file this new praecipe, but has been compelled to do so at the insistence of the Office of the Prothonotary, Clearfield County Court of Common Pleas, which has refused to honor the

plaintiffs previous IFP order, in clear violation of Pa.R.C.P., Rule 240 (f)(1), which states:

A party permitted to proceed in forma pauperis shall not be required to pay any cost or fee imposed or authorized by Act of Assembly or general rule which is payable to any court or prothonotary or any public officer or employee.

5. I verify that the statements made in this Praecipe to Proceed In Forma Pauperis are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. 4904, relating to unsworn falsification to authorities.



A handwritten signature in black ink, appearing to read "William M. Brilla". The signature is fluid and cursive, with a long, sweeping line extending from the left side.

William M. Brilla, Pro Se

EXHIBIT D



JUDGE'S CHAMBERS
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA
CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

FREDRIC J. AMMERMAN
PRESIDENT JUDGE

PAUL E. CHERRY
JUDGE

JOHN K. REILLY, JR.
SENIOR JUDGE

September 27, 2007

William Brilla
P.O. Box 43
133 Second Street
Kylertown, Pennsylvania 16847

RE: William M. Brilla v. Brian K. Marshall & Miller, Kistler, Campbell,
Miller, Et al., Inc.
NO. 07-1578-CD

Dear Mr. Brilla:

It has been brought to this Court's attention that you have filed a Praeclipe to Proceed in Forma Pauperis in regard to the above captioned number.

Please be advised that since you have initiated a new case with new parties involved, you must therefore file an entirely new Petition to Proceed in Forma Pauperis. You can not rely on the previous IFP Order entered in the matter of Brilla v. Brilla.

I trust you will file the appropriate Petition in this matter so this matter may proceed accordingly.

Very truly yours,


PAUL E. CHERRY,
JUDGE

PEC/dmp

EXHIBIT E

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

WILLIAM M. BRILLA

: NO. 07-1578-CD

V.

BRIAN K. MARSHALL, ESQ.

&

MILLER, KISTLER, CAMPBELL,

MILLER, Et al., Inc.

ORDER

NOW this 5th day of October, 2007, upon consideration of the Praecep to Proceed in Forma Pauperis, filed by William M. Brilla, Pro-Se, it is hereby the Order of this Court that the Praecep shall be and is hereby GRANTED and that he shall be allowed to proceed In Forma Pauperis.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

OCT 05 2007

Attest.

William E. Cherry
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTIONS

William M. Brilla

&

Court of Common Pleas, Clearfield

IN FORMA PAUPERIS ORDER

ORDER

NOW THIS the _____ day of _____, 2007, upon
consideration of the Praecipe To Proceed In Forma Pauperis, filed by William M. Brilla,
Pro Se, it is hereby the order of this court that the his praecipe shall be granted, and that
he shall be allowed to proceed In Forma Pauperis.

The court further orders, that this order shall be honored and accepted in all civil
departments within the Clearfield County Court of Common Pleas, and access to court
documents shall not be denied for need of separate IFP order, or with regard to
captioning, or court docketing practices.

This order shall not be superseded until William M. Brilla fulfils his obligation to
this court in reporting an improvement in his financial circumstances.

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla

Plaintiff

v.

Civil Docket Number:

Brian K. Marshall, Esq.

Defendants

&

Miller, Kistler, Campbell,
Miller, Et al., Inc.

07-1578-CD

PRAECLPSE TO PROCEED IN FORMA PAUPERIS

NOW COMES the plaintiff, William M. Brilla, Pro Se, who files the following Praeclpse for In Forma Pauperis, in accordance with the Pennsylvania Rules Of Civil Procedure, Rule 240, and avers as follows:

1. I am the plaintiff in the above matter and because of my financial condition am unable to pay the fees and costs of prosecuting or defending the action or proceeding.
2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.
3. I represent that the following information regarding my ability to pay the fees and costs is true and correct.

(a.) Name: William M. Brilla

133 Second Street
P.O. Box 43
Kylertown, PA 16847
SSN: 165-48-8002

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

OCT 04 2007

Attest.

William Brilla
Prothonotary/
Clerk of Courts

(b.) Employment: Un-employed

Date of last employment: 08/04/2006

Employer: Bob's Army & Navy Store, Inc.

229 East Market Street
Clearfield, PA 16830
814-765-4652

Salary or Wages: \$6.50 per hour / 35 hours per week

Gross wages: \$227.50 / week

Encumbrance: \$82.00 / week – Child Support

Net wages after taxes & child support: \$115.00 / per week

Type Of Work: Data entry

(c.) Other income within the past 12 months: None

Business or profession: None

Other self-employment: None

Social security benefits: None

Support payments: None

Disability payments: None

Unemployment compensation and supplemental benefits: None

Workman's compensation: None

Public assistance: \$155.00 / month, food assistance, since August 2006.

Other: None

(d.) Other contributions to household support: None

(e.) Property owned

Cash: None

Checking account: None

Savings account: None

Certificates of deposit: None

Real estate: Two properties both subject to equitable distribution,
currently taken on appeal.

Plaintiff's residence

133 Second Street
Kylertown, PA 16847

Ex-wife's residence

90 Second Street
Kylertown, PA 16847

Motor vehicle: None

Stocks, bonds, etc.: None

(f.) Monthly expenses.

Mortgage: AMC Mortgage Company

Held jointly with ex-wife. \$450.00 per month.

Second Mortgage: PHFA-HEMAP

Held by plaintiff alone. \$25.00 per month.

Utilities:

Electric: \$140.00 / month. Payment agreement.

Water: \$50.00 / month. Payment agreement.

Sewer: \$70.00 / month. Payment agreement.

Telephone: \$75.00 / month. Payment agreement.

Heating oil: \$90.00 / month. Currently \$25.00, owed on payment agreement.

Other: Child Support. \$315.00 / month.

(g.) Persons dependant on me for support: None

4. I understand that I have a continuing **obligation to inform the court of improvement** in my financial circumstances, which would permit me to pay the costs herein.
5. The plaintiff files this praecipe at the demand of the court, but disputes the necessity for the following reasons:

a. A previous IFP order was granted December 4, 2006, in the matter of Brilla v. Brilla. (See - Exhibit A)

b. Pa.R.C.P., Rule 240 (f)(1) clearly states:

(f) A party permitted to proceed in forma pauperis shall not be required to:

(1) pay any cost or fee imposed or authorized by Act of Assembly or general rule which is payable to any court or prothonotary or any public officer or employee.

Nothing in the language of Rule 240, makes exceptions for the need of separate IFP orders for different issues, (i.e. divorce, custody, support, etc.), within the same matter, or the need of a new IFP order for a new matter, as in the current situation.

c. Additionally, Pa.R.C.P., Rule 240 (e), states:

(e) A party permitted to proceed in forma pauperis has a continuing **obligation to inform the court of**

improvement in the party's financial circumstances which will enable the party to pay costs.

Absent an **improvement** in the plaintiff's financial circumstances, he is under no obligation to continually inform the court that conditions remain the same or, as in this case, have worsened.

- d. A statement was filed simultaneously with the complaint of William M. Brilla v. Brian K. Marshall & Miller, Kistler, Campbell, Miller, Et al., Inc., reaffirming the financial condition of the plaintiff. (See - Exhibit B)
- e. The letter from the court dated September 27, 2007, does not reference any authority by; statute, regulation, rule, or court decision, supporting the court's position requiring a new IFP order to proceed with the current matter. (See - Exhibit C)
- f. Without this authority, the stance taken by the court seems capricious and arbitrary, and intended to obstruct and frustrate the plaintiff's access to a fair and impartial judiciary.

6. I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: 10/3/2007

William M. Brilla
William M. Brilla, Pro Se

EXHIBIT A

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

RHONDA L. BRILLA Plaintiff)
vs.)
WILLIAM M. BRILLA Defendant)
No. 2002-1648-CD

ORDER

NOW THIS the 4th day of December, 2006, upon
consideration of the Praecept for In Forma Pauperis, filed by the defendant, it is hereby
the order of this court that the defendants praecipe shall be granted, and that he shall
be allowed to proceed In Forma Pauperis, in the above captioned matter

BY THE COURT:

/s/ Paul E. Cherry

J.

FILED
01/13/2006
DEC 05 2006
William A. Shaw
Prothonotary/Clerk of Courts
1CC
Def.-
133 Second St.
PO Box 413
Kylestown, PA
16884

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

RHONDA L. BRILLA Plaintiff) No. 2002-1648-CD
vs.)
WILLIAM M. BRILLA Defendant) Type of Case: Divorce
) Type of Pleading: Praecipe
) Pa. Rules Of Civil Procedure
) Rule 240
) In Forma Pauperis
) Filed by: Defendant, Pro Se
) All Rights Reserved, Without
) Prejudice
) U.C.C. § 1-207
) William M. Brilla
) 133 Second Street
) P.O. Box 43
) Kylertown, PA 16847
) 814-345-5454

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

JUL 31 2007

Attest

William L. Burch
Prothonotary/
Clark of Courts

FILED DCC deft
OCT 10 2001
DEC 01 2001 

William A. Shaw
Prothonotary/Clark of Courts

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

RHONDA L. BRILLA Plaintiff)
vs.)
WILLIAM M. BRILLA Defendant) No. 2002-1648-CD

PRAECIPE FOR IN FORMA PAUPERIS

NOW COMES the defendant, William M. Brilla, Pro Se, who files the following
Praeclipe for In Forma Pauperis, in accordance with the Pennsylvania Rules Of Civil
Procedure, Rule 240, and avers as follows:

1. I am the defendant in the above matter and because of my financial condition am unable to pay the fees and costs of prosecuting or defending the action or proceeding.
2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.
3. I represent that the following information regarding my ability to pay the fees and costs is true and correct.

(a.) Name: William M. Brilla

133 Second Street

P.O. Box 43

Kylertown, PA 16847

SSN: 165-48-8002

(b.) Employment: Un-employed

Date of last employment: 08/04/2006

Employer: Bob's Army & Navy Store, Inc.

229 East Market Street

Clearfield, PA 16830

814-765-4652

Salary or Wages: \$6.50 per hour / 35 hours per week

Gross wages: \$227.50 / week

Encumbrance: \$82.00 / week – Child Support

Net wages after taxes & child support: \$115.00 / per week

Type Of Work: Data entry

(c.) Other income within the past 12 months: None

Business or profession: None

Other self-employment: None

Social security benefits: None

Support payments: None

Disability payments: None

Unemployment compensation and supplemental benefits: None

Workman's compensation: None

Public assistance: \$155.00 / month, food assistance, since August 2006.

Other: None

(d.) Other contributions to household support: None

(e.) Property owned

Cash: None

Checking account: None

Savings account: None

Certificates of deposit: None

Real estate: Two properties both subject to equitable distribution.

Plaintiff's residence

90 Second Street

Kylertown, PA 16847

Defendant's residence

133 Second Street

Kylertown, PA 16847

Motor vehicle: Chevrolet Lumina Year: 1998

Value: \$1500.00

Stocks, bonds, etc.: None

(f.) Monthly expenses.

Mortgage: AMC Mortgage Company

Held jointly with plaintiff. \$450.00 per month.

Utilities:

Electric: \$65.00 / month. Currently 4 months past due.

Water: \$25.00 / month. Currently 3 months past due.

Sewer: \$45.00 / month. Currently 3 months past due.

Telephone: \$50.00 / month. Currently 3 months past due.

Heating oil: \$90.00 / month. Currently \$650.00 past due.

Other: Child Support. \$360.00 / month, plus \$90.00 / month arrears.

(g.) Persons dependant on me for support: None

4. I understand that I have a continuing obligation to inform the court of improvement in my financial circumstances, which would permit me to pay the costs herein.
5. I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: 01 DEC 2004

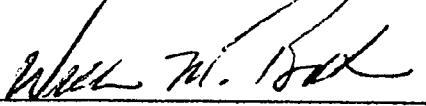

William M. Brilla
All rights reserved, without prejudice
U.C.C. § 1-207

EXHIBIT B

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla	Plaintiff	Civil Docket Number: <u>2007-1578-C0</u>	I hereby certify this to be a true and attested copy of the original statement filed in this case. <u>SEP 26 2007.</u>
v.			
Brian K. Marshall, Esq. & Miller, Kistler, Campbell, Miller, Et al., Inc.	Defendants		Attest. <u>William A. Brilla</u> Prothonotary/ Clerk of Court

PRAECIPE TO PROCEED IN FORMA PAUPERIS

AND NOW, this the 26 day of September 2007, the plaintiff requests that he be allowed to proceed In Forma Pauperis, in the above captioned matter, in support thereof avers:

1. A previous IFP order was granted by Judge Paul E. Cherry, on or about December 4, 2006, in the matter of Brilla v. Brilla.
2. The plaintiff financial circumstances have not changed since that time.
3. This praecipe is being filed simultaneously with the plaintiffs Civil

Complaint & Claim For damages Resulting From Negligence &
Professional Misconduct, as provide for in Pa.R.C.P., Rule 240 (c)(1)(i),

which states:

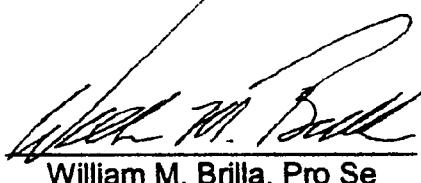
If the petition is filed simultaneously with the commencement of the action or with the taking of the appeal, the prothonotary shall docket the action and the petition or shall accept the appeal and petition without the payment of any filing fee.

4. The plaintiff disputes the need to file this new praecipe, but has been compelled to do so at the insistence of the Office of the Prothonotary, Clearfield County Court of Common Pleas, which has refused to honor the

plaintiffs previous IFP order, in clear violation of Pa.R.C.P., Rule 240 (f)(1), which states:

A party permitted to proceed in forma pauperis shall not be required to pay any cost or fee imposed or authorized by Act of Assembly or general rule which is payable to any court or prothonotary or any public officer or employee.

5. I verify that the statements made in this Praeclipe to Proceed In Forma Pauperis are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. 4904, relating to unsworn falsification to authorities.



A handwritten signature in black ink, appearing to read "William M. Brilla".

William M. Brilla, Pro Se

EXHIBIT C



JUDGE'S CHAMBERS
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA
CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

FREDRIC J. AMMERMAN
PRESIDENT JUDGE

PAUL E. CHERRY
JUDGE

JOHN K. REILLY, JR.
SENIOR JUDGE

September 27, 2007

William Brilla
P.O. Box 43
133 Second Street
Kylertown, Pennsylvania 16847

RE: William M. Brilla v. Brian K. Marshall & Miller, Kistler, Campbell,
Miller, Et al., Inc.
NO. 07-1578-CD

Dear Mr. Brilla:

It has been brought to this Court's attention that you have filed a Praeclipe to Proceed in Forma Pauperis in regard to the above captioned number.

Please be advised that since you have initiated a new case with new parties involved, you must therefore file an entirely new Petition to Proceed in Forma Pauperis. You can not rely on the previous IFP Order entered in the matter of Brilla v. Brilla.

I trust you will file the appropriate Petition in this matter so this matter may proceed accordingly.

Very truly yours,


PAUL E. CHERRY,
JUDGE

PEC/dmp

EXHIBIT F

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla

Plaintiff

v.

Brian K. Marshall, Esq. Defendants
&
Miller, Kistler, Campbell,
Miller, Et al., Inc.

720 South Atherton Street
State College, PA 16801-4628
814-234-1500

Civil Docket Number:

Case Type:
Civil – Cause of Action

Pleading Type:
Civil Complaint & Claim For Damages
Resulting From Negligence &
Professional Misconduct

Hearing Type:
Trial by Jury

Judge:

Filed by:
Plaintiff, Pro Se

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454

CERTIFICATE OF SERVICE

I, William M. Brilla, hereby certify that the foregoing complaint was served this the
26 day of September 2007, by First Class Mail, on the defendants listed in the
captioned matter.


William M. Brilla, Pro Se

EXHIBIT G

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla	Plaintiff	Civil Docket Number: 07-1578-CD
v.		Case Type: Civil – Cause of Action
Brian K. Marshall, Esq.	Defendants	Pleading Type: Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct
Miller, Kistler, Campbell, Miller, Et al., Inc.		Filed by: Plaintiff, Pro Se
<hr/> 720 South Atherton Street State College, PA 16801-4628 814-234-1500		William M. Brilla 133 Second Street P.O. Box 43 Kylertown, PA 16847 814-345-5454

AMENDED CERTIFICATE OF SERVICE

I, William M. Brilla, acting Pro Se, hereby certify that the above captioned Civil
Complaint & Claim For Damages Resulting From Negligence & Professional
Misconduct was served this the 11th day of October, 2007 by mailing the same by U.S.-
Postal Service, First Class Mail, postage prepaid, and addressed to:

Miller, Kistler, Campbell, Miller, Et al., Inc.
720 South Atherton Street
State College, PA 16801-4628

The plaintiff further avers:

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

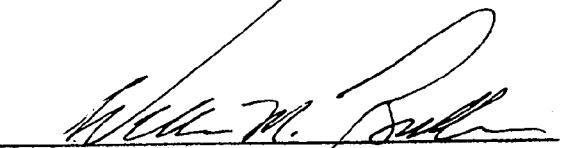
OCT 15 2007

1000 1000

1. Mailing of the original complaint was delayed, due to a docketing violation of Pa.R.C.P. Rule 240 (c)(1)(i), by the prothonotary of the Clearfield County Court of Common Pleas. (See Exhibit A & B)

2. Additional delay resulted from Judge Paul E. Cherry's alleged requirement that a new IFP order was necessary to precede in this matter. (See Exhibit C & D)

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454



William M. Brilla, Pro Se

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla Plaintiffs

v.

Brian K. Marshall, Esq. & Defendants
Miller, Kistler, Campbell,
Miller, Et al., Inc.

Civil Docket Number:

2007-1578-C0

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

SEP 26 2007

Attest.

W. A. Prothonotary,
Clerk of Court

PRAECLP TO PROCEED IN FORMA PAUPERIS

AND NOW, this the 26 day of September 2007, the plaintiff requests that he be allowed to precede In Forma Pauperis, in the above captioned matter, in support thereof avers:

1. A previous IFP order was granted by Judge Paul E. Cherry, on or about December 4, 2006, in the matter of Brilla v. Brilla.
2. The plaintiff financial circumstances have not changed since that time.
3. This praecipe is being filed simultaneously with the plaintiffs Civil Complaint & Claim For damages Resulting From Negligence & Professional Misconduct, as provide for in Pa.R.C.P., Rule 240 (c)(1)(i).

which states:

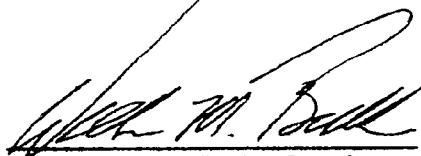
If the petition is filed simultaneously with the commencement of the action or with the taking of the appeal, the prothonotary shall docket the action and the petition or shall accept the appeal and petition without the payment of any filing fee.

4. The plaintiff disputes the need to file this new praecipe, but has been compelled to do so at the insistence of the Office of the Prothonotary, Clearfield County Court of Common Pleas, which has refused to honor the

plaintiffs previous IFP order, in clear violation of Pa.R.C.P., Rule 240 (f)(1), which states:

A party permitted to proceed in forma pauperis shall not be required to pay any cost or fee imposed or authorized by Act of Assembly or general rule which is payable to any court or prothonotary or any public officer or employee.

5. I verify that the statements made in this Praeclipe to Proceed In Forma Pauperis are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. 4904, relating to unsworn falsification to authorities.



William M. Brilla

William M. Brilla, Pro Se

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla

Plaintiff

v.

Brian K. Marshall, Esq.

Defendants

&

Miller, Kistler, Campbell,
Miller, Et al., Inc.

Civil Docket Number:

2007-1578-CP

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. 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.

PA LAWYER REFERAL SERVICE

100 S STREET
P.O. BOX 186
HARRISBURG, PA 17108-0186-86
(800) 692-7375

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

OCT 05 2007

Attest.

*William L. Brilla
Prothonotary*



JUDGE'S CHAMBERS
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA
CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

FREDRIC J. AMMERMAN
PRESIDENT JUDGE

PAUL E. CHERRY
JUDGE

JOHN K. REILLY, JR.
SENIOR JUDGE

September 27, 2007

William Brilla
P.O. Box 43
133 Second Street
Kylertown, Pennsylvania 16847

RE: William M. Brilla v. Brian K. Marshall & Miller, Kistler, Campbell,
Miller, Et al., Inc.
NO. 07-1578-CD

Dear Mr. Brilla:

It has been brought to this Court's attention that you have filed a Praeclipe to Proceed in Forma Pauperis in regard to the above captioned number.

Please be advised that since you have initiated a new case with new parties involved, you must therefore file an entirely new Petition to Proceed in Forma Pauperis. You can not rely on the previous IFP Order entered in the matter of Brilla v. Brilla.

I trust you will file the appropriate Petition in this matter so this matter may proceed accordingly.

Very truly yours,


PAUL E. CHERRY,
JUDGE

PEC/dmp

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

WILLIAM M. BRILLA

NO. 07-1578-CD

v.

BRIAN K. MARSHALL, ESQ.

&

MILLER, KISTLER, CAMPBELL,

MILLER, Et al., Inc.

ORDER

NOW this 5th day of October, 2007, upon consideration of the Praecep to Proceed in Forma Pauperis, filed by William M. Brilla, Pro-Se, it is hereby the Order of this Court that the Praecep shall be and is hereby GRANTED and that he shall be allowed to proceed In Forma Pauperis.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

OCT 05 2007

Attest.

William E. Cherry
Prothonotary/
Clerk of Courts

EXHIBIT H

BOB'S ARMY & NAVY STORE, INC.

229 EAST MARKET STREET
CLEARFIELD, PA 16830

CLEARFIELD BANK & TRUST COMPANY
11 NORTH 2ND STREET MAIN OFFICE
CLEARFIELD, PA 16830

60-629
313

(FOUR DOLLARS AND 17/CENTS)

EMPLOYEE NO.	CHECK NO.
143	00015746
09/17/2005	****4.17

PAY
TO THE
ORDER
OF
WILLIAM M BRILLA
133 SECOND ST
KYLERTOWN, PA 16847

BOB'S ARMY & NAVY STORE
AUTHORIZED SIGNATURE

1:03:13 06 2941 1 1 00 200 311

EXHIBIT I

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

RHONDA L. BRILLA,

Plaintiff)
) No. 2002-1648-CD
)
) Type of Case: Divorce/Custody
)
) Type of Pleading: Answer and New
) Matter to Petition for Civil Contempt
) for Disobedience of Custody Order,
) Motion to Compel, and Petition for
) Relief
)
) Filed on Behalf of: Defendant
)
) Counsel of Record for This Party:
) Brian K. Marshall, Esquire
) I.D. No. PA 87331
) Miller, Kistler, Campbell,
) Miller, Williams & Benson, Inc.
) 720 S. Atherton Street
) State College, PA 16801
) 814-234-1500

vs.

Defendant)
) Type of Pleading: Answer and New
) Matter to Petition for Civil Contempt
) for Disobedience of Custody Order,
) Motion to Compel, and Petition for
) Relief

WILLIAM M. BRILLA,

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

RHONDA L. BRILLA,)
Plaintiff)
vs.) No. 2002-1648-CD
WILLIAM M. BRILLA,)
Defendant)

NOTICE TO PLEAD

TO THE WITHIN NAMED DEFENDANT:

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.



Brian K. Marshall, Esquire

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON, INC.
720 S. Atherton Street
State College, PA 16801
814-234-1500

Counsel for Plaintiff

Dated: 10/18/07

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

RHONDA L. BRILLA)
Plaintiff)
vs.) No. 2002-1648-CD
WILLIAM M. BRILLA)
Defendant)

RESPONDENT'S ANSWER AND NEW MATTER
TO PETITION FOR CIVIL CONTEMPT FOR
DISOBEDIENCE OF CUSTODY ORDER, MOTION TO COMPEL,
AND PETITION FOR RELIEF

NOW COMES the Respondent, Rhonda L. Brilla, by and through her counsel, Brian K. Marshall, Esquire, and Miller, Kistler, Campbell, Miller, Williams & Benson, Inc., who files the following Answer and New Matter to the Petition for Civil Contempt for Disobedience of Custody Order, Motion to Compel, and Petition for Relief filed by William M. Brilla on or about August 8, 2007, and in support thereof avers as follows:

1. Admitted. Exhibit A, the Consent Order dated January 24, 2004, speaks for itself.
2. Denied. Exhibit B speaks for itself.
3. Denied. Respondent denies that on or about September 10, 2005, she willfully violated the Order of the Court. Respondent incorporates herein by reference her New Matter as though set forth in full.
4. Denied as a conclusion of law. To the extent a response is required, Respondent denies that she violated 23 Pa. C.S.A. §4346.
5. Denied in as a conclusion of law. In any event, the averments of paragraph 5 are irrelevant.

6. Denied as a conclusion of law.
7. Denied as a conclusion of law.
8. Denied. After reasonable investigation, Respondent is without sufficient knowledge or belief to form a belief as to whether or not the averments in paragraph 8 are true. Strict proof demanded at trial. By way of further answer, the averments in paragraph 8 of Petitioner's Petition are wholly irrelevant.
9. Denied. The averments of paragraph 9 of Petitioner's Petition are denied. Strict proof demanded at trial.

NEW MATTER

10. As it has been nearly two years from the occurrence of the events alleged in Petitioner's Petition, the same are barred by the equitable doctrine of *laches*.
11. On or about September 2, 2005, Respondent contacted the undersigned counsel raising various concerns regarding the actions and statements of the Petitioner as they related to his ability to care for the minor children during those times when Respondent would be several thousand miles away in the State of Hawaii on active military exercises.
12. On or about September 2, 2005, the undersigned counsel drafted an Emergency Petition for Custody, a copy of which is attached hereto, incorporated herein by reference, and marked Exhibit "A."
13. On that same date, the undersigned counsel contacted Marcy Kelly, Deputy Court Administrator of the Court of Common Pleas of Clearfield County to ascertain whether time could be held on the schedule of the Honorable Judge Cherry

during the following week for a hearing on the Emergency Petition. It is the recollection of the undersigned counsel that Marcy Kelly advised the undersigned that the Court's calendar was relatively full, and that the undersigned should submit the Petition, and Ms. Kelly would then consult with the Court regarding scheduling the matter. A copy of correspondence addressed to Marcy Kelly, Deputy Court Administrator, reflecting and confirming the foregoing is attached hereto, incorporated herein by reference, and marked Exhibit "B."

14. Unbeknownst to the undersigned counsel and the Respondent, within minutes or hours of the conversation confirmed by Exhibit "B," Marcy Kelly abruptly quit her job without any notice whatsoever.

15. The Emergency Petition was filed in the Office of the Prothonotary on Tuesday, September 6, 2005, as Monday, September 5, 2005 was Labor Day holiday.

16. Thereafter, unbeknownst to the Respondent and the undersigned counsel, the matter was apparently never properly forwarded through the courthouse to be scheduled on an emergency basis.

17. Whereafter, upon Respondent's departure for Hawaii for military exercises, the minor children remained in the custody of her adult son, Sean Michael Potts.

18. On or about Monday, September 11, 2005, the Petitioner took custody of the minor children from the daycare which they attended.

19. On or about September 15, 2005, Respondent returned from Hawaii on an emergency basis because her minor child, William D. Brilla, had been bitten on the ear by Petitioner's dog (believed to have occurred on Monday, September 12, 2005), and

Petitioner either refused to, or was otherwise unable to, obtain proper medical care for the minor child.

20. The minor child was thereafter treated at Philipsburg Area Hospital and received a heavy dose of antibiotics to treat the infection.

21. Thereafter, the minor child was treated by an ear, nose and throat specialist.

22. All of the foregoing events serve to confirm the fears that Respondent expressed in her Emergency Petition for Custody.

23. After the aforesaid incident, the Respondent's concerns for the welfare of her minor child while they were in the custody of Petitioner abated, as she lives across the street from him in the village of Kylertown, and she is normally easily accessible in the event of an emergency when the minor children are in the custody of Petitioner.

24. Because Respondent's concerns abated, and because Petitioner missed very little custodial time with the minor children, the Emergency Custody Petition was withdrawn on or about October 24, 2005.

25. Respondent avers that Petitioner is now only raising this issue because he has recently received the Honorable Court's Equitable Distribution Opinion and Order, with which he does not agree, as evidenced by his filing of an appeal to the Superior Court of Pennsylvania.

WHEREFORE, Respondent, Rhonda L. Brilla, respectfully requests the Honorable Court dismiss the Petition for Civil Contempt for Disobedience of Custody Order as being barred by the doctrine of laches or, in the alternative, finds that the Respondent was not in contempt of the Honorable Court's Order.

RESPONSE TO MOTION TO COMPEL

NOW COMES the Respondent, Rhonda L. Brilla, who responds to the Motion to Compel filed by Petitioner as follows:

1. The documents requested in the Motion to Compel have not been properly requested through formal discovery, and as such, are not subject to a Motion to Compel.
2. The documents sought are entirely irrelevant to the matter currently before the Court.

WHEREFORE, Respondent, Rhonda L. Brilla, respectfully requests the Honorable Court dismiss the Motion to Compel.

RESPONSE TO PETITIONER'S "PROCEDURAL OBJECTIONS"

NOW COMES the Respondent, Rhonda L. Brilla, who responds to Petitioner's "Procedural Objections" as follows:

1. Petitioner, as a pro se litigant, is bound by the Rules of Civil Procedure.
2. Petitioner's filing evidences, to a substantial degree, a knowledge of the Rules of Pennsylvania Civil Procedure.
3. Petitioner should be required to be in substantial compliance with the Rules of Civil Procedure.

WHEREFORE, Respondent, Rhonda L. Brilla, respectfully requests that Honorable Court dismiss the request entitled "Procedural Objections."

PRAYER FOR RELIEF

No response is necessary to the Petitioner's Prayer for Relief. In the event a response is necessary, Respondent incorporates herein by reference the totality of this Answer and New Matter and respectfully requests the Honorable Court dismiss each and every request in Mr. Brilla's in the document entitled "Petition for Civil Contempt for Disobedience of Custody Order, Motion to Compel and Petition for Special Relief" filed on or about August 8, 2007 either based upon the equitable doctrine of laches or upon the merits of the case.



Brian K. Marshall, Esquire
I.D. No.: PA87331

MILLER, KISTLER, CAMPBELL,
MILLER, WILLIAMS & BENSON, INC.
720 S. Atherton Street
State College, PA 16801
814-234-1500

Counsel for Plaintiff

Dated: 10/18/07

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

RHONDA L. BRILLA,)
Plaintiff)
vs.) No. 2002-1648-CD
WILLIAM M. BRILLA,)
Defendant)

VERIFICATION

I, Rhonda L. Brilla, state that the facts contained in the foregoing Answer and
New Matter to Petition for Civil Contempt for Disobedience of Custody Order, Motion to
Compel an Petition for Relief are true and correct to the best of my knowledge,
information and belief, subject to penalty of law.



Rhonda L. Brilla

Date: 10/17/07

EXHIBIT A

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

RHONDA L. BRILLA,)
Plaintiff) No. 2002-1648-CD
)
vs.) Type of Case: Divorce
)
WILLIAM M. BRILLA,) Type of Pleading: Emergency
Defendant) Custody Petition
)
) Filed on behalf of: Plaintiff
)
) Counsel of Record for this Party:
)
) Brian K. Marshall, Esquire
) I.D. No.: PA87331
) MILLER, KISTLER, CAMPBELL,
) MILLER, WILLIAMS & BENSON, INC.
) 124 N. Allegheny Street
) Bellefonte, PA 16823
) 814-355-5474

FILED

SEP 06 2005

n 1:50

William A. Shaw
Prothonotary/Clerk of Court

1883-84

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

RHONDA L. BRILLA,)
Plaintiff)
vs.) No. 2002-1648-CD
WILLIAM M. BRILLA,)
Defendant)

EMERGENCY CUSTODY PETITION

NOW COMES the Petitioner, Rhonda L. Brilla, by and through her counsel, Brian K. Marshall, Esquire and Miller, Kistler, Campbell, Miller, Williams & Benson, Inc., who files this Emergency Custody Petition and in support thereof avers as follows:

1. The parties are the parents of two minor children, Ashley Lynn Nicole Brilla (d.o.b. 10/24/95) and William Daniel Gray Brilla (d.o.b. 5/9/01).
2. Custody is defined by an Order of Court entered with the consent of the parties on January 23, 2004. A copy of the Court's Order is attached hereto, incorporated herein by reference, and marked Exhibit "A."
3. Said Order provides that Plaintiff, Rhonda Brilla (hereinafter "Mother"), shall have primary physical custody of the minor children, subject to periods of partial physical custody with Defendant, William Brilla (hereinafter "Father").
4. Paragraph 5 of the said Order provides that Father shall have physical custody of the parties' children during the two week period each year when Mother is participating in naval reserve activities.
5. In the calendar year 2005, Mother is scheduled to be in the State of Hawaii from approximately September 10th through September 25th for said two week period of naval reserve activities.

6. Mother believes that it is in the children's best interest that Father not exercise his period of physical custody during the year 2005 for the following reasons:

- a. Father's driver's license is currently suspended for a conviction for driving under the influence, leaving Father without the ability to provide transportation;
- b. Father has been intoxicated in the presence of the children on at least two occasions since the death of his mother in July;
- c. Father has made statements to Mother that he has no food in his home, and no way to get food to his residence;
- d. Father has stated to Mother that he does not have transportation for the minor children;
- e. During August 2005, Father cancelled his period of exclusive custody the day before said period of custody was to begin, which deprived Mother of reasonable notice of the need for her to continue to provide/arrange for care for the children;
- f. Mother has witnessed Father operating a motor vehicle during his period of license suspension.

7. Father has not exercised any of his exclusive periods of physical custody during the summer of 2005 as provided in paragraph 4 of said Order. Father indicated to Mother on approximately May 1st, that he did not wish to have a period of exclusive custody in June. Father was understandably unable to exercise his period of physical custody in July, as that was to occur just several days after his mother's death, and as

stated in paragraph 6E, Father canceled the August period the day before said period was to commence.

8. If this Honorable Court grants the prayer in Mother's Petition, the minor children would remain in Mother's residence, with Mother's adult son, Sean Michael Potts, who is 20 years of age, and who is employed with CenClear Child Services.

9. Mother has made arrangements with various individuals, some of whom attend her church and some of whom reside in close proximity to Mother's residence, to provide Sean Michael Potts with any assistance he may need in caring for the children.

10. Mother has executed an appropriate Power of Attorney allowing Sean Michael Potts to access her bank accounts for any financial needs that may arise during the time that Mother is away.

WHEREFORE, your Petitioner respectfully requests the Honorable Court enter an Order, based upon the information contained herein, that Father shall not exercise his period of partial custody currently scheduled for September 10 through September 25, 2005.

Respectfully submitted:



Brian K. Marshall, Esquire

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

Counsel for Plaintiff

Dated: 9.2.05

EXHIBIT B

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.
ELIZABETH A. DUPUIS
DAVID B. CONSIGLIO**
STACY PARKS MILLER
JULIA R. CRONIN
BRIAN K. MARSHALL
RENEE R. LAWRENCE***

PLEASE REPLY TO:
BELLEFONTE OFFICE

September 2, 2005

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
***ALSO ADMITTED IN VIRGINIA

Marcy Kelly, Deputy Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830

RE: Rhonda L. Brilla v. William M. Brilla
No. 2002-1648-CD (Clearfield Co., PA)

Dear Marcy:

As we discussed in our brief telephone conversation on Friday, September 2nd, I am filing this Emergency Petition for my client, Rhonda Brilla. As we discussed, the Judge's schedule is quite full, although it is my hope that this Petition may be able to be heard prior to my client's departure for her two week military reserve detail in the State of Hawaii, as the Petition addresses custody of the parties' minor children during that period.

My schedule for the week of Tuesday, September 6th through Friday, September 9th is fully available, with the exception of the entire afternoon of Thursday, September 8th. Attorney Stephanie Cooper represents Father, and her office is closed on Fridays. As such, I am unable to ascertain her schedule for the week of September 6th through September 9th. If the Court has availability to schedule this hearing, I will be happy to be responsible for contacting Attorney Cooper to determine when her schedule and my schedule are compatible for the hearing.

Thank you in advance for your assistance, and if I can provide any additional information, please don't hesitate to contact me.

Very truly yours,

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

By:



Brian K. Marshall

BKM/lac

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

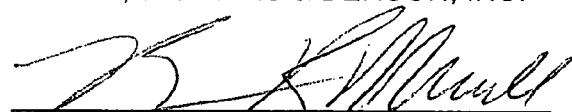
RHONDA L. BRILLA,)
Plaintiff) No. 2002-1648-CD
vs.)
WILLIAM M. BRILLA,)
Defendant)

CERTIFICATE OF SERVICE

I, Brian K. Marshall, Esquire, of the law firm of MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, INC., hereby certify that the foregoing Answer and New Matter to Petition for Civil Contempt for Disobedience of Custody Order, Motion to Compel and Petition for Relief was served this 18th day of October, 2007 by mailing same first class United States mail, postage prepaid, addressed to:

William Brilla
P.O. Box 43
Kylertown, PA 16847

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



Brian K. Marshall, Esq.

EXHIBIT J

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

RHONDA L. BRILLA Plaintiff)
vs.)
WILLIAM M. BRILLA Defendant)
No. 2002-1648-CD

SCHEDULING ORDER

Now this the 8th day of August, 2007,

it is hereby the order of this Court that a hearing on the defendant's PETITION FOR CIVIL CONTEMPT FOR DISOBEDIENCE OF CUSTODY ORDER, MOTION TO COMPEL, AND PETITION FOR RELEF shall be held on the 8th day of November, 2007, at 9:00 o'clock in Courtroom No. 3 of the Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

/s/ Paul E. Cherry

Judge

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

AUG 09 2007

Attest,

William E. Brown
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION I hereby certify this

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

RHONDA L. BRILLA Plaintiff)
vs.) No. 2002-1648-CD AUG 08 2007
WILLIAM M. BRILLA Defendant) Attest.
L.
Pr
Cle

William E.
Prothon.
Clerk of

**PETITION FOR CIVIL CONTEMPT FOR DISOBEDIENCE OF CUSTODY ORDER,
MOTION TO COMPEL, AND PETITION FOR RELIEF**

The Petition of William M. Brilla respectfully represents:

1. On or about December 30, 2003, a custody agreement was made between the plaintiff, Rhonda L. Brilla, and the defendant William M. Brilla. The Honorable Paul E. Cherry approved this Consent Order, and it was entered on January 24, 2004. The Consent Order remains unaltered to the present day.

See EXHIBIT A – Consent Order.

2. On or about September 9, 2005, Attorney Brian K. Marshall advised his client to violate that Order of the Court.

See EXHIBIT B – Attorney Marshall Fax.

3. On or about September 10, 2005, the plaintiff did indeed violate the Order of the Court, when she left for annual active duty for training, and failed to provide the defendant custody of the children, per agreement.

See EXHIBIT A, Paragraph 5

4. In so doing, the plaintiff violated 23 Pa.C.S. §4346 - *Contempt for noncompliance with visitation or partial custody order.*

5. Attorney Marshall's recommendation to his client violates the Pennsylvania Rules of Professional Conduct.

6. Faith in Attorney Marshall's recommendations **cannot** constitute a defense for the plaintiff in this contempt action. Attorney Marshall's advice in no way absolves the plaintiff from her obligation to comply with Orders of the Court. The plaintiff is a sound litigant, of reasonable intelligence, and as such can be expected to recognize the unsuitability of Attorney Marshall's recommendations.

7. The Statute of Limitations in this matter is governed by:

42 Pa.C.S. - Judiciary and Judicial Procedure
Chapter 55 - Limitation of Time
Subchapter B – Civil Actions and Proceedings
§5524 – Two Year Limitation

5. An action upon a statute for a civil penalty or forfeiture.

8. Defendant's child support was current for twenty four (24) months, prior to September 2005, and remained current until August 2006.

9. As a result of the plaintiff's actions, the defendant incurred unnecessary expenses.

MOTION TO COMPEL

The defendant respectfully requests that the Honorable Court order the plaintiff to produce true and correct copies of her military orders, and associated documents, as evidence in this matter. The defendant contends that this is the only factual evidence regarding the plaintiff's whereabouts and movements, during this period of time, and is material to the matter in question. The defendant asks that the Court review, approve, and serve the plaintiff with the attached Order demanding documentation and

information, related to her annual active duty for training, during the month of September 2005.

PRODEEDURAL OBJECTIONS

The defendant respectfully requests that counsel for the plaintiff file with the court, any procedural or structural objections he may have, prior to the commencement of the hearing. If the Honorable Court determines that there are indeed procedural or structural defects in this complaint, defendant asks he be notified and Ordered by the Court to correct said defects, prior to the commencement of the hearing. The defendant respectfully requests that counsel for the plaintiff respond to this issue in a timely manner in order to avoid unnecessary delays, and additional Court time and costs.

PRAYER FOR RELIEF

The defendant respectfully prays that the Honorable Court would grant the following relief:

1. Appropriate admonishment by the Court for Attorney Marshall's willfully disregard, as an Officer of the Court, for the Orders of the Clearfield County Court of Common Pleas, and that of its Judge, the Honorable Paul E. Cherry.
2. A finding by the court that the plaintiff was of reasonable capacity to understand that her actions, regardless of Attorney Marshall's advice, were contemptuous to the Court, and also to the defendant.
3. Since the Court has previously demonstrated strict disapproval of violations regarding its Orders, and has, as an example, in the past, imposed the following discipline on the defendant:

- a. Willful failure to pay support: ninety (90) days in the Clearfield County Jail; time served; \$400.00 to secure release; \$800.00 as a future purge; Order November 15, 2006.
- b. Contempt of Court: \$400.00; attorney fees to Attorney Marshall; Order October 9, 2006.

The defendant holds the conduct of the plaintiff is willfully and equally repugnant to the dignity of the court, and necessarily demands similar consequences, as provided for under 23 Pa.C.S. §4346, which states the following:

§ 4346 -Contempt for noncompliance with visitation or partial custody order.

- (a.) *General rule. - A party who willfully fails to comply with any visitation or partial custody order may, as prescribed by general rule, be adjudged in contempt. Contempt shall be punishable by any one or more of the following:*
 - i. *Imprisonment for a period not to exceed six months.*
 - ii. *A fine not to exceed \$500.*
 - iii. *Probation for a period not to exceed six months.*
 - iv. *An order for nonrenewal, suspension or denial of operating privilege pursuant to section 4355 relating to denial or suspension of licenses.)*

- 4. The defendant seeks compensation for the expenses he incurred as a result of the plaintiffs actions. Specifically:
 - a. Necessities for the children that were not provided, See Exhibit C – Walmart receipt.
 - b. Attorney fees paid to Stephanie L. Cooper, Esq.

5. That the Honorable Court should not entertain pleas, from the plaintiff, with regard to personal hardship or distress. The Court has shown by previous precedent, in its ordering and sentencing of the defendant, that these arguments, and issues, are inconsequential in relation to Contempt of its Orders.
6. That the Honorable Court would approve the Opinion and Order, filed with this petition, and impose such discipline on the plaintiff.
7. That the Honorable Court will enter a decision within ten (10) days of hearing this matter.

AFFIDAVIT

I verify that the statements made in this PETITION FOR CIVIL CONTEMPT FOR DISOBEDIENCE OF CUSTODY ORDER, MOTION TO COMPEL, AND PETITION FOR RELEF are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: AUG 8 2007

William M. Brilla
William M. Brilla, Pro Se

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

RHONDA L. BRILLA Plaintiff)
vs.)
WILLIAM M. BRILLA Defendant)
No. 2002-1648-CD

CERTIFICATE OF SERVICE

I, William M. Brilla, acting Pro Se, hereby certify that the foregoing Contempt
Pleading was served this the 8th day of August, 2007 by mailing the same by U.S.
Postal Service, First Class Mail, postage prepaid, and addressed to:

Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.
ATTN: Brian K. Marshall, Esq.
720 South Atherton Street
State College, PA 16801-4628

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454

William M. Brilla, Pro Se

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

RHONDA L. BRILLA Plaintiff)
vs.) No. 2002-1648-CD
WILLIAM M. BRILLA Defendant)

ORDER

Now this the _____ day of _____, 2007, upon
consideration of the defendants motion to compel, contained within his PETITION FOR CIVIL
CONTEMPT FOR DISOBEDIENCE OF CUSTODY ORDER, MOTION TO COMPEL, AND
PETITION FOR RELEF, the Court hereby orders the plaintiff, Rhonda L. Brilla to obtain Navy
certified true copies of her military orders, and related information, for September 2005. The
terms military orders and related information includes, but is not limited to the following items:

1. Orders to active duty for training.
2. Travel orders for active duty for training.
3. Copies of airline information: itinerary and boarding passes.
4. Travel claim forms.

The plaintiff is further ordered to provide this material to the defendant, through counsel, no latter than seven (7) days prior to commencement of the defendants hearing for, PETITION FOR CIVIL CONTEMPT FOR DISOBEDIENCE OF CUSTODY ORDER, MOTION TO COMPEL, AND PETITION FOR RELEF, scheduled for the _____ day of _____, 2007.

BY THE COURT:

Judge

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

RHONDA L. BRILLA Plaintiff)
vs.) No. 2002-1648-CD
WILLIAM M. BRILLA Defendant)

OPINION AND ORDER

Now this the _____ day, in the month of _____, in the year of our Lord _____, after hearing the evidence in the defendant's PETITION FOR CIVIL CONTEMPT FOR DISOBEDIENCE OF CUSTODY ORDER, MOTION TO COMPEL, AND PETITION FOR RELEF, it is the Opinion and Order of this Court that:

1. Attorney Marshall exceeded his authority as an officer of the Court by advising his client to violate an Order of the Clearfield County Court of Common Pleas. His actions are repugnant to the dignity of this Court, and to the dignity of its Judges.
2. The Plaintiff, Rhonda L. Brilla, is a sound litigant and knew her actions were contemptuous to the Orders of this Court.
3. That these actions, taken together, by counsel for the plaintiff, and the plaintiff herself, represent a conspiratorial relationship against the defendant.
4. That the actions of the plaintiff violate the core tenant of 23 Pa.C.S. Ch 53 §5303.

Which states:

"the court shall consider, among other factors, which parent is more likely to encourage, permit and allow frequent and continuing

contact and physical access between the noncustodial parent and the child."

5. The Court finds on the basis of the evidence presented that the plaintiff willfully violated 23 Pa.C.S. §4346 - *Contempt for noncompliance with visitation or partial custody order*, by failing to comply with the Consent Order of January 24, 2004.
6. The court has previously demonstrated that willful contempt for its Orders will not be tolerated.
7. The defendant brought this matter before the Court in the proper amount of time.
8. The Court Orders the plaintiff sentenced to six (6) months incarceration in the Clearfield County Jail, the minimum period of which shall not be less than thirty (30) days.
9. The plaintiff may secure her release, at the end of thirty (30) days, by payment to the Court, the amount of two hundred and fifty dollars (\$250.00), half of the maximum fine.
10. During her incarceration the plaintiff will comply with all rules, regulations, and orders given by the Clearfield County Jail, its warden, corrections officers, and staff.
11. The plaintiff shall schedule, within fifteen (15) days of this Order, her thirty (30) day period of incarceration at the Clearfield County Jail, and make notice of such to this Court, and the defendant.
12. The plaintiff's period of incarceration shall be completed within sixty (60) days of this Order. .

13. During the plaintiff's thirty (30) day period of incarceration, the defendant shall have physical custody of the children.
14. Not less than fifteen (15) days prior to commencing her period of incarceration, the plaintiff will communicate to the defendant, through counsel, the start date of her incarceration.
15. Not less than three (3) days prior to commencing her period of incarceration, the plaintiff will pay, to the defendant, the amount of six hundred dollars (\$600.00), by money order. This amount represents the plaintiff's approximate *income share*, for Support, for a one (1) month period of time.

See EXHIBIT D, Support Calculation / Recommendation, Page 1, Line 11.

16. The defendant shall be relieved of his monthly support obligation, to the plaintiff, during this period.
17. Should the plaintiff, at any time in the future, be found in contempt of court for willfully violating the present, or any future Custody Order, she will be detained, and immediately transferred to the Clearfield County Jail to serve the remaining period of time covered by this Order, five (5) months. The plaintiff will be able to secure her release, at the end of that time, upon payment to the Court, the remaining portion of the maximum fine: two hundred and fifty dollars (\$250.00).
18. The plaintiff is ordered to pay to the defendant, William M. Brilla, within fifteen (15) days of this Order, one hundred fifty four dollars and seventy five cents (\$154.75), the amount he incurred unnecessarily as a result of the plaintiffs refusal to provide custody. The necessity, and cost of these items are well documented by columns A & B, of defense Exhibit D – Wal-Mart receipt.

19. The plaintiff is ordered to pay, to the defendant, within fifteen (15) days of this Order, attorney fees in the amount of four hundred dollars (\$400.00).
20. At the end of the plaintiffs' period of incarceration, the defendant will return physical custody of the minor children to the plaintiff, unless the issue of custody is subsequently modified by Order of the Court.
21. At the end of the plaintiffs' period of incarceration, the present Support Order will resume, unless the issue of support is subsequently modified by Order of the Court.

BY THE COURT:

Judge Paul E. Cherry

EXHIBIT K

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

Rhonda L. Brilla	Plaintiff	Docket Numbers: CD: 2002-1648-CD SD: 02-00630-SD
v.		
William M. Brilla	Defendant	Case Type: Civil – Answer to New Matter: Petition for Civil Contempt for Disobedience of Custody Order Motion to Compel, and Petition for Relief
		Judge: Paul E. Cherry
		Filed by: Plaintiff, Pro Se
		William M. Brilla 133 Second Street P.O. Box 43 Kylertown, PA 16847 814-345-5454

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

11/2/2007

Attest.

William E. Cherry
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

Rhonda L. Brilla	Plaintiff	Docket Numbers: CD: 2002-1648-CD SD: 02-00630-SD
v.		
William M. Brilla	Defendant	Case Type: Civil – Answer to New Matter: Petition for Civil Contempt for Disobedience of Custody Order Motion to Compel, and Petition for Relief

ANSWER TO NEW MATTER

NOW COMES the petitioner, William M. Brilla, Pro Se, who files this Answer to New Matter, included as part of the respondents answer to the petitioners, Civil Contempt for Disobedience of Custody Order, Motion to Compel, and Petition for Relief, and in support thereof avers as follows:

1. (10.) Denied. The respondent, Rhonda L. Brilla, is accused of a statutory violation, specifically, 23 Pa.C.S.A. §4346 - Contempt for noncompliance with visitation or partial custody order. The statute of limitations for bringing civil actions upon a statute for civil penalty is 2 years, and is set forth in 42 Pa.C.S. §5524 (5). Attorney Marshall attempts to misapply the equitable doctrine of laches to a case governed by a codified statute of limitations. In any event, even if the equitable doctrine of laches were to apply in this case, it would be necessary to prove that Rhonda L. Brilla was in some way

damaged due to the passage of time, and she was unable to prepare an adequate defense. Clearly, this is not the case since she was able to answer all of the petitioner's allegations in his initial pleading, and counter with new issues. The respondent has not met her burden of proof, regarding the equitable doctrine of laches.

2. (11.) Denied. The petitioner has no knowledge regarding the details of confidential discussions between Rhonda L. Brilla, and her counsel, Attorney Marshall.
3. (12.) Denied. The petitioner has no knowledge of when the respondent's Emergency Petition for Custody was drafted, but suspects that it was earlier than September 2, 2005.
4. (13.) Admitted in part, and denied in part. The petitioner admits that a letter dated September 2, 2005, was sent to Marcy Kelly, Deputy Court Administrator. The petitioner has no knowledge of the particulars of the phone conversation between Attorney Marshall and Ms. Kelly. Strict proof demanded at trial.
5. (14.) Denied. The petitioner is unable to form an opinion regarding the employment of Ms. Kelly. Attorney Marshall alleges incompetence on the part of the Clearfield County Court of Common Pleas, by mishandling the respondent's Emergency Petition for Custody, due to the loss of a single court employee. Does Attorney Marshall claim that, due to the loss of a single person, the Clearfield County Court of Common Pleas was unable to function, and have matters properly scheduled? In any event, whatever problems the

respondent may have had with the Clearfield County Court of Common Pleas, it in no way authorized the respondent, or Attorney Marshall, to violate the petitioners right to due process, and deny him custody of the children. Strict proof demanded at trial.

6. (15.) Admitted.
7. (16.) Denied. Again, Attorney Marshall alleges incompetence on the part of the Clearfield County Court of Common Pleas, by mishandling the respondent's Emergency Petition for Custody, due to the loss of a single court employee. In any event, whatever problems the respondent may have had with the Clearfield County Court of Common Pleas, it in no way authorized the respondent, or Attorney Marshall, to violate the petitioners right to due process, and deny him custody of the children. Strict proof demanded at trial.
8. (17.) Admitted. Strict proof demanded at trial, regarding the date and time of the petitioners departure for Hawaii.
9. (18.) Admitted. The petitioner took **legal** custody of the minor children on Monday, September 12, 2005, by service of the couples Consent Order for Custody, on the West Branch Elementary School principle, and the Gethsemane United Methodist Church Daycare director.
10. (19.) Denied. The petitioner has no knowledge of what excuse the petitioner used to abandon her military obligations. **Additionally, the petitioner did not refuse, and was able to obtain proper medical care for the minor child.** Strict proof demanded at trial.

11. (20.) Denied. The minor child was not treated at the Philipsburg Area Hospital after the return of Rhonda L. Brilla. The petitioner presented the child at the Philipsburg Area Hospital emergency room for treatment, on the evening of September 13, 2005. This averment, in the respondents New Matter, is demonstrably false, and the petitioner wishes to invoke the discovery process to obtain the medical records for this event to refute the false claims made by the respondent.
12. (21.) Denied. The minor child was not treated by an ear, nose, and throat specialist, after the return of Rhonda L. Brilla. The petitioner presented the child at the office of the child's pediatrician, Dr. Killian Breck, on the morning of September 14, 2005, following the recommendation of the emergency room doctor. Dr. Breck referred the petitioner to Dr. Jason McChesney, and was able to get an appointment scheduled for that afternoon. Subsequent to the petitioners meeting with Dr. McChesney, the petitioner took the minor child to Centre Community Hospital for immediate antibiotic therapy, as prescribed by the physician. This same procedure, involving Dr. McChesney, was repeated the following day. This averment, in the respondents New Matter, is demonstrably false, and the petitioner wishes to invoke the discovery process to obtain the medical records for this event to refute the false claims made by the respondent. Additionally, the petitioner wishes to produce a witness to this fact, namely Mary Shimmel, of Kylertown, PA, who assisted the petitioner with transportation on these days.

13. (22.) Denied. All of the forgoing events prove that the petitioner was completely capable of arranging and providing both normal, and emergency, care for the minor children, and was in no way dependent on the respondent for assistance.

14. (23.) Denied. The respondent continued her pursuit of the Emergency Petition for Custody, up until the week immediately following the scheduled hearing. The petitioner believes that the withdrawal of the respondent's petition had more to do with the fact that the petitioner did not fail in his parental duties, and suspects that Dr. Killian Breck, and Dr. Jason McChesney, refused to testify against him.

15. (24.) Denied. For the reasons set forth in paragraph 14, and because the petitioner did miss significant amount of time with the minor children. The petitioner obtained legal custody of the children on September 12, 2005, and returned custody to the respondent on, or about, September 15, 2005, after only 3 days of custody. Strict proof demanded at trial regarding the date and time of the respondents return to Pennsylvania.

16. (25.) Denied. The contemptuous actions of the respondent took place 2 years in advance of the equitable distribution opinion and order, and does not absolve the respondent of accountability for her actions.

Wherefore, the petitioner now requests that the process of formal discovery be opened, and that he be allowed a reasonable amount of time to request the aforementioned documents and witnesses, and compel their production by subpoena if

necessary, in support of his petition, and to refute the claims made by the respondent in her Answer and New Matter.

AFFIDAVIT

I verify that the statements made in this Answer to New Matter are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: November 7, 2007

William M. Brilla

William M. Brilla, Pro Se

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

Rhonda L. Brilla	Plaintiff	Docket Numbers: CD: 2002-1648-CD SD: 02-00630-SD
v.		
William M. Brilla	Defendant	Case Type: Civil – Answer to New Matter: Petition for Civil Contempt for Disobedience of Custody Order Motion to Compel, and Petition for Relief

CERTIFICATE OF SERVICE

I, William M. Brilla, acting Pro Se, hereby certify that the foregoing Answer to
New Matter will be served on counsel for the plaintiff on Thursday, November 8, 2007,
via hand delivery, at the Clearfield County Courthouse, immediately prior to the
commencement of the hearing, in courtroom number 3.

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454

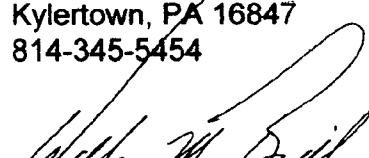

William M. Brilla, Pro Se

EXHIBIT L

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

RHONDA L. BRILLA,

Plaintiff) No. 2002-1648-CD

vs.

) Type of Case: Divorce

WILLIAM M. BRILLA,

Defendant) Withdraw Emergency Custody Petition

) Filed on behalf of: Plaintiff

) Counsel of Record for this Party:

) Brian K. Marshall, Esquire

) I.D. No.: PA87331

) MILLER, KISTLER, CAMPBELL,

) MILLER, WILLIAMS & BENSON, INC.

) 124 N. Allegheny Street

) Bellefonte, PA 16823

) 814-355-5474

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

JUL 31 2007

Attest.

William J. Brilla
Prothonotary/
Clerk of Courts

7/31/2007
m112364
2007
6

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

RHONDA L. BRILLA,)
Plaintiff)
vs.) No. 2002-1648-CD
WILLIAM M. BRILLA,)
Defendant)

PRAECIPE TO WITHDRAW EMERGENCY CUSTODY PETITION

TO THE PROTHONOTARY:

Please withdraw the Emergency Custody Petition filed by Plaintiff Rhonda Brilla
dated September 3, 2005 and filed on or about September 6, 2005.



Brian K. Marshall

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

Counsel for Plaintiff

Dated: 10/3/05

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

RHONDA L. BRILLA,)
Plaintiff)
vs.) No. 2002-1648-CD
WILLIAM M. BRILLA,)
Defendant)

CERTIFICATE OF SERVICE

I, Brian K. Marshall, Esquire, of the law firm of MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, INC., hereby certify that the foregoing Praeclipe to Withdraw Emergency Custody Petition was served this 3rd day of October, 2005 by mailing same first class United States mail, postage prepaid, addressed to:

Stephanie Cooper, Esq.
817 E. Bishop Street
Bellefonte, PA 16823

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


Brian K. Marshall, Esq.

EXHIBIT M

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: CLEARFIELD



PRIVATE
CRIMINAL COMPLAINT

Magisterial District Number:

MDJ Name: Hon.

Address:

Telephone: ()

Docket No.:

Date Filed:

OTN:

(Above to be completed by court personnel)

COMMONWEALTH OF PENNSYLVANIA
VS.

DEFENDANT:

NAME and ADDRESS

Brian K. Marshall, Esq. &

Miller, Kistler, Campbell, Et al.
720 South Atherton Street
State College, PA 16801-4628

(Fill in defendant's name and address)

Notice: Under Pa.R.Crim.P. 506, your complaint may require approval by the attorney for the Commonwealth before it can be accepted by the magisterial district court. If the attorney for the Commonwealth disapproves your complaint, you may petition the court of common pleas for review of the decision of the attorney for the Commonwealth.

Fill in as much information as you have.

Defendant's Race/Ethnicity	Defendant's Sex	Defendant's D.O.B.	Defendant's Social Security Number	Defendant's SID (State Identification Number)
<input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Hispanic <input type="checkbox"/> Unknown	<input type="checkbox"/> Female <input type="checkbox"/> Male			
Defendant's A.K.A. (also known as)	Defendant's Vehicle Information Plate Number	State	Registration Sticker (MM/YY)	Defendant's Driver's License Number State

I, William M. Brilla

(Name of Complainant-Please Print or Type)

do hereby state: (check appropriate box)

WORKS

- I accuse the above named defendant who lives at the address set forth above
- I accuse the defendant whose name is unknown to me but who is described as _____
- I accuse the defendant whose name and popular designation or nickname is unknown to me and whom I have therefore designated as John Doe

with violating the penal laws of the Commonwealth of Pennsylvania at Clearfield County Court of
(Place-Political Subdivision)

Common Pleas

in Clearfield County on or about October 17&18, 2007 & November 8, 2007

Participants were: (if there were participants, place their names here, repeating the name of the above defendant)

Brian K. Marshall

Rhonda L. Brilla

Janet (Morris)

Defendant's Name:
Docket Number:



**PRIVATE
CRIMINAL COMPLAINT**

2. The acts committed by the accused were:

(Set forth a summary of the facts sufficient to advise the defendant of the nature of the offense charged. A citation to the statute allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section and subsection of the statute or ordinance allegedly violated.)

18 Pa.C.S. § 5109. Barratry

18 Pa.C.S. § 4904(a)(1.) & (b.) Unsworn Falsification to Authorities.

18 Pa.C.S. § 903 Criminal Conspiracy.

As set forth, and referenced, in the attached civil pleading, Answer to Preliminary Objections & New Matter, sections III, IV, V, and VI.

All of which were against the peace and dignity of the Commonwealth of Pennsylvania and contrary to the Act of Assembly, or in violation of See above _____ and See above _____
(Section) (Subsection)

of the See above _____
(PA Statute)

3. I ask that process be issued and that the defendant be required to answer the charges I have made.

4. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.

JANUARY 4, 2008

Date

Walt M. Bisch
Signature of Complainant

Signature of Complainant

Office of the Attorney for the Commonwealth Approved Disapproved because: _____

(Name of Attorney for Commonwealth-Please Print or Type)

(Signature of Attorney for Commonwealth)

(Date)

AND NOW, on this date _____, I certify that the complaint has been properly completed and verified.

(Magisterial District)

(Issuing Authority)

SEAL

EXHIBIT N

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Magisterial District Number:

MDJ Name: Hon.

Address:

Telephone: ()

Docket No.:

Date Filed:

OTN:

(Above to be completed by court personnel)

PRIVATE
CRIMINAL COMPLAINT



COMMONWEALTH OF PENNSYLVANIA
VS.

DEFENDANT:

NAME and ADDRESS

Rhonda L. Brilla

90 Second Street
P.O. Box 181
Kylertown, PA 16847-0181

(Fill in defendant's name and address)

Notice: Under Pa.R.Crim.P. 506, your complaint may require approval by the attorney for the Commonwealth before it can be accepted by the magisterial district court. If the attorney for the Commonwealth disapproves your complaint, you may petition the court of common pleas for review of the decision of the attorney for the Commonwealth.

Fill in as much information as you have.

Defendant's Race/Ethnicity	Defendant's Sex	Defendant's D.O.B.	Defendant's Social Security Number	Defendant's SID (State Identification Number)
<input checked="" type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Hispanic <input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> Female <input type="checkbox"/> Male	2/1/64		
Defendant's A.K.A. (also known as)		Defendant's Vehicle Information Plate Number	State	Registration Sticker (MM/YY)
				Defendant's Driver's License Number State

I, William M. Brilla

(Name of Complainant-Please Print or Type)

do hereby state: (check appropriate box)

- I accuse the above named defendant who lives at the address set forth above
- I accuse the defendant whose name is unknown to me but who is described as _____
- I accuse the defendant whose name and popular designation or nickname is unknown to me and whom I have therefore designated as John Doe

with violating the penal laws of the Commonwealth of Pennsylvania at Clearfield County Court of
(Place-Political Subdivision)

Common Pleas

in Clearfield County on or about October 17&18, 2007 & November 8, 2007

Participants were: (if there were participants, place their names here, repeating the name of the above defendant)

Rhonda L. Brilla

Brian K. Marshall

Janet (Morris)

Defendant's Name:
Docket Number:



**PRIVATE
CRIMINAL COMPLAINT**

2. The acts committed by the accused were:

(Set forth a summary of the facts sufficient to advise the defendant of the nature of the offense charged. A citation to the statute allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section and subsection of the statute or ordinance allegedly violated.)

18 Pa.C.S. § 5109. Barratry

18 Pa.C.S. § 4904(a)(1.) & (b.) Unsworn Falsification to Authorities.

18 Pa.C.S. § 903 Criminal Conspiracy.

As set forth, and referenced, in the attached civil pleading, Answer to Preliminary Objections & New Matter, sections III, IV, V, and VI.

All of which were against the peace and dignity of the Commonwealth of Pennsylvania and contrary to the Act of Assembly, or in violation of See above _____ and See above _____
of the See above _____
(PA Statute) _____

3. I ask that process be issued and that the defendant be required to answer the charges I have made.

4. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.

JANUARY 4, 2008
Date

Will M. Driscoll

Signature of Complainant

Office of the Attorney for the Commonwealth Approved Disapproved because: _____

(Name of Attorney for Commonwealth-Please Print or Type)

(Signature of Attorney for Commonwealth)

(Date)

AND NOW, on this date _____, I certify that the complaint has been properly completed and verified.

(Magisterial District)

(Issuing Authority)

SEAL

EXHIBIT O

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

RHONDA L. BRILLA : NO. 02-1648-CD
V. :
WILLIAM M. BRILLA :
:

ORDER

AND NOW, this 10th day of December, 2007, following hearing on the Petition for Civil Contempt for Disobedience of Custody Order filed by the Defendant, William M. Brilla, following the taking of testimony and presentation of issues the issues before this Court and upon consideration of same, the Court is satisfied that the Plaintiff, Rhonda L. Brilla, is in contempt for failing to comply with the provisions in this Court's Order of January 24, 2004. However, the Court shall not impose any sanctions against the Plaintiff at this time.

The Plaintiff, Rhonda L. Brilla and Defendant, William M. Brilla, shall unconditionally follow the Court's Order of January 24, 2004 pending further Order of this Court.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

DEC 10 2007

Attest.

Wesley A. Cherry
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla

Plaintiff

Civil Docket Number:
07-1578-CD

v.

Brian K. Marshall, Esq.

Defendants

Case Type:
Civil – Cause of Action

&

Miller, Kistler, Campbell,

Miller, Et al., Inc.

Pleading Type:
Plaintiff's Answer to the
Defendant's Preliminary
Objections & New Matter

720 South Atherton Street
State College, PA 16801-4628
814-234-1500

Filed by:
Plaintiff, Pro Se

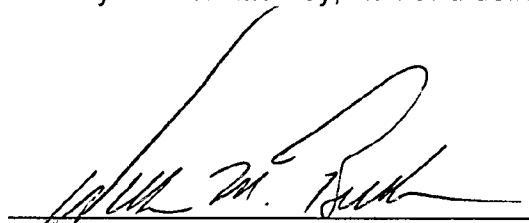
William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454

CERTIFICATE OF SERVICE

I, William M. Brilla, hereby certify that the foregoing Answer to the Defendants Preliminary Objections & New Matter was served this, the 4th day of January 2008, on the following persons, in the manner indicated:

- A. 1 copy: Clearfield County Court of Common Pleas; Office of the Prothonotary, via hand delivery.
- B. 1 copy: Attorney James A. Naddeo, counsel for the defense, via hand delivery.
- C. 1 copy: Rhonda L. Brilla, counsel of record, via First Class Mail
- D. 1 copy: Judge Paul E. Cherry; personal copy, via hand delivery.

E. 1 copy: Clearfield County District Attorney, via hand delivery.



William M. Brilla

William M. Brilla, Pro Se

FILED

JAN 04 2008

William A. Shaw
Probate Court
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla

Plaintiff

Civil Docket Number:
07-1578-CD

v.

Brian K. Marshall, Esq.

Defendants

&
Miller, Kistler, Campbell,
Miller, Et al., Inc.

Case Type:
Civil – Cause of Action

720 South Atherton Street
State College, PA 16801-4628
814-234-1500

Pleading Type:
Praeclipe to Reinstate
Pa.R.C.P., Rule 401(b)(1)
Pa.R.C.P., Rule 401(b)(2)

Hearing Type:
Trial by Jury

Judge:
Paul E. Cherry

Filed by:
Plaintiff, Pro Se

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454

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JAN 04 2008
) Complaint
William A. Shaw
Prothonotary/Clerk of Courts
Reinstated to Plaintiff
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla	Plaintiff	
	v.	Civil Docket Number:
Brian K. Marshall, Esq.	Defendants	07-1578-CD
&		
Miller, Kistler, Campbell,		
Miller, Et al., Inc.		

PRAECIPE TO REINSTATE

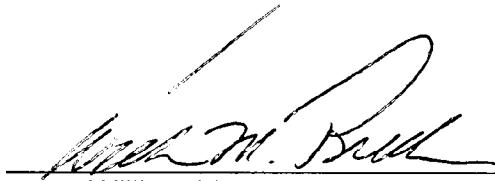
CIVIL COMPLAINT & CLAIM FOR DAMAGES RESULTING FROM NEGLIGENCE & PROFESSIONAL MISCONDUCT

NOW COMES the plaintiff, William M. Brilla, pro se, who, in accordance with Pa.R.C.P. 401(b)(1), files with the Prothonotary, Clearfield County Court of Common Pleas, this Praecept to Reinstate, presents his original process, and avers:

1. Original Process was filed with the Clearfield County Court of Common Pleas, on September 26, 2007.
2. Defendants have objected to the original manner of service, contemplated by Pa.R.C.P., Rule 400.
3. As the defendants have now responded to the complaint filed by the plaintiff, and more than 30 days have elapsed, reinstatement is necessary at this time.
4. In accordance with Pa.R.C.P., Rule 401(b)(2), the plaintiff now names the additional defendant, Rhonda L. Brilla, in the instant matter, so referenced in the plaintiff's Answer to the Defendants Preliminary Objections & New Matter, and incorporated herein.

VERIFCATION

I verify that the statements made in this Praeclipe to Reinstate are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



William M. Brilla

William M. Brilla, Pro Se

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

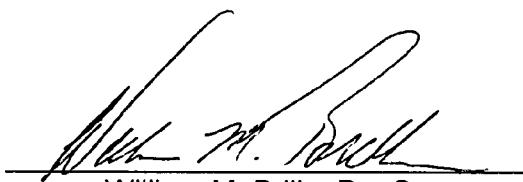
William M. Brilla	Plaintiff	Civil Docket Number: 07-1578-CD
v.		
Brian K. Marshall, Esq. & Miller, Kistler, Campbell, Miller, Et al., Inc.	Defendants	Case Type: Civil – Cause of Action
<hr/> 720 South Atherton Street State College, PA 16801-4628 814-234-1500		Pleading Type: Praeclipe to Reinstate Pa.R.C.P., Rule 401(b)(1) Pa.R.C.P., Rule 401(b)(2)
		Filed by: Plaintiff, Pro Se
		William M. Brilla 133 Second Street P.O. Box 43 Kylertown, PA 16847 814-345-5454

CERTIFICATE OF SERVICE

I, William M. Brilla, hereby certify that the foregoing Praeclipe to Reinstate was served this, the 4th day of January 2008, on the following persons, in the manner indicated:

- A. 1 copy: Clearfield County Court of Common Pleas; Office of the Prothonotary, via hand delivery.
- B. 1 copy: Attorney James A. Naddeo, counsel for the defense, via hand delivery.
- C. 1 copy: Rhonda L. Brilla, counsel of record, via First Class Mail
- D. 1 copy: Judge Paul E. Cherry; personal copy, via hand delivery

E. 1 copy: Clearfield County District Attorney, via hand delivery.



William M. Brilla

William M. Brilla, Pro Se

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

*

*

*

* No. 07-1578-CD

*

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*

*

* Type of Pleading:

*

* **CERTIFICATE OF
SERVICE**

*

* Filed on behalf of:

* Defendants

*

*

* BY:

*

*

* James A. Naddeo, Esq.

* Pa I.D. 06820

* &

* Trudy G. Lumadue, Esq.

* Pa I.D. 202049

*

* NADDEO & LEWIS, LLC.

* 207 E. Market Street

* P.O. Box 552

* Clearfield, PA 16830

* (814) 765-1601

*

*

*

FILED

DEC 06 2007

o 79-506
William A. Shaw
Prothonotary/Clerk of Courts

I CERT TO ATT

27

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

WILLIAM M. BRILLA,
Plaintiff, *
*
v. * No. 07 - 1578 - CD
*
BRIAN K. MARSHALL, ESQ. *
And MILLER, KISTLER, *
CAMPBELL, MILLER ET AL, INC. *
Defendant. *
*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Preliminary Objections was served on the following and in the following manner on the 5th day of December, 2007:

First-Class Mail, Postage Prepaid

William M. Brilla
133 Second Street
PO Box 43
Kylertown, PA 16847

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Defendants

Prothonotary/Clerk of Courts
William A. Shew

DEC 06 2007

FILED

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

* No. 07-1578-CD

* Type of Pleading:

* **PRELIMINARY OBJECTIONS**

* Filed on behalf of:
* Defendants

* BY:

* James A. Naddeo, Esq.
* Pa J.D. 06820
* &
* Trudy G. Lumadue, Esq.
* Pa I.D. 202049

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

Dated: December 4, 2007

* FILED 2cc
01/10/2008 AMY NADDEO
GR

AMY A. NADDEO
COMMERCIAL SECTION
CLEARFIELD COUNTY PROSECUTOR

AMY

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

WILLIAM M. BRILLA,
Plaintiff,

v.

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

*

*

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*

*

No. 07-1578-CD

*

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*

RULE

AND NOW, this 4th day of December, 2007, it is hereby ORDERED that a Rule be granted upon the Plaintiff, William M. Brilla, to show cause why the preliminary objections filed by the Defendants should not be granted.

Rule Returnable and argument thereon to be held the 8th of January, 2008, at 10:00 A.m., in Courtroom 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

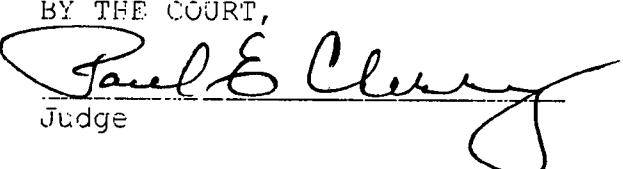
NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION, YOU MUST TAKE ACTION 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
CLEARFIELD, PA 16830
(814) 765-2641, Ext. 5982

BY THE COURT,


Paul E. Cleary
Judge

01/08/08, Attn: Nadeau
2cc
EB

William A. Shaw
Notary/Clerk of Courts

#16

DATE: 12/4/07

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:

FILED
DEC 04 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

WILLIAM M. BRILLA,
Plaintiff,

*

*

v.

*

No. 07-1578-CD

*

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

*

*

*

DEFENDANT'S PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT

NOW COME the Defendants, and by their undersigned attorney, file the following preliminarily objects to Plaintiffs' Complaint pursuant to Pa. R.C.P. 1028 as follows:

**PRELIMINARY OBJECTION LACK OF JURISDICTION
DUE TO IMPROPER SERVICE**

1. On or about October 5, 2007, Plaintiff attempted to initiate this suit by the filing of a Complaint docketed to Civil Docket Number 2007-1578-CD.

2. Plaintiff failed to follow the procedures for service of original process as required by Pennsylvania Rules of Civil Procedure (400, 401, 402 and 405).

3. Proper service pursuant to Rule 401 has not been made to either defendant and 30 days has passed since the filing of the Complaint.

4. Proper service has not been made to either defendant pursuant to Rule 402.

5. That a proper Return of Service has not been filed as required by Rule 405.

6. That thirty days has passed since the filing of the Complaint.

7. That without proper service upon defendants this court lacks personal jurisdiction over defendants.

WHEREFORE, Defendants respectfully requests this Court to grant their preliminary objections by way of dismissal of Plaintiff's Complaint.

NADDEO & LEWIS, LLC

By


James A. Naddeo
Attorney for Defendants

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

WILLIAM M. BRILLA,
Plaintiff,

*

*

*

v.

*

No. 07-1578-CD

*

BRIAN K. MARSHALL, ESQ.
And MILLER, KISTLER,
CAMPBELL, MILLER ET AL, INC.
Defendants.

*

*

*

ORDER

AND NOW, this _____ day of _____, 2007, upon
consideration of the Preliminary Objections filed by Defendants in
the above-captioned case and upon examination of the record
pleadings filed in this case, the Court being satisfied that the
objections filed by Defendant are confirmed in the record
pleadings. Plaintiff has failed to properly serve Defendants in
this case, Defendants' Preliminary Objections are hereby GRANTED
and it is the ORDER of this Court that Plaintiff's Complaint is
hereby dismissed as to both defendants.

BY THE COURT,

Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla	Plaintiff	Civil Docket Number: 07-1578-CD
v.		Case Type: Civil – Cause of Action
Brian K. Marshall, Esq.	Defendants	Pleading Type: Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct
Miller, Kistler, Campbell, Miller, Et al., Inc.		Filed by: Plaintiff, Pro Se
<hr/> 720 South Atherton Street State College, PA 16801-4628 814-234-1500		William M. Brilla 133 Second Street P.O. Box 43 Kylertown, PA 16847 814-345-5454

AMENDED CERTIFICATE OF SERVICE

I, William M. Brilla, acting Pro Se, hereby certify that the above captioned Civil
Complaint & Claim For Damages Resulting From Negligence & Professional
Misconduct was served this the 11th day of October, 2007 by mailing the same by U.S.-
Postal Service, First Class Mail, postage prepaid, and addressed to:

Miller, Kistler, Campbell, Miller, Et al., Inc.
720 South Atherton Street
State College, PA 16801-4628

The plaintiff further avers:

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m 11/07/07
OCT 15 2007
WM

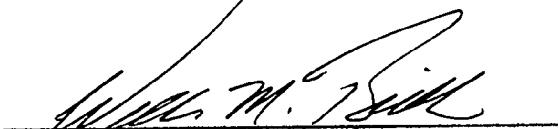
William A. Shaw
Prothonotary/Clerk of Courts

AKS

1. Mailing of the original complaint was delayed, due to a docketing violation of Pa.R.C.P. Rule 240 (c)(1)(i), by the prothonotary of the Clearfield County Court of Common Pleas. (See Exhibit A & B)

2. Additional delay resulted from Judge Paul E. Cherry's alleged requirement that a new IFP order was necessary to precede in this matter. (See Exhibit C & D)

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454



William M. Brilla, Pro Se

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla Plaintiff
v.
Brian K. Marshall, Esq. Defendants
&
Miller, Kistler, Campbell,
Miller, Et al., Inc.

Civil Docket Number:

2007-1578-C0

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

SEP 26 2007

Attest.

John A. Marshall
Prothonotary
Clerk of Court

PRAECLPTE TO PROCEED IN FORMA PAUPERIS

AND NOW, this the 26 day of September 2007, the plaintiff requests that he be allowed to proceed In Forma Pauperis, in the above captioned matter, in support thereof avers:

1. A previous IFP order was granted by Judge Paul E. Cherry, on or about December 4, 2006, in the matter of Brilla v. Brilla.
2. The plaintiff financial circumstances have not changed since that time.
3. This praecipe is being filed simultaneously with the plaintiff's Civil Complaint & Claim For damages Resulting From Negligence & Professional Misconduct, as provided for in Pa.R.C.P., Rule 240 (c)(1)(i), which states:

If the petition is filed simultaneously with the commencement of the action or with the taking of the appeal, the prothonotary shall docket the action and the petition or shall accept the appeal and petition without the payment of any filing fee.

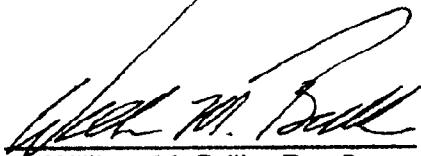
4. The plaintiff disputes the need to file this new praecipe, but has been compelled to do so at the insistence of the Office of the Prothonotary, Clearfield County Court of Common Pleas, which has refused to honor the

EXHIBIT A

plaintiffs previous IFP order, in clear violation of Pa.R.C.P., Rule 240 (f)(1), which states:

A party permitted to proceed in forma pauperis shall not be required to pay any cost or fee imposed or authorized by Act of Assembly or general rule which is payable to any court or prothonotary or any public officer or employee.

5. I verify that the statements made in this Praeclipe to Proceed In Forma Pauperis are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. 4904, relating to unsworn falsification to authorities.



William M. Brilla

William M. Brilla, Pro Se

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla Plaintiff

v.

Brian K. Marshall, Esq. Defendants
&
Miller, Kistler, Campbell,
Miller, Et al., Inc.

Civil Docket Number:

2007-1578-CR

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. 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.

PA LAWYER REFERAL SERVICE

100 S STREET
P.O. BOX 186
HARRISBURG, PA 17108-0186-86
(800) 692-7375

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

OCT 05 2007

Attest.

William M. Brilla
Prothonotary

EXHIBIT B



JUDGE'S CHAMBERS
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA
CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

FREDRIC J. AMMERMAN
PRESIDENT JUDGE

PAUL E. CHERRY
JUDGE

JOHN K. REILLY, JR.
SENIOR JUDGE

September 27, 2007

William Brilla
P.O. Box 43
133 Second Street
Kylertown, Pennsylvania 16847

RE: William M. Brilla v. Brian K. Marshall & Miller, Kistler, Campbell,
Miller, Et al., Inc.
NO. 07-1578-CD

Dear Mr. Brilla:

It has been brought to this Court's attention that you have filed a Praeclipe to Proceed in Forma Pauperis in regard to the above captioned number.

Please be advised that since you have initiated a new case with new parties involved, you must therefore file an entirely new Petition to Proceed in Forma Pauperis. You can not rely on the previous IFP Order entered in the matter of Brilla v. Brilla.

I trust you will file the appropriate Petition in this matter so this matter may proceed accordingly.

Very truly yours,


PAUL E. CHERRY,
JUDGE

PEC/dmp

EXHIBIT C

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

WILLIAM M. BRILLA	:	NO. 07-1578-CD
	:	
V.	:	
	:	
BRIAN K. MARSHALL, ESQ.	:	
&	:	
MILLER, KISTLER, CAMPBELL,	:	
MILLER, Et al., Inc.	:	

ORDER

NOW this 5th day of October, 2007, upon consideration of the Praeclipe to Proceed in Forma Pauperis, filed by William M. Brilla, Pro-Se, it is hereby the Order of this Court that the Praeclipe shall be and is hereby GRANTED and that he shall be allowed to proceed In Forma Pauperis.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

OCT 05 2007

Attest.

William E. Cherry
Prothonotary/
Clerk of Courts

EXHIBIT D

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

WILLIAM M. BRILLA : NO. 07-1578-CD
V. :
BRIAN K. MARSHALL, ESQ. :
& :
MILLER, KISTLER, CAMPBELL, :
MILLER, Et al., Inc. :
:

ORDER

NOW this 5th day of October, 2007, upon consideration of the Praeclipe to Proceed in Forma Pauperis, filed by William M. Brilla, Pro-Se, it is hereby the Order of this Court that the Praeclipe shall be and is hereby GRANTED and that he shall be allowed to proceed In Forma Pauperis.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

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OCT 05 2007
GR
William A. Shaw
Prothonotary/Clerk of Courts

44

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla Plaintiff

v.

Brian K. Marshall, Esq. Defendants
&
Miller, Kistler, Campbell,
Miller, Et al., Inc.

Civil Docket Number:

2007-1578-C

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. 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.

PA LAWYER REFERAL SERVICE

100 S STREET
P.O. BOX 186
HARRISBURG, PA 17108-0186-86

(800) 692-7375

1-4-2008 Document
Reinstated/Reissued to Sheriff/Attorney Piff
for service.


Deputy Prothonotary

FILED
OCT 05 2007
Piff
cc
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William A. Shaw
Prothonotary/Clerk of Courts

#3

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla

Plaintiff

v.

Brian K. Marshall, Esq.

&

Miller, Kistler, Campbell,
Miller, Et al., Inc.

720 South Atherton Street
State College, PA 16801-4628
814-234-1500

Civil Docket Number:

Case Type:

Civil – Cause of Action

Pleading Type:

Civil Complaint & Claim For Damages
Resulting From Negligence &
Professional Misconduct

Hearing Type:

Trial by Jury

Judge:

Filed by:

Plaintiff, Pro Se

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847
814-345-5454

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla	Plaintiff	
	v.	Civil Docket Number:
Brian K. Marshall, Esq.	Defendants	_____
&		
Miller, Kistler, Campbell,		
Miller, Et al., Inc.		

CIVIL COMPLAINT & CLAIM FOR DAMAGES RESULTING FROM NEGLIGENCE & PROFESSIONAL MISCONDUCT

I. PRELIMINARY STATEMENT

1. AND NOW, this the 26 day of September 2007, the plaintiff institutes this complaint and claim for compensatory damages, punitive damages, and the costs of bringing this action, due to the outrageous, negligent, and professional acts of misconduct, committed by the defendants.

II. PROCEDURAL CONSIDERATIONS

2. It is the intention of the plaintiff that this action be determined by Jury trial.

3. The plaintiff respectfully requests that the Honorable Court serve notice of any procedural or structural deficiencies of this pleading, and order the plaintiff to, within reasonable time, correct said deficiencies, to preserve his right to trial by Jury.

4. That the Honorable Court serve notice on the plaintiff of additional matters required for Jury trial, such as motions, discovery, and other

proper considerations, and order the plaintiff to attend hearings, or comply with other requirements, to preserve his right to trial by Jury.

III. PARTIES TO THIS ACTION

5. The plaintiff, William M. Brilla, currently resides at:

133 Second Street
Kylertown, PA 16847

6. The primary defendant, Brian K. Marshall, Esq., is an attorney representing the plaintiff's ex-wife, and is employed by the domestic corporation:

Miller, Kistler, Campbell, Miller, Williams, & Benson, Inc.
720 South Atherton Street
State College, PA 16801-4628

Hereby named as the secondary defendant in this action.

IV. ADDITIONAL PARTIES MENTIONED IN THIS ACTION

7. The plaintiff's ex-wife, Rhonda L. Brilla, currently resides at:

90 Second Street
Kylertown, PA 16847

8. The plaintiff's former counsel, Stephanie L. Cooper, operates a law practice at:

817 East Bishop Street
Bellefonte, PA 16823

V. EXHIBIT LISTING

9. Exhibit A: Petition for Modification of Support

On behalf of: Rhonda L. Brilla
Submitted to Court by: Herself
Filed by Court: September 2, 2005

10. Exhibit B: Emergency Petition for Custody and Scheduling Order

On behalf of: Rhonda L. Brilla
Submitted to Court by: Her counsel
Via: First Class Mail, September 2, 2005
Filed by Court: September 6, 2005

11. Exhibit C: Correspondence directed to, Prothonotary, Clearfield County Court of Common Pleas

On behalf of: Rhonda L. Brilla
Submitted to Court by: Her counsel
Via: First Class Mail, September 2, 2005

12. Exhibit D: Correspondence directed to, Court Administrator, Clearfield County Court of Common Pleas

On behalf of: Rhonda L. Brilla
Submitted to Court by: Her counsel
Via: First Class Mail, September 2, 2005

13. Exhibit E: Consent Order for Custody

On behalf of: William M. Brilla & Rhonda L. Brilla
Approved by the Court: January 24, 2004

14. Exhibit F: Correspondence directed to William M. Brilla

Submitted by: His counsel
Via: First Class Mail, September 8, 2005

15. Exhibit G: Petition for Modification of Support

On behalf of: William M. Brilla
Submitted to Court by: Himself
Filed by Court: September 9, 2005

16. Exhibit H: Motion to Continue; Hearing on Emergency Petition for Custody

On behalf of: William M. Brilla
Submitted to Court by: Himself
Filed by Court: September 9, 2005

17. Exhibit I: Fax communication from the defendants to law enforcement officials

On behalf of: Rhonda L. Brilla
Faxied on: September 9, 2005
Faxied to: Pennsylvania State Police, Woodland Barracks
Morris - Cooper Township Regional Police

18. Exhibit J: Photo panel of children playing with puppy

19. Exhibit K: Scheduling Order

On behalf of: Rhonda L. Brilla
Approved by: Judge Paul E. Cherry, September 13, 2005
Filed by Court: September 14, 2005

20. Exhibit L: Correspondence between the defendants and counsel for the plaintiff

On behalf of: Rhonda L. Brilla
Submitted to Stephanie L. Cooper by: Attorney Marshall
Via: First Class Mail, September 16, 2005

21. Exhibit M: Fax from plaintiff to his counsel

On behalf of: Himself
Faxied on: September 27, 2005

22. Exhibit N: Order allowing telephone testimony form Dr. Breck and Dr. McChesney

On behalf of: Rhonda L. Brilla
Submitted to Court by: Her counsel
Approved by: Judge Paul E. Cherry, September 26, 2005
Filed by Court: September 28, 2005

23. Exhibit O: Correspondence between the defendants and counsel for the plaintiff

On behalf of: Rhonda L. Brilla
Submitted to Stephanie L. Cooper by: Attorney Marshall
Via: First Class Mail, September 29, 2005

24. Exhibit P: Praecipe to Withdraw Emergency Petition for Custody

On behalf of: Rhonda L. Brilla
Submitted to Court by: Her counsel
Approved by: Judge Paul E. Cherry, October 4, 2005
Filed by Court: October 4, 2005

25. Exhibit Q: Court Docketing, Brilla v. Brilla, 2002-01648-CD

26. Exhibit R: WAL*MART receipt panel, September 12, 2005

VI. FACTUAL ALLEGATIONS

27. The plaintiff's mother passed away on July 21, 2005.

28. The plaintiff received a small inheritance, at his mothers passing, in the amount of approximately \$25,000.00.

29. The defendants, on behalf of their client, developed a two front plan, over the course of August 2005. This plan was designed to damage, discredit, and harass the plaintiff, during his period of mourning.

30. On the first front, the defendants sought to include the plaintiff's inheritance as income, in order to increase his child support obligation.

31. On the second front, the defendants sought to deny the plaintiff custody of his children, and in so doing, committed acts of reprehensible, and outrageous, misconduct, that are the subject of this complaint.

32. On September 2, 2005, it is believed the plaintiff's ex-wife transmitted, via hand delivery, a Request for Modification of Support, to the Clearfield County Domestic Relations Section. See: (Exhibit A).

33. On September 2, 2005, the defendants transmitted, via First Class Mail, an Emergency Petition for Custody to: the Clearfield County Court of Common Pleas; and also to; counsel for the plaintiff. See: (Exhibits B, C, & D).

34. The Emergency Petition for Custody sought to alter certain provisions of the Consent Order for Custody agreed to by the plaintiff, and his ex-wife,

regarding her annual active duty service with the U.S. Naval Reserves.

See: (Exhibit E – paragraph 5)

35. The plaintiff's ex-wife did not seek to retain custody for herself, in the Emergency Petition for Custody, but to have custody of the children removed from the plaintiff, and transferred to her eldest son, from a previous marriage, during her absence.
36. The plaintiff was notified, about these filings, by his counsel, per telephone conversation, and via First Class Mail, on September 8, 2005. See: (Exhibit F).
37. The plaintiff was further notified, during that telephone conversation, the Emergency Petition for Custody was to be heard on September 13, 2005, and, as counsel, she would be unavailable to deal with these issues, until after September 14, 2005, due to a "pre-planned" vacation, a fact of which she had now made the defendants aware.
38. Unavailability of counsel forced the plaintiff to fend for himself. This situation resulted in the plaintiff filing, with the Court, on his own behalf, on the morning of September 9, 2005: his own Petition to Modify Support; and also a Motion to Continue, the Emergency Petition for Custody hearing, scheduled for September 13, 2005. See: (Exhibits G & H).
39. The Scheduling Order, supplied by the defendants, and attached to the Emergency Petition for Custody, now part of the Court record, never officially became an Order of the Court.

40. The plaintiff has no knowledge of what person supplied the September 13, 2005 date on the Scheduling Order, and has no knowledge of the reason the Order was never approved by the Court.
41. Failure of the defendants to bring the Emergency Petition for Custody, for hearing, before the Court, prior to their client's departure for active duty, on or about September 10, 2005, left the original, Consent Order for Custody, in full force, and effect.
42. On the afternoon of September 9, 2005, the plaintiff notified his ex-wife, per telephone conversation, of the filings he made, that morning, with the Court.
43. The plaintiff further advised his ex-wife, that since her allegations, in the Emergency Petition for Custody, remained unheard before the Court, he was requesting compliance, from her, regarding the Consent Order for Custody, agreed to by themselves, and **approved** by the Court.
44. The plaintiff's ex-wife informed him, the defendants advised her not to transfer custody to him, and that if he had any further questions, he should contact them directly.
45. The plaintiff immediately attempted to contact the defendants, in order to verify the validity of his ex-wife's claims, and also to request they recommend obedience of, and compliance with, Orders of the Court.
46. The plaintiff had two conversations with a secretary, employed by the defendants, that afternoon.

47. The plaintiff's initial request to speak with Attorney Marshall was denied by the defendants' secretary, due to the fact the plaintiff was represented by counsel.
48. The plaintiff refused to entertain the excuse provided by the secretary, since by that time, the defendants were well aware of his lack of counsel, as it related to these time critical matters.
49. The plaintiff demanded accountability from the defendants, regarding the impending course of action contemplated by their client, and their **obligation**, as Officers of the Court, to advise her to comply with Orders of the Court.
50. The plaintiff was assured by the secretary, she would relay his demand to the defendants, but not to expect any further contact from them in this matter.
51. Shortly thereafter, the plaintiff was contacted a second time, by the defendants' secretary. The secretary explained that the plaintiff's demand for accountability had been relayed to the defendants, and that they had rejected his demand to properly counsel their client, regarding her intended course of action, and compliance with Orders of the Court.
52. The plaintiff warned the secretary that the inaction of the defendants was a **negligent breech of duty**, and that he might seek the assistance of law enforcement to assist him in obtaining custody of the children in accordance with the Consent Order for Custody.

53. It was this warning, by the plaintiff, that generated the fax communication between the defendants, and local law enforcement officials. See: (Exhibit I).
54. In this fax, the defendants sought to discredit the plaintiff in the eyes of law enforcement officials. Also in this fax, the defendants acknowledge their failure to have the Emergency Petition for Custody properly heard before the Court, prior to their clients departure for active duty. Additionally, the defendants affirm that a valid Consent Order for Custody was in place, and that they advised their client to abrogate, and violate, that Order of the Court.
55. The plaintiff's ex-wife departed for active duty, on or about September 10, 2005, without transferring custody to the plaintiff, in contemptuous disregard of the Consent Order for Custody.
56. The actions of the defendants, and those of his ex-wife, caused the plaintiff an immeasurable amount of emotional distress, and unnecessary turmoil, in obtaining custody of his children through legitimate means.
57. The plaintiff's ex-wife, after her departure, entrusted custody of the children to her eldest son by previous marriage.
58. The plaintiff took no action during the weekend of September 10 & 11, 2005, by trying to obtain custody of the children from the eldest son of his ex-wife. The plaintiff believed, due to past experience and current contention, any attempt to obtain custody in this manner would result in

failure, and in all likelihood escalate into a domestic disturbance, further exacerbating the situation, and damaging his legitimate claim of custody.

59. The plaintiff instead chose to serve the West Branch Area Elementary School, and Gethsemane United Methodist Church Daycare, with Court certified copies of the Consent Order for Custody, on the morning of September 12, 2005. The plaintiff requested compliance with the Consent Order, and provided the parties with all of the necessary information to validate his claim to custody.
60. The plaintiff, having met his burden of proof in the eyes of the West Branch Area Elementary School, and Gethsemane United Methodist Daycare, obtained custody of his children on the afternoon of September 12, 2005.
61. On the evening of September 12, 2005, after obtaining custody of the children, an unfortunate incident occurred. While playing with a six-month-old German Shepard puppy, owned by the plaintiff, the minor child William Daniel Gray Brilla, was injured. One of the puppy's teeth nicked the child on the ear resulting in slight bleeding. Using home remedy methods, the plaintiff cleaned the child's ear with hydrogen peroxide, and applied triple antibiotic. The incident was an accident, and did not indicate any vicious inclinations by the animal in question. See: (Exhibit J).
62. On the morning of September 13, 2005 the child's ear appeared to be fine, however that evening his ear was swollen and red, indicating infection.

63. The child was taken to the Phillipsburg Area Hospital, emergency room, where he was treated with antibiotics. The attending physician recommended attention by the child's pediatrician, as soon as possible.
64. The following morning, the plaintiff was able to obtain an appointment with Dr. Killian Breck, the child's pediatrician. Dr. Breck was concerned that the emergency room treatment of the previous evening seemed to be ineffective, but he did not treat the child during this visit. He instead referred the plaintiff to Dr. Jason McChesney, a specialist with the Geisinger Medical Group, located in State College. Dr. Breck assisted the plaintiff in obtaining an appointment with Dr. McChesney for that afternoon.
65. Dr. McChesney saw the child and was also deeply concerned about the persistent infection, and scheduled immediate I.V. antibiotic therapy at Centre Community Hospital, and also a follow up visit with himself the next day.
66. At the follow up visit Dr. McChesney felt that the child's infection was responding to the I.V. antibiotic therapy, but slower than he would like. He then scheduled a second treatment of I.V. therapy, at Centre Community Hospital, for that afternoon.
67. The plaintiff followed all of the doctors' recommendations and the child's infection subsided after treatment.
68. On September 13, 2005, the Court finally acted on the Emergency Petition for Custody, filed by the defendants. Judge Paul E. Cherry signed a

Scheduling Order setting the hearing date for the matter on October 5, 2005. See (Exhibit K).

69. This action by the Court, as view by the plaintiff, seemed a bit too "coincidental"; since it was on this date that the hearing was, as reported to him, originally supposed to take place. The Order, effectively gave the defendants another three weeks to attempt to build their case against him, regarding the Emergency Petition for Custody.
70. Had the hearing on the Emergency Petition for Custody been conducted on September 13, 2005, the plaintiff would have been able to provide definitive proof that the defendants' pleading lacked merit in the majority of its allegations. This proof is in the form of WAL*MART receipts dated September 12, 2005. See (Exhibit R).
71. Exhibit R refutes the claims made in the Emergency Petition for Custody in the following ways:
 - a. It shows the plaintiff was able to arrange timely and suitable transportation for himself and the children.
 - b. It shows that the plaintiff was completely able to satisfy the children's needs with regard to safety, necessities, and sustenance.
 - c. It shows that the plaintiff had no averment to supporting his children in a responsible manner.

72. On or about September 16, 2005, the plaintiff's ex-wife was apparently excused from her military obligation for emergency reasons, and returned home.
73. The plaintiff returned custody of the children to her without question, per the standing Consent Order for Custody.
74. On September 16, 2005, the defendants mailed a second notice regarding the Emergency Petition for Custody, to the plaintiff's counsel. This notice included the Court approved Scheduling Order, for the Emergency Petition for Custody, setting the hearing date as October 5, 2005. See (Exhibit L).
75. The plaintiff's counsel forwarded copies to him, and included a copy of the defendants' fax to law enforcement officials.
76. The plaintiff received this documentation on, or about, September 20, 2005. This was the first knowledge the plaintiff had of the fax the defendants maliciously circulated against him. The fax clearly documents the defendants' admission of culpability, misconduct, and the active role they played in subverting the will of the Court.
77. The plaintiff attempted to contact his counsel, by telephone, about this additional grievance, and was told once again, by counsel's secretary, that she was on a "pre-planned" vacation.
78. On September 27, 2005 the plaintiff faxed his counsel a list of matters he wanted her to pursue immediately, upon return from "vacation". See (Exhibit M).

79. After receiving the fax, counsel advised the plaintiff, per telephone conversation, that she would not initiate any disciplinary complaint against attorney Marshall. Counsel explained that her professional relationship with him would suffer, and that he was merely a client, but attorney Marshall was a colleague that she would need to deal with, long after the matter of *Brilla v. Brilla* had ended.
80. In the weeks prior to the hearing on the Emergency Petition for Custody, the defendants sought to include testimony from Dr. Breck and Dr. McChesney, by telephone, at the hearing. Judge Cherry signed an order of the Court, on September 26, 2005, allowing the defendants to present this telephone testimony. See (Exhibit N).
81. The actions by the defendants further illustrate their malicious intent with regard to the plaintiff. The only possible conclusion that can be drawn from this legal maneuver is that they intended to accuse the plaintiff of negligent behavior, with respect to the care of his son, during the period the boy was in his custody.
82. The defendants served notice of the Order for Telephone Testimony on the plaintiff, through counsel, by mail, on September 29, 2005. See (Exhibit O).
83. The plaintiff logically surmises the doctors subsequently refused to testify against him. This forced the defendants to withdraw their Emergency Petition for Custody, by Praecipe, on October 3, 2005, due to the fact that the original allegations in the petition were groundless, and were nothing

more than hostile lies, concocted by the defendants, and their client, in an attempt to deny the plaintiff custody of his children, during a time of great personal loss.

84. The defendants' Praeclipe was granted on October 3, 2005, closing the matter of the Emergency Petition for Custody before the Court. See: (Exhibit P).

VII. TOLLING THE STATUTE OF LIMITATIONS

85. The statute of limitations for legal misconduct in Pennsylvania is 2 years, set forth in:

42 Pa. C.S.A. § 5524 (7)

§ 5524. Two year limitation

The following actions and proceedings must be commenced within two years:

7. *Any other action or proceeding to recover damages for injury to person or property which is founded on negligent, intentional, or otherwise tortious conduct or any other action or proceeding sounding in trespass, including deceit or fraud, except an action or proceeding subject of another limitation, specified in this subchapter.*

86. The discovery rule is a judicially created exception that exists to extend the statute of limitations, until the plaintiff knows or reasonably should know that:

1. He has sustained an injury
2. His injury has been caused by another party's conduct.

Weik v. Estate of Brown, 794 A.2d 907, 909 (Pa.

Super. 2002).

87. The tolling period, for the discovery rule, starts to run when the injured party "*possess[es] sufficient critical facts to put him on notice that a wrong has been committed and that he need investigate to determine whether he is entitled to redress.*"

C.J.M. v. Archdiocese of Phila., *supra* at 482 (quoting

Haggart v. Cho, 703 A.2d 522, 526 (Pa. Super. 1997).

88. Ordinarily a jury must decide whether the discovery rule applies, since it involves a factual determination as to whether the plaintiff exercised reasonable diligence in discovering the cause of the injury.

89. The discovery rule applies in this action for the following reasons:

- a. Counsel for the plaintiff did not provide him with a copy of the defendants' fax to law enforcement officials until, on or about, September 20, 2005.
- b. The plaintiff has demonstrated, by communication with counsel, it took until September 27, 2005, for him to gather sufficient knowledge of the acts committed against him, and to determine that he was entitled to redress. See (Exhibit M).
- c. The plaintiff's fax is definitive proof regarding the tolling period, and conforms to the standard established in C.J.M. v. Archdiocese of Phila. and Haggart v. Cho.

90. The plaintiff therefore believes, for the reasons set forth above, that he has met his burden of proof regarding tolling of the statute of limitations, and he has filed this action in a timely manner.

VIII. CAUSE OF ACTION – Negligence and Professional Misconduct

91. The defendants are part of a privileged class of people. As such they are governed by a code of conduct set forth in, 204 Pa. C.S.A. §81.1, which states, in its entirety:

§ 81.1 Preamble: A Lawyer's Responsibilities.

- (1) ***A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having a special responsibility for the quality of justice.***
- (2) ***As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.***
- (3) ***In addition to these representational functions, a lawyer may serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these Rules apply directly to lawyers who are or have served as third-party neutrals. See, e.g., Rules 1.12 and 2.4. In addition, there are Rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. See Rule 8.4.***

(4) ***In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law.***

(5) ***A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.***

(6) ***As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.***

(7) ***Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the***

approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.

- (8) **A lawyer's responsibilities as a representative of clients, an officer of the legal system and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.**
- (9) **In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.**
- (10) **The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts.**
- (11) **To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal**

profession's independence from government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

- (12) *The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar. Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.*
- (13) *Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship.*

(ALL EMPHISIS BY PLAINTIFF)

92. It should be evident to any reasonable mind that by their actions, the defendants abandoned the majority of their statutory obligations, with regard to their profession responsibilities. Specifically, the defendants failed to uphold their statutory obligations, uphold the legal process, and damaged the plaintiff, and others, in the following ways:

- a. As officers of the legal system, the defendants failed in their special responsibility to ensure the plaintiff received quality of justice. The defendants deliberately sought to undermine the quality of justice the plaintiff was entitled to by authoring, and sending the fax to law enforcement officials. The content, and tone, of the fax was a deliberate attempt to discredit the plaintiff in the eyes of law enforcement in the hope that they would deny him service if it was requested.

- b. As advisors, the defendants failed to provide their client with an informed understanding of the client's legal rights and obligations, and did not explain their practical implications. Since the Emergency Petition for Custody was not heard by the court prior to their client's departure for military service, the defendants had an obligation to advise their client to adhere to the Consent Order for Custody. They also had an obligation to advise their client, that failure to provide the plaintiff with custody, would place her in Contempt of Court, and violate the plaintiff's right to due process.
- c. As negotiators, the defendants failed in their requirement to honestly deal with the plaintiff causing direct damage, emotional distress, and unnecessary legal turmoil for the plaintiff. This is evident to any reasonable mind.
- d. The defendants' actions did not conform to the requirements of law causing direct damage, emotional distress, and unnecessary legal turmoil for the plaintiff. This is evident to any reasonable mind.
- e. The defendants used the legal system to harass and intimidate the plaintiff. The plaintiff believes that the Emergency Petition for Custody was a meritless legal maneuver designed to deny him custody of his children, and points to the following as his basis for that conclusion.
 - i. The Emergency Petition for Custody was *mailed* to the Court on September 2, 2005.
 - ii. Due to the transit time of First Class Mail, and the intervening Labor Day weekend, the Court did not receive, or file, the petition until September 6, 2005.
 - iii. With attorney Marshall being unavailable on the afternoon of September 8, 2005, and because of attorney Cooper's policy not to conduct business on Fridays, this left only one and a half Court business days to hear the matter, prior to the departure of the plaintiff's ex-wife for military service. For an alleged emergency matter, this can hardly be considered a timely filing. The plaintiff questions why the defendants waited until the very last minute to *mail* their petition to the Court for consideration.

- iv. The plaintiff believes that, in reality, the defendants had no intention of having the matter heard, by the court, prior to their clients departure. Their procrastination in preparing and transmitting the Emergency Petition for Custody to the Court practically insured them that the matter would **not** be heard until after the departure of their client.
- v. The defendant believes this was a carefully lain trap, conceived for the purpose of goading the plaintiff into a course of action that would result in a domestic disturbance during the weekend of September 10 & 11, 2005, in the plaintiff's effort to obtain custody of the his children. The statements contained in the fax, and the very fact that it exists at all, certainly go a long way in supporting this belief.
- vi. The plaintiff also believes that his own attorney was complicit in this matter, and aided the defendants by conveniently and unexpectedly being unavailable, until after September 13, 2005, the date the hearing was originally supposed to take place. Subsequent discussions between the plaintiff and his counsel, helps confirm this suspicion, since she informed him maintaining her professional relationship with attorney Marshall was more important to her than defending his interests as a client.
- vii. With counsel unavailable, his ex-wife also unavailable and refusing to relinquish custody, and the refusal of the defendants to properly counsel their client, the plaintiff believes the defendants took a calculated gamble that he would engage in a course of action that would result in him trying to forcibly gain custody of the children, and would in all likelihood result in his arrest and incarceration. Had this goal been achieved the hearing that was supposed to occur on September 13, 2005, would have turned into an ex-parte matter in which the Emergency Petition for Custody would have been granted, and the plaintiff actions would have been used as additional evidence as to why he should be denied custody.
- viii. The plaintiff, however, failed to succumb to the evil machinations of the defendants, and was able to obtain custody of his children by legitimate means.

- ix. The plaintiff draws attention to the date of September 13, 2005, and its appearance in the court docket. The Emergency Petition for Custody and attached Scheduling Order, contained in the Court Record, was slated for hearing on this date. That Scheduling Order was never approved or filed by the Court. The Court did however take action on the Emergency Petition for Custody on this date. Judge Cherry approved a Court generated Scheduling Order, setting the hearing date as October 5, 2005. On first impression it would appear that this was the first action the court took in scheduling the matter. However, on September 23, 2005, the court docket makes reference to a Petition for Amended Scheduling Order, supposedly filed by the defendants, and entered by the Court on September 14, 2005. To the best of the plaintiff's knowledge this document does not exist in the Court record. It would appear that the defendants were given extreme latitude, by the Court, regarding their Emergency Petition for Custody, and had the option of proceeding with the hearing on September 13, 2005, or requesting additional time to build their case against the plaintiff. See (Exhibit Q).
- x. In the end it appears that the Court chose to allow the defendants additional time to build their case, since the plaintiff failed to fall into the trap, as the defendants hoped he would. The defendants took advantage of the extra time by trying to obtain the telephone testimony of Dr. Breck, and Dr. McChesney.
- xi. This vendetta against the plaintiff continued until at least September 29, 2005. See (Exhibit O).
- xii. After failing to receive the cooperation of the doctors, the defendants were left with no other option except to withdraw the Emergency Petition for Custody, and end their month long harassment of the plaintiff. See (Exhibit P).

f. The defendants demonstrated complete and utter contempt for the legal system and for those who serve it, including judges, other lawyers and public officials. Specifically:

Judge Cherry, who approved the Consent Order for Custody; Stephanie Cooper, who represented the plaintiff; and the officers of the Pennsylvania State Police, and Morris – Cooper Township Regional Police, whom they attempted to influence by their actions.

- g. The defendants failed to uphold the legal process causing direct damage, emotional distress, and unnecessary legal turmoil for the plaintiff. This is evident to any reasonable mind.
- h. The actions of the defendants did nothing to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service. It is exactly this type of callous arrogance, and misconduct, which has given rise to the negative view the public has of lawyers, and the legal profession.
- i. The defendants demonstrated a complete lack of professional and moral judgment, and their conduct toward the plaintiff is reprehensible.
- j. The defendants exceeded the bounds of law with the advice they provided to their client causing direct damage, emotional distress, and unnecessary legal turmoil for the plaintiff. This is evident to any reasonable mind.
- k. The defendants failed to maintain a professional, courteous and civil attitude toward the plaintiff as a person involved in the legal system. The defendants did everything in their means to discredit the plaintiff, and deny him his right to due process.
- l. The defendants failed in their responsibility of self-government. By their actions they abused the close relationship between the profession and the processes of government and law enforcement. This is evident to any reasonable mind.
- m. The defendants were responsible for observance of the Rules of Professional Conduct, and their negligence compromised the independence of the profession and the public interest which it serves. It is clear that the actions taken by the defendants are in direct conflict with the Rules of Professional Conduct. **It should be absolutely clear, to any reasonable mind, the entire American Justice**

System would collapse if attorneys were allowed to advise their clients to ignore, violate, or otherwise subvert the orders of the Court, as in the manner perpetrated by the defendants.

93. In addition to violating the core tenants of their professional code of ethics, the defendants also violated specific rules governing their conduct, codified by, 204 Pa.C.S.A. § 81.4, which states, in its entirety:

§ 81.4 Rules of Professional Conduct

Rule 8.4. Misconduct.

It is professional misconduct for a lawyer to:

- (a) **violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;**
- (b) **commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;**
- (c) **engage in conduct involving dishonesty, fraud, deceit or misrepresentation;**
- (d) **engage in conduct that is prejudicial to the administration of justice;**
- (e) **state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or**
- (f) **knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.**

(ALL EMPHISIS BY PLAINTIFF)

94. The defendants unquestionably, and maliciously, violated the Rules of Professional Conduct by advising their client to ignore and abandon the

Consent Order for Custody, as agreed to by the parties, causing direct damage, emotional distress, and unnecessary legal turmoil for the plaintiff.

95. By sending their fax to law enforcement officials the defendants engaged in conduct that was prejudicial to the administration of justice, causing direct damage, emotional distress, and unnecessary legal turmoil for the plaintiff.
96. The language of the fax implies that due to their professional relationship with the Court, the defendants will be able to convince the Court of the validity of their claims in the Emergency Petition for Custody, and that law enforcement should just "play along", since the court will eventually find in their favor anyway. This was a deliberate attempt to deny the plaintiff his civil right of due process, and access to law enforcement services.

IX. DAMAGES

97. The plaintiff incurred actual damages, in the amount of \$154.75, as a result of the defendants' negligent recommendations to their client. Specifically, the plaintiff was forced to purchase items of necessity for the children that he otherwise would not have had buy if the children had been properly transferred into his custody. These items were: a car seat, and clothing. See (Exhibit R – Columns 1 & 2).
98. The plaintiff believes that his ex-wife bears some responsibility for the damages, and loss, he suffered, and has sought recovery of the actual damages, in a separate legal action against her. The fact that the plaintiff has attempted to recover the actual damages from his ex-wife in no way

absolves the defendants from the responsibility they bare in this matter, due to their negligent actions, and outrageous misconduct.

99. The plaintiff is entitled to compensatory damages due to Negligent and Intentional Infliction of Emotional Distress, under the *Restatement (Second) of Torts* which states, a plaintiff may recover from:

(1) *One who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to the other results from it, for such bodily harm.*

The defendants were clearly negligent in their actions, causing emotional distress to the plaintiff in the following respects:

- a. Deliberate and calculated estrangement from his children.
- b. Aggravation and contention with his ex-wife, due to the defendants' misconduct, and her reliance on their advice.
- c. Unnecessary legal turmoil, to correct the defendants' obstruction of due process.
- d. Character assassination due to the untried claims mentioned in the fax to law enforcement.
- e. Upheaval of his personal life, in his efforts to legitimately obtain custody of his children.
- f. Harassment with illegitimate legal pleadings that were subsequently withdrawn.

100. The plaintiff is entitled to punitive damages due to the defendants' statutory violation of the Rules of Professional Conduct, and supported by the Pennsylvania Supreme Court which stated:

"punitive damages may be awarded for conduct that is outrageous, because of the defendant's evil motive or his reckless indifference to the rights of others." Id.

(quoting *Feld v. Merriam*, 485 A.2d 742, 747 (Pa. 1984)).

The necessity of punitive damages is well supported by the facts of this pleading, due to misconduct perpetrated by the defendants against the plaintiff, the legal system, members of law enforcement, and their actions as they relate to American society as a whole.

X. PRAYER FOR RELIEF

101. WHEREFORE, plaintiff respectfully prays that Jury of this Honorable Court:

- a. Award compensatory damages to the plaintiff, in the amount of \$3,000,000 (three million dollars), for his claim of Negligent and Intentional Infliction of Emotional Distress.
- b. Award punitive damages to the plaintiff, in the amount of \$3,000,000 (three million dollars), for the defendants' outrageous misconduct, and statutory violation of their Code of Conduct.
- c. Award such other relief, as the Jury and the Honorable Court may deem appropriate.

XI. VERIFCATION

102. I verify that the statements made in this CIVIL COMPLAINT & CLAIM FOR
DAMAGES RESULTING FROM NEGLIGENCE & PROFESSIONAL
MISCONDUCT are true and correct. I understand that false statements
made herein are made subject to the penalties of, 18 Pa.C.S. § 4904,
relating to unsworn falsification to authorities.



William M. Brilla
William M. Brilla, Pro Se

02-630
RECEIVED SEP 2 2005

In the Court of Common Pleas of **CLEARFIELD** County, Pennsylvania

DOMESTIC RELATIONS SECTION CLEARFIELD COUNTY DOMESTIC RELATIONS Clearfield, PA	
RHONDA L. BRILLA vs. WILLIAM M. BRILLA	Plaintiff Defendant
SEP 02 2005	
FILED	

Docket Number 02-00630-SD
PACSES Case Number 943105008
Other State ID Number

**PETITION FOR MODIFICATION
OF AN EXISTING SUPPORT ORDER**

1. The petition of **RHONDA L. BRILLA** respectfully
represents that on **NOVEMBER 10, 2003**, an Order of Court was entered for the
support of
ASHLEY LYNN NICOLE BRILLA
WILLIAM DANIEL GRAY BRILLA

A true and correct copy of the order is attached to this petition.

EXHIBIT A

COPY

Form OM-501
WPS 1000

RECEIVED SEP 12 2005

BRILLA

v. BRILLA

PACSES Case Number: 943105008

2. Petitioner is entitled to increase decrease termination reinstatement

other of this Order because of the following material and substantial change(s) in circumstance:

William Brilla has come into a Large Insurance (Life) from his mother who died July 21 (Doris L Brilla)
Lawyer ask to have Life ins Policy of Doris Brilla brought along with his other income.

WHEREFORE, Petitioner requests that the Court modify the existing order for support.

Rhonda L Brilla / Brian Marshall
Petitioner Attorney for Petitioner (Lawyer)

I will be on military orders Sept 10-24
I will be home 1 week of 26-30
Then I head back to work

I verify that the statements made in this complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

9-2-05
Date

Rhonda L Brilla
Petitioner

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

RHONDA L. BRILLA,

Plaintiff
vs.

)
)
)
)
)

No. 2002-1648-CD

WILLIAM M. BRILLA,

Defendant

SCHEDULING ORDER

NOW THIS _____ day of _____, 2005, it is

hereby the Order of this Court that a hearing on Plaintiff's Emergency Custody Petition
shall be held on the 13 day of September, 2005, at 10:00
o'clock 13 m. in Courtroom No. 2 of the Clearfield County Courthouse,
Clearfield, PA.

BY THE COURT:

J. _____

EXHIBIT B

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

RHONDA L. BRILLA,

Plaintiff)
) No. 2002-1648-CD

vs.

)
) Type of Case: Divorce

WILLIAM M. BRILLA,

Defendant)
) Type of Pleading: Emergency
) Custody Petition
)
) Filed on behalf of: Plaintiff
)
) Counsel of Record for this Party:
)
) Brian K. Marshall, Esquire
) I.D. No.: PA87331
) MILLER, KISTLER, CAMPBELL,
) MILLER, WILLIAMS & BENSON, INC.
) 124 N. Allegheny Street
) Bellefonte, PA 16823
) 814-355-5474

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

JUL 31 2007

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

FILED

SEP 06 2005

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

1 CENT. TO RETAIN

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

RHONDA L. BRILLA,)
Plaintiff)
vs.) No. 2002-1648-CD
WILLIAM M. BRILLA,)
Defendant)

EMERGENCY CUSTODY PETITION

NOW COMES the Petitioner, Rhonda L. Brilla, by and through her counsel, Brian K. Marshall, Esquire and Miller, Kistler, Campbell, Miller, Williams & Benson, Inc., who files this Emergency Custody Petition and in support thereof avers as follows:

1. The parties are the parents of two minor children, Ashley Lynn Nicole Brilla (d.o.b. 10/24/95) and William Daniel Gray Brilla (d.o.b. 5/9/01).
2. Custody is defined by an Order of Court entered with the consent of the parties on January 23, 2004. A copy of the Court's Order is attached hereto, incorporated herein by reference, and marked Exhibit "A."
3. Said Order provides that Plaintiff, Rhonda Brilla (hereinafter "Mother"), shall have primary physical custody of the minor children, subject to periods of partial physical custody with Defendant, William Brilla (hereinafter "Father").
4. Paragraph 5 of the said Order provides that Father shall have physical custody of the parties' children during the two week period each year when Mother is participating in naval reserve activities.
5. In the calendar year 2005, Mother is scheduled to be in the State of Hawaii from approximately September 10th through September 25th for said two week period of naval reserve activities.

6. Mother believes that it is in the children's best interest that Father not exercise his period of physical custody during the year 2005 for the following reasons:

- a. Father's driver's license is currently suspended for a conviction for driving under the influence, leaving Father without the ability to provide transportation;
- b. Father has been intoxicated in the presence of the children on at least two occasions since the death of his mother in July;
- c. Father has made statements to Mother that he has no food in his home, and no way to get food to his residence;
- d. Father has stated to Mother that he does not have transportation for the minor children;
- e. During August 2005, Father cancelled his period of exclusive custody the day before said period of custody was to begin, which deprived Mother of reasonable notice of the need for her to continue to provide/arrange for care for the children;
- f. Mother has witnessed Father operating a motor vehicle during his period of license suspension.

7. Father has not exercised any of his exclusive periods of physical custody during the summer of 2005 as provided in paragraph 4 of said Order. Father indicated to Mother on approximately May 1st, that he did not wish to have a period of exclusive custody in June. Father was understandably unable to exercise his period of physical custody in July, as that was to occur just several days after his mother's death, and as

stated in paragraph 6E, Father canceled the August period the day before said period was to commence.

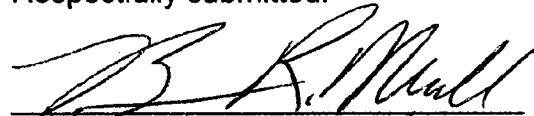
8. If this Honorable Court grants the prayer in Mother's Petition, the minor children would remain in Mother's residence, with Mother's adult son, Sean Michael Potts, who is 20 years of age, and who is employed with CenClear Child Services.

9. Mother has made arrangements with various individuals, some of whom attend her church and some of whom reside in close proximity to Mother's residence, to provide Sean Michael Potts with any assistance he may need in caring for the children.

10. Mother has executed an appropriate Power of Attorney allowing Sean Michael Potts to access her bank accounts for any financial needs that may arise during the time that Mother is away.

WHEREFORE, your Petitioner respectfully requests the Honorable Court enter an Order, based upon the information contained herein, that Father shall not exercise his period of partial custody currently scheduled for September 10 through September 25, 2005.

Respectfully submitted:



Brian K. Marshall, Esquire

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

Counsel for Plaintiff

Dated: 9.2.05

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.
ELIZABETH A. DUPUIS
DAVID B. CONSIGLIO**
STACY PARKS MILLER
JULIA R. CRONIN
BRIAN K. MARSHALL
RENEE R. LAWRENCE***

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

PLEASE REPLY TO:
BELLEFONTE OFFICE

September 2, 2005

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

William Shaw, Prothonotary
Clearfield County Courthouse
Clearfield, PA 16830

RE: Rhonda L. Brilla v. William M. Brilla
No. 2002-1648-CD (Clearfield Co., PA)

Dear Mr. Shaw:

Enclosed please find an original and one copy of Plaintiff's Emergency Custody Petition, as well as a proposed Scheduling Order. Please file the original Petition, and return a time-stamped copy to me in the enclosed self-addressed, stamped envelope.

Once the Petition has been filed, please forward it, along with the enclosed letter, to Marcy Kelly in the Court Administrator's office for scheduling.

Thank you.

Very truly yours,

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

By:



Brian K. Marshall

BKM/lac
cc: Stephanie Cooper, Esq., w/enc.

EXHIBIT C

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.
ELIZABETH A. DUPUIS
DAVID B. CONSIGLIO**
STACY PARKS MILLER
JULIA R. CRONIN
BRIAN K. MARSHALL
RENEE R. LAWRENCE***

PLEASE REPLY TO:
BELLEFONTE OFFICE

September 2, 2005

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
***ALSO ADMITTED IN VIRGINIA

Marcy Kelly, Deputy Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830

RE: Rhonda L. Brilla v. William M. Brilla
No. 2002-1648-CD (Clearfield Co., PA)

Dear Marcy:

As we discussed in our brief telephone conversation on Friday, September 2nd, I am filing this Emergency Petition for my client, Rhonda Brilla. As we discussed, the Judge's schedule is quite full, although it is my hope that this Petition may be able to be heard prior to my client's departure for her two week military reserve detail in the State of Hawaii, as the Petition addresses custody of the parties' minor children during that period.

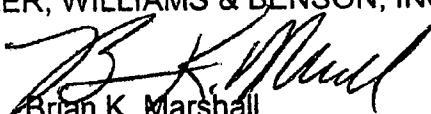
My schedule for the week of Tuesday, September 6th through Friday, September 9th is fully available, with the exception of the entire afternoon of Thursday, September 8th. Attorney Stephanie Cooper represents Father, and her office is closed on Fridays. As such, I am unable to ascertain her schedule for the week of September 6th through September 9th. If the Court has availability to schedule this hearing, I will be happy to be responsible for contacting Attorney Cooper to determine when her schedule and my schedule are compatible for the hearing.

Thank you in advance for your assistance, and if I can provide any additional information, please don't hesitate to contact me.

Very truly yours,

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

By:



Brian K. Marshall

BKM/lac

cc: Stephanie Cooper, Esq., w/er

EXHIBIT D

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

RHONDA L. BRILLA, *
Plaintiff *
*
*
-vs- * No. 02-1648-CD
*
WILLIAM M. BRILLA, *
Defendant *

CONSENT ORDER

AND NOW, this 23 day of January, 2002, following a Custody Conference, the parties having reached an agreement and having acknowledged their consent to the entry of this Order, it is hereby ORDERED as follows:

1. The parties shall have joint and shared legal custody of their children, ASHLEY LYNN NICOLE BRILLA (dob 10/24/95), and WILLIAM DANIEL GRAY BRILLA (dob 5/9/01). Legal custody shall be defined as the legal right to make major decisions affecting the best interests of the children including, but not limited to, medical, religious and educational decisions, and that each parent shall have equal access to any and all medical, dental, school and legal records. Medical, dental and other professional providers, as well as school administrators, shall accept a copy of this Order as authorization to release documentation to either parent. It is also understood by both parties that they shall communicate fully with each other to assure all directives pertaining to the children from physicians, dentists, mental health providers and teachers are followed

THE LAW OFFICES OF
CHARLIE H. MILGRUB
NORTH SECOND STREET
CLEARFIELD, PA 16830

NORTH BRADY STREET
DUBOIS, PA 15801

EXHIBIT E

absolutely and that all information pertaining to any prescriptions for the children is exchanged between the parties.

2. Primary physical custody of the children shall be with Mother, with Father to have periods of partial custody as follows:

a) Every other weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m.

b) Every Tuesday and Thursday from 6:00 p.m. until 8:00 p.m. On said evenings, Father shall pick up the children from their daycare provider; however, Father agrees not to pick up the children before 5:30 p.m., in order to avoid adversely affecting the daycare subsidy. Mother shall pick the children up at 8:00 p.m. at Father's residence. Father agrees to place the children's belongings on the inside porch.

3. The holiday schedule shall be as follows:

a) In even numbered years, Mother shall have the children for the New Years, Memorial Day and Labor Day holidays. The New Years holiday shall be from 6:00 p.m. on New Years Eve through 6:00 p.m. on January 1st. The Memorial Day and Labor Day holidays shall be from Friday at 6:00 p.m. until Monday at 6:00 p.m. In even numbered years, Father shall have the holidays of Easter, July 4th and Thanksgiving. Easter holiday shall be from Friday at 6:00 p.m. until Sunday at 6:00 p.m. The July 4th holiday shall be for a forty-eight -hour period to be agreed to by the parties, however, in the event that the parties cannot agree, said period shall run from July 3rd at 6:00 p.m. until

July 5th at 6:00 p.m. The Thanksgiving holiday shall be from Wednesday at 6:00 p.m. until Friday at 6:00 p.m.

In odd numbered years, Father shall have the children for the New Years, Memorial Day and Labor Day holidays. The New Years holiday shall be from 6:00 p.m. on New Years Eve through 6:00 p.m. on January 1st. The Memorial Day and Labor Day holidays shall be from Friday at 6:00 p.m. until Monday at 6:00 p.m. In odd numbered years, Mother shall have the holidays of Easter, July 4th and Thanksgiving. Easter holiday shall be from Friday at 6:00 p.m. until Sunday at 6:00 p.m. The July 4th holiday shall be for a forty-eight -hour period to be agreed to by the parties, however, in the event that they cannot agree, said period shall run from July 3rd at 6:00 p.m. until July 5th at 6:00 p.m. The Thanksgiving holiday shall be from Wednesday at 6:00 p.m. until Friday at 6:00 p.m.

b) The Christmas holiday shall be divided as follows: Father shall have the children from noon to the end of the first church services on Christmas Eve. Mother shall have the children from the end of the first church service on Christmas Eve until 7:00 p.m. on Christmas Day. Father shall have the children from 7:00 p.m. Christmas Day until 7:00 p.m. on December 27th.

4. In the summer months of June, July and August, Mother and Father shall each have one-week of exclusive custody each month. Each party shall provide the other with notice in writing of said dates by May 1st of each year. Father agrees that his visitation for the month of August will not fall over the first full week in August, and will not interfere with the

THE LAW OFFICES OF
CHARL H. MILGRUB
NORTH SECOND STREET
CLEARFIELD, PA 16830

—
NORTH BRADY STREET
DUBOIS, PA 15801

children's family reunion that they attend annually with their Mother.

In the event that there is a conflict with Father's periods of exclusive physical custody, and Mother's periods of exclusive physical custody, the person to have first designated that week as their period of exclusive custody shall have custody of the children during that period.

If a party wishes to exercise their period of exclusive custody over the July 4th holiday, and if that holiday is to be other parent's, the July 4th schedule shall supercede the period of exclusive custody.

5. The parties recognize that Mother is involved in the Navy Reserves. Father shall have physical custody of the children during the two-week period each year when Mother is participating in Naval Reserve activities. In addition, in the event that Mother's monthly military drill weekend falls on Mother's weekend of partial custody, Father shall have custody of the children. He shall pick up the children at daycare after 5:30 p.m. and shall have custody of the children until 7:30 p.m. Sunday. In the event that Mother will be more than thirty minutes late in returning from her military drill to pick up the children, Mother shall telephone Father to advise him of that fact, and Father shall maintain physical custody of the children pending Mother's arrival.

It is further agreed that if the military drill weekend falls on Mother's weekend of physical custody, Mother shall have the following weekend, with Father having the weekend following

THE LAW OFFICES OF
RICHARD H. MILGRUB
1 NORTH SECOND STREET
CLEARFIELD, PA 16830

—
39 NORTH BRADY STREET
DUBOIS, PA 15801

that and every other weekend thereafter. When Mother's military drill falls on Father's weekend of physical custody, his weekend shall end at 7:30 p.m.

6. The parties agree to divide the children's birthdays as they may agree.

7. Father shall have physical custody of the children at all other times as the parties may agree.

8. The holiday and summer vacation schedule shall supersede all other periods of custody.

9. The parties agree that Mother shall have physical custody during the first full weekend in August for the purposes of attending her family reunion. In the event that said weekend was to be Father's, Father shall have physical custody of the children on the next weekend scheduled to be Mother's.

10. Neither party shall speak in a derogatory fashion about the other party in the presence of the children, nor will he or she permit anyone else to do so. Moreover, each parent will exercise his or her best efforts to promote a healthy relationship between the children and the other parent and will not discuss matter of custody or divorce in the presence of the children.

BY THE COURT,

/s/ Paul E. Cherry

Judge

THE LAW OFFICES OF
RICHARD H. MILGRUB
1 NORTH SECOND STREET
CLEARFIELD, PA 16830

19 NORTH BRADY STREET
DUBOIS, PA 15801

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

JAN 26 2004

Attest.

Wm. E. Cherry
Prothonotary

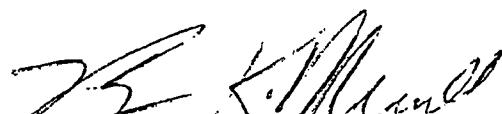
We, the undersigned, do hereby agree and consent to the entry of the foregoing Order:



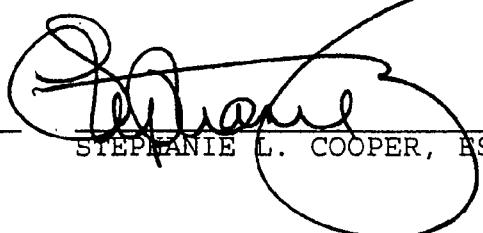
RHONDA L. BRILLA
PLAINTIFF


12-30-2003

WILLIAM M. BRILLA
DEFENDANT



BRIAN K. MARSHALL, ESQUIRE



STEPHANIE L. COOPER, ESQUIRE

THE LAW OFFICES OF
RICHARD H. MILGRUB
1 NORTH SECOND STREET
CLEARFIELD, PA 16830

29 NORTH BRADY STREET
DUBOIS, PA 15801

Law Office of Stephanie L. Cooper, P.C.
817 East Bishop Street, Suite B
Bellefonte, PA 16823
phone (814)355-1078
fax (814)353-4391

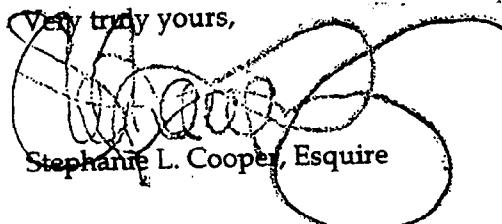
September 8, 2005

William Brilla
133 Second Street
P.O. Box 211
Kylertown, PA 16847

RE: Brilla v. Brilla

Dear Bill:

Enclosed please find a copy of correspondence and an Emergency Custody Petition that I received from Attorney Marshall. Please review these enclosures and contact me with any questions. Also enclosed please find a copy of a continuance request to the Domestic Relations Conference scheduled for September 30th for your records.

Very truly yours,

Stephanie L. Cooper, Esquire

SLC:dk
Enclosures

EXHIBIT F

02-0630

RECEIVED SEP 8 2005

In the Court of Common Pleas of **CLEARFIELD** County, Pennsylvania

DOMESTIC RELATIONS SECTION	
CLEARFIELD COUNTY	
DOMESTIC RELATIONS	
Clearfield, PA	
RHONDA L. BRILLA vs. WILLIAM M. BRILLA	Plaintiff Defendant
SEP 08 2005	
FILED	

Docket Number 02-00630-SD
PACSES Case Number 943105008
Other State ID Number

**PETITION FOR MODIFICATION
OF AN EXISTING SUPPORT ORDER**

1. The petition of **WILLIAM M. BRILLA** respectfully
represents that on **NOVEMBER 10, 2003**, an Order of Court was entered for the
support of
ASHLEY LYNN NICOLE BRILLA
WILLIAM DANIEL GRAY BRILLA

A true and correct copy of the order is attached to this petition.

EXHIBIT G

COPY

Service Type M

Form OM-501
Worker ID 17304

RECEIVED SEP 8 2005

BRILLA

V. BRILLA

PACSES Case Number: 943105008

2. Petitioner is entitled to increase decrease termination reinstatement
 other of this Order because of the following material and substantial change(s) in
circumstance:

1. SEE ATTACHED

2. SEE ATTACHED

WHEREFORE, Petitioner requests that the Court modify the existing order for support.

I verify that the statements made in this complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

9/8/05

Petitioner

Page 2 of 2

Form OM-501
Worker ID 17304

RECEIVED SEP 8 2005

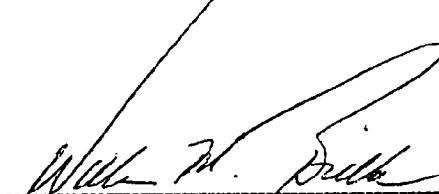
William M. Brilla

133 Second Street
814-345-5439
w_m_gray@hotmail.com

Kylertown, Pennsylvania

September 8, 2005

1. Defendant requests that his hearing on this petition to modify run concurrent with plaintiffs petition, filed on September 2, 2005, and scheduled for hearing on September 30, 2005.
2. Defendant requests that the plaintiff's petition to modify be dismissed, since funds received from an inheritance (principal) are not considered income for the purpose of determining child support.
3. Defendant contends that the current support order places him under extreme economic distress, and Rule 1910.16-2(e)(1) applies in this case. Defendant requests a reduction in the current support order.
4. Defendant contends that due to the financial burden he is under, Rule 1910.16-2(f) applies in his case. Defendant requests that the court award him one of the children as a dependant for tax purposes, and require the plaintiff to execute a waiver under Internal Revenue Code 26 U.S.C.A. §152(e).
5. Defendant maintains that the burden of proof rests with the plaintiff, and that any assertions regarding degrees, certifications, and the like, be backed with factual and current evidence, and that without this documentation, testimony on these matters should be regarded as hearsay and not factual.


William M. Brilla 09.08.2005

STEPHANIE

Copy For Your Records

353-4391 1-2

William M. Brilla
 133 Second Street
 P.O. Box 43
 Kylertown, PA 16847

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

Rhonda L. Brilla	Plaintiff	No. 2002-1648-CD
Vs.		Type of Case: Divorce
William M. Brilla	Defendant	Type of Pleading: Motion to Continue
		Filed by: Defendant
		Counsel of Record for this Party:
		Stephania Cooper, Esquire 817 East Bishop Street Bellefonte, PA 16823 814-355-1078

FILED BY
 WILLIAM M. BRILLA

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

SEP 09 2005

EXHIBIT H

Attest.

[Signature]

2-2

William M. Brilla
133 Second Street
P.O. Box 43
Kylertown, PA 16847

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

Rhonda L. Brilla	Plaintiff	|	No. 2002-1648-CD
Vs.		|	
William M. Brilla	Defendant	|	

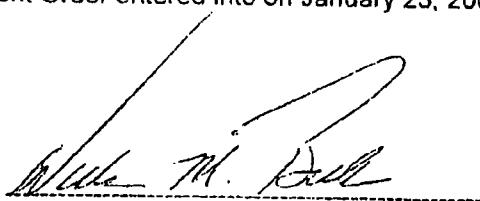
MOTION TO CONTINUE

NOW COMES the defendant William M. Brilla, on his own behalf, without the benefit of counsel, who files this Motion to Continue the Plaintiffs Petition for Emergency Custody, scheduled for hearing, September 13, 2005, at 10:00am.

The defendant seeks a continuance for the following reasons:

1. Stephanie Cooper, counsel for the defense, is on vacation from September 9, 2005 through September 14, 2005. Her absence leaves the defendant without the benefit of proper counsel in this matter.
2. The plaintiff, Rhonda L. Brilla, is performing her annual active duty for training in the State of Hawaii, and is unavailable (September 10, 2005 through September 25, 2005) for questioning regarding statements made in her Emergency Custody Petition.
3. By the Courts own action it has demonstrated that no emergency exists, as it allowed 7 days to elapse between the filling of the plaintiffs motion, and the scheduling of a hearing.

Therefore the defendant prays that his Motion to Continue be granted by this Honorable Court until such time as all Parties may be present, and represented by counsel, and that the Consent Order entered into on January 23, 2004 be honored and enforced.



William M. Brilla

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.
ELIZABETH A. DUPUIS
DAVID B. CONSIGLIO**
STACY PARKS MILLER
JULIA R. CRONIN
BRIAN K. MARSHALL
RENEE R. LAWRENCE***

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

PLEASE REPLY TO:
BELLEPONTE OFFICE

September 9, 2005

124 NORTH ALLEGHENY STREET
BELLEPONTE, 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

FAXED ONLY 814-857-3838
Pennsylvania State Police
Woodland, PA

FAXED ONLY 814-342-5810
Morris-Cooper Regional Police Department
Morrisdale, PA

RE: Rhonda L. Brilla v. William M. Brilla
No. 2002-1648-CD (Clearfield Co., PA)

To Whom It May Concern:

Please be advised that the undersigned represents Rhonda Brilla in the above-referenced divorce and custody action.

I am writing to advise you as to the possibility of your barracks/department receiving a telephone call this weekend regarding a custody dispute. The parties to the custody action, William and Rhonda Brilla, live across the street from each other in Kylertown. My client, Rhonda Brilla, is leaving on Sunday for a two week military exercise in Hawaii. Pursuant to the parties' Custody Order, Mr. Brilla is to have custody of the minor children during this time. However, due to various statements made by Mr. Brilla, as well as certain factual circumstances, my client has become concerned for the safety and welfare of her minor children when they are with Mr. Brilla. On her behalf, I filed an Emergency Custody Petition in the Court of Common Pleas of Clearfield County, but due to various scheduling issues with the Judge, together with the employment termination of someone in the Court Administrator's office, it was overlooked for scheduling this week, prior to my client's departure.

William Brilla is represented by Stephanie Cooper, Esquire. On the date of this letter, Ms. Cooper's office was closed, and she was unavailable. Mr. Brilla contacted my office and advised that he intends to involve the police in this custody dispute. While I am aware that the police generally do not get involved in custody disputes, I am writing to advise as to the facts of the case in case there is an attempt to involve you.

EXHIBIT I

Pennsylvania State Police – Woodward
Morris-Cooper Regional Police Department
September 9, 2005
Page 2

It is my intention to have a hearing scheduled whenever my client returns from her military service in late September. Thereafter, Judge Cherry will have the opportunity to enter whatever Order he sees fit. In the meantime, I have advised my client, based upon her health, safety and welfare concerns, that she should not relinquish custody to Mr. Brilla. The children will be staying at my client's residence with her adult son.

In the event that I can provide any additional information, please feel free to contact me at my office in Bellefonte or, if after hours, please feel free to contact me on my cell phone at [REDACTED]

Very truly yours,

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

By:


Brian K. Marshall

BKM/lac

cc: Stephanie Cooper, Esq.
Rhonda Brilla

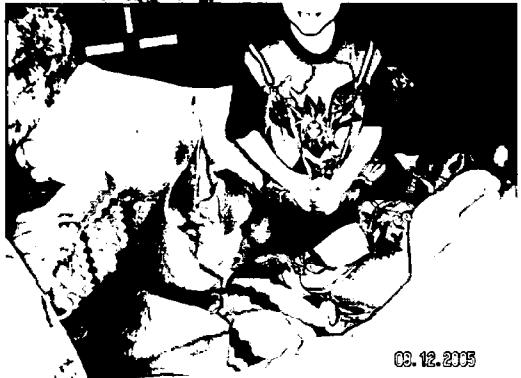


EXHIBIT J

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

RHONDA L. BRILLA

vs.

: No. 02-1648-CD

WILLIAM M. BRILLA

ORDER

AND NOW, this 13th day of September, 2005, upon consideration of Plaintiff's Emergency Petition for Custody filed in the above matter, it is the Order of the Court that a hearing has been scheduled for the 5th day of October, 2005, at 3:00 P.M., in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA. One (1) hour has been allotted for this matter.

It is the responsibility of Plaintiff's Counsel to serve certified copies of said Petition and scheduling Order on the Defendant.

BY THE COURT:

/s/ Paul E. Cherry

Paul E. Cherry
Judge

EXHIBIT K

Attest.

Lillian L. Cherry
Prothonotary/
Clerk of Courts

SEP 14 2005

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

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.
ELIZABETH A. DUPUIS
DAVID B. CONSIGLIO**
STACY PARKS MILLER
JULIA R. CRONIN
BRIAN K. MARSHALL
RENEE R. LAWRENCE***

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

PLEASE REPLY TO:
BELLEFONTE OFFICE

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

September 16, 2005

Stephanie Cooper, Esquire
817 E. Bishop Street
Bellefonte, PA 16823

RE: Rhonda L. Brilla v. William M. Brilla
No. 2002-1648-CD (Clearfield Co., PA)

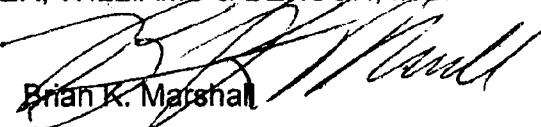
Dear Stephanie:

Pursuant to Judge Cherry's Order in the above-referenced case, I am serving you with a certified copy of the Emergency Custody Petition that I filed, together with a scheduling Order setting a hearing on October 5th at 3:00 p.m. in Courtroom No. 2 of the Clearfield County Courthouse.

Very truly yours,

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

By:


Brian K. Marshall

BKM/lac

EXHIBIT L



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Monday & Friday

9am to 9pm

Tuesday, Wednesday, Thursday, & Saturday

9am to 5pm

Closed Sundays

Fax Header

To: Stephanie Cooper **From:** William Brilla
Fax: 1-814-353-4391 **Pages:** 1
Phone: 1-814-355-1078 **Date:** 9/27/2005
Re: While you were gone **CC:**

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

Hi Stephanie... I hope you had a good vacation, but now it's back to business. Here is a list of things that I would like you to take care of ASAP, when you return.

1. Emergency Custody Petition - This is stupid and should be **dismissed without a hearing**. What point is there in wasting time and money on an event that has already passed.
2. File **contempt complaint against Rhonda** for her actions in the above matter. She refused to tell me when she was leaving, and left messages all over the county (daycare, school, State Police, Regional Police, District Magistrate, etc.) that I wasn't to be given custody of the children. All of these should be considered as a separate count.
3. Daycare - Custody order says all information - daycare refused to give me dates and times of attendance and financial info. They said I need a subpoena.
4. File a **complaint with State Supreme Court against Mr. Marshall**. The faxes he sent to the State & Regional police clearly state that there was a valid custody order in place, and that HE advised his client to violate those orders.
5. DRS - The matter of the insurance **should not be handled by a hearing officer** because the matter is **too complex to be decided by a court flunky**. A judge should hear this argument **since the matter is closed** - PA Supreme Court - Humphrey v. DeRoss. The principal of an inheritance cannot be considered income.

Please call me ASAP to discuss these matters, and the progress on them.

Bill

EXHIBIT M

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

RHONDA L. BRILLA,)
Plaintiff)
vs.) No. 2002-1648-CD
WILLIAM M. BRILLA,)
Defendant)

ORDER

NOW THIS 26th day of September, 2005, the Court
having reviewed Rhonda L. Brilla's Petition for Telephone Testimony to be offered by
Drs. Killian Breck and Jason McChesney, it is here by the Order of this Court that
Rhonda L. Brilla shall be permitted to offer the testimony of said medical providers via
telephone at the hearing currently scheduled for October 5, 2005 at 3:00 p.m. in
Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

/s/ Paul E. Cherry

J.

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

SEP 28 2005

Attest.

Lee E. Cherry
Prothonotary/
Clerk of Courts

EXHIBIT N

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.
ELIZABETH A. DUPUIS
DAVID B. CONSIGLIO**
STACY PARKS MILLER
JULIA R. CRONIN
BRIAN K. MARSHALL
RENEE R. LAWRENCE***

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

PLEASE REPLY TO:
BELLEFONTE OFFICE

September 29, 2005

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

Stephanie Cooper, Esquire
817 E. Bishop Street
Bellefonte, PA 16823

RE: Rhonda L. Brilla v. William M. Brilla
No. 2002-1648-CD (Clearfield Co., PA)

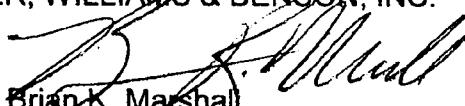
Dear Stephanie:

I enclose herewith an Order of Court allowing me to present telephone testimony from Drs. Killian Breck and Jason McChesney at the emergency hearing scheduled for October 5, 2005 at 3:00 p.m. in Clearfield.

Very truly yours,

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

By:


Brian K. Marshall

BKM/lac
cc: Rhonda Brilla

EXHIBIT O

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

RHONDA L. BRILLA,

Plaintiff)
) No. 2002-1648-CD
)
) Type of Case: Divorce
)
) Type of Pleading: Praecipe to
Defendant) Withdraw Emergency Custody Petition
)
) Filed on behalf of: Plaintiff
)
) Counsel of Record for this Party:
)
) Brian K. Marshall, Esquire
)
) I.D. No.: PA87331
)
) MILLER, KISTLER, CAMPBELL,
)
) MILLER, WILLIAMS & BENSON, INC.
)
) 124 N. Allegheny Street
)
) Bellefonte, PA 16823
)
) 814-355-5474

vs.
WILLIAM M. BRILLA,

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

JUL 31 2007

Attest.

Willie A. Brilla
Prothonotary/
Clark of Courts

112364
NO
OCT 04 2005
6C

EXHIBIT P

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

RHONDA L. BRILLA,)
Plaintiff)
vs.) No. 2002-1648-CD
WILLIAM M. BRILLA,)
Defendant)

PRAECIPE TO WITHDRAW EMERGENCY CUSTODY PETITION

TO THE PROTHONOTARY:

Please withdraw the Emergency Custody Petition filed by Plaintiff Rhonda Brilla
dated September 3, 2005 and filed on or about September 6, 2005.



Brian K. Marshall, Esquire

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

Counsel for Plaintiff

Dated: 10/3/05

Date: 09/13/2007

Time: 09:28 AM

Page 1 of 6

 Garfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2002-01648-CD

Current Judge: Paul E. Cherry

Rhonda L. Brilla vs .William Michael Brilla

Divorce with Custody

Date	Judge
10/21/2002	Filing: Divorce Complaint with Custody Count Paid by: Milgrub, Richard H. No Judge Receipt number: 1850161 Dated: 10/21/2002 Amount: \$95.00 (Check) 1 Cert. to Atty.
	Filing: Divorce Complaint Additional Counts Paid by: Milgrub, Richard H. No Judge Receipt number: 1850161 Dated: 10/21/2002 Amount: \$20.00 (Check)
10/23/2002	ORDER OF COURT, WILLIAM M. BRILLA to appear in person the 14th day of November, 2002, at 1:30 p.m. by the Court, s/FJA,J. 1 cc to Atty B. Marshall
10/31/2002	Certificate of Service, Divorce Complaint and Custody Order upon the Defendant, WILLIAM M. BRILLA s/Brian K. Marshall, Esq. no cc
11/14/2002	TEMPORARY ORDER, NOW, this 14th day of November, 2002, re: Joint and Shared Legal Custody of the Children. by the Court, s/FJA,J. 3 cc to Atty
05/08/2003	Answer And Counterclaim To Complaint In Divorce. filed by s/Stephanie L. Cooper, Esquire Verification s/William M. Brilla Certificate of Service 3 cc Atty Cooper
06/17/2003	Praecipe to Transmit Record, filed by s/Brian K. Marshall, Esq. No CC
06/19/2003	Order for Bifurcation, AND NOW, this 18 day of June, 2003, divorce action bifurcated, BY THE COURT: /s/Fredric J. Ammerman, Judge s/Rhonda L. Brilla s/Brian K. Marshall, Esq. s/William M. Brilla s/Stephanie L. Cooper, Esq. Two CC Attorney Marshall Order-Decree/Dated: June 18, 2003. BY THE COURT: /s/Fredric J. Ammerman, Judge June 30, 2003, Vital Statistics information reported to New Castle, PA. Certified Copies of Decree to Parties of Record.
10/22/2003	Petition for Modification, filed by s/Brian K. Marshall, Esq. One CC Attorney Fredric Joseph Ammerman Marshall
10/31/2003	ORDER: AND NOW, this 30th day of October, 2003 upon consideration of the Plaintiff's Petition for Modification a Custody Conference shall be held on Nov. 21, 2003. s/FJA 1 CC to Atty. Marshall.
01/16/2004	Certificate of Service, Interrogatories to Plaintiff upon: Brian K. Marshall, Esquire. filed by, s/Stephanie L. Cooper, Esquire no cc
01/26/2004	CONSENT ORDER, AND NOW, this 23rd day of January, 2004, re: Custody Conference. by the Court, s/PEC,J. 4 cc to Atty B. Marshall
04/18/2005	Notice of Service of Interrogatories, on 4/15/05, upon Stephanie Cooper, Esquire, filed by s/ Brian K. Marshall, Esquire. No CC
09/06/2005	Emergency Custody Petition, filed by Atty. Marshall 1 Cert. to Atty.
09/09/2005	Motion to Continue, filed by Defendant 1 Cert. to Defendant.
09/14/2005	Order, NOW, this 13th day of Sept., 2005, upon consideration of Plaintiff's Emergency Petition for Custody filed in the above matter, It is the Order of the Court that a hearing has been scheduled for the 5th day of October, 2005 at 3:00 p.m. in Courtroom No. 2. It is the responsibility of Plaintiff's Counsel to serve certified copies of said Petition and scheduling Order on the Defendant. By The Court, /s/ Paul E. Cherry, Judge. 4CC Atty. B. Marshall

EXHIBIT Q

Date: 09/13/2007

Time: 09:28 AM

Page 2 of 6

Clearfield County Court of Common Pleas

ROA Report

Case: 2002-01648-CD

Current Judge: Paul E. Cherry

User: BHUDSON

Rhonda L. Brilla vs. William Michael Brilla

Divorce with Custody

Date	Judge
09/19/2005	Affidavit of Service filed. Hereby certify that service of the Emergency Custody Petition and Scheduling Order was made upon the Defendant, William M. Brilla, by serving his counsel, Stephanie Cooper Esq., on September 16, 2005, filed by Brian K. Marshall Esq. 1CC to Atty. Paul E. Cherry
09/23/2005	Petition For Telephone Testimony, filed by s/ Brian K. Marshall, Esquire. Paul E. Cherry 1CC Atty. Marshall Affidavit of Service filed. Hereby certify that service of the Order dated September 14, 2005, pertaining to Plaintiff's Petition for Amended Scheduling Order was made upon Defendant, William M. Brilla, by serving his counsel, Stephanie Cooper Esq., on September 21, 2005, files by s/ Brian K. Marshall. No CC. Paul E. Cherry
09/28/2005	Order, NOW, this 26th day of Sept., 2005, Ordered that Rhonda L. Brilla, Paul E. Cherry shall be permitted to offer the testimony of Drs. Killiam Breck and Jason McChesney via telephone at the hearing scheduled for Oct. 5, 2005 at 3:00 p.m. in Courtroom No. 2. By The Court, /s/ Paul E. Cherry, Judge. 1CC Atty. B. Marshall
09/30/2005	Affidavit of Service filed. Hereby certify that service of the Order dated, September 26, 2005, pertaining to Plaintiff's Petition for Telephone Testimony was made upon the Defendant, William M. Brilla, by serving his counsel, Stephanie Cooper, Esquire, on September 29, 2005, filed by s/ Brian K. Marshall Esq. No CC. Paul E. Cherry
10/04/2005	Praeclipe To Withdraw Emergency Custody Petition, filed by s/ Brian K. Marshall, Esquire. No CC Paul E. Cherry
04/17/2006	Praeclipe, Kindly schedule an Equitable Distribution Pre-Trial Conference in the above reference matter. Filed by s/ Stephanie L. Cooper, Esquire. No CC Paul E. Cherry
05/02/2006	Order, NOW, this 1st day of May, 2006, Ordered that Cynthia B. Stewart, Paul E. Cherry Esquire, is appointed as Master to preside at the hearing on all outstanding economic issues. Pre-Trial Conference on the 19th day of May, 2006, at 9:00 a.m. in Judge Cherry's Chambers. Plff. and Def. shall file Inventory and Appraisal, Budget Information and Pre-Trial Statement within no more than 20 days from this date. By The Court, /s/ Paul E. Cherry, Judge. 1CC Atty: Copper, Marshall, 1CC C. Stewart (without memo) Order, NOW, this 27th day of April, 2006, an Equitable Distribution Pre-Trial Conference is scheduled in the above captioned matter for May 19, 2006 at 9:00 a.m. in Courtroom No. 2. By The Court, /s/ Paul E. Cherry, Judge. No 4CC Atty. Cooper Paul E. Cherry
05/09/2006	Petition For Special Relief, filed by s/ Brian K. Marshall, Esquire. 1CC Atty, Paul E. Cherry
05/12/2006	Rule to Show Cause, NOW THIS 11th day of May 2006, a rule is issued, Paul E. Cherry upon Respondent, William M. Brilla, to show cause why the prayers for relief in Petitioner Rhonda L. Brilla's Petition for Special Relief should not be granted. Rule Returnable and hearing thereon on the 2nd day of June, 2006 at 9:30 am in Courtroom No. 2 of the Clearfield County Courthouse, Clearfiled PA. Said hearing has been scheduled for 60 minutes. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Atty Marshall. Paul E. Cherry
05/22/2006	Pre-Trial Memorandum, filed by s/ Stephanie L. Cooper Esq. No CC. Paul E. Cherry Motion For Continuance, filed by s/ Stephanie L. Cooper, Esquire. 1CC Paul E. Cherry Atty. Cooper

COLUMN 1

COLUMN 2

COLUMN 3

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MANAGER KIM SEYLER
(814) 765 - 8089
9 DPS 00002613 TES 14 TRB 09541
SEAT 004468122192 48.84 X
SUBTOTAL 48.84
TAX 1 6.000 % 2.93
TOTAL 51.77
CASH TEND 52.00
CHANGE DUE 0.23

ITEMS SOLD 1

1774 0977 3212 7636 9311



Hurricane Katrina Donations are
accepted at any register.
09/12/06 14:04:03

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STB 2129 DPS 00003207 TES 16 TRB 08853
SPK BRIEFS 007603103762 4.92 N
ATHLETIC MOR 066046900176 8.88 N
SAND AND SUN 088189446978 8.00 D
BOYS PANT 066046900000 6.88 N
CARGO PANT 082182300443 9.93 N
YUGIOH SHORT 078913993832 7.00 D
S/S STAR WAR 076531567073 5.00 D
SS REVN TEE 068150958172 8.00 D
BOYS FG JEAN 075481906366 10.77 N
2 BRAID BLT 004383416141 6.42 N
BL FLORAL PR 072821358989 1.00 D
NB RIBBON TO 004413841666 2.00 D
BL A LINE PR 068734262991 1.00 D
NB BABY TEE- 004413837997 3.00 D
VS SS YMCK H 078890001968 8.00 D
NB SCREEN TE 004413841723 3.00 D
NB RIBBON TO 004413841660 2.00 D
10PK SOCKS 00327122342 7.22 N
STAR WARS SS 068150958396 6.00 D
SPK BRIEFS 007603182112 4.96 N
SUBTOTAL 102.98
TOTAL 102.98
CASH TEND 103.00
CHANGE DUE 0.02

ITEMS SOLD 20

TCB 3985 1108 2523 0826 0655 3



Hurricane Katrina Donations are
now accepted at any register.
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SUPER CENTER

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(814) 765 - 8089

STB 2129 DPS 00003207 TES 16 TRB 08854
SPRITE 004900000764 F 1.08 X
LCHBL CH PZ 004470002443 F 2.28 0
LCHBL SUBSD 004470002476 F 2.28 0
LCHBL SUBSD 004470002476 F 2.28 0
LCHBL NCH CK 004470036316 F 2.28 0
LCHBL BURGER TAC BL 004470036057 F 2.28 0
LCHBL HAM/AM 004470002448 F 2.28 0
CHOCOLATE CH 004190002346 F 0.98 0
CHOCOLATE CH 004190002346 F 0.98 0
VIT D MILK 004190002008 F 0.97 0
VIT D MILK 004190002008 F 0.97 0
CHOCOLATE CH 004190002346 F 0.98 0
CHOCOLATE CH 004190002346 F 0.98 0
VIT D MILK 004190002008 F 0.97 0
VIT D MILK 004190002008 F 0.97 0
VIT D MILK 004190002008 F 0.97 0
LCHBL CK INK 004470036310 F 2.28 0
LCHBL HAM/AM 004470002448 F 2.28 0
MILK 007047410020 F 2.92 0
CHOCO MILK 004190006921 F 2.98 0
CHK TENDER 007874201339 F 5.98 0
CHK STRIPS 002370003803 F 6.98 0
5 LB HAM 007024712941 F 6.95 0
BKT DOGS 078633177820 F 3.44 0
CHK TENDER 007874201339 F 5.98 0
BV BF SAUSAGE 007874202602 F 3.38 0
BV SAUSAGE 007874202050 F 3.38 0
31-40 SHRIMP 007004112033 F 10.98 0
TURKEY ROST 004222221160 F 2.50 0
TURKEY RST 004222221180 F 2.50 0
TURKEY RST 004222221150 F 2.50 0
TURKEY RST 004222221150 F 2.50 0
** VOIDED ENTRY **
TURKEY RST 004222221150 F 2.50-0
** VOIDED ENTRY **
TURKEY RST 004222221150 F 2.50-0
TNY SAU/PEP 007218063250 F 2.50 0
TNY SAU/PEP 007218063250 F 2.50 0
TNY SAU/PEP 007218063250 F 2.50 0
SUBTOTAL 95.84
TAX 1 6.000 % 0.06
TOTAL 96.90
CASH TEND 100.00
CHANGE DUE 4.10

ITEMS SOLD 34

TCB 1381 6337 2748 3628 5234



Hurricane Katrina Donations are
now accepted at any register.
09/12/06 16:33:39

EXHIBIT R

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla	Plaintiff	Civil Docket Number: _____
v.		
Brian K. Marshall, Esq. & Miller, Kistler, Campbell, Miller, Et al., Inc.	Defendants	Case Type: Civil – Cause of Action
720 South Atherton Street State College, PA 16801-4628 814-234-1500		Pleading Type: Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct
		Hearing Type: Trial by Jury
		Judge: _____
		Filed by: Plaintiff, Pro Se
		William M. Brilla 133 Second Street P.O. Box 43 Kylertown, PA 16847 814-345-5454

CERTIFICATE OF SERVICE

I, William M. Brilla, hereby certify that the foregoing complaint was served this the
26 day of September 2007, by First Class Mail, on the defendants listed in the
captioned matter.



William M. Brilla, Pro Se

FILED

OCT 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLAIRVILLE COUNTY, PENNSYLVANIA

CIVIL ACTION

Case Type:	Civil - Cause of Action	Civil Docket Number:	William W. Buhle
Plaintiff:	William K. Mistrall, Esq.	Defendant:	A.
Plaintiff's Address:	William K. Mistrall, Esq.	Defendant's Address:	Bhau K. Mistrall, Esq.
Plaintiff's Telephone Number:	814-345-5454	Defendant's Telephone Number:	814-345-5454
Plaintiff's Email Address:	814-345-5454@msn.com	Defendant's Email Address:	814-345-5454@msn.com
Plaintiff's Mailing Address:	130 Second Street Kingsport, PA 16842	Defendant's Mailing Address:	130 Second Street Kingsport, PA 16842
Plaintiff's Date:	Plaintiff's Date:	Plaintiff's Date:	Plaintiff's Date:
Plaintiff's Signature:	Plaintiff's Signature:	Plaintiff's Signature:	Plaintiff's Signature:

CERTIFICATE OF SERVICE

I, William W. Buhle, hereby certify that the foregoing complaint was served this day

26 day of September 2007, by Hand Cause Mail, on the defendant listed in the

captioned matter.

William W. Buhle, Pto Ge

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

William M. Brilla

&

Court of Common Pleas, Clearfield

IN FORMA PAUPERIS ORDER

07-1578-CD

ORDER

NOW THIS the _____ day of _____, 2007, upon
consideration of the Praecipe To Proceed In Forma Pauperis, filed by William M. Brilla,
Pro Se, it is hereby the order of this ^{Court} ~~Court~~ that his praecipe shall ~~be~~ ^{be allowed hereby} granted, and that
he shall be allowed to proceed In Forma Pauperis.

~~The court further orders, that this order shall be honored and accepted in all civil
departments within the Clearfield County Court of Common Pleas, and access to court
documents shall not be denied for need of separate IFP order, or with regard to
captioning, or court docketing practices.~~

~~This order shall not be superseded until William M. Brilla fulfills his obligation to
this court in reporting an improvement in his financial circumstances.~~

BY THE COURT:

J.

102

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla

Plaintiff

v.

Civil Docket Number:

Brian K. Marshall, Esq.

Defendants

&

Miller, Kistler, Campbell,
Miller, Et al., Inc.

07-1578-CD

PRAECIPE TO PROCEEDE IN FORMA PAUPERIS

NOW COMES the plaintiff, William M. Brilla, Pro Se, who files the following Praeclipe for In Forma Pauperis, in accordance with the Pennsylvania Rules Of Civil Procedure, Rule 240, and avers as follows:

1. I am the plaintiff in the above matter and because of my financial condition am unable to pay the fees and costs of prosecuting or defending the action or proceeding.
2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.
3. I represent that the following information regarding my ability to pay the fees and costs is true and correct.

(a.) Name: William M. Brilla

133 Second Street
P.O. Box 43
Kylertown, PA 16847
SSN: 165-48-8002

FILED
M 10/3/2007 Piff
OCT 04 2007
68

William A. Shaw
Prothonotary/Clerk of Courts

22

(b.) Employment: Un-employed

Date of last employment: 08/04/2006

Employer: Bob's Army & Navy Store, Inc.

229 East Market Street
Clearfield, PA 16830
814-765-4652

Salary or Wages: \$6.50 per hour / 35 hours per week

Gross wages: \$227.50 / week

Encumbrance: \$82.00 / week – Child Support

Net wages after taxes & child support: \$115.00 / per week

Type Of Work: Data entry

(c.) Other income within the past 12 months: None

Business or profession: None

Other self-employment: None

Social security benefits: None

Support payments: None

Disability payments: None

Unemployment compensation and supplemental benefits: None

Workman's compensation: None

Public assistance: \$155.00 / month, food assistance, since August 2006.

Other: None

(d.) Other contributions to household support: None

(e.) Property owned

Cash: None

Checking account: None

Savings account: None

Certificates of deposit: None

**Real estate: Two properties both subject to equitable distribution,
currently taken on appeal.**

Plaintiff's residence

**133 Second Street
Kylertown, PA 16847**

Ex-wife's residence

**90 Second Street
Kylertown, PA 16847**

Motor vehicle: None

Stocks, bonds, etc.: None

(f.) Monthly expenses.

Mortgage: AMC Mortgage Company

Held jointly with ex-wife. \$450.00 per month.

Second Mortgage: PHFA-HEMAP

Held by plaintiff alone. \$25.00 per month.

Utilities:

Electric: \$140.00 / month. Payment agreement.

Water: \$50.00 / month. Payment agreement.

Sewer: \$70.00 / month. Payment agreement.

Telephone: \$75.00 / month. Payment agreement.

Heating oil: \$90.00 / month. Currently \$25.00, owed on payment agreement.

Other: Child Support. \$315.00 / month.

(g.) Persons dependant on me for support: None

4. I understand that I have a continuing obligation to inform the court of improvement in my financial circumstances, which would permit me to pay the costs herein.
5. The plaintiff files this praecipe at the demand of the court, but disputes the necessity for the following reasons:

a. A previous IFP order was granted December 4, 2006, in the matter of Brilla v. Brilla. (See - Exhibit A)

b. Pa.R.C.P., Rule 240 (f)(1) clearly states:

(f) A party permitted to proceed in forma pauperis shall not be required to:

(1) pay any cost or fee imposed or authorized by Act of Assembly or general rule which is payable to any court or prothonotary or any public officer or employee.

Nothing in the language of Rule 240, makes exceptions for the need of separate IFP orders for different issues, (i.e. divorce, custody, support, etc.), within the same matter, or the need of a new IFP order for a new matter, as in the current situation.

c. Additionally, Pa.R.C.P., Rule 240 (e), states:

(e) A party permitted to proceed in forma pauperis has a continuing obligation to inform the court of

improvement in the party's financial circumstances which will enable the party to pay costs.

Absent an improvement in the plaintiff's financial circumstances, he is under no obligation to continually inform the court that conditions remain the same or, as in this case, have worsened.

- d. A statement was filed simultaneously with the complaint of William M. Brilla v. Brian K. Marshall & Miller, Kistler, Campbell, Miller, Et al., Inc., reaffirming the financial condition of the plaintiff. (See - Exhibit B)
- e. The letter from the court dated September 27, 2007, does not reference any authority by; statute, regulation, rule, or court decision, supporting the court's position requiring a new IFP order to proceed with the current matter. (See - Exhibit C)
- f. Without this authority, the stance taken by the court seems capricious and arbitrary, and intended to obstruct and frustrate the plaintiff's access to a fair and impartial judiciary.

6. I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: 10/3/2007

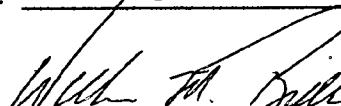

William M. Brilla, Pro Se

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

RHONDA L. BRILLA Plaintiff)
vs.)
WILLIAM M. BRILLA Defendant)
No. 2002-1648-CD

ORDER

NOW THIS the 4th day of December, 2006, upon
consideration of the Praeipe for In Forma Pauperis, filed by the defendant, it is hereby
the order of this court that the defendants praecipe shall be granted, and that he shall
be allowed to proceed In Forma Pauperis, in the above captioned matter.

BY THE COURT:

/s/ Paul E. Cherry

J.

FILED
01/30/2006
DEC 05 2006
William A. Shaw
Prothonotary/Clerk of Courts
1CC
Def.-
33 Second St
PO Box 43
Kylestown, PA
16881

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

RHONDA L. BRILLA	Plaintiff	) No. 2002-1648-CD
)
vs.		) Type of Case: Divorce
)
WILLIAM M. BRILLA	Defendant	) Type of Pleading: Praeclipe
)
		) Pa. Rules Of Civil Procedure
		) Rule 240
		) In Forma Pauperis
)
		) Filed by: Defendant, Pro Se
)
		) All Rights Reserved, Without
		) Prejudice
		) U.C.C. § 1-207
)
		) William M. Brilla
		) 133 Second Street
		) P.O. Box 43
		) Kylertown, PA 16847
		) 814-345-5454

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

JUL 31 2007

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

FILED *ICC deft*
O/10:10 am
DEC 01 2007 *WS*

William A. Shaw
Prothonotary/Clerk of Courts

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

RHONDA L. BRILLA Plaintiff)
vs.)
WILLIAM M. BRILLA Defendant)
)
) No. 2002-1648-CD

PRAECL^E FOR IN FORMA PAUPERIS

NOW COMES the defendant, William M. Brilla, Pro Se, who files the following Praecept for In Forma Pauperis, in accordance with the Pennsylvania Rules Of Civil Procedure, Rule 240, and avers as follows:

1. I am the defendant in the above matter and because of my financial condition am unable to pay the fees and costs of prosecuting or defending the action or proceeding.
2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.
3. I represent that the following information regarding my ability to pay the fees and costs is true and correct.

(a.) Name: William M. Brilla

133 Second Street

P.O. Box 43

Kylertown, PA 16847

SSN: 165-48-8002

(b.) Employment: Un-employed

Date of last employment: 08/04/2006

Employer: Bob's Army & Navy Store, Inc.

229 East Market Street

Clearfield, PA 16830

814-765-4652

Salary or Wages: \$6.50 per hour / 35 hours per week

Gross wages: \$227.50 / week

Encumbrance: \$82.00 / week – Child Support

Net wages after taxes & child support: \$115.00 / per week

Type Of Work: Data entry

(c.) Other income within the past 12 months: None

Business or profession: None

Other self-employment: None

Social security benefits: None

Support payments: None

Disability payments: None

Unemployment compensation and supplemental benefits: None

Workman's compensation: None

Public assistance: \$155.00 / month, food assistance, since August 2006.

Other: None

(d.) Other contributions to household support: None

(e.) Property owned

Cash: None

Checking account: None

Savings account: None

Certificates of deposit: None

Real estate: Two properties both subject to equitable distribution.

Plaintiff's residence

90 Second Street

Kylertown, PA 16847

Defendant's residence

133 Second Street

Kylertown, PA 16847

Motor vehicle: Chevrolet Lumina Year: 1998

Value: \$1500.00

Stocks, bonds, etc.: None

(f.) Monthly expenses.

Mortgage: AMC Mortgage Company

Held jointly with plaintiff. \$450.00 per month.

Utilities:

Electric: \$65.00 / month. Currently 4 months past due.

Water: \$25.00 / month. Currently 3 months past due.

Sewer: \$45.00 / month. Currently 3 months past due.

Telephone: \$50.00 / month. Currently 3 months past due.

Heating oil: \$90.00 / month. Currently \$650.00 past due.

Other: Child Support. \$360.00 / month, plus \$90.00 / month arrears.

(g.) Persons dependant on me for support: None

4. I understand that I have a continuing obligation to inform the court of improvement in my financial circumstances, which would permit me to pay the costs herein.
5. I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: 01 DEC 2006

William M. Brilla
William M. Brilla
All rights reserved, without prejudice
U.C.C. § 1-207

EXHIBIT B

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla Plaintiff

V.

Plaintiff

Brian K. Marshall, Esq. & Defendants
Miller, Kistler, Campbell,
Miller, Et al., Inc.

Civil Docket Number:

2007-1578-C0

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

SEP 26 2007

William A. Brown
Prothonotary/
Clerk of Court

PRAECLipe TO PROCEED IN FORMA PAUPERIS

AND NOW, this the 26 day of September 2007, the plaintiff requests that he be allowed to precede In Forma Pauperis, in the above captioned matter, in support thereof avers:

1. A previous IFP order was granted by Judge Paul E. Cherry, on or about December 4, 2006, in the matter of Brilla v. Brilla.
2. The plaintiff financial circumstances have not changed since that time.
3. This praecipe is being filed simultaneously with the plaintiffs Civil Complaint & Claim For damages Resulting From Negligence & Professional Misconduct, as provide for in Pa.R.C.P., Rule 240 (c)(1)(i).

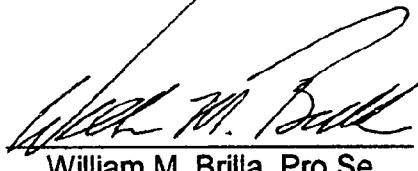
If the petition is filed simultaneously with the commencement of the action or with the taking of the appeal, the prothonotary shall docket the action and the petition or shall accept the appeal and petition without the payment of any filing fee.

4. The plaintiff disputes the need to file this new praecipe, but has been compelled to do so at the insistence of the Office of the Prothonotary, Clearfield County Court of Common Pleas, which has refused to honor the

plaintiffs previous IFP order, in clear violation of Pa.R.C.P., Rule 240 (f)(1), which states:

A party permitted to proceed in forma pauperis shall not be required to pay any cost or fee imposed or authorized by Act of Assembly or general rule which is payable to any court or prothonotary or any public officer or employee.

5. I verify that the statements made in this Praeclipe to Proceed In Forma Pauperis are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. 4904, relating to unsworn falsification to authorities.



William M. Brilla, Pro Se

EXHIBIT C



JUDGE'S CHAMBERS
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA
CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

FREDRIC J. AMMERMAN
PRESIDENT JUDGE

PAUL E. CHERRY
JUDGE

JOHN K. REILLY, JR.
SENIOR JUDGE

September 27, 2007

William Brilla
P.O. Box 43
133 Second Street
Kylertown, Pennsylvania 16847

RE: William M. Brilla v. Brian K. Marshall & Miller, Kistler, Campbell,
Miller, Et al., Inc.
NO. 07-1578-CD

Dear Mr. Brilla:

It has been brought to this Court's attention that you have filed a Praeclipe to Proceed in Forma Pauperis in regard to the above captioned number.

Please be advised that since you have initiated a new case with new parties involved, you must therefore file an entirely new Petition to Proceed in Forma Pauperis. You can not rely on the previous IFP Order entered in the matter of Brilla v. Brilla.

I trust you will file the appropriate Petition in this matter so this matter may proceed accordingly.

Very truly yours,

A handwritten signature in black ink that reads "Paul E. Cherry".

PAUL E. CHERRY,
JUDGE

PEC/dmp

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

William M. Brilla Plaintiff
v.
Brian K. Marshall, Esq. Defendants
&
Miller, Kistler, Campbell,
Miller, Et al., Inc.

Civil Docket Number:

2007-1578-CD

FILED
SEP 26 2007
07:40 AM
William A. Shaw
Prothonotary/Clerk of Courts
2 Went to Puff.

PRAECIPE TO PROCEED IN FORMA PAUPERIS

AND NOW, this the 26 day of September 2007, the plaintiff requests that he be allowed to precede In Forma Pauperis, in the above captioned matter, in support thereof avers:

1. A previous IFP order was granted by Judge Paul E. Cherry, on or about December 4, 2006, in the matter of Brilla v. Brilla.
2. The plaintiff financial circumstances have not changed since that time.
3. This praecipe is being filed simultaneously with the plaintiffs Civil Complaint & Claim For damages Resulting From Negligence & Professional Misconduct, as provide for in Pa.R.C.P., Rule 240 (c)(1)(i), which states:

If the petition is filed simultaneously with the commencement of the action or with the taking of the appeal, the prothonotary shall docket the action and the petition or shall accept the appeal and petition without the payment of any filing fee.

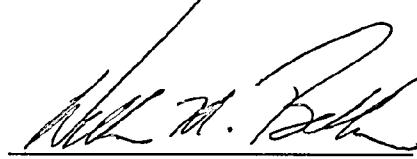
4. The plaintiff disputes the need to file this new praecipe, but has been compelled to do so at the insistence of the Office of the Prothonotary, Clearfield County Court of Common Pleas, which has refused to honor the

11

plaintiffs previous IFP order, in clear violation of Pa.R.C.P., Rule 240 (f)(1), which states:

A party permitted to proceed in forma pauperis shall not be required to pay any cost or fee imposed or authorized by Act of Assembly or general rule which is payable to any court or prothonotary or any public officer or employee.

5. I verify that the statements made in this Praecipe to Proceed In Forma Pauperis are true and correct. I understand that false statements made herein are made subject to the penalties of, 18 Pa.C.S. 4904, relating to unsworn falsification to authorities.



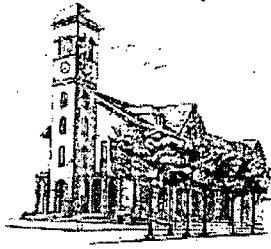
William M. Brilla

William M. Brilla, Pro Se

Prothonotary/Clerk of Courts
William A. Shaw

SEP 26 2007

FILED



COPY

Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts **Jacki Kendrick**
Deputy Prothonotary/Clerk of Courts **Bonnie Hudson**
Administrative Assistant **David S. Ammerman**
Solicitor

PO Box 549, Clearfield, PA 16830 • Phone: (814) 765-2641 Ext. 1330 • Fax: (814) 765-7659 • www.clearfieldco.org

Charles C. Brown, Jr., Sr. Judge, Sp. Presiding
Centre County Court of Common Pleas
Allegheny & High Street
Bellefonte, PA 16823

Paul E. Cherry, Judge
Clearfield County Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

William M. Brilla
PO Box 43
133 Second Street
Kylertown, PA 16847

James A. Naddeo, Esq.
PO Box 552
207 East Market Street
Clearfield, PA 16830

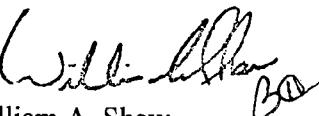
William M. Brilla
Vs.
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller, et al, Inc.

Court No. 07-1578-CD; Superior Court No. 676 WDA 2009

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on August 10, 2009.

Sincerely,


William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 07-1578-CD

William M. Brilla

Vs.

**Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller et al, Inc.**

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	09/26/07	Praecipe to Proceed In Forma Pauperis	02
02	10/04/07	Praecipe to Proceed In Forma Pauperis	18
03	10/05/07	Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	66
04	10/05/07	Order, Re: In Forma Pauperis is Granted	01
05	10/15/07	Amended Certificate of Service	07
06	12/04/07	Preliminary Objections with Rule scheduling argument	05
07	12/06/07	Certificate of Service	02
08	01/04/08	Praecipe to Reinstate Complaint	05
09	01/04/08	Plaintiff's Answer to the Defendant's Preliminary Objections and New Matter	109
10	01/07/08	Motion to Strike and Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction	06
11	01/11/08	Order, Re: Motion to Strike the Answer in New Matter to Preliminary Objections is Granted	01
12	04/23/08	Petition for Judgment of Non Pros with Rule filed April 25, 2008, scheduling argument	05
13	04/29/08	Certificate of Service	02
14	05/29/08	Transcript of Proceedings, Defendants' Preliminary Objections held before Judge Paul E. Cherry on January 8, 2008	Separate Cover
15	05/30/08	Certificate of Merit	02
16	05/30/08	Praecipe to Reinstate Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	03
17	07/29/08	Order, Re: Petition for Judgment of Non Pros is Denied	01
18	09/18/08	Sheriff Return	08
19	01/07/09	Defendants' Preliminary Objections to Plaintiff's Complaint	04
20	01/15/09	Rule scheduling argument on Preliminary Objections to Plaintiff's Complaint	01
21	01/19/09	Certificate of Service	02
22	02/04/09	Answer and New Matter to Defendants' Preliminary Objections	10
23	03/17/09	Certificate of Service	02
24	03/19/09	Motion to Dismiss for Failure to File Certificate of Merit	08
25	03/23/09	Order, Re: Preliminary Objections in the Nature of Demurrer/Legal Insufficiency of a Pleading is Granted. Complaint filed by Plaintiff is Dismissed with Prejudice.	01
26	04/21/09	Notice of Appeal	09
27	04/29/09	Appeal Docket Sheet, 676 WDA 2009	03
28	06/04/09	Order, Re: filing of a statement of errors complained of on appeal	01
29	08/10/09	Letters, Re: Notification of mailing appeal mailed to William M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	05
		Mailed Appeal August 10, 2009	
30	08/10/09	Letter, Re: Appeal Mailed to Superior Court	06
31	08/13/09	Letter from Superior Court, Re: Return appeal due to missing item	02
32	08/17/09	Rule 1925(a) Opinion	02

Date: 8/17/2009

Time: 10:25 AM

Page 1 of 3

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavas, Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
9/26/2007	New Case Filed. No Judge
	Filing: Praeclipe to Proceed In Forma Pauperis RE: Civil Complaint & Clair No Judge for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff.
10/4/2007	Praeclipe to Proceed In Forma Pauperis, filed by s/ William M. Brilla, Pro Se No Judge 1CC Plff.
10/5/2007	Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se. No Judge 2CC Plff Order, this 5th day of Oct., 2007, Praeclipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff
10/15/2007	Amended Certificate of Service, filed. That the above captioned Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct was served on the 11th day of October 2007 by mailing by First Class mail to Miller, Kistler, Campbell, Miller, filed by s/ William M. Brilla-plff. 2CC plff.
12/4/2007	Preliminary Objections, filed by s/ James A. Naddeo, Esquire. 2CC Atty. No Judge Naddeo Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
12/6/2007	Certificate of Service, certified copy of Preliminary Objections served upon William M. Brilla by First Class Mail on the 5th day of Dec., 2007. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
1/4/2008	Praeclipe to Reinstate Complaint, filed by s/ William M. Brilla, Plaintiff, Pro Se. 7CC Plff., No fee (IFP); 1 Complaint Reinstated to Plaintiff Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter, filed by s/ William M. Brilla, Plaintiff Pro Se. 7CC Plff
1/7/2008	Motion to Strike And Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction by the Court, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo
1/11/2008	Order, this 8th day of Jan., 2008, the Motion to Strike the Answer in New Matter to Preliminary Objections is granted. By The Court, /s/ Paul E. Cherry, Judge. CC to Plff, Naddeo
1/23/2008	Petition for Judgment of Non Pros, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
1/25/2008	Rule, this 25th day of April, 2008, it is Ordered that a Rule be granted upon the Plaintiff. Rule Returnable and argument thereon to be held the 17th of June, 2008, at 11:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
1/29/2008	Certificate of Service, a certified copy of Petition for Judgment of Non Pros was served on William M. Brilla by First-Class Mail on the 28th day of April, 2008. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
1/29/2008	Transcript of Proceedings, filed. Defendants' Preliminary Objections, Held Before Paul E. Cherry, Judge, on Tuesday, Jan. 8, 2008.
1/30/2008	Certificate of Merit, filed by William M. Brilla, Plaintiff, Pro Se. 2CC Plff

Date: 8/17/2009

Time: 10:25 AM

Page 2 of 3

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav.s.Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
5/30/2008	Praecipe to Reinstate Civil Complaint & Claim For Damages Resulting From Paul E. Cherry Negligence & Professional Misconduct, filed by s/ William M. Brilla, plaintiff Pro Se. 1CC Plff.; 1CC & 2 Compl. Reinstated to Sheriff; no fee, IFP
7/29/2008	Order AND NOW, this 28th day of July 2008, upon consideration of the Petition for Judgment of Non Pros and after oral argument, said Petition is DENIED. Personal service was made on both defendants as of June 5, 2008 BY THE COURT: /s/ Charles C. Brown Jr., SJSP. No Copies (Cert. Copies to Judge Brown, Atty. Naddeo and W. Brilla on 12-31-08)
9/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
1/7/2009	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ James Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo
1/15/2009	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
1/19/2009	Certificate of Service, filed. That a certified copy of Rule and Defendant's Preliminary Objections to Plaintiff's Complaint was served on the 19th day of January 2009 by first class mail to William M. Brilla, filed by s/ James A. Naddeo Esq. No CC.
2/4/2009	Answer & New Matter to Defendants' Preliminary Objections, filed by s/ Paul E. Cherry William M. Brilla, Plaintiff, Pro Se. 2CC W. Brilla
3/17/2009	Certificate of Service, filed. That a true and correct copy of Notice of Intent to Enter Judgment of Non Pros on Professional Liability Claim in the above-captioned case was served by first class mail on the 17th day of March 2009 to William M. Brilla, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
3/19/2009	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo
3/23/2009	Order, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint, said preliminary objections in the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo
4/21/2009	Notice of Appeal, filed by Plaintiff 1 Cert. to Plaintiff and 1 Cert. Superior Court.
4/29/2009	Appeal Docket Sheet from Superior Court # 676 WDA 2009, filed.

Date: 8/17/2009
Time: 10:25 AM

Page 3 of 3

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavs. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date		Judge
6/4/2009	Order this 29th day of May 2009, pursuant to PA.R.A.P. 1925(b), it is ORDERED as follows: 1) Plaintiff William M. Brilla shall file of record a statement of errors complained of on appeal within twenty-one (21) days of the filing of this Order. 2) The statement shall be served on this Court pursuant to PA.R.A.P. 1925(b) (1). 3) Plaintiff William M. Brilla is hereby notified that any issue not properly included in the timely filed statement shall be deemed waived by the appellate court. BY THE COURT: /s/ Charles C. Brown Jr. Sr. J. Specially Presiding. 2CC plff @ PO Box 43, 133 Second St., Kylertown PA 16849 and 2CC Atty Naddeo.	Charles C. Brown Jr.
3/10/2009	August 10, 2009, Mailed Appeal to Superior Court. August 10, 2009, Letters, Re: Notification of mailing appeal mailed to William M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c). Letter, Re: Appeal Mailed to Superior Court, August 10, 2009.	Paul E. Cherry
3/13/2009	Letter w/original record returned due to: Missing Item (s) Trial Court Opinion Paul E. Cherry or Rule 1925 (a), Statement in Lieu of	
3/17/2009	Rule 1925(a) Opinion, BY THE COURT: /s/Charles C. Brown, Jr., Senior Judge, Specially Presiding Two CC Attorney Naddeo One CC Plaintiff One CC D. Mikesell and Law Library	Paul E. Cherry

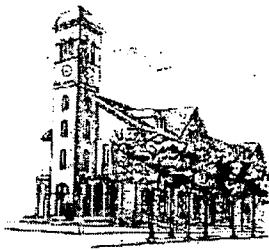
I hereby certify this to be a true and attested copy of the original statement filed in this case.

AUG 17 2009

Attest,

Willie E. Cherry
Prothonotary/
Clerk of Courts

COPY



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts	Jacki Kendrick Deputy Prothonotary/Clerk of Courts	Bonnie Hudson Administrative Assistant	David S. Ammerman Solicitor
--	--	--	---------------------------------------

PO Box 549, Clearfield, PA 16830 • Phone: (814) 765-2641 Ext. 1330 • Fax: (814) 765-7659 • www.clearfieldco.org

Charles C. Brown, Jr., Sr. Judge, Sp. Presiding
Centre County Court of Common Pleas
Allegheny & High Street
Bellefonte, PA 16823

Paul E. Cherry, Judge
Clearfield County Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

William M. Brilla
PO Box 43
133 Second Street
Kylertown, PA 16847

James A. Naddeo, Esq.
PO Box 552
207 East Market Street
Clearfield, PA 16830

William M. Brilla
Vs.
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller, et al, Inc.

Court No. 07-1578-CD; Superior Court No. 676 WDA 2009

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on August 10, 2009.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 07-1578-CD

William M. Brilla

Vs.

**Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller et al, Inc.**

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	09/26/07	Praecipe to Proceed In Forma Pauperis	02
02	10/04/07	Praecipe to Proceed In Forma Pauperis	18
03	10/05/07	Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	66
04	10/05/07	Order, Re: In Forma Pauperis is Granted	01
05	10/15/07	Amended Certificate of Service	07
06	12/04/07	Preliminary Objections with Rule scheduling argument	05
07	12/06/07	Certificate of Service	02
08	01/04/08	Praecipe to Reinstate Complaint	05
09	01/04/08	Plaintiff's Answer to the Defendant's Preliminary Objections and New Matter	109
10	01/07/08	Motion to Strike and Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction	06
11	01/11/08	Order, Re: Motion to Strike the Answer in New Matter to Preliminary Objections is Granted	01
12	04/23/08	Petition for Judgment of Non Pros with Rule filed April 25, 2008, scheduling argument	05
13	04/29/08	Certificate of Service	02
14	05/29/08	Transcript of Proceedings, Defendants' Preliminary Objections held before Judge Paul E. Cherry on January 8, 2008	Separate Cover
15	05/30/08	Certificate of Merit	02
16	05/30/08	Praecipe to Reinstate Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	03
17	07/29/08	Order, Re: Petition for Judgment of Non Pros is Denied	01
18	09/18/08	Sheriff Return	08
19	01/07/09	Defendants' Preliminary Objections to Plaintiff's Complaint	04
20	01/15/09	Rule scheduling argument on Preliminary Objections to Plaintiff's Complaint	01
21	01/19/09	Certificate of Service	02
22	02/04/09	Answer and New Matter to Defendants' Preliminary Objections	10
23	03/17/09	Certificate of Service	02
24	03/19/09	Motion to Dismiss for Failure to File Certificate of Merit	08
25	03/23/09	Order, Re: Preliminary Objections in the Nature of Demurrer/Legal Insufficiency of a Pleading is Granted. Complaint filed by Plaintiff is Dismissed with Prejudice.	01
26	04/21/09	Notice of Appeal	09
27	04/29/09	Appeal Docket Sheet, 676 WDA 2009	03
28	06/04/09	Order, Re: filing of a statement of errors complained of on appeal	01

Date: 8/10/2009

Time: 09:54 AM

Page 1 of 3

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavs. Brian K. Marshall Esq, et al

Civil Other-COUNT

date	Judge
1/26/2007	New Case Filed. No Judge
	Filing: Praeclipe to Proceed In Forma Pauperis RE: Civil Complaint & Clair No Judge for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff.
0/4/2007	Praeclipe to Proceed In Forma Pauperis, filed by s/ William M. Brilla, Pro Se. No Judge 1CC Plff.
0/5/2007	Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se. No Judge 2CC Plff
	Order, this 5th day of Oct., 2007, Praeclipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff
0/15/2007	Amended Certificate of Service, filed. That the above captioned Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct was served on the 11th day of October 2007 by mailing by First Class mail to Miller, Kistler, Campbell, Miller, filed by s/ William M. Brilla-plff. 2CC plff.
2/4/2007	Preliminary Objections, filed by s/ James A. Naddeo, Esquire. 2CC Atty. No Judge Naddeo
	Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
2/6/2007	Certificate of Service, certified copy of Preliminary Objections served upon Paul E. Cherry William M. Brilla by First Class Mail on the 5th day of Dec., 2007. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
4/2008	Praeclipe to Reinstate Complaint, filed by s/ William M. Brilla, Plaintiff, Pro Se. 7CC Plff., No fee (IFP); 1 Complaint Reinstated to Plaintiff
	Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter, Paul E. Cherry filed by s/ William M. Brilla, Plaintiff Pro Se. 7CC Plff
7/2008	Motion to Strike And Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction by the Court, filed by s/ James A. Naddeo, Esquire. Paul E. Cherry 2CC Atty. Naddeo
11/2008	Order, this 8th day of Jan., 2008, the Motion to Strike the Answer in New Matter to Preliminary Objections is granted. By The Court, /s/ Paul E. Cherry, Judge. CC to Plff, Naddeo
12/2008	Petition for Judgment of Non Pros, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
1/25/2008	Rule, this 25th day of April, 2008, it is Ordered that a Rule be granted upon Paul E. Cherry the Plaintiff. Rule Returnable and argument thereon to be held the 17th of June, 2008, at 11:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
1/29/2008	Certificate of Service, a certified copy of Petition for Judgment of Non Pros Paul E. Cherry was served on William M. Brilla by First-Class Mail on the 28th day of April, 2008. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
1/29/2008	Transcript of Proceedings, filed. Defendants' Preliminary Objections, Held Paul E. Cherry Before Paul E. Cherry, Judge, on Tuesday, Jan. 8, 2008.
1/30/2008	Certificate of Merit, filed by William M. Brilla, Plaintiff, Pro Se. 2CC Plff Paul E. Cherry

Date: 8/10/2009

Time: 09:54 AM

Page 2 of 3

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
7/30/2008	Praecipe to Reinstate Civil Complaint & Claim For Damages Resulting From Paul E. Cherry Negligence & Professional Misconduct, filed by s/ William M. Brilla, plaintiff Pro Se. 1CC Plff.; 1CC & 2 Compl. Reinstated to Sheriff; no fee, IFP
7/29/2008	Order AND NOW, this 28th day of July 2008, upon consideration of the Petition for Judgment of Non Pros and after oral argument, said Petition is DENIED. Personal service was made on both defendants as of June 5, 2008. BY THE COURT: /s/ Charles C. Brown Jr., SJSP. No Copies (Cert. Copie to Judge Brown, Atty. Naddeo and W. Brilla on 12-31-08)
7/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. Paul E. Cherry June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
7/7/2009	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ James Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo
7/15/2009	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
7/19/2009	Certificate of Service, filed. That a certified copy of Rule and Defendant's Preliminary Objections to Plaintiff's Complaint was served on the 19th day of January 2009 by first class mail to William M. Brilla, filed by s/ James A. Naddeo Esq. No CC.
7/4/2009	Answer & New Matter to Defendants' Preliminary Objections, filed by s/ Paul E. Cherry William M. Brilla, Plaintiff, Pro Se. 2CC W. Brilla
7/17/2009	Certificate of Service, filed. That a true and correct copy of Notice of Intent to Enter Judgment of Non Pros on Professional Liability Claim in the above-captioned case was served by first class mail on the 17th day of March 2009 to William M. Brilla, filed by s/ James A. Naddeo Esq. 2CC Atty. Naddeo.
7/19/2009	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo
7/23/2009	Order, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint, said preliminary objections in the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo
7/21/2009	Notice of Appeal, filed by Plaintiff 1 Cert. to Plaintiff and 1 Cert. Superior Court. Paul E. Cherry
7/29/2009	Appeal Docket Sheet from Superior Court # 676 WDA 2009, filed. Paul E. Cherry

Date: 8/10/2009

Time: 09:54 AM

Page 3 of 3

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavas, Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
8/4/2009	Charles C. Brown Jr.

Order this 29th day of May 2009, pursuant to P.A.R.A.P. 1925(b), it is ORDERED as follows:

- 1) Plaintiff William M. Brilla shall file of record a statement of errors complained of on appeal within twenty-one (21) days of the filing of this Order.
- 2) The statement shall be served on this Court pursuant to P.A.R.A.P. 1925 (b) (1).
- 3) Plaintiff William M. Brilla is hereby notified that any issue not properly included in the timely filed statement shall be deemed waived by the appellate court. BY THE COURT: /s/ Charles C. Brown Jr. Sr. J. Specially Presiding. 2CC plff @ PO Box 43, 133 Second St., Kylertown PA 16849 and 2CC Atty Naddeo.

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

AUG 10 2009

Attest.



William E. Cherry
Prothonotary/
Clerk of Courts

Date: 6/16/2009

Time: 09:59 AM

Page 1 of 3

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
9/26/2007	New Case Filed. No Judge
10/4/2007	① Filing: Praeclipe to Proceed In Forma Pauperis RE: Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff. No Judge
10/5/2007	② Praeclipe to Proceed In Forma Pauperis, filed by s/ William M. Brilla, Pro Se 1CC Plff. No Judge
10/15/2007	③ Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se 2CC Plff. No Judge
12/4/2007	④ Order, this 5th day of Oct., 2007, Praeclipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff. No Judge
12/6/2007	⑤ Amended Certificate of Service, filed. That the above captioned Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct was served on the 11th day of October 2007 by mailing by First Class mail to Miller, Kistler, Campbell, Miller, filed by s/ William M. Brilla-plff. 2CC plff. No Judge
1/4/2008	⑥ Preliminary Objections Objections, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo No Judge
1/11/2008	⑦ Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo Paul E. Cherry
1/23/2008	⑧ Certificate of Service, certified copy of Preliminary Objections served upon William M. Brilla by First Class Mail on the 5th day of Dec., 2007. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty. Paul E. Cherry
1/25/2008	⑨ Praeclipe to Reinstate Complaint, filed by s/ William M. Brilla, Plaintiff, Pro Se. 7CC Plff., No fee (IFP); 1 Complaint Reinstated to Plaintiff Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter, Paul E. Cherry filed by s/ William M. Brilla, Plaintiff Pro Se. 7CC Plff. 109
1/29/2008	⑩ Motion to Strike And Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction by the Court, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo Paul E. Cherry
2/25/2008	⑪ Order, this 8th day of Jan., 2008, the Motion to Strike the Answer in New Matter to Preliminary Objections is granted. By The Court, /s/ Paul E. Cherry, Judge. CC to Plff, Naddeo Paul E. Cherry
3/29/2008	⑫ Petition for Judgment of Non Pros, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo. Paul E. Cherry
4/25/2008	⑬ Rule, this 25th day of April, 2008, it is Ordered that a Rule be granted upon the Plaintiff. Rule Returnable and argument thereon to be held the 17th of June, 2008, at 11:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo Paul E. Cherry
5/29/2008	⑭ Certificate of Service, a certified copy of Petition for Judgment of Non Pros was served on William M. Brilla by First-Class Mail on the 28th day of April, 2008. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty. Paul E. Cherry
5/30/2008	⑮ Transcript of Proceedings, filed. Defendants' Preliminary Objections, Held Before Paul E. Cherry, Judge, on Tuesday, Jan. 8, 2008. SK
5/31/2008	⑯ Certificate of Merit, filed by William M. Brilla, Plaintiff, Pro Se. 2CC Plff. Paul E. Cherry

Date: 6/16/2009

Time: 09:59 AM

Page 2 of 3

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
5/30/2008 ⑯	Praecipe to Reinstate Civil Complaint & Claim For Damages Resulting From Paul E. Cherry Negligence & Professional Misconduct, filed by s/ William M. Brilla, plaintiff 3 Pro Se. 1CC Plff; 1CC & 2 Compl. Reinstated to Sheriff; no fee, IFP
7/29/2008 ⑯	Order AND NOW, this 28th day of July 2008, upon consideration of the Charles E. Brown Petition for Judgment of Non Pros and after oral argument, said Petition is 1 DENIED. Personal service was made on both defendants as of June 5, 2008. BY THE COURT: /s/ Charles C. Brown Jr., SJSP. No Copies (Cert. Copies to Judge Brown, Atty. Naddeo and W. Brilla on 12-31-08)
9/18/2008 ⑯	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. Paul E. Cherry June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Brian 8 K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
1/7/2009 ⑯	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ James Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo 4
1/15/2009 ⑯	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon Paul E. Cherry the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule 1 Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
1/19/2009 ⑯	Certificate of Service, filed. That a certified copy of Rule and Defendant's Paul E. Cherry Preliminary Objections to Plaintiff's Complaint was served on the 19th day of 2 January 2009 by first class mail to William M. Brilla, filed by s/ James A. 2 Naddeo Esq. No CC.
2/4/2009 ⑯	Answer & New Matter to Defendants' Preliminary Objections, filed by s/ ⑯ Paul E. Cherry William M. Brilla, Plaintiff, Pro Se. 2CC W. Brilla
3/17/2009 ⑯	Certificate of Service, filed. That a true and correct copy of Notice of Intent to Enter Judgment of Non Pros on Professional Liability Claim in the 2 above-captioned case was served by first class mail on the 17th day of 2 March 2009 to William M. Brilla, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
3/19/2009 ⑯	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo 8
3/23/2009 ⑯	Order, this 20th day of March, 2009, upon consideration of Defendants' Charles C. Brown Jr. Preliminary Objections to Plaintiff's Complaint, said preliminary objections in 1 the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The 1 Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo
4/21/2009 ⑯	Notice of Appeal, filed by Plaintiff Paul E. Cherry 1 Cert. to Plaintiff and 1 Cert. Superior Court. 9
4/29/2009 ⑯	Appeal Docket Sheet from Superior Court # 676 WDA 2009, filed. Paul E. Cherry 3

Date: 6/16/2009

Time: 09:59 AM

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Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
------	-------

6/4/2009

Charles C. Brown Jr.

Order this 29th day of May 2009, pursuant to PA.R.A.P. 1925(b), it is
ORDERED as follows:

- 1) Plaintiff William M. Brilla shall file of record a statement of errors complained of on appeal within twenty-one (21) days of the filing of this Order.
- 2) The statement shall be served on this Court pursuant to PA.R.A.P. 1925 (b) (1).
- 3) Plaintiff William M. Brilla is hereby notified that any issue not properly included in the timely filed statement shall be deemed waived by the appellate court. BY THE COURT: /s/ Charles C. Brown Jr. Sr. J. Specially Presiding. 2CC plff @ PO Box 43, 133 Second St., Kylertown PA 16849 and 2CC Atty Naddeo.



**The Superior Court of Pennsylvania
Office of the Prothonotary**

GRANT BUILDING
310 GRANT STREET, SUITE 600
PITTSBURGH, PA 15219-2297

KAREN REID BRAMBLETT, ESQUIRE
PROTHONOTARY

ELEANOR R. VALECKO
DEPUTY PROTHONOTARY

07-1578-CD
(412) 565-7592
FAX: (412) 565-7711
WEBSITE: www.superior.pacourts.us

NOTICE

Pursuant to Pa. R.A.P. 1935 (a), enclosed please find a printout of records which have recently become past due for transmission to the Superior Court. Please advise this office immediately if the delay is due to Counsel's failure to pay for the transcripts.

Thank you for your assistance in having these records forwarded to this office.

Eleanor R. Valecko
Deputy Prothonotary

Date: August 6, 2009

8-7-09 spoke w/ Melanie
P Sup. Ct. - she will
change record to reflect
Case assigned to Judge Brown.
Case to Ronda this date.



**Superior Court of Pennsylvania
Records Overdue By Primary Lower Court Judge
From 05/01/2009 to 06/30/2009**

District: Western

The Honorable Paul Cherry
Court of Common Pleas of Clearfield County
Clearfield County Courthouse, 230 East Market Street
Clearfield, PA 16830

Docket No.	Short Caption	Due Dt	Trial Ct/Agency	Dkt No	Visiting Judge
676 WDA 2009	Brilla, W. v. Marshall, B.	06/22/2009		07-1578-CD	

The Honorable Paul Cherry Total: 1

Date: 8/7/2009

Clearfield County Court of Common Pleas

User: DROWLES

Time: 01:16 PM

ROA Report

Page 1 of 3

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav.Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
9/26/2007	New Case Filed. No Judge
	Filing: Praeclipe to Proceed In Forma Pauperis RE: Civil Complaint & Clair No Judge for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff.
10/4/2007	Praeclipe to Proceed In Forma Pauperis, filed by s/ William M. Brilla, Pro Se. No Judge 1CC Plff.
10/5/2007	Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se. No Judge 2CC Plff
	Order, this 5th day of Oct., 2007, Praeclipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff
10/15/2007	Amended Certificate of Service, filed. That the above captioned Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct was served on the 11th day of October 2007 by mailing by First Class mail to Miller, Kistler, Campbell, Miller, filed by s/ William M. Brilla-plff. 2CC plff.
12/4/2007	Preliminary Objections, filed by s/ James A. Naddeo, Esquire. 2CC Atty. No Judge Naddeo
	Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
12/6/2007	Certificate of Service, certified copy of Preliminary Objections served upon William M. Brilla by First Class Mail on the 5th day of Dec., 2007. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
1/4/2008	Praeclipe to Reinstate Complaint, filed by s/ William M. Brilla, Plaintiff, Pro Se. 7CC Plff., No fee (IFP); 1 Complaint Reinstated to Plaintiff
	Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter, filed by s/ William M. Brilla, Plaintiff Pro Se. 7CC Plff
1/7/2008	Motion to Strike And Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction by the Court, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo
1/11/2008	Order, this 8th day of Jan., 2008, the Motion to Strike the Answer in New Matter to Preliminary Objections is granted. By The Court, /s/ Paul E. Cherry, Judge. CC to Plff, Naddeo
4/23/2008	Petition for Judgment of Non Pros, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
4/25/2008	Rule, this 25th day of April, 2008, it is Ordered that a Rule be granted upon the Plaintiff. Rule Returnable and argument thereon to be held the 17th of June, 2008, at 11:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
4/29/2008	Certificate of Service, a certified copy of Petition for Judgment of Non Pros was served on William M. Brilla by First-Class Mail on the 28th day of April, 2008. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty.
5/29/2008	Transcript of Proceedings, filed. Defendants' Preliminary Objections, Held Before Paul E. Cherry, Judge, on Tuesday, Jan. 8, 2008.
5/30/2008	Certificate of Merit, filed by William M. Brilla, Plaintiff, Pro Se. 2CC Plff

Date: 8/7/2009

Clearfield County Court of Common Pleas

User: DROWLES

Time: 01:16 PM

ROA Report

Page 2 of 3

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavs.Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
5/30/2008	Praecipe to Reinstate Civil Complaint & Claim For Damages Resulting From Paul E. Cherry Negligence & Professional Misconduct, filed by s/ William M. Brilla, plaintiff Pro Se. 1CC Plff.; 1CC & 2 Compl. Reinstated to Sheriff; no fee, IFP
7/29/2008	Order AND NOW, this 28th day of July 2008, upon consideration of the Petition for Judgment of Non Pros and after oral argument, said Petition is DENIED. Personal service was made on both defendants as of June 5, 2008 BY THE COURT: /s/ Charles C. Brown Jr., SJSP. No Copies (Cert. Copie: to Judge Brown, Atty. Naddeo and W. Brilla on 12-31-08)
9/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. Paul E. Cherry June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
1/7/2009	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ Jame: Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo
1/15/2009	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
1/19/2009	Certificate of Service, filed. That a certified copy of Rule and Defendant's Preliminary Objections to Plaintiff's Complaint was served on the 19th day of January 2009 by first class mail to William M. Brilla, filed by s/ James A. Naddeo Esq. No CC.
2/4/2009	Answer & New Matter to Defendants' Preliminary Objections, filed by s/ Paul E. Cherry William M. Brilla, Plaintiff, Pro Se. 2CC W. Brilla
3/17/2009	Certificate of Service, filed. That a true and correct copy of Notice of Intent to Enter Judgment of Non Pros on Professional Liability Claim in the above-captioned case was served by first class mail on the 17th day of March 2009 to William M. Brilla, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
3/19/2009	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo
3/23/2009	Order, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint, said preliminary objections in the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo
4/21/2009	Notice of Appeal, filed by Plaintiff 1 Cert. to Plaintiff and 1 Cert. Superior Court.
4/29/2009	Appeal Docket Sheet from Superior Court # 676 WDA 2009, filed.

Date: 8/7/2009

Clearfield County Court of Common Pleas

User: DROWLES

Time: 01:16 PM

ROA Report

Page 3 of 3

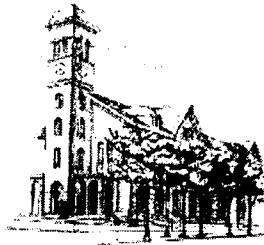
Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillavs.Brian K. Marshall Esq, et al

Civil Other-COUNT

Date		Judge
6/4/2009	Order this 29th day of May 2009, pursuant to P.A.R.A.P. 1925(b), it is ORDERED as follows: 1) Plaintiff William M. Brilla shall file of record a statement of errors complained of on appeal within twenty-one (21) days of the filing of this Order. 2) The statement shall be served on this Court pursuant to P.A.R.A.P. 1925 (b) (1). 3) Plaintiff William M. Brilla is hereby notified that any issue not properly included in the timely filed statement shall be deemed waived by the appellate court. BY THE COURT: /s/ Charles C. Brown Jr. Sr. J. Specially Presiding. 2CC plff @ PO Box 43, 133 Second St., Kylertown PA 16849 and 2CC Atty Naddeo.	Charles C. Brown Jr.



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

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Charles C. Brown, Jr., Sr. Judge, Sp. Presiding
Centre County Court of Common Pleas
Allegheny & High Street
Bellefonte, PA 16823

Paul E. Cherry, Judge
Clearfield County Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

William M. Brilla
PO Box 43
133 Second Street
Kylertown, PA 16847

James A. Naddeo, Esq.
PO Box 552
207 East Market Street
Clearfield, PA 16830

William M. Brilla
Vs.
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller, et al, Inc.

Court No. 07-1578-CD; Superior Court No. 676 WDA 2009

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on August 10, 2009.

Sincerely,


William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 07-1578-CD

William M. Brilla

Vs.

**Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller et al, Inc.**

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01	09/26/07	Praeclipe to Proceed In Forma Pauperis	02
02	10/04/07	Praeclipe to Proceed In Forma Pauperis	18
03	10/05/07	Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	66
04	10/05/07	Order, Re: In Forma Pauperis is Granted	01
05	10/15/07	Amended Certificate of Service	07
06	12/04/07	Preliminary Objections with Rule scheduling argument	05
07	12/06/07	Certificate of Service	02
08	01/04/08	Praeclipe to Reinstate Complaint	05
09	01/04/08	Plaintiff's Answer to the Defendant's Preliminary Objections and New Matter	109
10	01/07/08	Motion to Strike and Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction	06
11	01/11/08	Order, Re: Motion to Strike the Answer in New Matter to Preliminary Objections is Granted	01
12	04/23/08	Petition for Judgment of Non Pros with Rule filed April 25, 2008, scheduling argument	05
13	04/29/08	Certificate of Service	02
14	05/29/08	Transcript of Proceedings, Defendants' Preliminary Objections held before Judge Paul E. Cherry on January 8, 2008	Separate Cover
15	05/30/08	Certificate of Merit	02
16	05/30/08	Praeclipe to Reinstate Civil Complaint and Claim for Damages Resulting from Negligence and Professional Misconduct	03
17	07/29/08	Order, Re: Petition for Judgment of Non Pros is Denied	01
18	09/18/08	Sheriff Return	08
19	01/07/09	Defendants' Preliminary Objections to Plaintiff's Complaint	04
20	01/15/09	Rule scheduling argument on Preliminary Objections to Plaintiff's Complaint	01
21	01/19/09	Certificate of Service	02
22	02/04/09	Answer and New Matter to Defendants' Preliminary Objections	10
23	03/17/09	Certificate of Service	02
24	03/19/09	Motion to Dismiss for Failure to File Certificate of Merit	08
25	03/23/09	Order, Re: Preliminary Objections in the Nature of Demurrer/Legal Insufficiency of a Pleading is Granted. Complaint filed by Plaintiff is Dismissed with Prejudice.	01
26	04/21/09	Notice of Appeal	09
27	04/29/09	Appeal Docket Sheet, 676 WDA 2009	03
28	06/04/09	Order, Re: filing of a statement of errors complained of on appeal	01
29	08/10/09	Letters, Re: Notification of mailing appeal mailed to William M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	05
		Mailed Appeal August 10, 2009	
30	08/10/09	Letter, Re: Appeal Mailed to Superior Court	06
31	08/13/09	Letter from Superior Court, Re: Return appeal due to missing item	02
32	08/17/09	Rule 1925(a) Opinion	02

Date: 8/17/2009

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:26 AM

ROA Report

Page 1 of 3

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
9/26/2007	New Case Filed. No Judge
	Filing: Praeclipe to Proceed In Forma Pauperis RE: Civil Complaint & Claim No Judge for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff.
10/4/2007	Praeclipe to Proceed In Forma Pauperis, filed by s/ William M. Brilla, Pro Se No Judge 1CC Plff.
10/5/2007	Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se. No Judge 2CC Plff Order, this 5th day of Oct., 2007, Praeclipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff
10/15/2007	Amended Certificate of Service, filed. That the above captioned Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct was served on the 11th day of October 2007 by mailing by First Class mail to Miller, Kistler, Campbell, Miller, filed by s/ William M. Brilla-plff. 2CC plff. No Judge
12/4/2007	Preliminary Objections, filed by s/ James A. Naddeo, Esquire. 2CC Atty. No Judge Naddeo Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo Paul E. Cherry
12/6/2007	Certificate of Service, certified copy of Preliminary Objections served upon William M. Brilla by First Class Mail on the 5th day of Dec., 2007. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty. Paul E. Cherry
1/4/2008	Praeclipe to Reinstate Complaint, filed by s/ William M. Brilla, Plaintiff, Pro Se. 7CC Plff., No fee (IFP); 1 Complaint Reinstated to Plaintiff Plaintiff's Answer to the Defendant's Preliminary Objections & New Matter, filed by s/ William M. Brilla, Plaintiff Pro Se. 7CC Plff. Paul E. Cherry
1/7/2008	Motion to Strike And Motion to Dismiss Pursuant to Plaintiff's Admission of Lack of Jurisdiction by the Court, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo Paul E. Cherry
1/11/2008	Order, this 8th day of Jan., 2008, the Motion to Strike the Answer in New Matter to Preliminary Objections is granted. By The Court, /s/ Paul E. Cherry, Judge. CC to Plff, Naddeo Paul E. Cherry
4/23/2008	Petition for Judgment of Non Pros, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo. Paul E. Cherry
4/25/2008	Rule, this 25th day of April, 2008, it is Ordered that a Rule be granted upon the Plaintiff. Rule Returnable and argument thereon to be held the 17th of June, 2008, at 11:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo Paul E. Cherry
4/29/2008	Certificate of Service, a certified copy of Petition for Judgment of Non Pros was served on William M. Brilla by First-Class Mail on the 28th day of April, 2008. Filed by s/ James A. Naddeo, Esquire. 1CC to Atty. Paul E. Cherry
5/29/2008	Transcript of Proceedings, filed. Defendants' Preliminary Objections, Held Before Paul E. Cherry, Judge, on Tuesday, Jan. 8, 2008. Paul E. Cherry
5/30/2008	Certificate of Merit, filed by William M. Brilla, Plaintiff, Pro Se. 2CC Plff. Paul E. Cherry

Date: 8/17/2009

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:26 AM

ROA Report

Page 2 of 3

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
5/30/2008	Praecipe to Reinstate Civil Complaint & Claim For Damages Resulting From Paul E. Cherry Negligence & Professional Misconduct, filed by s/ William M. Brilla, plaintiff Pro Se. 1CC Plff.; 1CC & 2 Compl. Reinstated to Sheriff; no fee, IFP
7/29/2008	Order AND NOW, this 28th day of July 2008, upon consideration of the Charles E. Brown Petition for Judgment of Non Pros and after oral argument, said Petition is DENIED. Personal service was made on both defendants as of June 5, 2008 BY THE COURT: /s/ Charles C. Brown Jr., SJSP. No Copies (Cert. Copies to Judge Brown, Atty. Naddeo and W. Brilla on 12-31-08)
9/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. Paul E. Cherry June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
1/7/2009	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ James Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo
1/15/2009	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon Paul E. Cherry the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
1/19/2009	Certificate of Service, filed. That a certified copy of Rule and Defendant's Paul E. Cherry Preliminary Objections to Plaintiff's Complaint was served on the 19th day of January 2009 by first class mail to William M. Brilla, filed by s/ James A. Naddeo Esq. No CC.
2/4/2009	Answer & New Matter to Defendants' Preliminary Objections, filed by s/ Paul E. Cherry William M. Brilla, Plaintiff, Pro Se. 2CC W. Brilla
3/17/2009	Certificate of Service, filed. That a true and correct copy of Notice of Intent to Enter Judgment of Non Pros on Professional Liability Claim in the above-captioned case was served by first class mail on the 17th day of March 2009 to William M. Brilla, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
3/19/2009	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo
3/23/2009	Order, this 20th day of March, 2009, upon consideration of Defendants' Charles C. Brown Jr. Preliminary Objections to Plaintiff's Complaint, said preliminary objections in the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo
4/21/2009	Notice of Appeal, filed by Plaintiff Paul E. Cherry 1 Cert. to Plaintiff and 1 Cert. Superior Court.
4/29/2009	Appeal Docket Sheet from Superior Court # 676 WDA 2009, filed. Paul E. Cherry

Date: 8/17/2009

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:26 AM

ROA Report

Page 3 of 3

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

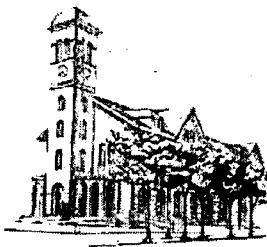
Date		Judge
6/4/2009	Order this 29th day of May 2009, pursuant to PA.R.A.P. 1925(b), it is ORDERED as follows: 1) Plaintiff William M. Brilla shall file of record a statement of errors complained of on appeal within twenty-one (21) days of the filing of this Order. 2) The statement shall be served on this Court pursuant to PA.R.A.P. 1925 (b) (1). 3) Plaintiff William M. Brilla is hereby notified that any issue not properly included in the timely filed statement shall be deemed waived by the appellate court. BY THE COURT: /s/ Charles C. Brown Jr. Sr. J. Specially Presiding. 2CC plff @ PO Box 43, 133 Second St., Kylertown PA 16849 and 2CC Atty Naddeo.	Charles C. Brown Jr.
8/10/2009	August 10, 2009, Mailed Appeal to Superior Court. August 10, 2009, Letters, Re: Notification of mailing appeal mailed to William M. Brilla and James A. Naddeo, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	Paul E. Cherry
	Letter, Re: Appeal Mailed to Superior Court, August 10, 2009.	Paul E. Cherry
8/13/2009	Letter w/original record returned due to: Missing Item (s) Trial Court Opinion Paul E. Cherry or Rule 1925 (a), Statement in Lieu of	
8/17/2009	Rule 1925(a) Opinion, BY THE COURT: /s/Charles C. Brown, Jr., Senior Judge, Specially Presiding Two CC Attorney Naddeo One CC Plaintiff One CC D. Mikesell and Law Library	Paul E. Cherry

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

AUG 17 2009

Attest.

William E. Cherry
Prothonotary/
Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
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PO Box 549, Clearfield, PA 16830 □ Phone: (814) 765-2641 Ext. 1330 □ Fax: (814) 765-7659 □ www.clearfieldco.org

Charles C. Brown, Jr., Sr. Judge, Sp. Presiding
Centre County Court of Common Pleas
Allegheny & High Street
Bellefonte, PA 16823

Paul E. Cherry, Judge
Clearfield County Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

William M. Brilla
PO Box 43
133 Second Street
Kylertown, PA 16847

James A. Naddeo, Esq.
PO Box 552
207 East Market Street
Clearfield, PA 16830

William M. Brilla
Vs.
Brian K. Marshall, Esq. and
Miller, Kistler, Campbell, Miller, et al, Inc.

Court No. 07-1578-CD; Superior Court No. 676 WDA 2009

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on August 10, 2009.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 07-1578-CD

William M. Brilla

Vs.

**Brian K. Marshall, Esq. and
Miller, Kisler, Campbell, Miller et al, Inc.**

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28	06/04/09	Order, Re: filing of a statement of errors complained of on appeal	01

Date: 8/10/2009

Time: 09:54 AM

Page 1 of 3

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
9/26/2007	New Case Filed. No Judge
	Filing: Praeclipe to Proceed In Forma Pauperis RE: Civil Complaint & Claim No Judge for Damages Resulting From Negligence & Professional Misconduct, Paid by: Brilla, William M. (plaintiff) Receipt number: 1920829 Dated: 9/26/2007 Amount: \$0.00 (Cash) 2 Cert. to Plaintiff.
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10/5/2007	Civil Complaint & Claim For Damages Resulting From Negligence & Professional Misconduct, and Notice, filed by s/ William M. Brilla, Pro Se. No Judge 2CC Plff Order, this 5th day of Oct., 2007, Praeclipe to Proceed in Forma Pauperis is Paul E. Cherry Granted. By The Court, /s/ Paul E. Cherry, Judge. 3CC Plff
10/15/2007	Amended Certificate of Service, filed. That the above captioned Civil Complaint & Claim for Damages Resulting From Negligence & Professional Misconduct was served on the 11th day of October 2007 by mailing by First Class mail to Miller, Kistler, Campbell, Miller, filed by s/ William M. Brilla-plff. 2CC plff.
12/4/2007	Preliminary Objections, filed by s/ James A. Naddeo, Esquire. 2CC Atty. No Judge Naddeo Rule, this 4th day of Dec., 2007, Rule be granted upon Plaintiff. Rule Returnable and argument thereon to be held the 8th of Jan., 2008, at 10:00 a.m. in Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 2CC Atty. Naddeo
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5/29/2008	Transcript of Proceedings, filed. Defendants' Preliminary Objections, Held Paul E. Cherry Before Paul E. Cherry, Judge, on Tuesday, Jan. 8, 2008.
5/30/2008	Certificate of Merit, filed by William M. Brilla, Plaintiff, Pro Se. 2CC Plff Paul E. Cherry

Date: 8/10/2009

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 09:54 AM

ROA Report

Page 2 of 3

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date	Judge
5/30/2008	Praecipe to Reinstate Civil Complaint & Claim For Damages Resulting From Paul E. Cherry Negligence & Professional Misconduct, filed by s/ William M. Brilla, plaintiff Pro Se. 1CC Plff.; 1CC & 2 Compl. Reinstated to Sheriff; no fee, IFP
7/29/2008	Order AND NOW, this 28th day of July 2008, upon consideration of the Petition for Judgment of Non Pros and after oral argument, said Petition is DENIED. Personal service was made on both defendants as of June 5, 2008. BY THE COURT: /s/ Charles C. Brown Jr., SJSP. No Copies (Cert. Copies to Judge Brown, Atty. Naddeo and W. Brilla on 12-31-08)
9/18/2008	Sheriff Return, June 3, 2008, Sheriff of Centre County was deputized. Paul E. Cherry June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Brian K. Marshall Esq. June 5, 2008 at 10:00 am Served the within Complaint & Praecipe on Miller, Kistler, Campbell, Miller, Williams & Benson Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs-IFP
1/7/2009	Defendants' Preliminary Objections to Plaintiff's Complaint, filed by s/ James Paul E. Cherry A. Naddeo, Esquire. 2CC Atty. Naddeo
1/15/2009	Rule, this 15th day of Jan., 2009, it is Ordered that a Rule be granted upon the Plaintiff Re: Preliminary Objections to Plaintiff's Complaint. Rule Returnable and argument thereon the 11th of March, 2009, at 9:00 a.m. in Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC atty. Naddeo
1/19/2009	Certificate of Service, filed. That a certified copy of Rule and Defendant's Preliminary Objections to Plaintiff's Complaint was served on the 19th day of January 2009 by first class mail to William M. Brilla, filed by s/ James A. Naddeo Esq. No CC.
2/4/2009	Answer & New Matter to Defendants' Preliminary Objections, filed by s/ Paul E. Cherry William M. Brilla, Plaintiff, Pro Se. 2CC W. Brilla
3/17/2009	Certificate of Service, filed. That a true and correct copy of Notice of Intent to Enter Judgment of Non Pros on Professional Liability Claim in the above-captioned case was served by first class mail on the 17th day of March 2009 to William M. Brilla, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.
3/19/2009	Motion to Dismiss For Failure to File Certificate of Merit as Required, filed by Paul E. Cherry s/ James A. Naddeo, Esquire. 1CC atty. Naddeo
3/23/2009	Order, this 20th day of March, 2009, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint, said preliminary objections in the nature of Demurrer/Legal Insufficiency of a Pleading is Granted. The Complaint filed by Plaintiff is Dismissed With Prejudice. Each party is to bear its own fees, Costs and Expenses. By The Court, /s/ Charles C. Brown, Jr., Senior Judge. CC to Plff. & Atty. Naddeo
4/21/2009	Notice of Appeal, filed by Plaintiff 1 Cert. to Plaintiff and 1 Cert. Superior Court. Paul E. Cherry
4/29/2009	Appeal Docket Sheet from Superior Court # 676 WDA 2009, filed. Paul E. Cherry

Date: 8/10/2009

Time: 09:54 AM

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Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2007-01578-CD

Current Judge: Paul E. Cherry

William M. Brillav. Brian K. Marshall Esq, et al

Civil Other-COUNT

Date		Judge
6/4/2009	Order this 29th day of May 2009, pursuant to P.A.R.A.P. 1925(b), it is ORDERED as follows: 1) Plaintiff William M. Brilla shall file of record a statement of errors complained of on appeal within twenty-one (21) days of the filing of this Order. 2) The statement shall be served on this Court pursuant to P.A.R.A.P. 1925 (b) (1). 3) Plaintiff William M. Brilla is hereby notified that any issue not properly included in the timely filed statement shall be deemed waived by the appellate court. BY THE COURT: /s/ Charles C. Brown Jr. Sr. J. Specially Presiding. 2CC plff @ PO Box 43, 133 Second St., Kylertown PA 16849 and 2CC Atty Naddeo.	Charles C. Brown Jr.

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

AUG 10 2009

Attest,

William E. Cherry
Prothonotary/
Clerk of Courts