

2:12-cv-1595

In the United States Court of Federal Claims

RECEIVED

NOTICE

DEC 11 2013

VITTI & VITTI & ASSOCIATES

CLERK, U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

No. 13-459C

v.

THE UNITED STATES

Clerk's Office
Washington, D.C., July 5, 2013

To Attorney of Record, Assistant Attorney General and Judge Susan G. Braden

Please take notice that in the above case, there has been filed this day, on behalf of the parties, the record as transferred from the United States District Court for the Western District of Pennsylvania, Case No. 2:12-cv-01595-NBF, consisting of the district court transfer order, docket sheet, and motion to transfer and amended complaint..

NOTE: FAILURE TO COMPLY WITH THE ENCLOSED INSTRUCTIONS, WITHIN THE TIME PROVIDED, MAY RESULT IN THE CASE BEING DISMISSED FOR FAILURE TO PROSECUTE.

ECF
DOCUMENT

A TRUE COPY:
TEST: DEC 11 2013

Hazel C. Keahey
Clerk, U.S. Court of Federal Claims

By: *[Signature]*
Deputy Clerk

[Signature]
Clerk of Court

UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
WESTERN DISTRICT OF PENNSYLVANIA
700 GRANT STREET, RM. 3110
PITTSBURGH, PA 15230
WWW.PAWD.USCOURTS.GOV

WWW.PAWD.USCOURTS.GOV
ROBERT V. BARTH, JR.
CLERK OF COURT
412-208-7500

IN REPLYING, GIVE NUMBER
OF CASE AND NAMES OF PARTIES

RECEIVED

JUL 5 2013

OFFICE OF THE CLERK
U.S. COURT OF FEDERAL CLAIMS

DATE: May 2, 2013

U.S. Court of Federal Claims
717 Madison Place, NW
Washington, D.C. 20005

13-459 C

RE: VITTI & VITTI & ASSOCIATES vs. UNITED STATES
DEPARTMENT OF VETERANS AFFAIRS

Civil Action No. 2:12-cv-1595

Dear Clerk:

On April 30, 2013, this Court entered an order transferring the above entitled case to your district. Enclosed please find a certified copy of said order together with all other original papers and a certified copy of the docket entries.

Please acknowledge receipt for same on copy of this letter provided.

Very truly yours,

ROBERT V. BARTH, JR.
CLERK OF COURT

By: /s/ Patricia Hill
Deputy Clerk

Enclosures

cc: [cc:]

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Vitti & Vitti & Associates, P.C., successors in
interest to Louis P. Vitti & Associates, P.C.,
Louis P. Vitti and Edith Moen Vitti,

Plaintiffs,

vs.

United States Department of Veterans Affairs,

Defendant.

NO. 12-1595

PLAINTIFFS' MOTION TO TRANSFER JURISDICTION PURSUANT TO 28 USCA § 1631

NOW, come the Plaintiffs, Vitti & Vitti & Associates, P.C., Louis P. Vitti and Edith Moen Vitti, by and through their attorneys Lois M. Vitti, Esquire, Louis P. Vitti, Esquire, and Vitti & Vitti & Associates, P.C., and file this Motion to Transfer Jurisdiction Pursuant to 28 USCA § 1631 whereof the following is a statement:

1. Plaintiffs come now to this Honorable Court and request transfer of jurisdiction to the Court of Federal Claims.
2. Counsel for Plaintiffs contacted Counsel for Defendant regarding the transfer and Counsel for Defendant has indicated no objection.
3. Pursuant to 28 USCA § 1631, this Honorable Court may transfer to cure want of jurisdiction and in the interest of justice such transfer is requested.

Wherefore, Plaintiff respectfully requests this Honorable Court enter an Order transferring jurisdiction of the within case to the Court of Federal Claims.

Respectfully submitted:

/s/ Louis P. Vitti
Louis P. Vitti, Esquire
PA Attorney ID No. 01072
Plaintiff/Attorney for Plaintiffs

Vitti & Vitti & Associates, P.C.
215 Fourth Avenue
Pittsburgh, PA 15222
(412) 281-1725

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Vitti & Vitti & Associates, P.C., successors in
interest to Louis P. Vitti & Associates, P.C.,
Louis P. Vitti and Edith Moen Vitti,

NC. 12-1595

Plaintiffs,

vs.

United States Department of Veterans Affairs,

Defendant.

ORDER OF COURT

AND, now, this 30th day of April, 2013, upon consideration of Plaintiffs' Motion to Transfer Jurisdiction Pursuant to 28 USCA § 1631, it is hereby Ordered that jurisdiction of Plaintiffs' Amended Complaint and all Counts and Claims contained therein is transferred to the Court of Federal Claims, *forthwith*,

BY THE COURT:

Robert V. Barth, Jr., J.

CERTIFIED FROM THE RECORD	
Date	<u>5/2/13</u>
ROBERT V. BARTH, JR., CLERK	
By	<u><i>Hal Bell</i></u>
Deputy Clerk	

ORIGINAL

CLOSED

**U.S. District Court
Western District of Pennsylvania (Pittsburgh)
CIVIL DOCKET FOR CASE #: 2:12-cv-01595-NBF
Internal Use Only**

FILED

JUL ' 5 2013

**U.S. COURT OF
FEDERAL CLAIMS**

VITTI & VITTI & ASSOCIATES, P.C. et al v. UNITED STATES DEPARTMENT OF VETERANS AFFAIRS
Assigned to: Judge Nora Barry Fischer
Cause: 28:1346 Tort Claim

Date Filed: 11/01/2012
Date Terminated: 04/30/2013
Jury Demand: None
Nature of Suit: 380 Personal Property:
Other
Jurisdiction: U.S. Government
Defendant

13-459 C

Plaintiff

**VITTI & VITTI & ASSOCIATES,
P.C.**
*successors in interest to Louis P. Vitti &
Associates, P.C.*

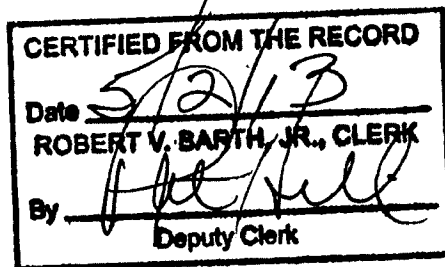
represented by **Louis P. Vitti**
Louis P. Vitti & Associates
215 Fourth Avenue
Pittsburgh, PA 15222
(412) 281-1725
Email: agonzales@vittilaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Lois M. Vitti
Vitti & Vitti & Associates, P.C.
215 Fourth Avenue
Pittsburgh, PA 15122
412-281-1725
Fax: 412-281-3810
Email: loismvitti@vittilaw.com
ATTORNEY TO BE NOTICED

Plaintiff

LOUIS P. VITTI

represented by **Louis P. Vitti**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED



Lois M. Vitti
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

EDITH MOEN VITTI

represented by **Louis P. Vitti**
(See above for address)
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Lois M. Vitti
 (See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES DEPARTMENT
 OF VETERANS AFFAIRS**


represented by **Paul D. Kovac**
 United States Attorney's Office
 700 Grant Street
 Suite 4000
 Pittsburgh, PA 15219
 (412) 894-7489
 Email: paul.kovac@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Party

**UNITED STATES ATTORNEY
 GENERAL**

Party

**UNITED STATES ATTORNEY'S
 OFFICE**

Date Filed	#	Docket Text
11/01/2012	<u>1</u>	COMPLAINT against UNITED STATES DEPARTMENT OF VETERANS AFFAIRS (Filing fee \$350, receipt number 2561513), filed by VITTI & VITTI & ASSOCIATES, P.C., LOUIS P. VITTI, EDITH MOEN VITTI. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Veriication, # <u>8</u> Summons) (plh) (Entered: 11/02/2012)
11/01/2012		(Court only) *** Case Assigned to Category Number 8 (plh) (Entered: 11/02/2012)
11/02/2012		Summons Issued as to *UNITED STATES DEPARTMENT OF VETERANS AFFAIRS* (plh) (Entered: 11/02/2012)
11/02/2012	<u>2</u>	NOTICE that instant civil action has been designated for placement into the United States District Court's Alternative Dispute Resolution program. Parties are directed to fully complete the required 26(f) report, which includes the stipulation of selecting an ADR process. Counsel for plaintiff (or in the case of a removal action, counsel for removing defendant) shall make service of the notice on all parties. (jg) (Entered: 11/02/2012)
11/02/2012	<u>3</u>	NOTICE of Appearance by Louis P. Vitti on behalf of EDITH MOEN

		VITTI, LOUIS P. VITTI, VITTI & VITTI & ASSOCIATES, P.C.. (Vitti, Louis) (Entered: 11/02/2012)
11/02/2012	<u>4</u>	NOTICE of Appearance by Lois M. Vitti on behalf of EDITH MOEN VITTI, LOUIS P. VITTI, VITTI & VITTI & ASSOCIATES, P.C.. (Vitti, Lois) (Entered: 11/02/2012)
12/10/2012	<u>5</u>	SUMMONS/Return of Service Returned Executed by VITTI & VITTI & ASSOCIATES, P.C., LOUIS P. VITTI, EDITH MOEN VITTI. UNITED STATES DEPARTMENT OF VETERANS AFFAIRS served on 11/29/2012, answer due 1/28/2013. (Attachments: # <u>1</u> Exhibit) (Vitti, Lois) (Entered: 12/10/2012)
12/10/2012	<u>6</u>	SUMMONS/Return of Service Returned Executed by VITTI & VITTI & ASSOCIATES, P.C., LOUIS P. VITTI, EDITH MOEN VITTI. (Attachments: # <u>1</u> Exhibit) (Vitti, Lois) (Entered: 12/10/2012)
12/10/2012	<u>7</u>	SUMMONS/Return of Service Returned Executed by VITTI & VITTI & ASSOCIATES, P.C., LOUIS P. VITTI, EDITH MOEN VITTI. UNITED STATES ATTORNEY GENERAL served on 11/30/2012, answer due 1/29/2013. (Attachments: # <u>1</u> Exhibit) (Vitti, Lois) (Entered: 12/10/2012)
12/10/2012	<u>8</u>	SUMMONS/Return of Service Returned Executed by VITTI & VITTI & ASSOCIATES, P.C., LOUIS P. VITTI, EDITH MOEN VITTI. UNITED STATES ATTORNEY'S OFFICE served on 11/14/2012, answer due 1/14/2013. (Attachments: # <u>1</u> Exhibit) (Vitti, Lois) (Entered: 12/10/2012)
01/14/2013	<u>9</u>	Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint, filed by EDITH MOEN VITTI, VITTI & VITTI & ASSOCIATES, P.C., LOUIS P. VITTI by UNITED STATES DEPARTMENT OF VETERANS AFFAIRS. (Attachments: # <u>1</u> Proposed Order) (Kovac, Paul) (Entered: 01/14/2013)
01/14/2013	<u>10</u>	ORDER granting <u>9</u> Consent Motion for Extension of Time to File Answer or Other Responsive Pleading; that Defendant shall have until 2/15/13, within which to answer, move, respond and/or otherwise plead to Plaintiff's Complaint. Signed by Judge Nora Barry Fischer on 1/14/13. (jg) (Entered: 01/14/2013)
02/15/2013	<u>11</u>	MOTION to Dismiss <i>or, Alternatively</i> , MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF VETERANS AFFAIRS. (Attachments: # <u>1</u> Proposed Order) (Kovac, Paul) (Entered: 02/15/2013)
02/15/2013	<u>12</u>	BRIEF in Support re <u>11</u> Motion to Dismiss, Motion for Summary Judgment filed by UNITED STATES DEPARTMENT OF VETERANS AFFAIRS. (Kovac, Paul) (Entered: 02/15/2013)
02/15/2013	<u>13</u>	EXHIBITS in Support of <u>11</u> Motion to Dismiss, Motion for Summary Judgment, <u>12</u> Brief in Support of Motion by UNITED STATES DEPARTMENT OF VETERANS AFFAIRS. (Attachments: # <u>1</u> Exhibit 1 - 3, # <u>2</u> Exhibit 4 - 6, # <u>3</u> Exhibit 7-8, # <u>4</u> Exhibit 9, # <u>5</u> Exhibit 10-13, # <u>6</u> Exhibit 14 - 16, # <u>7</u> Exhibit 17- 18) (Kovac, Paul) (Entered: 02/15/2013)
02/15/2013	<u>14</u>	ORDER ON MOTIONS PRACTICE (details more fully stated in said

		Order). Signed by Judge Nora Barry Fischer on 2/15/13. (jg) (Entered: 02/15/2013)
03/05/2013	<u>15</u>	Consent MOTION for Extension of Time to File Answer re <u>11</u> MOTION to Dismiss <i>or, Alternatively</i> MOTION for Summary Judgment filed by UNITED STATES DEPARTMENT OF VETERANS AFFAIRS by EDITH MOEN VITTI, LOUIS P. VITTI, VITTI & VITTI & ASSOCIATES, P.C.. (Attachments: # <u>1</u> Proposed Order) (Vitti, Louis) (Entered: 03/05/2013)
03/05/2013	<u>16</u>	ORDER granting <u>15</u> Consent Motion for Extension of Time to File Answer re <u>11</u> Motion to Dismiss <i>or, Alternatively</i> , Motion for Summary Judgment filed by UNITED STATES DEPARTMENT OF VETERANS AFFAIRS; that the Plaintiffs' Response to said Motion is now due by 3/18/13. Signed by Judge Nora Barry Fischer on 3/5/13. (jg) (Entered: 03/05/2013)
03/12/2013	<u>17</u>	RESPONSE to Motion re <u>11</u> MOTION to Dismiss <i>or, Alternatively</i> MOTION for Summary Judgment (<i>AFFIDAVIT/MOTION UNDER RULE 56(d) FEDERAL RULES OF CIVIL PROCEDURE TO DELAY SUMMARY JUDGMENT PROCEEDINGS</i>) filed by EDITH MOEN VITTI, LOUIS P. VITTI, VITTI & VITTI & ASSOCIATES, P.C.. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Proposed Order) (Vitti, Louis) (Entered: 03/12/2013)
03/12/2013	<u>18</u>	AMENDED COMPLAINT against UNITED STATES DEPARTMENT OF VETERANS AFFAIRS UNITED STATES DEPARTMENT OF VETERANS AFFAIRS answer due 3/27/2013, filed by VITTI & VITTI & ASSOCIATES, P.C.; LOUIS P. VITTI; EDITH MOEN VITTI. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Verification) (Vitti, Louis) (Entered: 03/12/2013)
03/12/2013	<u>19</u>	AFFIDAVIT of Service for Amended Complaint and Affidavit/Motion Under Rule 56(d) Federal Rules of Civil Procedure to Delay Summary Judgment Proceedings in Response to Defendants Motion to Dismiss <i>or, Alternatively</i> , for Summary Judgment served on U.S. Department of Veterans Affairs; United States Attorney; United States Attorney General on 3/12/2013, filed by EDITH MOEN VITTI, LOUIS P. VITTI, VITTI & VITTI & ASSOCIATES, P.C.. (Vitti, Louis) (Entered: 03/12/2013)
03/13/2013		Order indicating that the Plaintiffs having filed an Amended Complaint <u>18</u> on 3/12/13, Defendant's Motion to Dismiss <i>or, alternatively</i> , for Summary Judgment <u>11</u> , is terminated as moot. Defendant's response to Plaintiff's Amended Complaint is due by 3/26/13. Ordered by Judge Nora Barry Fischer on 3/13/13. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (jg) (Entered: 03/13/2013)
03/26/2013	<u>20</u>	MOTION to Dismiss re <u>18</u> Amended Complaint, by UNITED STATES DEPARTMENT OF VETERANS AFFAIRS. (Attachments: # <u>1</u> Proposed Order) (Kovac, Paul) (Entered: 03/26/2013)
03/26/2013	<u>21</u>	BRIEF in Support re <u>20</u> Motion to Dismiss filed by UNITED STATES DEPARTMENT OF VETERANS AFFAIRS. (Kovac, Paul) (Entered: 03/26/2013)

03/26/2013	<u>22</u>	EXHIBITS in Support of <u>20</u> Motion to Dismiss, <u>21</u> Brief in Support of Motion by UNITED STATES DEPARTMENT OF VETERANS AFFAIRS. (Attachments: # <u>1</u> Exhibit 1 - 3, # <u>2</u> Exhibit 4 - 6, # <u>3</u> Exhibit 7 - 8, # <u>4</u> Exhibit 9, # <u>5</u> Exhibit 10 - 13, # <u>6</u> Exhibit 14 - 16, # <u>7</u> Exhibit 17 - 18) (Kovac, Paul) (Entered: 03/26/2013)
04/12/2013	<u>23</u>	Consent MOTION for Extension of Time to File Answer re <u>20</u> MOTION to Dismiss re <u>18</u> Amended Complaint, filed by UNITED STATES DEPARTMENT OF VETERANS AFFAIRS by EDITH MOEN VITTI, LOUIS P. VITTI, VITTI & VITTI & ASSOCIATES, P.C.. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Affidavit of Service) (Vitti, Louis) (Entered: 04/12/2013)
04/12/2013		ORDER granting "Consent Motion for Extension of Time to File Answer to Defendant's Motion to Dismiss Amended Complaint;" that Plaintiffs' Response to Defendant's Motion to Dismiss Amended Complaint <u>20</u> is now due 4/30/13. Ordered by Judge Nora Barry Fischer on 4/12/13. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (jg) (Entered: 04/12/2013)
04/24/2013	<u>24</u>	Second MOTION for Extension of Time to File Answer re <u>20</u> MOTION to Dismiss re <u>18</u> Amended Complaint, filed by UNITED STATES DEPARTMENT OF VETERANS AFFAIRS by EDITH MOEN VITTI, LOUIS P. VITTI, VITTI & VITTI & ASSOCIATES, P.C.. (Attachments: # <u>1</u> Proposed Order) (Vitti, Louis) (Entered: 04/24/2013)
04/24/2013		ORDER granting "Plaintiff's Second Consent Motion for Extension of Time to File Answer to Defendant's Motion to Dismiss Amended Complaint;" that Plaintiffs' Response to Defendant's Motion to Dismiss Amended Complaint <u>20</u> is now due 5/15/13. Ordered by Judge Nora Barry Fischer on 4/24/13. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (jg) (Entered: 04/24/2013)
04/30/2013	<u>25</u>	MOTION to Transfer Case <i>Jurisdiction Pursuant to 28 USCA § 1631</i> by EDITH MOEN VITTI, LOUIS P. VITTI, VITTI & VITTI & ASSOCIATES, P.C.. (Attachments: # <u>1</u> Proposed Order) (Vitti, Louis) (Entered: 04/30/2013)
04/30/2013	<u>26</u>	ORDER granting <u>25</u> Plaintiffs' Motion to Transfer Jurisdiction Pursuant to 28 USCA § 1631; that jurisdiction of Plaintiffs' Amended Complaint and all Counts and Claims contained therein is transferred to the Court of Federal Claims, forthwith. Signed by Judge Nora Barry Fischer on 4/30/13. (jg) (Entered: 04/30/2013)
05/02/2013	<u>27</u>	LETTER to the U.S. Court of Federal Claims consisting of cc of Transfer Order, Amended Complaint with Exhibits and Docket Entries. (plh) (Entered: 05/02/2013)