

08-305-CD

Elvin Heller vs Jean Muth

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

ELVIN HELLER,
Plaintiff
v.
JEAN MUTH,
Defendant

2008-305-CD
No.: _____-2008

FILED

FEB 22 2008

William A. Shaw
Prothonotary/Clerk of Courts

1 SENT TO SHAF
1 SENT TO ATT

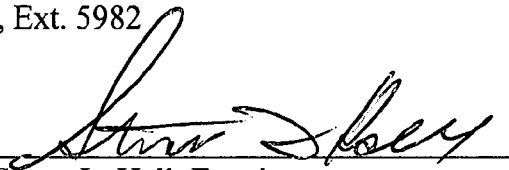
TO: Jean Muth, Defendant

NOTICE

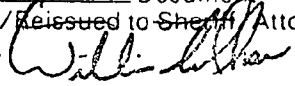
You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money 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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Daniel J. Nelson, Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
814-765-2641, Ext. 5982


Stuart L. Hall, Esquire
Attorney for Plaintiff

April 10, 2008 Document
Reinstated/Reissued to Sheriff Attorney
for service.


Deputy Prothonotary

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

ELVIN HELLER,
Plaintiff

v.

JEAN MUTH,
Defendant

) No.: _____-2008
)
)
)
)
)
)
)



ORIGINAL

COMPLAINT

1. Plaintiff, Elvin Heller, is an adult individual residing at 311 West Long Avenue
Du Bois, Pennsylvania 15801

2. Defendant, Jean Muth, is an adult individual residing at 128 Evergreen Street,
Du Bois, Pennsylvania 15801.

3. On May 11, 2007, Plaintiff was operating his 1989 Chevy S-10 pickup truck
North toward the intersection of West Long Street and Jared Street, Du Bois, Clearfield
County, Pennsylvania.

4. On the same day and at the same time, Defendant was operating her 1996 Ford
Taurus East toward the same intersection.

5. The intersection of West Long Street and Jared Street is controlled by a traffic light.

6. On Plaintiff's approach to the intersection, the traffic signal was green and he proceeded into the intersection.

7. Upon Defendant's approach to the intersection, the traffic signal was red.

8. Defendant failed to stop her vehicle, entered the intersection and caused a collision with Plaintiff.

9. As a result of the collision, Plaintiff's vehicle sustained damages totaling \$1,439.99.

10. Defendant's negligence was the sole cause of this accident.

11. Defendant's negligence consisted of the following:

(a) Failing to stop prior to entering the intersection;

(b) Failing to stop at the red light on West Long Avenue prior to entering the intersection;

(c) Failing to keep a proper lookout;

(d) Failing to observe the motor vehicle being operated by Plaintiff;

(e) Failing to slow or stop her vehicle so as to avoid the collision with Plaintiff's vehicle;

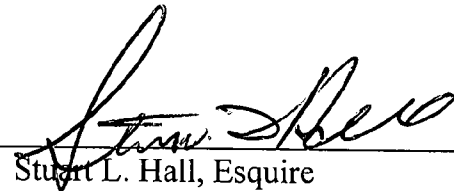
(f) Failing to yield the right-of-way; and

(g) Violating Sections 3111(a) and 3112(a)(3)(I) of the Motor Vehicle Code.

11. As a direct result of Defendant's negligence and carelessness, Plaintiff sustained damages in the amount of \$1,439.99.

THEREFORE, Plaintiff Elvin Heller respectfully requests this Honorable Court to enter judgment in his favor and against Defendant Jean Muth in the amount of \$1439.99, together with costs.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Stuart L. Hall", is written over a horizontal line.

Stuart L. Hall, Esquire
Attorney for Plaintiff
138 East Water Street
Lock Haven, PA 17745
(570) 748-4802
PA Attorney ID #72814

VERIFICATION

I, Elvin Heller, hereby state that the language of the foregoing Complaint is that of counsel and not necessarily my own; however, I have read the foregoing document and, to the extent it is based upon information that I have given to counsel, it is true and correct to the best of my knowledge, information, and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsifications to authorities.



Elvin Heller

Dated: 2/29/08, 2008

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

ELVIN HELLER,

NO. 2008-305-CD

Plaintiff

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

ELVIN HELLER,

NO. 2008-305-CD

Plaintiff,

v.

JEAN MUTH,

PRAECIPE FOR APPEARANCE

Defendant.

Filed on Behalf of Defendant:
JEAN MUTH

Counsel of Record for this Party:

DENNIS J. GEIS, JR., ESQUIRE
PA I.D. #83734

MARGOLIS EDELSTEIN
525 William Penn Place
Suite 3300
Pittsburgh, PA 15219

JURY TRIAL DEMANDED


(412) 281-4256

FILED ^{NO CC}
MAR 24 2009
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PRAECIPE FOR APPEARANCE has been served upon counsel for plaintiff by first-class, U.S. Mail, postage prepaid, this 21st day of March, 2008, as follows:

Stuart L. Hall, Esquire
STUART L. HALL, ESQ PC
138 East Water Street
Lock Haven, PA 17745


DENNIS J. GEIS, JR., Esquire
Counsel for Defendant

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

ELVIN HELLER,)	No.: 2008-305-CD
Plaintiff)	
)	
v.)	
)	
JEAN MUTH,)	
Defendant)	

PRAECIPE TO REINSTATE COMPLAINT

TO THE PROTHONOTARY:

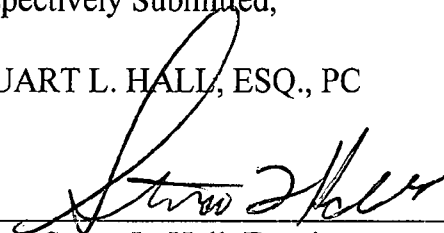
Please reinstate the Complaint that was filed in the above-captioned action on February 22, 2008. Thank you for your cooperation with this matter.

Respectively Submitted,

STUART L. HALL, ESQ., PC

Date: April 2, 2008

By


Stuart L. Hall, Esquire
Attorneys for Plaintiff
138 East Water Street
Lock Haven, PA 17745
(570) 748-4802
PA Attorney I.D. #72814

FILED

APR 10 2008

William A. Shaw
Prothonotary/Clerk of Courts

Atty pd. 7.00
2 Compl. Reinstated
to Atty

(510)

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

ELVIN HELLER,

NO. 2008-305-CD

Plaintiff,

v.

ANSWER AND NEW MATTER

JEAN MUTH,

Defendant.

Filed on Behalf of Defendant:
JEAN MUTH

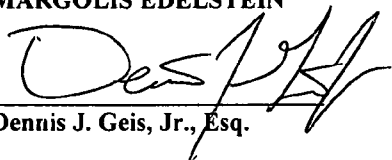
Counsel of Record for this Party:

TO: PLAINTIFF

DENNIS J. GEIS, JR., ESQUIRE
PA I.D. #83734

**You are required to plead to the within
New Matter within twenty (20) days or
a judgment may be entered against you.**

MARGOLIS EDELSTEIN
525 William Penn Place
Suite 3300
Pittsburgh, PA 15219

MARGOLIS EDELSTEIN
BY: 
Dennis J. Geis, Jr., Esq.

(412) 281-4256

FILED NO CC
m 110:50/01
APR 23 2008 (612)

William A. Shaw
Prothonotary/Clerk of Courts

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

ELVIN HELLER,

NO. 2008-305-CD

Plaintiff,

v.

JEAN MUTH,

Defendant.

ANSWER AND NEW MATTER

AND NOW, comes the Defendant, JEAN MUTH, by and through her attorneys, MARGOLIS EDELSTEIN and DENNIS J. GEIS, JR., ESQUIRE to file the following Answer and New Matter to Plaintiff's Complaint.

1. After reasonable investigation, this Defendant is without sufficient knowledge or information to form a belief as to the truth or veracity of the averments contained at paragraph 1 of Plaintiff's Complaint and, therefore, the same is denied and strict proof thereof is demanded at trial.

2. Admitted.

3. Admitted.

4. It is admitted that on the day of the accident, Defendant was operating a 1996 Ford Taurus on West Long Avenue towards its intersection with Jared Street.

5. Admitted.

6. Denied. It is denied that the traffic signal governing the Plaintiff's approach to the intersection was green.

7. Denied. It is denied that upon Defendant's approach to the intersection the traffic signal was red. To the contrary, Defendant had a green traffic signal.

8. Denied. The collision occurred when Plaintiff failed to stop for a red traffic signal and collided with the Defendant vehicle that was proceeding through the intersection with a green traffic signal and the right of way.

9. After reasonable investigation, this Defendant is without sufficient knowledge or information to form a belief as to the truth or veracity of the averments contained at paragraph 9 of Plaintiff's Complaint and, therefore, the same is denied and strict proof thereof is demanded at trial.

10. Denied. It is denied Defendant was negligent.

11. The averments contained at paragraph 11 are denied generally pursuant to Pa. R.C.P. 1029(e).

11(2). The averments contained at paragraph 11 are denied generally pursuant to Pa. R.C.P. 1029(e).

WHEREFORE, Defendant Jean Muth demands judgment in her favor and against Plaintiff together with costs.

NEW MATTER

12. Defendant hereby incorporates responses to paragraphs 1 through 11 above as though the same were set forth herein at length.

13. Defendant hereby asserts any and all defenses available to her under the Pennsylvania Motor Vehicle Finance Responsibility Act, has amended; included, but not limited to, all defenses available to the Defendant under circumstances of any election by the Plaintiff for a limited tort option in the Plaintiff's own automobile insurance policy.

14. Plaintiff damages, as set forth in his Complaint, were preexisting and not caused by this accident.

15. Defendant asserts that either all or part of the Plaintiff's cause of action is barred by the Pennsylvania doctrine of contributory negligence, comparative negligence and/or assumption of the risk.

16. Plaintiff's alleged losses and damages were the sole and proximate result of the Plaintiff's failure to yield the right of way to the Defendant's vehicle who was proceeding with a green traffic signal.

WHEREFORE, Defendant Jean Muth demands judgment in our favor and against Plaintiff together with cost.

Respectfully submitted,

MARGOLIS EDELSTEIN

By: 

DENNIS J. GEIS, JR., ESQUIRE
Attorneys for Defendant Jean Muth

VERIFICATION

I, Jean Muth, verify that the statements set forth in the within ANSWER AND NEW MATTER are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities

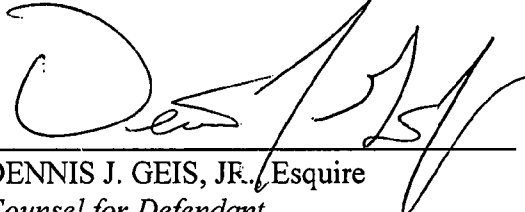
DATED: April 16, 2008

Jean M. Muth
JEAN MUTH

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER AND NEW MATTER has been served upon counsel for plaintiff by first-class, U.S. Mail, postage prepaid, this 21st day of April, 2008, as follows:

Stuart L. Hall, Esquire
STUART L. HALL, ESQ PC
138 East Water Street
Lock Haven, PA 17745


DENNIS J. GEIS, JR., Esquire
Counsel for Defendant

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

ORIGINAL

ELVIN HELLER,

Plaintiff

v.

JEAN MUTH,

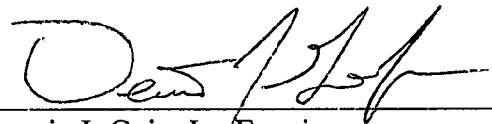
Defendant

No.: 2008-305

ACCEPTANCE OF SERVICE

I, Dennis J. Geis, Jr., Attorney for Jean Muth, accept service of the Complaint. I
certify that I am authorized to accept service on behalf of Defendant.

Date: April 18, 2008


Dennis J. Geis, Jr., Esquire
Attorney for Defendant Jean Muth

FILED 2 cc
m/11:45 am
APR 28 2008
LM

William A. Shaw
Prothonotary/Clerk of Courts

FILED *no cc*
MAY 14 2008 *GP*

William A. Shaw
Prothonotary/Clerk of Courts

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

ELVIN HELLER,

Plaintiff

v.

JEAN MUTH,

Defendant

)
)
)
)
)
)
)

No.: 2008-305



ORIGINAL

PLAINTIFF'S RESPONSE TO NEW MATTER

12. Paragraphs 1 through 11(2) of Plaintiff's Complaint are hereby incorporated by reference as if fully set forth.

13. The averments in this paragraph state legal conclusions to which no responses are required. To the extent responses are deemed required, the averments are denied.

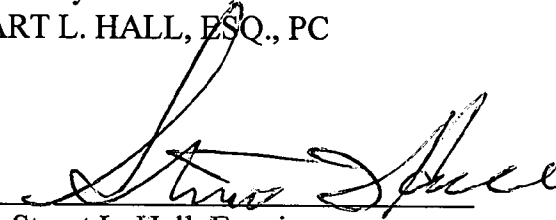
14. Denied. It is specifically denied that Plaintiff's damages were preexisting and not caused by this accident.

15-16. The averments in these paragraphs state legal conclusions to which no responses are required. To the extent responses are deemed required, the averments are denied.

THEREFORE, Plaintiff Elvin Heller respectfully requests that judgment be entered in his favor and against Defendant.

Respectfully submitted,
STUART L. HALL, ESQ., PC

By

A handwritten signature in black ink, appearing to read "Stuart L. Hall", is written over a horizontal line.

Stuart L. Hall, Esquire
Attorney for Plaintiff
138 East Water Street
Lock Haven, PA 17745
(570) 748-4802
PA Attorney I.D. #72814

VERIFICATION

I, Elvin Heller, hereby state that the language of the foregoing Response to New Matter is that of counsel and not necessarily my own; however, I have read the foregoing document and, to the extent it is based upon information that I have given to counsel, it is true and correct to the best of my knowledge, information, and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsifications to authorities.



Elvin Heller

Dated: 5/4, 2008

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

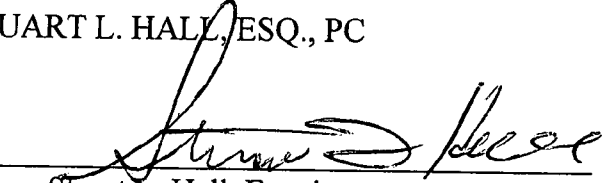
ELVIN HELLER,)	No.: 2008-305
Plaintiff)	
)	
v.)	
)	
JEAN MUTH,)	
Defendant)	

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of May, 2008, I served a copy of the foregoing Plaintiff's Response to New Matter upon Dennis J. Geis, Jr., Esquire, Margolis Edelstein, 525 William Penn Place, Suite 3300, Pittsburgh, Pennsylvania 15219, by United States first class mail, postage prepaid.

STUART L. HALL, ESQ., PC

By


Stuart L. Hall, Esquire
Attorney for Plaintiff
138 East Water Street
Lock Haven, PA 17745
(570) 748-4802
PA Attorney I.D. #72814

In The Court of Common Pleas of Clearfield County, Pennsylvania

Service # 1 of 1 Services

Sheriff Docket # **103802**

Case # 08-305-CD

ELVIN HELLER

vs.

JEAN MUTH

TYPE OF SERVICE COMPLAINT

SHERIFF RETURNS

NOW June 23, 2008 RETURNED THE WITHIN COMPLAINT "NOT SERVED, TIME EXPIRED" AS TO JEAN MUTH, DEFENDANT. ATTEMPTED NOT HOME

DEFENDANT RESIDES @ 106 1/2 EVERGREEN ST., DUBOIS, PA. PHONE #371-2055

SERVED BY: /

Return Costs

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	HALL	1106	10.00
SHERIFF HAWKINS	HALL	1106	52.79

FILED

JUN 23 2008

0/2:45/10
William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before me This

_____ Day of _____ 2008

So Answers,


Chester A. Hawkins
Sheriff

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

ELVIN HELLER,

Plaintiff

v.

JEAN MUTH,

Defendant

No.: 2008-305-CO-2008

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

FEB 22 2008

TO: Jean Muth, Defendant

Attest.

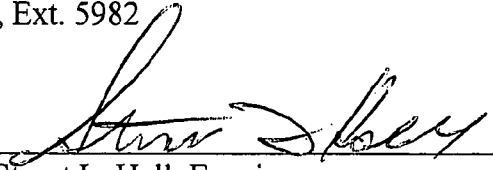
William A. Hall
Prothonotary/
Clerk of Courts

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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Daniel J. Nelson, Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
814-765-2641, Ext. 5982


Stuart L. Hall, Esquire
Attorney for Plaintiff

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

ELVIN HELLER,
Plaintiff

v.

JEAN MUTH,
Defendant

) No.: _____-2008
)
)
)
)
)
)
)

A large, bold, black stamp with the word "COPY" in a sans-serif font. To the left of the word is a small icon of a document with a folded corner.

COMPLAINT

1. Plaintiff, Elvin Heller, is an adult individual residing at 311 West Long Avenue
Du Bois, Pennsylvania 15801

2. Defendant, Jean Muth, is an adult individual residing at 128 Evergreen Street,
Du Bois, Pennsylvania 15801.

3. On May 11, 2007, Plaintiff was operating his 1989 Chevy S-10 pickup truck
North toward the intersection of West Long Street and Jared Street, Du Bois, Clearfield
County, Pennsylvania.

4. On the same day and at the same time, Defendant was operating her 1996 Ford
Taurus East toward the same intersection.

5. The intersection of West Long Street and Jared Street is controlled by a traffic light.

6. On Plaintiff's approach to the intersection, the traffic signal was green and he proceeded into the intersection.

7. Upon Defendant's approach to the intersection, the traffic signal was red.

8. Defendant failed to stop her vehicle, entered the intersection and caused a collision with Plaintiff.

9. As a result of the collision, Plaintiff's vehicle sustained damages totaling \$1,439.99.

10. Defendant's negligence was the sole cause of this accident.

11. Defendant's negligence consisted of the following:

(a) Failing to stop prior to entering the intersection;

(b) Failing to stop at the red light on West Long Avenue prior to entering the intersection;

(c) Failing to keep a proper lookout;

(d) Failing to observe the motor vehicle being operated by Plaintiff;

(e) Failing to slow or stop her vehicle so as to avoid the collision with Plaintiff's vehicle;

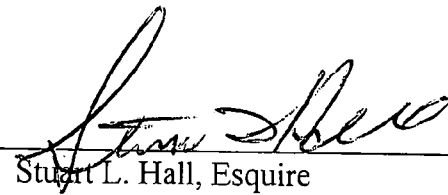
(f) Failing to yield the right-of-way; and

(g) Violating Sections 3111(a) and 3112(a)(3)(I) of the Motor Vehicle Code.

11. As a direct result of Defendant's negligence and carelessness, Plaintiff sustained damages in the amount of \$1,439.99.

THEREFORE, Plaintiff Elvin Heller respectfully requests this Honorable Court to enter judgment in his favor and against Defendant Jean Muth in the amount of \$1439.99, together with costs.

Respectfully submitted,

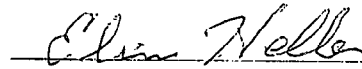
A handwritten signature in cursive script, appearing to read "Stuart L. Hall", is written over a horizontal line.

Stuart L. Hall, Esquire
Attorney for Plaintiff
138 East Water Street
Lock Haven, PA 17745
(570) 748-4802
PA Attorney ID #72814

VERIFICATION

I, Elvin Heller, hereby state that the language of the foregoing Complaint is that of counsel and not necessarily my own; however, I have read the foregoing document and, to the extent it is based upon information that I have given to counsel, it is true and correct to the best of my knowledge, information, and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsifications to authorities.



Elvin Heller

Dated: 2/29/08, 2008

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

ELVIN HELLER,
Plaintiff

v.

JEAN MUTH,
Defendant

No.: 2008-305



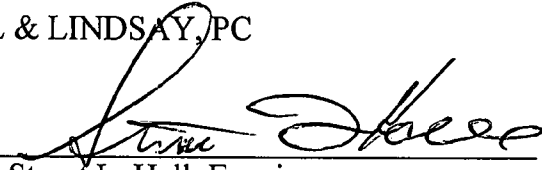
ORIGINAL

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of August, 2008, I served a copy of Plaintiff's First Request for Production of Documents Directed to Defendant upon Dennis J. Geis, Jr., Esquire, Margolis Edelstein, 525 William Penn Place, Suite 3300 Pittsburgh, Pennsylvania 15219, by United States first class mail, postage prepaid.

HALL & LINDSAY, PC

By


Stuart L. Hall, Esquire
Attorney for Plaintiff
138 East Water Street
Lock Haven, PA 17745
(570) 748-4802
PA Attorney I.D. #72814

FILED
M/12:48/34
AUG 25 2008
LSH

William A. Shaw
Prothonotary/Clerk of Courts

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

ELVIN HELLER,
Plaintiff

v.

JEAN MUTH,
Defendant

) No.: 2008-305
)
)
)
)
)
)
)

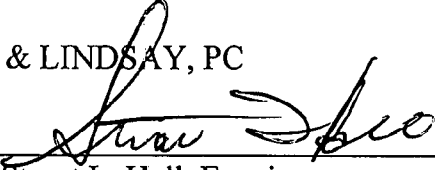
 ORIGINAL

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of August, 2008, I served a copy of Plaintiff's First Set of Interrogatories Directed to Defendant upon Dennis J. Geis, Jr., Esquire, Margolis Edelstein, 525 William Penn Place, Suite 3300 Pittsburgh, Pennsylvania 15219, by United States first class mail, postage prepaid.

HALL & LINDSAY, PC

By


Stuart L. Hall, Esquire
Attorney for Plaintiff
138 East Water Street
Lock Haven, PA 17745
(570) 748-4802
PA Attorney I.D. #72814

FILED

112-4861
AUG 25 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

ELVIN HELLER,

Plaintiff

v.

JEAN MUTH,

Defendant

No.: 2008-305

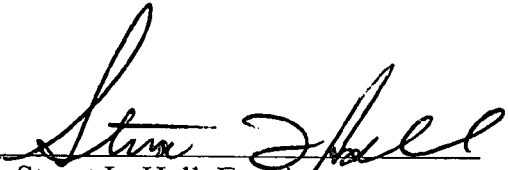
 ORIGINAL

PRAECIPE TO SETTLE AND DISCONTINUE

TO THE PROTHONOTARY:

Please mark the above-captioned matter SETTLED and DISCONTINUED,
without prejudice. Thank you for your cooperation.

Respectively Submitted,
HALL & LINDSAY, PC

By 

Stuart L. Hall, Esquire
Attorney for Plaintiff
138 East Water Street
Lock Haven, PA 17745
570-748-4802
PA Attorney I.D. #72814

FILED

m 2:18 p.m. GK
JAN 26 2009

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

*1 cert. of
Discl. to Atty*
(610)

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Elvin Heller

Vs.

Jean Muth

No. 2008-00305-CD

COPY

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on January 26, 2009, marked:

Settled and Discontinued

Record costs in the sum of \$102.00 have been paid in full by Stuart L. Hall, Esquire.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 26th day of January A.D. 2009.

Handwritten signature of William A. Shaw in cursive script.

William A. Shaw, Prothonotary