

PHILADELPHIA COURT OF COMMON PLEAS  
**PETITION/MOTION COVER SHEET**

CONTROL NUMBER:  
**(RESPONDING PARTIES MUST INCLUDE THIS NUMBER ON ALL FILINGS)**

FOR COURT USE ONLY	
ASSIGNED TO JUDGE:	ANSWER/RESPONSE DATE:
Do not send Judge courtesy copy of Petition/Motion/Answer/Response. Status may be obtained online at <a href="http://courts.phila.gov">http://courts.phila.gov</a>	

October \_\_\_\_\_ Term, 2012  
 \_\_\_\_\_ Month \_\_\_\_\_ Year  
 No. 2443

Herman Glass  
 \_\_\_\_\_  
 vs.  
 John Wallace, III, et al.  
 \_\_\_\_\_

Name of Filing Party:  
 Herman Glass  
 (Check one)  Plaintiff  Defendant  
 (Check one)  Movant  Respondent

**INDICATE NATURE OF DOCUMENT FILED:**  
 Petition (Attach Rule to Show Cause)  Motion  
 Answer to Petition  Response to Motion

Has another petition/motion been decided in this case?  Yes  No  
 Is another petition/motion pending?  Yes  No  
 If the answer to either question is yes, you must identify the judge(s): \_\_\_\_\_

TYPE OF PETITION/MOTION (see list on reverse side) <b>Motion for Sanctions for Failure to Deliver Settlement Funds</b>	PETITION/MOTION CODE (see list on reverse side) MT229
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ANSWER/RESPONSE FILED TO (Please insert the title of the corresponding petition/motion to which you are responding): \_\_\_\_\_

**I. CASE PROGRAM**  
 Is this case in the (answer all questions):  
**A. COMMERCE PROGRAM**  
 Name of Judicial Team Leader: \_\_\_\_\_  
 Applicable Petition/Motion Deadline: \_\_\_\_\_  
 Has deadline been previously extended by the Court?  
 Yes  No  
**B. DAY FORWARD/MAJOR JURY PROGRAM** — Year \_\_\_\_\_  
 Name of Judicial Team Leader: \_\_\_\_\_  
 Applicable Petition/Motion Deadline: \_\_\_\_\_  
 Has deadline been previously extended by the Court?  
 Yes  No  
**C. NON JURY PROGRAM**  
 Date Listed: \_\_\_\_\_  
**D. ARBITRATION PROGRAM**  
 Arbitration Date: 06/26/2013  
**E. ARBITRATION APPEAL PROGRAM**  
 Date Listed: \_\_\_\_\_  
**F. OTHER PROGRAM:** \_\_\_\_\_  
 Date Listed: \_\_\_\_\_

**II. PARTIES (required for proof of service)**  
 (Name, address and **telephone number** of all counsel of record and unrepresented parties. Attach a stamped addressed envelope for each attorney of record and unrepresented party.)  
 Access General Insurance Adjuster, Inc.  
 P.O. Box 105143  
 Atlanta, GA 30348-5143  
 Attention: Scott Belyeu

**III. OTHER**  
 \_\_\_\_\_

By filing this document and signing below, the moving party certifies that this motion, petition, answer or response along with all documents filed, will be served upon all counsel and unrepresented parties as required by rules of Court (see PA. R.C.P. 206.6, Note to 208.2(a), and 440). Furthermore, moving party verifies that the answers made herein are true and correct and understands that sanctions may be imposed for inaccurate or incomplete answers.

\_\_\_\_\_  
 (Attorney Signature/Unrepresented Party)      10/23/12      (Date)      Stuart A. Carpey      49490  
 \_\_\_\_\_  
 (Print Name)      (Attorney I.D. No.)

**The Petition, Motion and Answer or Response, if any, will be forwarded to the Court after the Answer/Response Date. No extension of the Answer/Response Date will be granted even if the parties so stipulate.**

**STUART A. CARPEY, ESQUIRE**  
scarpey@carpeylaw.com  
Identification No.: 49490  
KREITHEN, BARON & CARPEY, P.C.  
100 W. Elm Street, Suite 310  
Conshohocken, PA 19428  
(610) 834-6030

ATTORNEY FOR PLAINTIFF

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Herman Glass	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
Plaintiff,	:	
	:	No. 121002443
v.	:	
	:	
John Wallace, III, et al.	:	
	:	
Defendants.	:	

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**MOTION FOR SANCTIONS FOR FAILURE  
TO DELIVER SETTLEMENT FUNDS**

1. That the instant matter settled for \$15,000.00 with Defendant, John Wallace, III, et al.
2. That the signed and notarized settlement agreement and release was mailed to defendant's insurance company, Access Insurance Company, on July 27, 2012. See Exhibit "A."
3. That insurance adjuster, Scott Belyeu, has acknowledged receiving same.
4. Despite efforts by way of several phone calls, emails and correspondence to Scott Belyeu to determine when Defendant will deliver the settlement funds, Plaintiff's counsel has been unable to resolve the dispute, nor has he been able to determine when Defendant intends on delivering settlement funds.
5. That simple interest calculated at the rate equal to the prime rate as listed in the first edition of the Wall Street Journal published for the calendar year last preceding the date on which this affidavit was filed is 3.25%, and pursuant to Pennsylvania Rule of Civil Procedure 229.1 Defendants, must be sanctioned for failure of delivery of its \$15,000.00 in settlement funds

and the date that interest should begin running from is August 17, 2012.

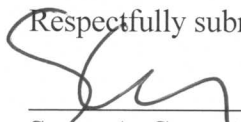
6. That Plaintiff's counsel requests reasonable attorney's fees in the amount of \$1,000.00 for the preparing and filing of this petition, plus filing fees of \$332.48.

7. No agreement has been reached between the parties for an extension of time for the delivery of the settlement funds.

**WHEREFORE**, Plaintiff respectfully requests that this Honorable Court grant the instant motion.

Respectfully submitted,

By:

  
\_\_\_\_\_  
Stuart A. Carpey, Esquire  
Attorney for Plaintiff

**STUART A. CARPEY, ESQUIRE**  
scarpey@carpeylaw.com  
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ATTORNEY FOR PLAINTIFF

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Herman Glass	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
Plaintiff,	:	
	:	No.: 121002443
v.	:	
	:	
John Wallace, III	:	
	:	
Defendants.	:	

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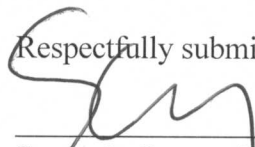
**MEMORANDUM OF LAW**

Plaintiff relies on Pennsylvania Rule of Civil Procedure 229.1 and in accordance therewith files the instant motion for sanctions. Defendant, John Wallace, III, has failed to comply with said rule, do not have any excuse for failing to comply, and therefore the enclosed order should be granted.

**WHEREFORE**, Plaintiff respectfully requests that this Honorable Court grant the instant motion.

Respectfully submitted,

By:

  
\_\_\_\_\_  
Stuart A. Carpey, Esquire  
Attorney for Plaintiff

**STUART A. CARPEY, ESQUIRE**  
scarpey@carpeylaw.com  
Identification No.: 49490  
KREITHEN, BARON & CARPEY, P.C.  
100 W. Elm Street, Suite 310  
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ATTORNEY FOR PLAINTIFF

---

Herman Glass	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
Plaintiff,	:	
	:	No. 121002443
v.	:	
	:	
John Wallace, III	:	
	:	
Defendants.	:	

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**AFFIDAVIT OF STUART A. CARPEY**

I, Stuart A. Carpey, Esquire, being duly sworn, do hereby state the following facts based on my personal knowledge and belief:

1. I have first hand personal knowledge of this manner set forth herein.
2. That the instant matter settled for \$15,000.00 with Defendant, John Wallace, III
3. That the signed and witnessed settlement agreement and release was mailed to defense insurance adjuster, Scott Belyeu on July 27, 2012.
4. That Scott Belyeu, claims adjuster for Defendant, has acknowledged receiving same.
5. Despite efforts by way of several phone calls, emails and correspondence to Scott Belyeu, to determine when Defendant, will deliver the settlement funds, I was unable to resolve the dispute, nor have I been able to determine when Defendant intends on delivering the settlement funds.
6. That simple interest calculated at the rate equal to the prime rate as listed in the first edition of the Wall Street Journal published for the calendar year last preceding the date on

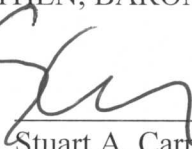
which this affidavit was filed is 3.25%, and pursuant to Pennsylvania Rule of Civil Procedure 229.1 Defendant, must be sanctioned for failure of delivery of its \$15,000.00 in settlement funds and the date that interest should begin running from is August 17, 2012.

7. That Plaintiff's counsel requests reasonable attorney's fees in the amount of \$1,000.00 for the preparing and filing of this petition, plus filing fees of \$332.48.

8. No agreement has been reached between the parties for an extension of time for the delivery of the settlement funds.

KREITHEN, BARON & CARPEY, P.C.

BY:



\_\_\_\_\_  
Stuart A. Carpey, Esquire  
Attorney for Plaintiff

EXHIBIT "A"

## Affidavit / Return of Service

<b>Plaintiff:</b>	HERMAN GLASS	<b>Court Term &amp; No.:</b> 121002443			
		E-File# 1210045711			
<b>Defendant:</b>	JOHN WALLACE	<b>Document Served:</b> Plaintiff's Writ of Summons			
<b>Serve at:</b>	2336 EAST YORK STREET	<b>Company Reference/Control No.:</b> 64354			
<p>Served and Made Known to JOHN WALLACE on 10/21/2012 at 07:00 PM, in the manner described below:</p> <p>Adult family member with whom said Party(s) resides. Relationship is: JOAN MOORE, MOTHER. NAME: _____</p>					
<b>Description</b>	<b>Age:</b>	<b>Height:</b>	<b>Weight:</b>	<b>Race:</b>	<b>Sex:</b>
	70	5' 6"	135 lbs.	Caucasian	Female
	<b>Other:</b>				
<p style="text-align: center;"><b>Company Profile:</b></p> <p>DENNIS RICHMAN SERVICES FOR THE PROFESSIONAL, INC. 1500 J.F.K. BOULEVARD SUITE 1706 PHILADELPHIA PA 19102 PHONE: (215)977-9393</p>			<p><b>Name of Server:</b> ALBERT G. MENTZ</p> <p>Being duly sworn according to law, deposes and says that he/she is process server herein names; and that the facts herein set forth above are true and correct to the best of their knowledge, information and belief.</p>		
			<b>Deputy Sheriff:</b>		

**FILED AND ATTESTED PRO-PROTHY 27 OCT 2012 08:44 AM**



Stuart A. Carpey, Esquire (Bar#:49490)  
Kreithen, Baron & Carpey, P.C.  
100 W. Elm Street, Suite 310  
Conshohocken, PA 19428  
(610) 834-6030

**Commonwealth of PA  
In the Court of Common Pleas  
Philadelphia County**

**Herman Glass**

V.

**John Wallace III**  
\_\_\_\_\_ /

Case No.: 12-10-2443

**AFFIDAVIT OF SERVICE**



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF PHILADELPHIA ss.

I, **Albert G. Mentz**, being duly sworn according to law upon my oath, depose and say, that I am not a party to this action, am over 18 years of age and have no direct personal interest in this litigation.

On **10/21/2012 at 7:00 PM**, I served the within **Writ of Summons** on **John Wallace III**, Defendant. Said service was effected at **2336 East York Street , Philadelphia, PA 19125** in the following manner:

By delivering thereat a true copy to **Joan Moore, His Mother**, a person of suitable age and discretion. That person was also asked by deponent whether said premises was the usual place of abode for **John Wallace III** and their reply was affirmative.

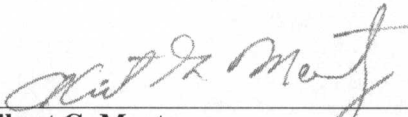
Description of person process was left with:

Sex: **Female** - Skin: **Caucasian** - Hair: **White** - Age: **70** - Height: **5'6"** - Weight: **135**

I hereby affirm that the information contained in the Affidavit of Service is true and correct. This affirmation is made subject to the penalties of 18 PA C.S. 4904 relating to unsworn falsification to authorities.

Signed and sworn to before me on  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notarial Seal  
Regina A. Richman, Notary Public  
Falls Twp., Bucks County  
My Commission Expires: December 12, 2013.

X   
\_\_\_\_\_  
**Albert G. Mentz**  
Dennis Richman Services for the Professional, Inc.  
1500 JFK Boulevard, Suite 1706  
Philadelphia, PA 19102  
215.977.9393



**\*64354\***

**KREITHEN  
BARON  
&  
CARPEY**  
ATTORNEYS AT LAW

100 West Elm Street  
Suite 310  
Conshohocken, PA 19428  
Phone: 610-834-6030  
800-422-8286

Two Penn Center, Suite 200  
1500 John F. Kennedy Blvd.  
Philadelphia, PA 19102  
Phone: 215-563-8286  
800-422-8286

Fax: 610-834-6035  
[www.carpeylaw.com](http://www.carpeylaw.com)

*PLEASE RESPOND TO  
CONSHOCKEN OFFICE*

**Stuart A. Carpey**  
[scarpey@carpeylaw.com](mailto:scarpey@carpeylaw.com)

July 27, 2012

Access Insurance Company  
P.O. Box 105143  
Atlanta, GA 30348-5143  
**Attention: Scott Belyeu**

**Re: Our File Number: 110011**  
**Our Client: Herman Glass**  
**Date of Loss: 01/08/11**  
**Your Insured: John P. Wallace**  
**Claim Number: API0010287**

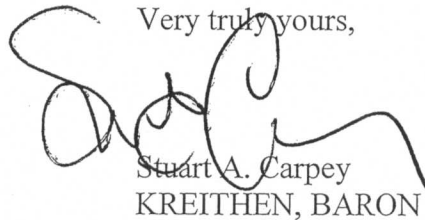
Dear Mr. Belyeu:

Enclosed please find the Release which has been executed by our client in regard to settlement of the above-matter.

Please forward the settlement draft as soon as possible after receipt of this letter.

Thank you for your prompt attention to this matter.

Very truly yours,



Stuart A. Carpey  
KREITHEN, BARON & CARPEY, P.C.

SAC/dfz  
Enclosures

GENERAL RELEASE

Claim Number: API0010287

KNOW ALL MEN BY THESE PRESENTS:

That I/We Herman Glass ("Releasor[s]") being of lawful age, for the sole consideration of FIFTEEN THOUSAND DOLLARS (\$15,000.00) to the undersigned in hand paid, receipt whereof is hereby acknowledged, do/does hereby and for my/our/its heirs, executors, administrators, successors and assigns release, acquit and forever discharge John Wallace/John P. Wallace, ACCESS INSURANCE COMPANY, ACCESS GENERAL INSURANCE ADJUSTERS, INC., ACCESS INSURANCE HOLDINGS and his, her, their, or its agents, servants, successors, heirs, executors, administrators and all other persons, firms corporations, associations or partnerships ("Releasees") of and from any and all claims, actions, causes of action, demands, rights, damages, costs, loss of service, expenses and compensation whatsoever, which the undersigned now has/have or which may hereafter accrue on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen personal injuries and the consequences thereof resulting or to result from the accident, casualty or event which occurred on or about the 8th DAY OF January, 2011.

It is understood and agreed that this settlement is the compromise of a doubtful and disputed claim, and that the payment made is not to be construed as an admission of liability on the part of the party or parties hereby released, and that said releasees deny liability thereof and intend merely to avoid litigation and buy their peace.

The undersigned hereby declare(s) and represent(s) that any injuries sustained are or may be permanent and progressive and that recovery therefrom is uncertain and indefinite and in making this release it is understood and agreed, that the undersigned rely(s) wholly upon the undersigned's judgment, belief and knowledge of the nature, extent, affect and duration of said injuries and liability therefore and is made without reliance upon any statement or representation of the party or parties hereby released or their representatives or by any physician or surgeon by them employed.

I/We Herman Glass, expressly represent that there exist no unpaid liens or claims for reimbursement, subrogation or otherwise, for any benefits paid to or on behalf of Releasor(s) by or pursuant to Medicare, Medicaid, the Federal Workers Compensation Act (FECA), workers compensation, any ERISA plan, Public Assistance, Welfare or other cash assistance, Social Security, the Federal Employee Health Benefits Act, the Medical Care Recovery Act, Personal Injury Protection (PIP), or any other claim or lien for reimbursement or subrogation. I/We Herman Glass further expressly agree to indemnify, hold harmless and defend, Releasees, against any such claims with regard to any outstanding and/or unpaid liens, or other such claims for reimbursement for benefits, including but not limited to claims for Personal Injury Protection (PIP) reimbursement.

FURTHERMORE, I/We Herman Glass, intending to be legally bound hereby, do expressly stipulate and agree in consideration of the aforesaid payment of FIFTEEN THOUSAND DOLLARS (\$15,000.00), to indemnify and to hold forever harmless the party herein released, their heirs, executors, administrators, next of kin, successors, assigns, or each or any of them, or any claimant deriving his/her or its claim from or through them, or each or any of them, against any loss from any further claim, demands, or actions which may hereafter or any time be made or brought against each or any of them to enforce the further claim arising out of or in any way connected with the aforesaid accident, including, but not limited to, losses or damages alluded to above, by or on behalf of the above-named claimant, their heirs, executors, administrators, next of kin, successors, assigns, or each or any of them, or any claimant deriving his/her or its claim from or through them, or each or any of them.

The undersigned warrants that no information pertaining to the fact of settlement, the amount paid in connection with this agreement, nor any detail of the negotiations from which this settlement arises will be provided or released to any person, firm, corporation or other entity, including but not limited to any newspaper, publication, attorney group, media, legal journals or reports, electronic media, internet or internet web site whatsoever. As part of the consideration for payment to the undersigned the amount mentioned herein, undersigned agrees and stipulates that any failure to perform in accordance with the provisions of this document will render the settlement unilaterally void and that return to releasee of the payment of all amounts agreed to herein will be due immediately upon written demand following such failure.

The undersigned further declare and represent that no promise, inducement or agreement not herein expressed has been made to the undersigned, and that this release contains the entire agreement between the parties hereto, and that the terms of the release are contractual and not a mere recital.

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND FULLY UNDERSTANDS.

Signed, sealed and delivered this 24 day of July, 2012.

[Signature of Witness]

Witness

[Signature of Herman Glass]

Herman Glass

LS

Witness X

LS

STATE OF: PA

COUNTY OF: DCL

On the 25 day of July, 2012, before me personally appeared HERMAN GLASS to me known to be the person(s) named herein and who executed the forgoing release and acknowledged to me that He, HERMAN GLASS voluntarily executed same.

Notarial Seal: Susan R. Seidman-Welder, Notary Public, Chester Twp., Delaware County, My Commission Expires Jan. 10, 2016. MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

My term expires 20 [Signature of Notary Public] Notary Public

**STUART A. CARPEY, ESQUIRE**  
scarpey@carpeylaw.com  
Identification No.: 49490  
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100 W. Elm Street, Suite 310  
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ATTORNEY FOR PLAINTIFF

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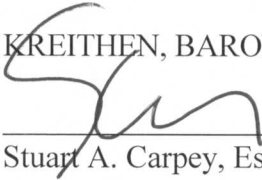
Herman Glass	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
Plaintiff,	:	
	:	No. 121002443
v.	:	
	:	
John Wallace, III, et al.	:	
	:	
Defendants.	:	

---

**CERTIFICATION OF SERVICE**

**TO:** Access General Insurance Adjuster, Inc.  
P.O. Box 105143  
Atlanta, GA 30348-5143  
Attention: Scott Belyeu

I do hereby certify that service of a true and correct copy of the within motion was made on this 23rd day of October 2012, to the counsel above named by first class mail, postage prepaid.

KREITHEN, BARON & CARPEY, P.C.  
BY:   
Stuart A. Carpey, Esquire  
Attorney for Plaintiff

Herman Glass	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
Plaintiff,	:	
	:	No. 121002443
v.	:	
	:	
John Wallace, III	:	
	:	
Defendants.	:	

**ORDER**

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_, 2012, upon consideration of the Motion for Sanctions filed by Plaintiff Herman Glass, the affidavit of Stuart A. Carpey, Esquire, counsel for Plaintiff Herman Glass, and the exhibit attached thereto, and upon a finding that payment was not made within 20 days of receipt of the executed release in the above captioned action, it is hereby ORDERED and DECREED that in addition to the settlement funds in the amount of \$15,000.00, Defendant, John Wallace, III, are ordered to pay forthwith simple interest thereon at the rate of 3.25% on \$15,000.00 from August 17, 2012, to the date of delivery of the settlement funds, together with \$1,000.00 in attorney's fees plus filing fees of \$332.48, pursuant to Pennsylvania Rule of Civil Procedure 229.1.

BY THE COURT:

\_\_\_\_\_  
J.