

00-133-CD MARGARET J. VOGEL et al -vs- JOHN BEYER et al

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

11 MARGARET J. VOGEL and
102 WILLIAM M. FAUST, Co-Executors
of the ESTATE OF MARGARET A.
FAUST,

Plaintiffs

vs.

34 JOHN BEYER and EMMA E. BEYER,
his wife, their heirs, successors and
assigns; SAMUEL KIRK, his heirs,
successors and assigns, and JOHN
D. ERICKSON and ALMA ERICKSON,
his wife, their heirs, successors and
assigns,

Defendants

No. 00- 133 -CD

ACTION TO QUIET TITLE

Type of Case: Civil Action

Type of Pleading: Complaint

Filed on behalf of: Plaintiffs

Counsel of record for this
party:

Michael S. Marshall, Esquire
AMMERMAN & MARSHALL
310 East Cherry Street
Clearfield, Pennsylvania 16830
(814) 765-1701

Supreme Court No.: 64087

FILED

FEB 03 2000

William A. Shaw
Prothonotary

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

MARGARET J. VOGEL and	:	
WILLIAM M. FAUST, Co-Executors	:	
of the ESTATE OF MARGARET A.	:	
FAUST,	:	
	Plaintiffs	:
vs.	:	No. 00- -CD
JOHN BEYER and EMMA E. BEYER,	:	
his wife, their heirs, successors and	:	
assigns, SAMUEL KIRK, his heirs,	:	
successors and assigns, and JOHN	:	ACTION TO QUIET TITLE
D. ERICKSON, and ALMA ERICKSON,	:	
his wife, their heirs, successors and	:	
assigns,	:	
	Defendants	:
	:	

COMPLAINT

NOW COME, the Plaintiffs, MARGARET J. VOGEL and WILLIAM M. FAUST, Co-Executors of the ESTATE OF MARGARET A. FAUST, by and through their attorney, MICHAEL S. MARSHALL, ESQUIRE, and file the following Complaint in an action to Quiet Title against the above named Defendants upon a cause of action whereof the following is a statement:

1. The Plaintiffs are Margaret J. Vogel and William M. Faust, Co-Executors of the Estate of Margaret A. Faust, of the Borough of Clearfield, Clearfield County, Pennsylvania.

2. The present whereabouts of Defendants, John Beyer and Emma E. Beyer, his wife, Samuel Kirk, and John D. Erickson and Alma Erickson, his wife, if still living or in existence, their personal representatives, heirs, successors and assigns are unknown to the Plaintiffs.

3. By deed dated February 11, 1904, and recorded in Deed Book Volume 145, at Page 43, Defendants John Beyer and Emma E. Beyer, his wife, and Samuel Kirk conveyed to Harriet Pittsford (Pitchford) a parcel of ground situate in the Village of Banian, Bigler Township, Clearfield County, described as follows:

BEGINNING at a post on the Southeast corner of Main Street and Fourth Alley, thence South 86 1/4 ° East along the line of said alley 150 feet to a post on line of Gill Alley; thence South 2 3/4 ° West 50 feet to post on line of Lot No. 55, thence North 86 1/4 ° West 150 feet to a post on line of Main Street; thence North 2 3/4 ° East 50 feet along line of Main Street post, the place of beginning, and being known as Lot No. 56 in the general plan of the Village of Banian and a portion of a larger tract known as the Robert Hagerty Tract.

4. By Deed dated November 21, 1904, and recorded in Deed Book Volume 147, at Page 329, and deed dated December 12, 1912, and recorded in Deed Book 197, at Page 231, Adaline Lewis and Joseph J. Lewis, her husband, Jane Ellen Hambly and John Hambly, her husband, Lizzie Walton and Ed Walton, her husband, Eleanor Pitchford, Ernest Pitchford and Mina Pitchford, his wife, Jesse Stiles and Harriet Stiles, his wife, and David Durand and Josephine Durand, his wife, the heirs at law of Harriet Pitchford, conveyed the premises described in Paragraph 3 above to James Pitchford.

5. By Deed dated December 18, 1912, and recorded in Deed Book 195, at Page 189, James Pitchford and Minnie Pitchford, his wife, conveyed the premises described in Paragraph 3 above to Stephen Kitko, Jr.

6. By Deed dated August 25, 1920, and recorded in Deed Book 245, at Page 285, Stephen Kitko, Jr., and Susie Kitko, his wife, conveyed the premises described in Paragraph 3 above to Charles E. Schrand and Nellie Schrand.

7. By deed dated June 13, 1923, and recorded in Deed Book Volume 263, at page 275, Charles E. Schrand conveyed the premises described in Paragraph 3 above to Nellie Schrand.

8. By deed dated November 26, 1935, and recorded in Deed Book Volume 311, at Page 598, Nellie Schrand and Charles E. Schrand, her husband, conveyed the premises described in Paragraph 3 above to Edward Faust and Margaret Faust, his wife. Legal title to said premises vested in Margaret A. Faust upon the death of her husband, and in the Plaintiffs, as Executors of the Estate of Margaret A. Faust, upon her death on November 11, 1991.

9. Thereafter Plaintiffs caused a survey to be conducted by Fred H. Shuss, P.L.S., which more accurately describes the aforementioned premises situate in the Village of Banian, Bigler Township, Clearfield County, Commonwealth of Pennsylvania as follows:

BEGINNING at the Southeastern corner of Pennsylvania Route 453 having a 50 foot wide roadway and of Southern side of Fourth Alley having

a roadway width of 20 feet; thence along said alley South 82 degrees East 160 feet to the western side of an unnamed alley having 20 foot roadway; thence by same South 8 degrees West 50 feet to corner of the similar sized house lot; thence by same running generally longitudinally through a blacktop drive North 82 degrees West 160 feet to near center of said drive; thence along Pennsylvania Route 453 North 8 degrees East 50 feet to place of beginning. Containing 0.18365 acre by calculation.

A true and correct copy of the survey map of Fred H. Shuss, P.L.S., dated January 29, 2000 is attached hereto as Exhibit "A".

10. Since 1935, Margaret A. Faust and Edward Faust, her husband, and the personal representatives, heirs and assigns of Margaret A. Faust, have been in actual, continuous, exclusive, visible, notorious, distinct and hostile possession of that parcel of ground situate in the Village of Banian, Bigler Township, Clearfield County, Pennsylvania, adjacent to the southern boundary of the premises described in Paragraph 9 above, as shown on Exhibit "A", and more particularly bounded and described as follows:

BEGINNING at a point in the blacktop pavement of a drive at the eastern right-of-way of Pennsylvania Route 453 having a 50 foot wide roadway and corner of lot of other lands of grantee; thence by same generally along said drive within pavement of same by a line parallel to the southern side of Fourth Alley and 50 feet therefrom South 82 degrees East 160 feet to a point north of a garage on western line of a 20 foot wide unnamed alley; thence by same South 8 degrees West 74.87 feet to the corner of lot of lands of Frank Holinbinko; thence by same North 73 degrees 11 minutes 24 seconds West 162.37 feet to the right-of-way of Pennsylvania Route 453; thence by same North 8 degrees East 50 feet to the place of beginning. Containing 0.22958 acre by calculation.

The premises described in Paragraphs 9 and 10 herein being collectively identified as Clearfield County Tax Map No. 103-K14-481-3.

11. By deed dated February 11, 1904, and recorded in Deed Book Volume 140, at Page 299, John Beyer and Emma E. Beyer, his wife, and Samuel Kirk, conveyed to John Erickson a parcel of ground situate in the Village of Banian, Bigler Township, Clearfield County, described as follows:

BEGINNING on the Northeast corner of Main and Fifth Streets, thence running in an easterly direction along the line of Fifth Street South 73 ° east 150 feet to post on line of Gill Alley; thence running along the line of said alley in a Northerly direction ____ feet to post on line of Lot No. 56 and 50 feet distant from post on Southwest corner of Gill and Fourth Alleys; thence running in a westerly direction along the line of said lot parallel with the line of Fourth Alley 150 feet to a post on line of Main Street; thence running

along the line of Main Street in a southerly direction 100 feet to a post on the corner of Main and Fifth Streets the place of beginning. And being known as Lots 54 and 55 in the general plan of the Village of Banian and a portion of a larger tract of land known as the Robert Hagerty Tract.

12. By deed dated September 21, 1906, and recorded in Deed Book Volume 159, at Page 503, Defendants John D. Erickson and Alma Erickson, his wife, conveyed to Wascoe Holinbinko and Annie Holinbinko, his wife, Lots 44 and 45 in the Plan of the Village of Banian (formerly numbered as Lots 54 and 55), being described as follows:

BEGINNING on the northeast corner of Main and Fifth Street, thence running in an easterly direction along the line of Fifth Street South 73 ° east 150 feet to a post on line of Gill Alley; thence running along the line of said alley in a northerly direction 100 feet, to post on line of Lot No. 46 (formerly Lot No. 56) thence running in a Westerly direction along the line of said lot parallel with the line of said lot 150 feet to a post on line of Main Street; thence running along line of Main Street, South 100 feet to post, corner and place of beginning.

13. The deed described in Paragraph 12 above purported to convey to Wascoe and Annie Holinbinko the same premises which vested in John D. Erickson by virtue of the Deed described in Paragraph 11 above.

14. The map of the Plan of the Village of Banian, recorded with the Recorder of Deeds of Clearfield County in Miscellaneous Book "X" at Page 16, (a copy of which is attached hereto as Exhibit "B") shows the eastern boundary of Lots 44, 45 and 46, (formerly numbered as Lots 54, 55 and 56), to be approximately 180 feet. The description of the eastern boundary of the conveyance to John D. Erickson, as set forth in Paragraph 11 above, as running to a point 50 feet south of the southeast corner of Lot 46, (formerly Lot 56), would comprise a distance of approximately 130 feet. The conveyance described in Paragraph 12 above, from John D. Erickson and his wife, to Wascoe and Annie Holinbinko describes the eastern boundary of the same parcel as being 100 feet.

15. Although both of the deeds described in Paragraphs 11 and 12 above purport to convey the same parcel of ground, bordered on the north by Lot No. 46, (formerly Lot No. 56), because of the discrepancy in the distance of the eastern boundary the actual deed descriptions appear to leave a triangular shaped piece of land, located within the premises described in Paragraph 10 above, which was not conveyed to Wascoe Holinbinko and Annie Holinbinko by the deed from John D. Erickson and his wife.

16. The map of the Plan of the Village of Banian (Exhibit "B") shows the boundaries of Lots No. 44, 45 and 46, (formerly Lots No. 54, 55

and 56), to have a distance of 150 feet on the north, south and west, and approximately 180 feet on the east. The survey map of Fred H. Shuss, P.L.S. (Exhibit "A"), shows the actual boundaries of Lots 44, 45 and 46 to be 160 feet on the north, 149.60 feet on the south, 200 feet on the west, and 238.59 feet on the east.

17. Although the conveyances described in Paragraphs 3 and 11 above, taken together, purport to convey all of the property comprised of lots 44, 45 and 46 (formerly lots 54, 55 and 56) and bounded by Main Street, Fifth Street, Fourth Alley, and Gill Alley, the deed description set forth in Paragraph 11 cannot have a point 50 feet south of the line of lot 46 as its Northeast corner and still close at the place of beginning because of the actual distances shown by the Shuss survey (Exhibit "A"). This creates a discrepancy with regard to whether the aforementioned deed from John and Emma Beyer and Samuel Kirk to John Erickson includes the premises described in Paragraph 10 above.

18. The purpose of this action is to quiet title as to any interest that John Beyer and Emma E. Beyer, his wife, their heirs, successors and assigns, Samuel Kirk, his heirs, successors and assigns, and John D. Erickson, and Alma Erickson, his wife, their heirs, successors and assigns, may have or assert in the premises described in Paragraph 10 above, and to clear and resolve for all time on the record the same.

19. Plaintiffs believe and therefore aver that title to the premises described in Paragraph 10 above became vested in Margaret A. Faust and Edward Faust, her husband, by virtue of a deed or deeds which have become lost and/or which were never recorded in the records of Clearfield County.

20. Margaret A. Faust and Edward Faust, her husband, and the personal representatives, heirs and assigns of Margaret A. Faust, have been in actual, continuous, exclusive, visible, notorious, distinct and hostile possession of the premises described in Paragraph 10 above for a period of time in excess of twenty-one (21) years.

21. Plaintiffs aver that any right, title and interest, that Defendants, John Beyer and Emma E. Beyer, and Samuel Kirk, or their heirs, successors or assigns, may have or assert in the premises described in Paragraph 10 above have been divested and extinguished by the conveyance to John D. Erickson on February 11, 1904, and by the possession of the property by Plaintiffs and their predecessors in title, as set forth above.

22. Plaintiffs aver that any right, title and interest that Defendants, John D. Erickson and Alma Erickson, or their heirs, successors or assigns, may have or assert in the premises described in Paragraph 10 above has been divested and extinguished by the conveyance to Wascoe and Annie Holinbinko on September 21, 1906, and by the possession of the property by Plaintiffs and their predecessors in title, as set forth above.

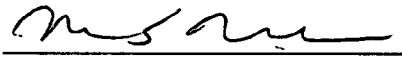
23. It is alleged that the Defendants herein named, their heirs, successors or assigns, or any person or entity that might claim through them, have no further interest, right, title or claim in or to the property described in Paragraph 10 above, and that the Plaintiffs, Margaret J. Vogel and William M. Faust, Co-Executors of the Estate of Margaret A. Faust, hold all interest, right, title or claim in and to the said property by virtue of the facts, matters and legal conclusions set forth above.

WHEREFORE, Plaintiffs brings this action to quiet title and ask the Court to decree as follows:

- (a) That the Plaintiffs are seized of an indefeasible title to the premises set forth in Paragraph 10 above and situated in the Village of Banian, Bigler Township, Clearfield County, Pennsylvania;
- (b) That a judgment be entered forever barring the Defendants or any person claiming through them from asserting title superior to that of Plaintiffs;
- (c) Such other and further relief as the Court may deem proper.

Respectfully submitted,

AMMERMAN & MARSHALL
By



Michael S. Marshall, Esquire
Attorney for Plaintiffs

VERIFICATION

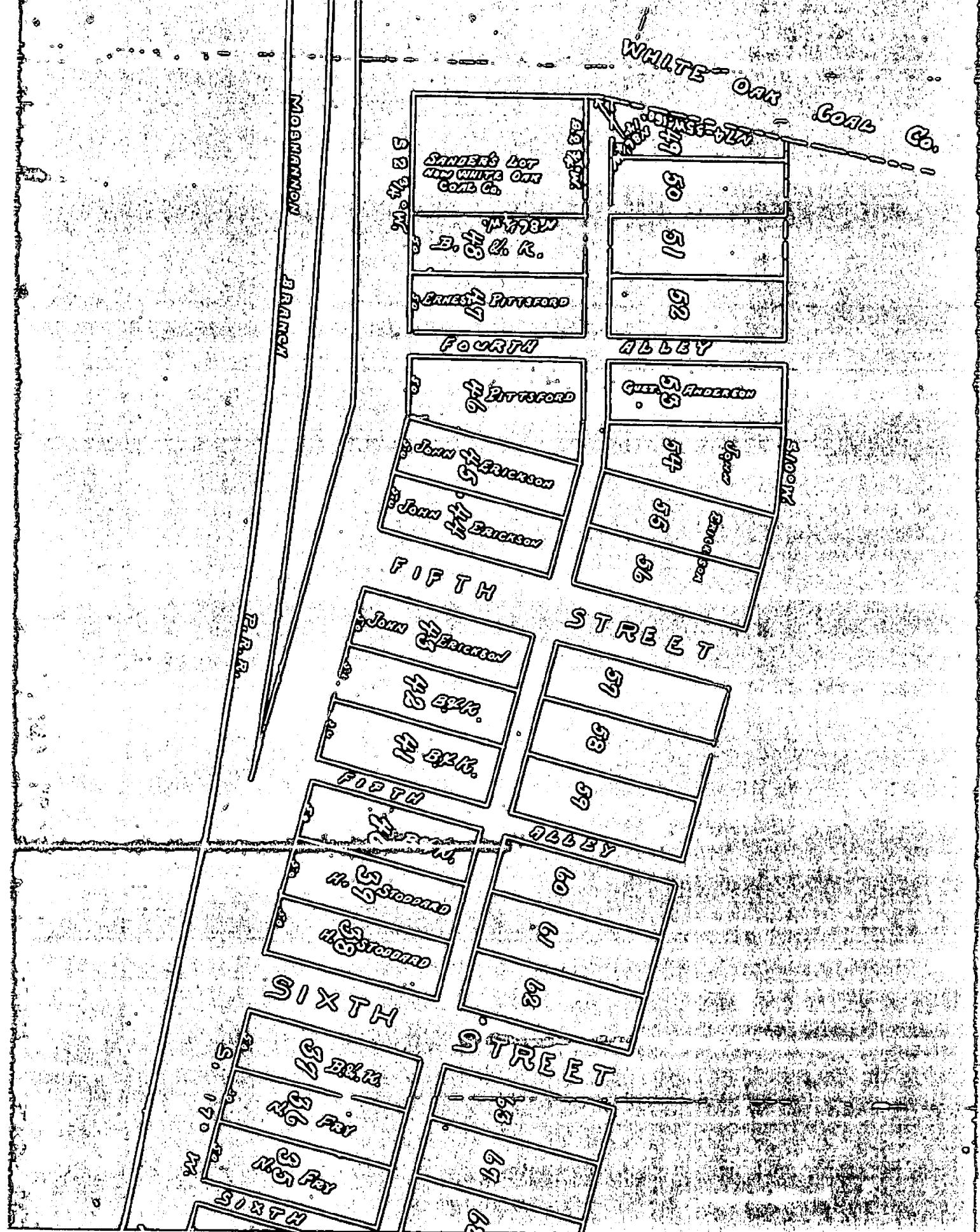
I, MARGARET J. VOGEL, verify that the statements made in the foregoing Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsifications to authorities.

Margaret J. Vogel
Margaret J. Vogel

VERIFICATION

I, WILLIAM M. FAUST, verify that the statements made in the foregoing Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsifications to authorities.

William M. Faust
William M. Faust



Ex "B"

FILED

FEB 03 2000

3.03 GATH MARSHALL
William A. Shaw
Prothonotary

Pd \$95.00

Dc city marshall

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

MARGARET J. VOGEL and	:	
WILLIAM M. FAUST, Co-Executors	:	
of the ESTATE OF MARGARET A.	:	
FAUST,	:	
Plaintiffs	:	
vs.	:	No. 00 - 133 - CD
JOHN BEYER and EMMA E. BEYER,	:	
his wife, their heirs, successors and	:	
assigns, SAMUEL KIRK, his heirs,	:	
successors and assigns, and JOHN	:	
D. ERICKSON and ALMA ERICKSON,	:	
his wife, their heirs, successors and	:	
assigns,	:	
Defendants	:	ACTION TO QUIET TITLE
	:	
	:	Type of Case: Civil Action
	:	
	:	Type of Pleading: Affidavit and
	:	Motion as required by
	:	Rule 430
	:	
	:	Filed on behalf of: Plaintiffs
	:	
	:	Counsel of record for this
	:	party:
FILED	:	Michael S. Marshall, Esquire
FEB 08 2000	:	AMMERMAN & MARSHALL
William A. Shaw	:	310 East Cherry Street
Prothonotary	:	Clearfield, Pennsylvania 16830
	:	(814) 765-1701
	:	
	:	Supreme Court No.: 64087

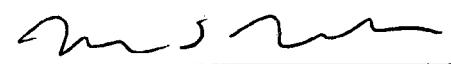
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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MARGARET J. VOGEL and :
WILLIAM M. FAUST, Co-Executors :
of the ESTATE OF MARGARET A. :
FAUST, :
Plaintiffs :
vs. : No. 00 - 133 - CD
:
JOHN BEYER and EMMA E. BEYER, :
his wife, their heirs, successors and :
assigns, SAMUEL KIRK, his heirs, :
successors and assigns, and JOHN : ACTION TO QUIET TITLE
D. ERICKSON, and ALMA ERICKSON, :
his wife, their heirs, successors and :
assigns, :
Defendants :

MOTION FOR PUBLICATION

NOW, this 7th day of February, 2000, an affidavit having been filed on behalf of the Plaintiffs pursuant to Pa. R.C.P. 430 that an investigation has been made to determine the identity and whereabouts of the Defendants, John Beyer and Emma E. Beyer, his wife, Samuel Kirk, and John D. Erickson and Alma Erickson, his wife, and their heirs and assigns and that the same are unknown, the Plaintiffs by their attorney, Michael S. Marshall, Esquire, move the Court for leave to serve the Complaint on the Defendants, their heirs and assigns by publication in such manner as the Court shall direct as provided by the aforesaid Pennsylvania Rule of Civil Procedure No. 430.

Respectfully submitted,



Michael S. Marshall, Esquire
Attorney for the Plaintiffs

Dated: 2/7/00

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

MARGARET J. VOGEL and :
WILLIAM M. FAUST, Co-Executors :
of the ESTATE OF MARGARET A. :
FAUST, :
Plaintiffs :
vs. : No. 00 - 133 - CD
:
JOHN BEYER and EMMA E. BEYER, :
his wife, their heirs, successors and :
assigns, SAMUEL KIRK, his heirs, :
successors and assigns, and JOHN : ACTION TO QUIET TITLE
D. ERICKSON, and ALMA ERICKSON, :
his wife, their heirs, successors and :
assigns, :
Defendants :

AFFIDAVIT TO ACCOMPANY MOTION FOR PUBLICATION
AS REQUIRED BY Pa. R.C.P. 430

NOW, this 7th day of February, 2000, the undersigned being duly sworn according to law, deposes and says that he is the attorney for the within Plaintiffs and makes this Affidavit on behalf of said Plaintiffs being authorized to do so; that your Deponent made an investigation of the identity and whereabouts of the Defendants, John Beyer and Emma E. Beyer, his wife, Samuel Kirk, and John D. Erickson and Alma Erickson, his wife, and their heirs, successors and assigns, by examining the estate and will indices of the Clearfield County Courthouse, examining the telephone directory, checking voter registration and checking with the taxation bureau and after said investigation has been unable to locate the said Defendants, who are presumed deceased, and has been unable to identify or locate their heirs and assigns. Further, the Deponent sayeth not.



Michael S. Marshall, Esquire
Attorney for Plaintiffs

SWORN to and SUBSCRIBED
before me this 7th day
of , 2000.

Notary Public

NOTARIAL SEAL
DAVID S. AMMERMAN, NOTARY PUBLIC
CLEARFIELD BORO, CLEARFIELD CO., PA.
MY COMMISSION EXPIRES NOV. 20, 2000

(f)

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

MARGARET J. VOGEL and :
WILLIAM M. FAUST, Co-Executors :
of the ESTATE OF MARGARET A. :
FAUST, :
Plaintiffs :
vs. : No. 00 - 133 - CD

JOHN BEYER and EMMA E. BEYER, :
his wife, their heirs, successors and :
assigns, SAMUEL KIRK, his heirs, :
successors and assigns, and JOHN : ACTION TO QUIET TITLE
D. ERICKSON, and ALMA ERICKSON, :
his wife, their heirs, successors and :
assigns, :
Defendants :

FILED
FEB 11 2000

William A. Shaw
Prothonotary

ORDER FOR PUBLICATION

AND NOW, to wit, this 11th day of February, 2000, upon
consideration of the foregoing Motion and Affidavit of Michael S. Marshall,
Esquire, Attorney for the Plaintiffs, that Defendants, John Beyer and Emma
E. Beyer, his wife, Samuel Kirk, and John D. Erickson and Alma Erickson,
his wife, their heirs, successors and assigns, if any, are unable to be
located, Plaintiffs are hereby granted leave to make service of the Complaint
on said Defendants, their heirs, successors and assigns, by publication one
(1) time in the Clearfield Progress being a newspaper of general circulation
in the County of Clearfield.

BY THE COURT:

P.J.

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

MARGARET J. VOGEL and :
WILLIAM M. FAUST, Co-Executors :
of the ESTATE OF MARGARET A. :
FAUST, :
Plaintiffs :
vs. : No. 00 - 133 - CD
: :
JOHN BEYER and EMMA E. BEYER, :
his w fe, their heirs, successors and :
assigns, SAMUEL KIRK, his heirs, :
successors and assigns, and JOHN : ACTION TO QUIET TITLE
D. ERICKSON and ALMA ERICKSON, :
his wife, their heirs, successors and :
assigns, :
Defendants :
: Type of Case: Quiet Title Action
: :
: Type of Pleading: Motion for
: Order and Affidavit pursuant
: to Pa. R.C.P. 1066
: :
: Filed on behalf of: Plaintiffs
: :
: Counsel of record for this
: party:
: :
: Michael S. Marshall, Esquire
: AMMERMAN & MARSHALL
: 310 East Cherry Street
: Clearfield, Pennsylvania 16830
: (814) 765-1701
: :
: Supreme Court No.: 64087
: :

FILED

MAR 15 2000

William A. Shaw
Prothonotary

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

MARGARET J. VOGEL and :
WILLIAM M. FAUST, Co-Executors :
of the ESTATE OF MARGARET A. :
FAUST, :
Plaintiffs :
vs. : No. 00 - 133 - CD
:
JOHN BEYER and EMMA E. BEYER, :
his wife, their heirs, successors and :
assigns, SAMUEL KIRK, his heirs, :
successors and assigns, and JOHN : ACTION TO QUIET TITLE
D. ERICKSON, and ALMA ERICKSON, :
his wife, their heirs, successors and :
assigns, :
Defendants :

MOTION FOR ORDER PURSUANT TO PENNSYLVANIA
RULE OF CIVIL PROCEDURE 1066

NOW THIS 15th day of March, 2000, an Affidavit having been filed on behalf of the Plaintiffs pursuant to Pa. R.C.P. 1066 (a) that, pursuant to Order of Court dated February 11, 2000, a Complaint containing a Notice to Defend has been served by publication on John Beyer and Emma E. Beyer, his wife, Samuel Kirk, and John D. Erickson and Alma Erickson, his wife, their heirs, successors, and assigns, and said Defendants have not filed an Answer, the Plaintiffs by their Attorney, Michael S. Marshall, Esquire move the Court for an Order that the said Defendants be forever barred from asserting any right, lien, title or interest in the land inconsistent with the interest or claim of Plaintiffs set forth in the Complaint, unless Defendants take such action as directed by the Court within thirty (30) day thereafter.

Respectfully submitted,



Michael S. Marshall, Esquire
Attorney for Plaintiffs

Dated: 3/15/00

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

MARGARET J. VOGEL and :
WILLIAM M. FAUST, Co-Executors :
of the ESTATE OF MARGARET A. :
FAUST, Plaintiffs :
vs. : No. 00 - 133 - CD
:
JOHN BEYER and EMMA E. BEYER, :
his wife, their heirs, successors and :
assigns, SAMUEL KIRK, his heirs, :
successors and assigns, and JOHN : ACTION TC QUIET TITLE
D. ERICKSON, and ALMA ERICKSON, :
his wife, their heirs, successors and :
assigns, Defendants :

AFFIDAVIT AS REQUIRED BY Pa. R.C.P. 1066(a)

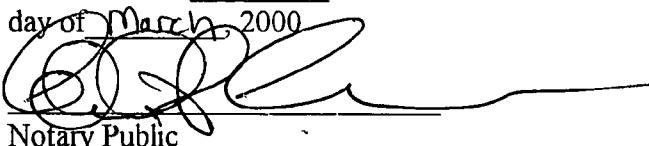
NOW, this 14th day of March, 2000, the undersigned being duly sworn according to law, deposes and says that he is the attorney for the Plaintiffs and makes this Affidavit on behalf of said Plaintiffs being authorized to do so; that your Deponent pursuant to Order of Court dated February 11, 2000, for service by publication did give notice to Defendants, John Beyer and Emma E. Beyer, his wife, Samuel Kirk, and John D. Erickson and Alma Erickson, his wife, their heirs, successors, and assigns, by causing the publication of the notice of the filing of the Complaint in the Clearfield Progress, Clearfield, Pennsylvania on February 17, 2000; that proof of publication of said filing of Complaint and Notice to Defend is attached hereto and made a part hereof; that said Defendants have not filed an Answer to the Complaint or written defense thereto and more than twenty (20) days have elapsed since service was made by publication as prescribed by the aforesaid Order of Court.

BY

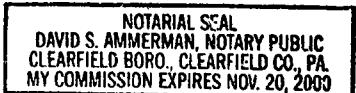


Michael S. Marshall, Esquire
Attorney for the Plaintiff

SWORN to and SUBSCRIBED
before me this 14th
day of March, 2000



Notary Public



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

MARGARET J. VOGEL and WILLIAM M. FAUST, Co-Executors of the Estate of MARGARET A. FAUST, Plaintiffs

vs.

JOHN BEYER and EMMA E. BEYER, his wife, their heirs, successors and assigns, SAMUEL KIRK, his heirs, successors and assigns, and JOHN D. ERICKSON and ALMA ERICKSON, his wife, their heirs, successors and assigns, Defendants

No. 00-133-CD
ACTION TO QUIET TITLE
NOTICE

TO: John Beyer and Emma E. Beyer, his wife, Samuel Kirk, and John D. Erickson and Alma Erickson, his wife, and their heirs, successors and assigns, or any person or entity known or unknown, that might claim title under them or through them, to the premises described below:

You are hereby notified that the Plaintiffs listed above have filed a Complaint in an Action to Quiet Title for a certain parcel of land situated in the Village of Banian, Bigler Township, Clearfield County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the black-top pavement of a drive at the eastern right-of-way of Pennsylvania Route 453 having a 50 foot wide roadway and corner of lot of other lands of grantee; thence by same generally along said drive within pavement of same by a line parallel to the southern side of Fourth Alley and 150 feet west from south 82 degrees East 160 feet to a point north of a garage on western line of a 20-foot wide unnamed alley; thence by same South 8 degrees West 74.37 feet to the corner of lot of lands of Frank Holubko; thence by same North 73 degrees 11 minutes 24 seconds West 162.37 feet to the right-of-way of Pennsylvania Route 453; thence by same North 8 degrees East 50 feet to the place of beginning. Being a portion of the parcel of real property identified as Clearfield County Tax Map No. 103-K14-481-3.

Take notice that the Plaintiffs are the owners of the premises described hereinabove and have requested the Court decree that title to the same is in them, free and clear of all claims of the Defendants, John Beyer and Emma E. Beyer, his wife, Samuel Kirk, and John D. Erickson and Alma Erickson, his wife, and their heirs, successors and assigns, or any person or entity, known or unknown, that might claim title under them or through them.

WHEREUPON, said Court ordered that Notice of the said action and that fact thereof be served on the above named Defendants by the Plaintiffs by advertisement, requiring them to answer said Complaint within twenty (20) days from the date and time of the last publication of this Notice and for failure to comply, a judgment will be taken by application of Plaintiffs at a hearing before the Court.

Should the above named Defendants, their heirs, successors and assigns, or any party in interest, fail to plead to the Plaintiffs' Complaint within twenty (20) days from the date of the last publication of this Notice as per Order of Court dated February 11, 2000, or fail to take such action within thirty (30) days after default judgment by the Court may direct, the above named Defendants, their heirs, successors and assigns, or any other party in interest, except the Plaintiff, shall be forever barred from asserting any interest, lien, claim, right or title to the premises, inconsistent with the Plaintiffs, their heirs and assigns.

NOTICE TO DEFEND
If you wish to defend, you must enter a written appearance, personally, or by an attorney, and file your defenses or objections in writing with the Court. You are warned that if you fail to do so, the case may proceed without you and that judgment will be entered against you without further notice for the relief requested by the Plaintiffs. You may lose your 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 HIRE ONE WHERE YOU CAN GET LEGAL HELP.

David Melnick, Court Administrator, Clearfield County Court House, Clearfield, Pennsylvania 16830, (814) 765-2641
Michael S. Marshall, Esquire, AMERMAN & MARSHALL, Attorney for Plaintiffs, 310 East Cherry Street, Clearfield, Pennsylvania 16830

PROOF OF PUBLICATION

STATE OF PENNSYLVANIA :

: SS:

COUNTY OF CLEARFIELD :

On this 21st day of February, A.D. 2000, before me, the subscriber, a Notary Public in and for said County and State, personally appeared Margaret E. Krebs, who being duly sworn according to law, deposes and says that she is the President of The Progressive Publishing Company, Inc., and Associate Publisher of The Progress, a daily newspaper published at Clearfield, in the County of Clearfield and State of Pennsylvania, and established April 5, 1913, and that the annexed is a true copy of a notice or advertisement published in said publication in

the regular issues of February 17, 2000. And that the affiant is not interested in the subject matter of the notice or advertising, and that all of the allegations of this statement as to the time, place, and character of publication are true.

Margaret E. Krebs

Sworn and subscribed to before me the day and year aforesaid.

Ann K. Law

Notary Public Clearfield, Pa.

My Commission Expires
September 16, 2000

Notarial Seal
Ann K. Law, Notary Public
Clearfield, Pa., Clearfield County
My Commission Expires Sept. 16, 2000

FILED

MAR 15 2000
07/31/00 was
William A. Shaw
Prothonotary
2 Cents To Attys

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

MARGARET J. VOGEL and
WILLIAM M. FAUST, Co-Executors
of the ESTATE OF MARGARET A.
FAUST,

Plaintiffs :
vs. : No. 00 - 133 - CD

JOHN BEYER and EMMA E. BEYER,
his wife, their heirs, successors and
assigns, SAMUEL KIRK, his heirs,
successors and assigns, and JOHN
D. ERICKSON, and ALMA ERICKSON,
his wife, their heirs, successors and
assigns,

ACTION TO QUIET TITLE

FILED

MAR 17 2000

Defendants :

ORDER OF COURT

William A. Shaw
Prothonotary

NOW THIS, 16 day of March, 2000, upon Motion for Judgment by Plaintiffs' attorney pursuant to Pennsylvania Rule of Civil Procedure 1066 accompanied by Affidavit of Service of Complaint and Notice to Defend upon Defendants, John Beyer and Emma E. Beyer, his wife, Samuel Kirk, and John D. Erickson and Alma Erickson, his wife, their heirs, successors and assigns, it appearing that said Defendants have been properly served by publication to said Defendants of the filing of the Complaint with Notice to Defend on February 17, 2000, and more than twenty (20) days have elapsed and no Answer having been made by any Defendants, the Court, upon said Motion, hereby Orders that unless Defendants, John Beyer and Emma E. Beyer, his wife, Samuel Kirk, and John D. Erickson and Alma Erickson, his wife, their heirs, successors and assigns, or any of them, shall within thirty (30) days from the date of this Order, institute an action of ejectment against the Plaintiffs, they the said Defendants, their heirs and assigns shall be forever barred and enjoined from impeaching, denying or in any way attacking

Plaintiffs' title to said premises, from issuing or maintaining an action of ejectment for said premises, from encumbering, mortgaging or conveying this parcel or any part thereof, from asserting in any matter, right, lien, title or interest inconsistent with the interest or claim of the Plaintiffs as set forth in said Complaint. The description of the property, subject of the Action to Quiet Title is situate in the Village of Banian, Bigler Township, Clearfield County, Pennsylvania, being identified as Clearfield County Tax Map No. 103-K14-481-3, more particularly bounded and described as follows:

BEGINNING at a point in the blacktop pavement of a drive at the eastern right-of-way of Pennsylvania Route 453 having a 50 foot wide roadway and corner of lot of other lands of grantee; thence by same generally along said drive within pavement of same by a line parallel to the southern side of Fourth Alley and 50 feet therefrom South 82 degrees East 160 feet to a point north of a garage on western line of a 20 foot wide unnamed alley; thence by same South 8 degrees West 74.87 feet to the corner of lot of lands of Frank Holinbinko; thence by same North 73 degrees 11 minutes 24 seconds West 162.37 feet to the right-of-way of Pennsylvania Route 453; thence by same North 8 degrees East 50 feet to the place of beginning. Containing 0.22958 acre by calculation.

BY THE COURT:
John K. Reilly, Jr
President Judge

FILED

MAR 17 1960
Oscar Deccatty Marshall
William A. Shaw
Prothonotary
E/S

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

MARGARET J. VOGEL and :
WILLIAM M. FAUST, Co-Executors :
of the ESTATE OF MARGARET A. :
FAUST, :
Plaintiffs :
vs. : No. 00 - 133 - CD
JOHN BEYER and EMMA E. BEYER, :
his wife, their heirs, successors and :
assigns, SAMUEL KIRK, his heirs, :
successors and assigns, and JOHN :
D. ERICKSON and ALMA ERICKSON, :
his wife, their heirs, successors and :
assigns, :
Defendants :
Type of Case: Quiet Title Action
Type of Pleading: Praeclipe for
Final Judgment
Filed on behalf of: Plaintiffs
Counsel of record for this
party:
Michael S. Marshall, Esquire
AMMERMAN & MARSHALL
310 East Cherry Street
Clearfield, Pennsylvania 16830
(814) 765-1701
Supreme Court No.: 64087

FILED

MAY 22 2000

William A. Shaw
Prothonotary

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

MARGARET J. VOGEL and
WILLIAM M. FAUST, Co-Executors
of the ESTATE OF MARGARET A.
FAUST,

Plaintiffs

vs.

No. 00 - 133 - CD

JOHN BEYER and EMMA E. BEYER,
his wife, their heirs, successors and
assigns, SAMUEL KIRK, his heirs,
successors and assigns, and JOHN
D. ERICKSON, and ALMA ERICKSON,
his wife, their heirs, successors and
assigns,

ACTION TO QUIET TITLE

PRAECIPE

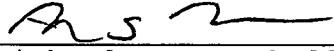
TO: WILLIAM A. SHAW, PROTHONOTARY OF CLEARFIELD COUNTY

Pursuant to Rule 1066 of the Pennsylvania Rules of Civil Procedure, please enter final judgment in the above matter in favor of the Plaintiffs and against Defendants, thirty (30) days having elapsed since the Court Order was issued and the Defendants having failed to institute an action of ejectment against the Plaintiffs.

In compliance with Rule 237 of the Pennsylvania Rules of Civil Procedure, I certify that a copy of this Praeclipe has been mailed to each party who has appeared in the action or to his attorney of record.

Respectfully submitted,

AMMERMAN & MARSHALL
By


Michael S. Marshall, Esquire
Attorney for Plaintiff

Dated: 5/22/00

FILED

E.W.P.

12/22/2000
O 3812 cc. City, Marshall
William A. Shaw
Prothonotary