

00-238-CD
BRIAN S. SEKULA -vs- THOMAS M. SEKULA

MAJOS
TENAR POPE 226-5700

DAVID M.

Civil Other

Date		Judge
12/28/2000	Transferred from the docket.	No Judge
	Opinion and Order, re: Objections be and are hereby dismissed, Plaintiff to file Responsive Pleadings within 20 days. By the Court, s/JKR,JR., PJ. 1 cc atty Blakley, Mason, & Midesell	No Judge
6/29/2001	Plaintiff's Reply to Defendant's New Matter Answer to Counterclaim and Plaintiff's New Matter. Filed by s/Benjamin S. Blakley, III, Esq. Verification, s/Brian S. Sekula Cert of Svc 2 cc atty Blakley	No Judge
2/20/2002	Petition For Leave to Amend Plaintiff's Complaint to Add Additional Claim. Filed by s/Benjamin S. Blakley, III, Esq. Verification s/Brian S. Sekula 2 cc Atty Blakley	No Judge
2/25/2002	Rule to Show Cause, And Now, this 25th day of Feb., 2002, upon Defendant, returnable for filing a Written Response with the Court on the 18th day of March, 2002. by the Court, s/JKR,JR.,P.J. 2 cc Atty Blakley	No Judge
2/28/2002	Certificate of Service, Petition for Leave to Amend Plaintiff's Complaint to Add Additional Claim upon David C. Mason, Esq. Filed by s/Benjamin S. Blakley, III, Esq. no cc	No Judge
	Stipulation to Amended Pleading, this 28th day of February, 2002. s/Benjamin S. Blakley, III, Esq. s/David C. Mason, Esq. 2 cc to Atty	No Judge
	Amended Complaint. Filed by s/Benjamin S. Blakley, III, Esquire Verification s/Brian S. Sekula 2 cc to Atty	No Judge
3/4/2002	Certificate of Service, Stipulation to Amended Pleading and Amended Complaint, upon DAVID C. MASON, ESQ. by s/Benjamin S. Blakley, III, Esq. no cc	No Judge
4/12/2002	Answer to Plaintiff's Complaint for Partition, New Matter and Counterclaim. Filed by s/David C. Mason, Esq. Verification s/David C. Mason, Esq. Certificate of Service s/David C. Mason, Esq. 2 cc Atty Mason	No Judge
4/26/2002	Plaintiff's Answer to Counterclaim and Plaintiff's (Counter Defendant's) New Matter. Filed by s/Benjamin S. Blakley, Esq. no cc	No Judge
10/15/2002	Reply to Plaintiff's (Counter-Defendant) New Matter. s/David C. Mason, Esq. Verification s/Thomas M. Sekula Certificate of Service 2 cc Atty Mason	No Judge
11/7/2002	Filing: Certificate of Readiness filed by Atty. Blakley requesting a non-jury trial. 3 CC to Atty. Blakley.	No Judge
1/6/2003	Motion for order directing Partition filed on behalf of Plaintiff.	John K. Reilly Jr.
	Filing Certificate of Service of Defendant's First Set on Interrogatories Directed to Plaintiff.	John K. Reilly Jr.
1/8/2003	Rule to Show Cause: AND NOW, this 8th day of January,2003 Rule Returnable and Hearing on Motion for Entry of an Order Directing Partition be held on Jan 17, 2003 at 9:45 s/JKR 3 CC to Atty. Blakely	John K. Reilly Jr.
1/14/2003	Certificate of Service, Plaintiffs' Pre-Trial Memorandum upon BENJAMIN BLAKLEY, ESQUIRE. s/David C. Mason, Esquire no cc	John K. Reilly Jr.
1/15/2003	Certificate of Service, Motion for Order Directing Petition upon DAVID C. MASON, ESQ. filed by s/Benjamin S. Blakley, III, Esquire no cc	John K. Reilly Jr.
5/28/2003	Praeipce For Request For Status Conference. filed by s/Benjamin S. Blakley, III, Esquire 2 cc Atty Blakley	John K. Reilly Jr.

Civil Other

Date		Judge
6/2/2003	ORDER, AND NOW, this 30th day of May, 2003, re: Matter set for Status Conference on the 20th day of June, 2003, at 9:00 a.m. by the Court, s/JKR,JR.,P.J. 2 cc Atty Blakley	John K. Reilly Jr.
6/9/2003	Certificate of Service, Praeipce for Request for Status Conference and Order upon: DAVID C. MASON, ESQ. filed by s/Benjamin S. Blakley, III, Esquire no cc	John K. Reilly Jr.
6/26/2003	ORDER, NOW, this 25th day of June, 2003, re: John A. Ayres, Jr., Esquire appointed Master. by the Court, s/JKR,JR.,P.J. 1 cc Atty Blakley, Mason & Ayres	John K. Reilly Jr.
7/3/2003	ORDER, AND NOW, this 3rd day of July, 2003, re: JOHN A. AYRES, JR., ESQUIRE is REMOVED as Master and replaced by MICHAEL P. YEAGER, ESQ. by the Court, s/JKR,JR.,P.J. 1 cc Atty Blakley, III, Atty Mason, Atty Ayres, and Atty Yeager	John K. Reilly Jr.
1/21/2004	ORDER, AND NOW, this 21st day of January, 2004, re: Status Conference scheduled for Friday, February 6, 2004, at 9:30 a.m. in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Attys Mason, Blakley, Yeager	John K. Reilly Jr.
2/6/2004	ORDER, NOW, this 5th day of Feb., 2004, re: Status Conference is CANCELLED. Counsel for the parties shall have no more than 20 days from the date of this Order to present the Court with a letter detailing the status of the above captioned action. by the Court, s/FJA,P.J. 2 cc to Atty Blakley, Mason, 1 copy to President Judge Ammerman and CA	John K. Reilly Jr.
5/24/2004	Praeipce For Substitution Of Counsel. Benjamin S. Blakley, III, Esq. WITHDRAWNS. Henry Ray Pope, Esq. ENTERS on Behalf of the Plaitniff, Brian S. Sckula. s/Benjamin S. Blakley, III, Esq. s/Henry Ray Pope, III, Esq. no cc Copy to C/A	John K. Reilly Jr.
7/29/2004	Certificate of Service, filed by Atty. Mason Served Answers to Plaintiff's Interrogatories and & Request to Atty. Pope III	John K. Reilly Jr.
1/14/2005	Notice of Service of Interrogatories, 13th day of Jan., 2005, on the Plaintiff addressed to Henry Ray Pope, III, Esquire. Filed by s/ David C. Mason, Esquire. No CC	John K. Reilly Jr.
3/22/2005	Notice of Serving "Answer to Interrogatories and Request for Production of Documents Directed to Plaintiff (First Set)" filed by s/ Henry Ray Pope III, Esquire. No CC	John K. Reilly Jr.
4/22/2005	Rule to Show Cause and Master's Report and Return of Sale, AND NOW, this 22 day of April, 2005, Ordered that a Rule be granted upon the Plaintiff and Defendant, to show cause why the Master's Report and Return of Sale filed by the Master should not be approved and confirmed and that the suggested Order should not be executed and formalized. Rule returnable and hearing to be held May 9, 2005, at 9:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. Three CC Attorney Yeager	Fredric Joseph Ammerman
4/26/2005	Certificate of Service, copy of Rule to Show Cause with attached Master's Report and Return of Service, on April 2005 upon Henry R. Pope, III, Esquire; and David C. Mason, Esquire. Filed by s/ Michael P. Yeager, Esquire. No CC	Fredric Joseph Ammerman
5/5/2005	Exceptions to Master's Report, filed by s/ Henry Ray Pope, III, Esquire. No CC	Fredric Joseph Ammerman

Date: 12/28/2009

Clearfield County Court of Common Pleas

User: BILLSHAW

Time: 10:50 AM

ROA Report

Page 3 of 3

Case: 2000-00238-CD

Current Judge: Fredric Joseph Ammerman

Brian S. Sekula vs. Thomas M. Sekula

Civil Other

Date		Judge
6/24/2005	Order, NOW, this 23rd day of June, 2005, it is the ORDER of the Court that argument on Plaintiff's Exceptions to Master's Report has been scheduled for August 4, 2005 at 2:00 p.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Mason, Pope, Yeager	Fredric Joseph Ammerman
7/8/2005	Motion For Continuance, filed by s/ David C. Mason, Esquire. No CC	Fredric Joseph Ammerman
7/12/2005	Order, this 12th day of July, 2005, Motion for Continuance is granted, matter is rescheduled for August 15, 2005 at 2:00 in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Mason	Fredric Joseph Ammerman
8/16/2005	Order, NOW, this 15th day of August, 2005, following argument relative Plaintiff's Exceptions to Master's Report, Order that both parties submit proposed Order to the Court within no more than five days from this date. BY THE COURT: /s/Fredric J. Ammerman, P.J. CC to Atty Pope and Mason	Fredric Joseph Ammerman
9/1/2005	Order, NOW, this 31st day of August, 2005, upon consideration of the Report of Michael P. Yeager, Esquire, Master appointed in the above-captioned action by Order dated July 3, 2003 it is Ordered that: The Report of the Master is approved and adopted by the Court, (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge 1cc Attys: Pope, Mason & Yeager.	Fredric Joseph Ammerman
9/23/2005	Filing: Appeal to High Court Paid by: Pope, Henry Ray III (attorney for Sekula, Brian S.) Receipt number: 1908863 Dated: 09/23/2005 Amount: \$45.00 (Check) Filed by s/ Henry Ray Pope III, Esquire. 1CC & Check to Superior Court.	Fredric Joseph Ammerman
9/28/2005	Order NOW, this 27th day of September, 2005, the Court having been notified to Appeal to the Superior Court of Pennsylvania in the above-captioned matter, it is the ORDER of this Court that Brian S. Sekula, Appellant, file a concise statement of the matters complained of on said Appeal no later than fourteen (14) days herefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Pope and Mason.	Fredric Joseph Ammerman
9/30/2005	Appeal Docket Sheet, filed	Fredric Joseph Ammerman
10/14/2005	Concise Statement of Matters Complained of , filed by Atty. Pope no cert. copies.	Fredric Joseph Ammerman
11/1/2005	Appeal Mailed to Superior Court November 1, 2005.	Fredric Joseph Ammerman
	Certified mail Receipt mailed to Superior Court of PA.	Fredric Joseph Ammerman
11/4/2005	Certified Mail Receipt, Delivered to Superior Court of Pa on Nov. 2, 2005	Fredric Joseph Ammerman
11/6/2006	Supreme Court of Pennsylvania, No. 580 WAL 2006, Notice from Supreme Court regarding appeal.	Fredric Joseph Ammerman
3/6/2007	Order, Supreme Court of Pennsylvania: NOW, this 14th day of Feb., 2007, the Petition for Allowance of Appeal is hereby Denied. No CC	Fredric Joseph Ammerman
3/8/2007	Superior Court of Penna: Certificate of Contents of Remanded Record and Notice of Remand, date of which the record is remanded is March 7, 2007.	Fredric Joseph Ammerman
	Supreme Court of Pa. : NOW, this 14th day of Feb., 2007, the Petition for Allowance of Appeal is hereby Denied. Superior Court Order, Order Affirmed.	Fredric Joseph Ammerman

Appeal Docket Sheet

Docket Number: 1661 WDA 2005

Page 1 of 3

September 28, 2005

Superior Court of Pennsylvania



Brian S. Sekula, Appellant

v.

Thomas M. Sekula,

00-238-CD

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: September 27, 2005

Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType: Other

Consolidated Docket Nos.:

Related Docket Nos.:

SCHEDULED EVENT

Next Event Type: Case Initiation

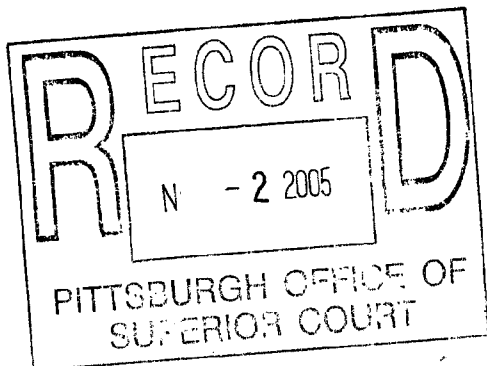
Next Event Due Date: September 27, 2005

Next Event Type: Receive Docketing Statement

Next Event Due Date: October 12, 2005

Next Event Type: Original Record Received

Next Event Due Date: November 7, 2005

FILED
m12:4461
SEP 30 2005William A. Shaw
Prothonotary/Clerk of Courts

Record

4744

Appeal Docket Sheet

Docket Number: 1661 WDA 2005

Superior Court of Pennsylvania

Page 2 of 3

September 28, 2005



COUNSEL INFORMATION

Appellant Sekula, Brian S.
Pro Se: Appoint Counsel Status:
IFP Status: Pending

Appellant Attorney Information:

Attorney: Yeager, Michael P.
Bar No.: 15587 **Law Firm:**
Address: P O BOX 752
 110 NORTH SECOND STREET
 Clearfield, PA 16830

Phone No.: (814)765-9611 **Fax No.:**

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Attorney: Pope III, Henry R.
Bar No.: 1530 **Law Firm:** Pope & Drayer
Address: 10 Grant Street
 Clarion, PA 16214-1023
Phone No.: (814)226-5700 **Fax No.:** (814)226-9669
Receive Mail: Yes
E-Mail Address: popeanddrayer@ccybernet.com
Receive E-Mail: No

Appellee Sekula, Thomas M.
Pro Se: Appoint Counsel Status:
IFP Status: No

Appellee Attorney Information:

Attorney: Mason, David Charles
Bar No.: 39180 **Law Firm:**
Address: 409 N Front Street
 PO Box 28
 Philipsburg, PA 16866

Phone No.: (814)342-2240 **Fax No.:** (814)342-5318

Receive Mail: Yes

E-Mail Address: |0

Receive E-Mail: No

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
9/27/05	Notice of Appeal	60.00	60.00	2005SPRWD001171

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

9:45 A.M.

Appeal Docket Sheet

Docket Number: 1661 WDA 2005

Superior Court of Pennsylvania

Page 3 of 3

September 28, 2005



County:	Clearfield	Division:	Civil
Date of Order Appealed From:	September 1, 2005	Judicial District:	46
Date Documents Received:	September 27, 2005	Date Notice of Appeal Filed:	September 23, 2005
Order Type:	Order Entered	OTN:	
Judge:	Ammerman, Fredric J. President Judge	Lower Court Docket No.:	No. 00-238-CD

ORIGINAL RECORD CONTENTS

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

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
September 27, 2005	Notice of Appeal Filed	Appellant	Sekula, Brian S.
September 28, 2005	Docketing Statement Exited (Civil)		Western District Filing Office

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

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

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

00-238-CD

Brian S. Sekula

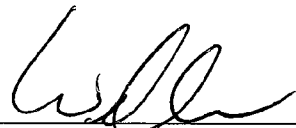
VS.

Thomas M. Sekula

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

The documents compromising the record have been numbered from **No. 1 to No. 45**, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages compromising the document.

The date on which the record had been transmitted to the Appellate Court is Nov. 1, 2005.



Prothonotary/Clerk of Courts

(seal)

CIVIL ACTION

DOCKET 280

FEBRUARY 2000

Benjamin S.
Blakley, III

BRIAN S. SEKULA

FEBRUARY 24, 2000, COMPLAINT IN EQUITY - PARTITION, filed by
Benjamin S. Blakley, III, Attorney for the Plaintiff
Two Certified Copies to Attorney BlakleyMAR. 08, 2000, PRAECIPE FOR ENTRY OF APPEARANCE, filed by s/DAVID
C. MASON, ESQUIRE NO-CCMAR. 29, 2000, SHERIFF RETURN, COMPLAINT UPON DEFENDANT, SO ANSWERS,
CHESTER A. HAWKINS, SHERIFF by s/Marilyn HammSEP. 22, 2000, ANSWER TO PLAINTIFF'S COMPLAINT FOR PARTITION, NEW
MATTER AND COUNTER CLAIM, filed by s/DAVID C. MASON, ESQ.
00-238-CD VERIFICATION, s/THOMAS M. SEKULA
CERTIFICATE OF SERVICE, filed.OCT. 04, 2000, AFFIDAVIT OF SERVICE, ANSWER TO PLAINTIFF'S COMPLAINT
FOR PARTITION, NEW MATTER AND COUNTER CLAIM, UPON BENJAMIN S.
BLAKLEY, III, ESQ.: s/ DAVID C. MASON, ESQ.David C.
Mason

THOMAS M. SEKULA

OCTOBER 9, 2000, PLAINTIFF'S PRELIMINARY OBJECTIONS TO DEFENDANT'S
COUNTERCLAIM, filed by Atty. Blakley Three Cert. to Atty.OCTOBER 11, 2000, CERTIFICATE OF SERVICE, filed by Atty. Blakley
No Cert. Copies
Served Plaintiff's Preliminary Objection & Brief upon Atty. Mason
s/B. Blakley

Pro BY ATTY 80.00

Shff

Hawkins By Atty 37.88

Shff

Wollyung By Atty 22.00

PLEASE REFER TO COMPUTER

FOR FURTHER ENTRIES

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

NOV 01 2005

Attest.

Prothonotary/
Clerk of Courts

Date: 11/01/2005

Time: 10:33 AM

Page 1 of 3

Clifffield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2000-00238-CD

Current Judge: Fredric Joseph Ammerman

Brian S. Sekula vs. Thomas M. Sekula

Civil Other

Date		Judge
12/28/2000	Transferred from the docket.	No Judge
	Opinion and Order, re: Objections be and are hereby dismissed, Plaintiff to file Responsive Pleadings within 20 days. By the Court, s/JKR,JR., PJ. 1 cc atty Blakley, Mason, & Midesell	No Judge
06/29/2001	Plaintiff's Reply to Defendant's New Matter Answer to Counterclaim and Plaintiff's New Matter. Filed by s/Benjamin S. Blakley, III, Esq. Verification, s/Brian S. Sekula Cert of Svc 2 cc atty Blakley	No Judge
02/20/2002	Petition For Leave to Amend Plaintiff's Complaint to Add Additional Claim. Filed by s/Benjamin S. Blakley, III, Esq. Verification s/Brian S. Sekula 2 cc Atty Blakley	No Judge
02/25/2002	Rule to Show Cause, And Now, this 25th day of Feb., 2002, upon Defendant, returnable for filing a Written Response with the Court on the 18th day of March, 2002. by the Court, s/JKR,JR.,P.J. 2 cc Atty Blakley	No Judge
02/28/2002	Certificate of Service, Petition for Leave to Amend Plaintiff's Complaint to Add Additional Claim upon David C. Mason, Esq. Filed by s/Benjamin S. Blakley, III, Esq. no cc	No Judge
	Stipulation to Amended Pleading, this 28th day of February, 2002. s/Benjamin S. Blakley, III, Esq. s/David C. Mason, Esq. 2 cc to Atty	No Judge
	Amended Complaint. Filed by s/Benjamin S. Blakley, III, Esquire Verification s/Brian S. Sekula 2 cc to Atty	No Judge
03/04/2002	Certificate of Service, Stipulation to Amended Pleading and Amended Complaint, upon DAVID C. MASON, ESQ. by s/Benjamin S. Blakley, III, Esq. no cc	No Judge
04/12/2002	Answer to Plaintiff's Complaint for Partition, New Matter and Counterclaim. Filed by s/David C. Mason, Esq. Verification s/David C. Mason, Esq. Certificate of Service s/David C. Mason, Esq. 2 cc Atty Mason	No Judge
04/26/2002	Plaintiff's Answer to Counterclaim and Plaintiff's (Counter Defendant's) New Matter. Filed by s/Benjamin S. Blakley, Esq. no cc	No Judge
10/15/2002	Reply to Plaintiff's (Counter-Defendant) New Matter. s/David C. Mason, Esq. Verification s/Thomas M. Sekula Certificate of Service 2 cc Atty Mason	No Judge
11/07/2002	Filing: Certificate of Readiness filed by Atty. Blakley requesting a non-jury trial. 3 CC to Atty. Blakley.	No Judge
01/06/2003	Motion for order directing Partition filed on behalf of Plaintiff.	John K. Reilly Jr.
	Filing Certificate of Service of Defendant's First Set on Interrogatories Directed to Plaintiff.	John K. Reilly Jr.
01/08/2003	Rule to Show Cause: AND NOW, this 8th day of January,2003 Rule Returnable and Hearing on Motion for Entry of an Order Directing Partition be held on Jan 17, 2003 at 9:45 s/JKR 3 CC to Atty. Blakely	John K. Reilly Jr.
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05/28/2003	Praeipe For Request For Status Conference. filed by s/Benjamin S. Blakley, III, Esquire 2 cc Atty Blakley	John K. Reilly Jr.
06/02/2003	ORDER, AND NOW, this 30th day of May, 2003, re: Matter set for Status Conference on the 20th day of June, 2003, at 9:00 a.m. by the Court, s/JKR,JR.,P.J. 2 cc Atty Blakley	John K. Reilly Jr.
06/09/2003	Certificate of Service, Praeipe for Request for Status Conference and Order upon: DAVID C. MASON, ESQ. filed by s/Benjamin S. Blakley, III, Esquire no cc	John K. Reilly Jr.

Date: 11/01/2005

Time: 10:33 AM

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Clarendon County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2000-00238-CD

Current Judge: Fredric Joseph Ammerman

Brian S. Sekula vs. Thomas M. Sekula

Civil Other

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07/03/2003	ORDER, AND NOW, this 3rd day of July, 2003, re: JOHN A. AYRES, JR., ESQUIRE is REMOVED as Master and replaced by MICHAEL P. YEAGER, ESQ. by the Court, s/JKR,JR.,P.J. 1 cc Atty Blakley, III, Atty Mason, Atty Ayres, and Atty Yeager	John K. Reilly Jr.
01/21/2004	ORDER, AND NOW, this 21st day of January, 2004, re: Status Conference scheduled for Friday, February 6, 2004, at 9:30 a.m. in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Attys Mason, Blakley, Yeager	John K. Reilly Jr.
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Date: 11/01/2005

Time: 10:33 AM

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Civil field County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2000-00238-CD

Current Judge: Fredric Joseph Ammerman

Brian S. Sekula vs. Thomas M. Sekula

Civil Other

Date		Judge
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09/23/2005	Filing: Appeal to High Court Paid by: Pope, Henry Ray III (attorney for Sekula, Brian S.) Receipt number: 190£863 Dated: 09/23/2005 Amount: \$45.00 (Check) Filed by s/ Henry Ray Pope III, Esquire. 1CC & Check to Superior Court.	Fredric Joseph Ammerman
09/28/2005	Order NOW, this 27th day of September, 2005, the Court having been notified to Appeal to the Superior Court of Pennsylvania in the above-captioned matter, it is the ORDER of this Court that Brian S. Sekula, Appellant, file a concise statement of the matters complained of on said Appeal no later than fourteen (14) days herefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Pope and Mason.	Fredric Joseph Ammerman
09/30/2005	Appeal Docket Sheet, filed	Fredric Joseph Ammerman
10/14/2005	Concise Sttement of Matters Complained of , filed by Atty. Pope no cert. copies.	Fredric Joseph Ammerman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 00-238-CD

Brian S. Sekula

VS.

Thomas M. Sekula

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	02/24/00	Complaint in Equity-Partition	07
02	03/08/00	Praeipce for Entry of Appearance	02
03	03/29/00	Sheriff Return, Complaint upon Defendant	03
04	09/22/00	Answer to Plaintiff's Complaint for Partition, New Matter, and Counterclaim	07
05	10/04/00	Affidavit of Service, Answer to Plaintiff's Complaint	02
06	10/09/00	Plaintiff's Preliminary Objections to Defendant's Counterclaim	19
07	10/11/00	Certificate of Service, Plaintiff's Preliminary Objections	02
08	12/28/00	Opinion and Order	02
09	06/29/01	Plaintiff's Reply to Defendant's New Matter, Answer to Counterclaim and Plaintiff's New Matter	34
10	02/20/02	Petition for Leave to Amend Plaintiff's Complaint to Add Additional Claim with Rule to Show Cause filed on February 25, 2002	06
11	02/28/02	Certificate of Service, Petition for Leave to Amend Plaintiff's Complaint to Add Additional Claim	02
12	02/28/02	Stipulation to Amended Pleading	14
13	02/28/02	Amended Complaint	12
14	03/04/02	Certificate of Service, Stipulation to Amended Pleading and Amended Complaint	02
15	04/12/02	Answer to Plaintiff's Complaint for Partition, New Matter and Counterclaim	10
16	04/26/02	Plaintiff's Answer to Counterclaim and Plaintiff's (Counter Defendant's) New Matter	33
17	10/15/02	Reply to Plaintiff's (Counter-Defendant) New Matter	15
18	11/07/02	Certificate of Readiness	Original not in file
19	01/06/03	Motion for Order directing Partition	Original not in file
20	01/06/03	Certificate of Service of Defendant's First Set of Interrogatories	Original not in file
21	01/08/03	Rule to Show Cause, Re: Motion for Entry of an Order directing Partition	Original not in file
22	01/14/03	Certificate of Service, Plaintiffs' Pre-Trial Memorandum	02
23	01/15/03	Certificate of Service, Motion for Order	02
24	05/28/03	Praeipce for Request for Status Conference and Order scheduling Status Conference, filed June 2, 2003	03
25	06/09/03	Certificate of Service, Praeipce for Request for Status Conference and Order	02
26	06/26/03	Order, Re: John A. Ayres, Jr., Esq. appointed Master	01
27	07/03/03	Order, Re: John A. Ayres, Jr., Esq., removed as Master and replaced by Michael P. Yeager, Esq.	01
28	01/21/04	Order, Re: Status Conference scheduled	01
29	02/06/04	Order, Re: Status Conference cancelled, parties to submit letter detailing status of case	01
30	05/24/04	Praeipce for Substitution of Counsel	01
31	07/29/04	Certificate of Service, Re: Answers to Plaintiff's Interrogatories and Request	02
32	01/14/05	Notice of Service of Interrogatories	01
33	03/22/05	Notice of Serving Answer to Interrogatories and Request for Production of Documents directed to Plaintiff (First Set)	Original not in file
34	04/22/05	Rule to Show Cause and Master's Report and Return of Sale	39
35	04/26/05	Certificate of Service, Rule to Show Cause with Master's Report and Return of Service	01
36	05/05/05	Exceptions to Master's Report	05
37	06/24/05	Order, Re: argument on Plaintiff's Exceptions to Master's Report scheduled	01

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 00-238-CD

Brian S. Sekula

VS.

Thomas M. Sekula

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
38	07/08/05	Motion for Continuance	03
39	07/12/05	Order, Re: Motion for Continuance Granted, matter rescheduled	01
40	08/16/05	Order, Re: argument on Plaintiff's' Exceptions to Master's Report, parties to submit proposed Order to the Court	01
41	09/01/05	Order, Re: Report of the Master is approved and adopted	03
42	09/23/05	Notice of Appeal to High Court	07
43	09/28/05	Order, Re: Brian S. Sekula to file a concise statement	02
44	09/30/05	Appeal Docket Sheet, Superior Court Number 1661 WDA 2005	03
45	10/14/05	Concise Statement of Matters Complained of on Appeal	03

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

I, **William A. Shaw**, Prothonotary/Clerk of Courts of Common Pleas in and for said County, do hereby certify that the foregoing is a full, true and correct copy of the whole record of the case therein stated, wherein

Brian S. Sekula

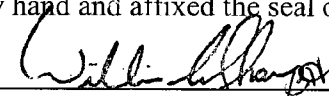
VS.

Thomas M. Sekula

00-238-CD

So full and entire as the same remains of record before the said Court, at **No. 00-238-CD**

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 1st Day of November, 2005.


Prothonotary/Clerk of Courts

I, **Fredric J. Ammerman**, President Judge of the Forty-sixth Judicial District, do certify that **William A. Shaw** by whom the annexed record, certificate and attestation were made and given, and who, in his own proper handwriting, thereunto subscribed his name and affixed the seal of the Court of Common Pleas of said county, was at the time of so doing and now is Prothonotary/Clerk of Courts in and for said County of Clearfield, the Commonwealth of Pennsylvania, duly commissioned and qualified; to all of whose acts as such, full faith and credit are and ought to be given, as well in Courts of Judicature, as elsewhere, and that the said record, certificate and attestation are in due form of law and made by the proper officer.


President Judge

I, **William A. Shaw**, Prothonotary/Clerk of Courts of the Court of Common Pleas in and for said county, do certify that the Honorable **Fredric J. Ammerman**, President Judge by whom the foregoing attestation was made and who has thereunto subscribed his name was at the time of making thereof and still is President Judge, in and for said county, duly commissioned and qualified; to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, this 1st day of Nov, 2005.


Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
Civil Action - Law

BRIAN S. SEKULA,
Plaintiff

Case No. 238 C.D. 2000

v.

THOMAS M. SEKULA,
Defendant

Type of Pleading:
Concise Statement of Matters Complained Of

Filed On Behalf Of:
Plaintiff

Counsel of Record for this Party:

Henry Ray Pope, III, Esq.
Supreme Court No. 01530
POPE AND DRAYER
Ten Grant Street
Clarion, PA 16214
814-226-5700

FILED (E)

OCT 14 2005
w/1:20/0
William A. Shaw
Prothonotary/Clerk of Courts
w/c/c

#45

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

BRIAN S. SEKULA,
Plaintiff

v.

THOMAS M. SEKULA,
Defendant

No. 00-238-CD

CONCISE STATEMENT OF MATTERS COMPLAINED OF

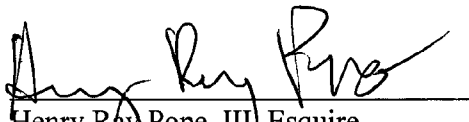
AND NOW comes Brian S. Sekula, by his attorney, Henry Ray Pope, III, and files this
"Concise Statement of Matters Complained Of" pursuant to Rule 1925(b) of the Rules of
Appellate Procedure, and in connection therewith submits the following statement:

The Lower Court erred when it included the following language in the deed which would
convey the property which was subject to partition to the Defendant, Thomas M. Sekula, as set
forth in Paragraph 3 of the Order:

This grant shall extinguish any and all rights and privileges of
Brian S. Sekula, his heirs, successors and assigns as set forth in the
above-referenced agreement to travel over, upon and through the
premises herein conveyed or to construct a gate on the subject
premises, whether arising from the above-referenced Agreement or
otherwise.

Respectfully submitted,

Date: October 10, 2005


Henry Ray Pope, III, Esquire
Attorney for Plaintiff

PA ID #01530
Pope and Drayer
10 Grant Street
Clarion, PA 16214
(814) 226-5700
(814) 226-9669 (fax)

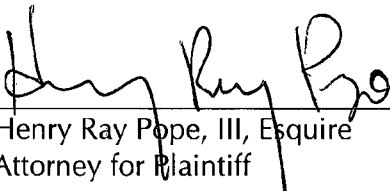
CERTIFICATE OF SERVICE

I, Henry Ray Pope, III, did on the date of this Certificate, serve a true and correct copy of the foregoing "Concise Statement of Matters Complained Of" on the following by First Class U.S. Mail, postage prepaid:

Michael P. Yeager, Esquire
P. O. Box 752
110 North Second Street
Clearfield, PA 16830
(Court Appointed Master)

David C. Mason, Esquire
P. O. Box 28
Philipsburg, PA 16866
(Attorney for Defendant)

IN WITNESS WHEREOF, I have signed this Certificate this 10th day of October, 2005.


Henry Ray Pope, III, Esquire
Attorney for Plaintiff

FILED
OCT 14 2005
William A. Shaw
Prothonotary/Clerk of Courts

9:45 A.M.

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1661 WDA 2005

Page 1 of 3

September 28, 2005



Brian S. Sekula, Appellant

v.

Thomas M. Sekula,

00-238-CD

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: September 27, 2005

Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType:

Other

Consolidated Docket Nos.:

Related Docket Nos.:

SCHEDULED EVENT

Next Event Type: Case Initiation

Next Event Due Date: September 27, 2005

Next Event Type: Receive Docketing Statement

Next Event Due Date: October 12, 2005

Next Event Type: Original Record Received

Next Event Due Date: November 7, 2005

FILED
m/12:44/BL
SEP 30 2005
6K

William A. Shaw
Prothonotary/Clerk of Courts

4744

Appeal Docket Sheet**Docket Number:** 1661 WDA 2005**Page 2 of 3****September 28, 2005****Superior Court of Pennsylvania****COUNSEL INFORMATION****Appellant** Sekula, Brian S.**Pro Se:** Appoint Counsel Status:**IFP Status:** Pending**Appellant Attorney Information:****Attorney:** Yeager, Michael P.**Bar No.:** 15587 **Law Firm:****Address:** P O BOX 752
110 NORTH SECOND STREET
Clearfield, PA 16830**Phone No.:** (814)765-9611 **Fax No.:****Receive Mail:** Yes**E-Mail Address:****Receive E-Mail:** No**Attorney:** Pope III, Henry R.**Bar No.:** 1530 **Law Firm:** Pope & Drayer**Address:** 10 Grant Street
Clarion, PA 16214-1023**Phone No.:** (814)226-5700 **Fax No.:** (814)226-9669**Receive Mail:** Yes**E-Mail Address:** popeanddrayer@ccybernet.com**Receive E-Mail:** No**Appellee** Sekula, Thomas M.**Pro Se:** Appoint Counsel Status:**IFP Status:** No**Appellee Attorney Information:****Attorney:** Mason, David Charles**Bar No.:** 39180 **Law Firm:****Address:** 409 N Front Street
PO Box 28
Philipsburg, PA 16866**Phone No.:** (814)342-2240 **Fax No.:** (814)342-5318**Receive Mail:** Yes**E-Mail Address:** |0**Receive E-Mail:** No**FEE INFORMATION**

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
9/27/05	Notice of Appeal	60.00	60.00	2005SPRWD001171

TRIAL COURT/AGENCY INFORMATION**Court Below:** Clearfield County Court of Common Pleas

9:45 A.M.

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1661 WDA 2005

Page 3 of 3

September 28, 2005



County:	Clearfield	Division:	Civil
Date of Order Appealed From:	September 1, 2005	Judicial District:	46
Date Documents Received:	September 27, 2005	Date Notice of Appeal Filed:	September 23, 2005
Order Type:	Order Entered	OTN:	
Judge:	Ammerman, Fredric J. President Judge	Lower Court Docket No.:	No. 00-238-CD

ORIGINAL RECORD CONTENTS

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

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
September 27, 2005	Notice of Appeal Filed		
		Appellant	Sekula, Brian S.
September 28, 2005	Docketing Statement Exited (Civil)		
			Western District Filing Office

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

BRIAN S. SEKULA,
Plaintiff

vs.

THOMAS M. SEKULA,
Defendant

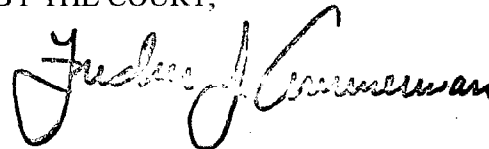
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*

NO. 00-238-CD

ORDER

NOW, this 27th day of September, 2005, the Court having been notified of Appeal to the Superior Court of Pennsylvania in the above-captioned matter, it is the ORDER of this Court that Brian S. Sekula, Appellant, file a concise statement of the matters complained of on said Appeal no later than fourteen (14) days herefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED

01/10:29/01
SEP 28 2005

William A. Shaw
Prothonotary/Clerk of Courts

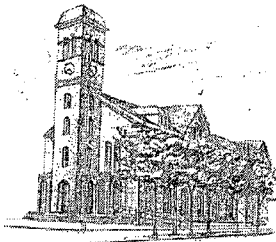
1cc
Angs: Pope
Mason

#43

FILED

SEP 28 2005

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

☒ Plaintiff(s)/Attorney(s)

☒ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

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

BRIAN S. SEKULA,
Plaintiff

v.

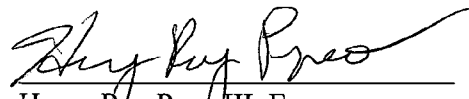
THOMAS M. SEKULA,
Defendant

No. 00-238-CD

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN, that Plaintiff, Brian S. Sekula, hereby appeals to the Superior Court of Pennsylvania from the Order entered in this matter on September 1, 2005. This Order has been entered in the docket, as evidenced by the attached copy of the docket entry.

Dated: 9/21/05


Henry Ray Pope III, Esq.
Attorney for Plaintiff
PA ID #01530
Pope and Drayer
10 Grant Street
Clarion, PA 16214
(814) 226-5700 - phone
(814) 226-9669 - fax

FILED Any pd. 45.00

m/11:48/100 check
SEP 23 2005 for 60

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

42

Date: 09/14/2005

Time: 01:46 PM

Page 1 of 3

Clerk of Court
Clerkfield County Court of Common Pleas

ROA Report

Case: 2000-00238-CD

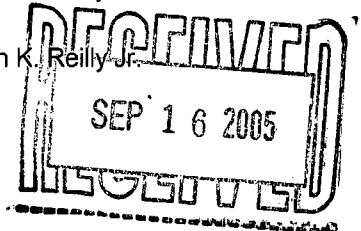
Current Judge: Fredric Joseph Ammerman

User: GLKNISLEY

Brian S. Sekula vs. Thomas M. Sekula

Civil Other

Date		Judge
12/28/2000	Transferred from the docket.	No Judge
	Opinion and Order, re: Objections be and are hereby dismissed, Plaintiff to file Responsive Pleadings within 20 days. By the Court, s/JKR,JR., PJ. 1 cc atty Blakley, Mason, & Midesell	No Judge
06/29/2001	Plaintiff's Reply to Defendant's New Matter Answer to Counterclaim and Plaintiff's New Matter. Filed by s/Benjamin S. Blakley, III, Esq. Verification, s/Brian S. Sekula Cert of Svc 2 cc atty Blakley	No Judge
02/20/2002	Petition For Leave to Amend Plaintiff's Complaint to Add Additional Claim. Filed by s/Benjamin S. Blakley, III, Esq. Verification s/Brian S. Sekula 2 cc Atty Blakley	No Judge
02/25/2002	Rule to Show Cause, And Now, this 25th day of Feb., 2002, upon Defendant, returnable for filing a Written Response with the Court on the 18th day of March, 2002. by the Court, s/JKR,JR.,P.J. 2 cc Atty Blakley	No Judge
02/28/2002	Certificate of Service, Petition for Leave to Amend Plaintiff's Complaint to Add Additional Claim upon David C. Mason, Esq. Filed by s/Benjamin S. Blakley, III, Esq. no cc	No Judge
	Stipulation to Amended Pleading, this 28th day of February, 2002. s/Benjamin S. Blakley, III, Esq. s/David C. Mason, Esq. 2 cc to Atty	No Judge
	Amended Complaint. Filed by s/Benjamin S. Blakley, III, Esquire Verification s/Brian S. Sekula 2 cc to Atty	No Judge
03/04/2002	Certificate of Service, Stipulation to Amended Pleading and Amended Complaint, upon DAVID C. MASON, ESQ. by s/Benjamin S. Blakley, III, Esq. no cc	No Judge
04/12/2002	Answer to Plaintiff's Complaint for Partition, New Matter and Counterclaim. Filed by s/David C. Mason, Esq. Verification s/David C. Mason, Esq. Certificate of Service s/David C. Mason, Esq. 2 cc Atty Mason	No Judge
04/26/2002	Plaintiff's Answer to Counterclaim and Plaintiff's (Counter Defendant's) New Matter. Filed by s/Benjamin S. Blakley, Esq. no cc	No Judge
10/15/2002	Reply to Plaintiff's (Counter-Defendant) New Matter. s/David C. Mason, Esq. Verification s/Thomas M. Sekula Certificate of Service 2 cc Atty Mason	No Judge
11/07/2002	Filing: Certificate of Readiness filed by Atty. Blakley requesting a non-jury trial. 3 CC to Atty. Blakley.	No Judge
01/06/2003	Motion for order directing Partition filed on behalf of Plaintiff.	John K. Reilly Jr.
	Filing Certificate of Service of Defendant's First Set on Interrogatories Directed to Plaintiff.	John K. Reilly Jr.
01/08/2003	Rule to Show Cause: AND NOW, this 8th day of January,2003 Rule Returnable and Hearing on Motion for Entry of an Order Directing Partition be held on Jan 17, 2003 at 9:45 s/JKR 3 CC to Atty. Blakely	John K. Reilly Jr.
01/14/2003	Certificate of Service, Plaintiffs' Pre-Trial Memorandum upon BENJAMIN BLAKLEY, ESQUIRE. s/David C. Mason, Esquire no cc	John K. Reilly Jr.
01/15/2003	Certificate of Service, Motion for Order Directing Petition upon DAVID C. MASON, ESQ. filed by s/Benjamin S. Blakley, III, Esquire no cc	John K. Reilly Jr.
05/28/2003	Praeipce For Request For Status Conference. filed by s/Benjamin S. Blakley, III, Esquire 2 cc Atty Blakley	John K. Reilly Jr.



Date: 09/14/2005

Time: 01:46 PM

Page 2 of 3

Clearfield County Court of Common Pleas

ROA Report

Case: 2000-00238-CD

Current Judge: Fredric Joseph Ammerman

User: GLKNISLEY

Brian S. Sekula vs. Thomas M. Sekula

Civil Other

Date		Judge
06/02/2003	ORDER, AND NOW, this 30th day of May, 2003, re: Matter set for Status Conference on the 20th day of June, 2003, at 9:00 a.m. by the Court, s/JKR,JR.,P.J. 2 cc Atty Blakley	John K. Reilly Jr.
06/09/2003	Certificate of Service, Praeipce for Request for Status Conference and Order upon: DAVID C. MASON, ESQ. filed by s/Benjamin S. Blakley, III, Esquire no cc	John K. Reilly Jr.
06/26/2003	ORDER, NOW, this 25th day of June, 2003, re: John A. Ayres, Jr., Esquire appointed Master. by the Court, s/JKR,JR.,P.J. 1 cc Atty Blakley, Mason & Ayres	John K. Reilly Jr.
07/03/2003	ORDER, AND NOW, this 3rd day of July, 2003, re: JOHN A. AYRES, JR., ESQUIRE is REMOVED as Master and replaced by MICHAEL P. YEAGER, ESQ. by the Court, s/JKR,JR.,P.J. 1 cc Atty Blakley, III, Atty Mason, Atty Ayres, and Atty Yeager	John K. Reilly Jr.
01/21/2004	ORDER, AND NOW, this 21st day of January, 2004, re: Status Conference scheduled for Friday, February 6, 2004, at 9:30 a.m. in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Attys Mason, Blakley, Yeager	John K. Reilly Jr.
02/06/2004	ORDER, NOW, this 5th day of Feb., 2004, re: Status Conference is CANCELLED. Counsel for the parties shall have no more than 20 days from the date of this Order to present the Court with a letter detailing the status of the above captioned action. by the Court, s/FJA,P.J. 2 cc to Atty Blakley, Mason, 1 copy to President Judge Ammerman and CA	John K. Reilly Jr.
05/24/2004	Praeipce For Substitution Of Counsel. Benjamin S. Blakley, III, Esq. WITHDRAWNS. Henry Ray Pope, Esq. ENTERS on Behalf of the Plaitniff, Brian S. Sckula. s/Benjamin S. Blakley, III, Esq. s/Henry Ray Pope, III, Esq. no cc Copy to C/A	John K. Reilly Jr.
07/29/2004	Certificate of Service, filed by Atty. Mason Served Answers to Plaintiff's Interrogatories and & Request to Atty. Pope III	John K. Reilly Jr.
01/14/2005	Notice of Service of Interrogatories, 13th day of Jan., 2005, on the Plaintiff addressed to Henry Ray Pope, III, Esquire. Filed by s/ David C. Mason, Esquire. No CC	John K. Reilly Jr.
03/22/2005	Notice of Serving "Answer to Interrogatories and Request for Production of Documents Directed to Plaintiff (First Set)" filed by s/ Henry Ray Pope III, Esquire. No CC	John K. Reilly Jr.
04/22/2005	Rule to Show Cause, AND NOW, this 22 day of April, 2005, Ordered that a Rule be granted upon the Plaintiff and Defendant, to show cause why the Master's Report and Return of Sale filed by the Master should not be approved and confirmed and that the suggested Order should not be executed and formalized. Rule returnable and hearing to be held May 9, 2005, at 9:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. Three CC Attorney Yeager	Fredric Joseph Ammerman
04/26/2005	Certificate of Service, copy of Rule to Show Cause with attached Master's Report and Return of Service, on April 2005 upon Henry R. Pope, III, Esquire; and David C. Mason, Esquire. Filed by s/ Michael P. Yeager, Esquire. No CC	Fredric Joseph Ammerman
05/05/2005	Exceptions to Master's Report, filed by s/ Henry Ray Pope, III, Esquire. No CC	Fredric Joseph Ammerman

Date: 09/14/2005

Time: 01:46 PM

Page 3 of 3

Clerk of Court
Clarendon County Court of Common Pleas

ROA Report

Case: 2000-00238-CD

Current Judge: Fredric Joseph Ammerman

Brian S. Sekula vs. Thomas M. Sekula

User: GLKNISLEY

Civil Other

Date		Judge
06/24/2005	Order, NOW, this 23rd day of June, 2005, it is the ORDER of the Court that argument on Plaintiff's Exceptions to Master's Report has been scheduled for August 4, 2005 at 2:00 p.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Mason, Pope, Yeager	Fredric Joseph Ammerman
07/08/2005	Motion For Continuance, filed by s/ David C. Mason, Esquire. No CC	Fredric Joseph Ammerman
07/12/2005	Order, this 12th day of July, 2005, Motion for Continuance is granted, matter is rescheduled for August 15, 2005 at 2:00 in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Mason	Fredric Joseph Ammerman
08/16/2005	Order, NOW, this 15th day of August, 2005, following argument relative Plaintiff's Exceptions to Master's Report, Order that both parties submit proposed Order to the Court within no more than five days from this date. BY THE COURT: /s/Fredric J. Ammerman, P.J. CC to Atty Pope and Mason	Fredric Joseph Ammerman
09/01/2005	Order, NOW, this 31st day of August, 2005, upon consideration of the Report of Michael P. Yeager, Esquire, Master appointed in the above-captioned action by Order dated July 3, 2003 it is Ordered that: The Report of the Master is approved and adopted by the Court, (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge 1cc Attys: Pope, Mason & Yeager.	Fredric Joseph Ammerman

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

BRIAN S. SEKULA,
Plaintiff

v.

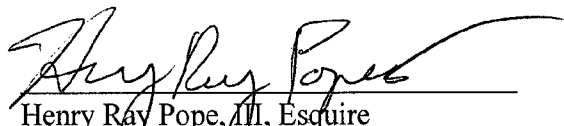
THOMAS M. SEKULA,
Defendant

No. 00-238-CD

ORDER FOR TRANSCRIPT

A Notice of Appeal having been filed in this matter, the official court reporter is hereby ordered to produce, certify and file the transcript in this matter in conformity with Rule 1922 of the Pennsylvania Rules of Appellate Procedure.

Date: 9/21/05


Henry Ray Pope, III, Esquire
Attorney for Plaintiff
PA ID #01530
Pope and Drayer
10 Grant Street
Clarion, PA 16214
814-226-5700 (phone)
814-226-9669 (fax)

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

BRIAN S. SEKULA,
Plaintiff

v.

THOMAS M. SEKULA,
Defendant

No. 00-238-CD

PROOF OF SERVICE

I hereby certify that I am this day serving the foregoing document upon the persons and
in the manner indicated below, which service satisfies the requirements of Pa.R.A.P. 121:

Service by First Class Mail addressed as follows:

David C. Mason, Esquire (814) 342-2240
P. O. Box 28
Philipsburg, PA 16866
(Attorney for Defendant)

Michael P. Yeager, Esquire (814) 765-9611
P. O. Box 752
110 North Second Street
Clearfield, PA 16830
(Court Appointed Master)

Court Administrator (814) 765-2641 ext. 5982
Clearfield County Courthouse
One North 2nd Street
Clearfield, PA 16830

The Honorable Frederic J. Ammerman, (814) 765-2641 ext. 5982
President Judge
Clearfield County Courthouse
Clearfield, PA 16830

Thomas Snyder, Court Reporter (814) 765-2641
Clearfield County Courthouse, Suite 228
Clearfield, PA 16830

By: Henry Ray Pope
Henry Ray Pope III, Esquire
Attorney for Plaintiff Brian S. Sekula
PA ID No. 01530
Pope and Drayer
10 Grant Street
Clarion, PA 16214
(814) 226-5700 - phone
(814) 226-9669 - fax

Date: 9/21/05

FILED

SEP 23 2005

William A. Shaw
Prothonotary/Clerk of Courts

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William A. Shaw
Prothonotary/Clerk of Courts

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Atty's:
Pope
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Yeager

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

BRIAN S. SEKULA,
Plaintiff

vs.

THOMAS M. SEKULA,
Defendant

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NO. 00-238-CD

ORDER

NOW, this 31st day of August, 2005, upon consideration of the Report of Michael P. Yeager, Esquire, Master appointed in the above-captioned action by Order dated July 3, 2003 it is hereby ORDERED, ADJUDGED and DECREED, that:

1. The Report of the Master is hereby approved and adopted by the Court.
2. The matter as to partition of the real estate described in that certain Deed dated August 25, 1995 from Charles H. Alexander, et al. to Brian S. Sekula and Thomas M. Sekula and recorded in Clearfield County Deeds & Records Vol. 1736, page 128, is hereby resolved by virtue of the private sale conducted between the parties hereto; and that the suggested Deed to Thomas M. Sekula described in Exhibit B-1 of the Master's Report is hereby confirmed.
3. The Master is hereby authorized to execute and deliver to the said Thomas M. Sekula, the suggested Deed with current reference to the Agreement of November 20, 1990 together with any other instruments of title; and to conclude the transaction. In addition, the Deed shall contain the following language:

Grantor also grants and conveys to Grantee, his heirs, successors and assigns a non-exclusive easement for ingress, egress and regress over, across and through other lands of the Grantor, and others, via "Buck Run Road" arising out of and subject to the terms of an Agreement between Brian S. Sekula and Alexander Deemer, II, individually and as Trustee of the Frank C. Deemer, Jr., Estate Trust, dated November 20, 1990, and entered of record in Clearfield County Deeds and Record

#211

Book Volume 1375 at Page 528. This grant shall obligate the Grantee, his heirs, successors and assigns to the obligations described in the said Agreement which are applicable to the easement therein described. This grant shall extinguish any and all rights and privileges of Brian S. Sekula, his heirs, successors and assigns as set forth in the above-referenced agreement to travel over, upon and through the premises herein conveyed or to construct a gate on the subject premises, whether arising from the above-referenced Agreement, or otherwise.

4. Net proceeds from the sale as described in the Settlement Statement in Exhibit B-2 are to be distributed to Brian S. Sekula through his attorney.

5. Exception One (1) filed on behalf of the Plaintiff is hereby dismissed.

6. As the Defendant agrees with the averments set forth in Plaintiff's Exceptions Two (2) and Three (3), the same are hereby granted.

7. Remaining unresolved issues include the following:

(a) The Breach of Contract action contained in Count II of the Amended Complaint of Brian S. Sekula relative to extension of the November 3, 1997 Timbering Agreement (also noted by Thomas M. Sekula in his New Matter).


(b) The "Constructive Trust" alleged by Thomas M. Sekula to the effect that Brian S. Sekula purchased a contiguous parcel of land known as the "Spencer" tract for both parties as opposed to just the said Brian S. Sekula who currently retains sole title to that tract as identified in the Counterclaim of Thomas M. Sekula.

(c) Breach of Contract relative to cancellation of a coal mining Lease filed by Thomas M. Sekula and also described in the New Matter, Count II filed by the said Thomas M. Sekula.

It is further ORDERED, ADJUDGED and DECREED that the remaining unresolved issues are to be resolved by hearing or hearings and an ultimate Order of Court, or settlement. This Court acknowledges that discovery continues relative to those unresolved issues and the Court will await further Motions or scheduling requests by either party hereto relative to resolution of those unresolved issues.

8. Finally, it is ORDERED, ADJUDGED and DECREED that the Master be compensated in accordance with his Statement of Fees and Costs attached to his report and any supplement thereto, with each party to pay an equal $\frac{1}{2}$ of said Statement of Fees & Costs. It is the understanding of the Court that the total amount due the Master is \$2,104.08. Each party shall pay $\frac{1}{2}$ of this amount within 45 days from this date.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

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William A. Shaw
Prothonotary/Clerk of Courts

CA

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

BRIAN S. SEKULA

-VS-

THOMAS M. SEKULA

:
:
: No. 00-238-CD

O R D E R

NOW, this 15th day of August, 2005, following argument relative Plaintiff's Exceptions to Master's Report, it is the ORDER of this Court that both parties submit proposed Order to the Court within no more than five (5) days from this date.

BY THE COURT,

Frederick J. Cunningham

President Judge

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W.A. Shaw
William A. Shaw
Prothonotary

SENT TO ATTY POPE & MARON

(10)

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AUG 16 2005

William A. Shaw
Prothonotary

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

CIVIL ACTION - LAW

BRIAN S. SEKULA

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

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* No. 00-238-CD
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ORDER

AND NOW, this 12th day of July, 2005, upon Defendant's Motion for Continuance, it is hereby ORDERED and DECREED that said continuance be granted and therefore this matter is rescheduled to be heard on the 15 day of August, 2005, at 2:00 o'clock in Courtroom No. 1, in the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

Frederick J. Zimmerman

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012-3884 Amy Mason
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William A. Shaw
Prothonotary/Clerk of Courts

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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

CIVIL ACTION - LAW

BRIAN S. SEKULA

Plaintiff

VS.

THOMAS M. SEKULA,

Defendant

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No. 00-238-CD

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* TYPE OF PLEADING:

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Motion for Continuance

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* FILED ON BEHALF OF:

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Defendant

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* ATTORNEY FOR DEFENDANT:

*

David C. Mason, Esquire

*

Supreme Court ID #39180

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P.O. Box 28

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Philipsburg, PA 16866

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(814) 342-2240

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William A. Shaw

Prothonotary/Clerk of Courts

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

CIVIL ACTION - LAW

BRIAN S. SEKULA

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

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No. 00-238-CD

MOTION FOR CONTINUANCE

AND NOW comes the Defendant, THOMAS M. SEKULA, by and through his attorney, DAVID C. MASON, ESQUIRE, and files the following Motion to which the following is averred:

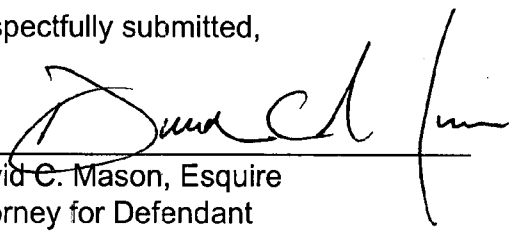
1. Pursuant to an Order of Court dated June 23, 2005, an Argument has been scheduled on Plaintiff's Exceptions to Master's Report for Thursday, August 4, 2005, at 2:00 p.m.

2. Counsel for Defendant, Thomas M. Sekula, is on vacation from July 27, 2005, through Monday, August 8, 2005 and is unavailable due to prior commitments on August 9, 2005, and August 11, 2005.

3. Movant respectfully requests that this matter be continued and rescheduled for a time after August 15, 2005.

WHEREFORE, Defendant prays your Honorable Court for the entry of an Order directing that the Argument scheduled for August 4, 2005, be cancelled and a new date for the Argument be rescheduled for a time after August 15, 2005.

Respectfully submitted,



David C. Mason, Esquire
Attorney for Defendant

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William A. Shaw
Prothonotary/Clerk of Courts

CA

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

BRIAN S. SEKULA

vs.

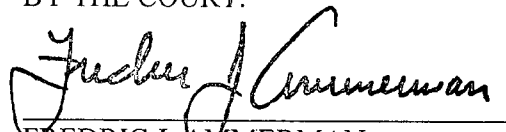
THOMAS M. SEKULA

:
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: No. 00-238-CD
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ORDER

AND NOW, this 23rd day of June, 2005, it is the ORDER of the Court that argument on Plaintiff's Exceptions to Master's Report filed in the above-captioned matter has been scheduled for Thursday, August 4, 2005 at 2:00 P.M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

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JUN 24 2005

William A. Shaw
Prothonotary/Clerk of Courts

cc Atty's:
Mason
Pope
Yeager
(CIA env.)

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
Civil Action - Law

BRIAN S. SEKULA,
Plaintiff

Case No. 238 C.D. 2000

v.

THOMAS M. SEKULA,
Defendant

Type of Pleading:
Exceptions to Master's Report

Filed On Behalf Of:
Plaintiff

Counsel of Record for this Party:

Henry Ray Pope, III, Esq.
Supreme Court No. 01530
POPE AND DRAYER
Ten Grant Street
Clarion, PA 16214
814-226-5700

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MAY 05 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

BRIAN S. SEKULA,	:	
Plaintiff	:	
	:	
v.	:	No. 00-238-CD
	:	
THOMAS M. SEKULA,	:	
Defendant	:	

EXCEPTIONS TO MASTER'S REPORT

AND NOW comes Brian S. Sekula, hereinafter "Plaintiff", by his attorney, Henry Ray Pope, III, and files these Exceptions to the Master's Report filed in the above captioned matter:

1. Exception as to Right-of-Way Language

The Master in Partition in his Findings of Fact (D), found that "The parties have agreed that the Deed transfer will be by Special Warranty and the state of title for the Partitioned Property upon conveyance will be as was originally secured by the parties." The Master furthermore, in Section IV of this Report, found that deed into Brian S. Sekula and Thomas M. Sekula contained the following language:

ALSO GRANTING AND CONVEYING to the said grantees all right, title, claim, or interest of the grantors in a certain right-of-way over and upon lands of Brian S. Sekula by virtue of paragraph 1 of an agreement dated November 20, 1990, between Brian S. Sekula and Alexander D. Deemer, II, individually and as trustee of the Frank C. Deemer, Jr., Estate Trust U/W, which agreement appears of record in the Office of the Recorder of Deeds of Clearfield County in Deed and Record Book Volume 1375, page 528.

This language effectively conveyed to the parties to this action ingress and egress to the property

which is the subject of partition over Buck Run Road and should have been used to convey to the grantee the necessary right-of-way to the property. Any other right-of-way language is inconsistent with the stipulation of the parties concerning the interests that were the subject of the partition, which stipulation is recited in the Master's Report. The right-of-way language which the Master proposes conveys rights which Brian S. Sekula owns independently of those contained in Paragraph 1 of the Agreement recorded in Clearfield County Deed Book 1375, Page 528.

2. Form of the Deed

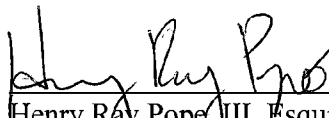
The Deed attached to the Report is inconsistent as it relates to the description of the Grantor. The first page of the Deed correctly identifies the Grantor as Michael P. Yeager, Esquire, Master in Partition, however, as prepared, the Deed appears to require the signature of Brian S. Sekula and his acknowledgment. The signature and acknowledgment portion of the Deed should be corrected to reflect that the Deed is being executed by the Master in Partition.

3. Incorrect Settlement Statement

Brian S. Sekula has paid his one-half (1/2) share of the county and township taxes for 2005. Notwithstanding the payment of taxes by Brian S. Sekula, the Master has made a deduction for what appears to be his prorata share of county and township taxes when he should have received a credit.

Respectfully submitted,

Date: May 4, 2005


Henry Ray Pope, III, Esquire
Attorney for Plaintiff

VERIFICATION

The undersigned says that the averments contained in the foregoing Exceptions to Master's Report to which this Verification is attached are true and correct to the best of his knowledge, information and belief. The undersigned further states that he understands that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.



Brian S. Sekula

Date: May 4, 2005


CERTIFICATE OF SERVICE

I, Henry Ray Pope, III, did on the date of this Certificate, serve a true and correct copy of the foregoing "Exceptions to Master's Report" on the following by First Class U.S. Mail, postage prepaid:

Michael P. Yeager, Esquire
110 North Second Street
P. O. Box 752
Clearfield, PA 16830
Partition Master

David C. Mason, Esquire
P. O. Box 28
Philipsburg, PA 16866
Attorney for Defendant

IN WITNESS WHEREOF, I have signed this Certificate this 4th day of May, 2005.



Henry Ray Pope, III, Esquire
Attorney for Plaintiff

FILED

MAY 05 2005

**William A. Shaw
Prothonotary/Clerk of Courts**

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

BRIAN S. SEKULA,
Plaintiff

vs

THOMAS M. SEKULA,
Defendant

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No. 00-238-CD

CERTIFICATE OF SERVICE

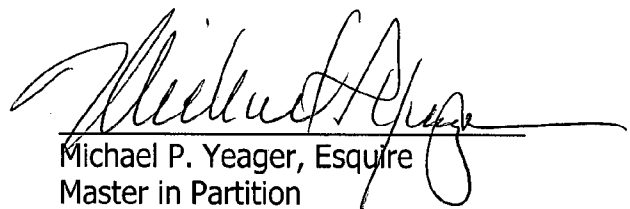
I, Michael P. Yeager, hereby certify that I served a true and correct copy of the Rule to Show Cause with attached Master's Report and Return of Service by First Class U.S. Mail, the 22nd day of April, 2005, upon the following:

Henry R. Pope, III, Esquire
POPE & DRAYER
10 Grant Street
Clarion, PA 16214
Attorney for Brian S. Sekula

David C. Mason, Esquire
P.O. Box 28
Philipsburg, PA 16866
Attorney for Thomas M. Sekula

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William A. Shaw
Prothonotary/Clerk of Courts


Michael P. Yeager, Esquire
Master in Partition

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

BRIAN S. SEKULA,
Plaintiff

VS

THOMAS M. SEKULA,
Defendant

No. 00-238-CD

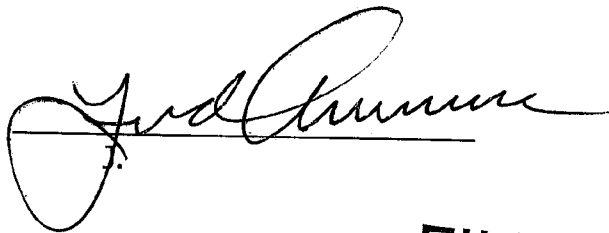
RULE TO SHOW CAUSE

AND NOW, this 22 day of April, 2005, it is hereby

ORDERED, ADJUDGED and DECREED that a Rule be granted upon the Plaintiff and Defendant, to show cause why the Master's Report and Return of Sale filed by the Master should not be approved and confirmed and that the suggested Order contained therein as "Exhibit E" should not be executed and formalized.

Rule Returnable and hearing thereon to be held on Monday, May 9, 2005 at 9:30 A.M. in Courtroom 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:



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William A. Shaw
Prothonotary/Clerk of Courts

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

BRIAN S. SEKULA,
Plaintiff

VS

THOMAS M. SEKULA,
Defendant

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:
:

No. 00-238-CD

MASTER'S REPORT AND RETURN OF SALE

I. PROCEDURE RELATIVE TO THE MASTER.

By Order dated July 3, 2003, the within Master, Michael P. Yeager, Esquire, was appointed to take testimony on those issues raised in the pleadings and make a recommendation and report to the Court. A copy of that Order is attached hereto, made part hereof and incorporated herein as "Exhibit A".

II. SUMMARY OF ACTIONS RELATIVE TO PARTITION.

After review and discussion as amongst the various parties that extended over a period of nearly two years, the parties essentially agreed to the conduct of a private sale confined to the parties which took place on March 22, 2005. At that time, Thomas M. Sekula was the successful bidder (with a total bid value equal to \$185,000 and a one-half payment thereof in the amount of \$92,500) relative to partition of the real estate described in the Complaint of Brian S. Sekula filed to the above-captioned action ("Partitioned Property"). That transaction can be completed by transfer of a Deed to Thomas M. Sekula relative to his undivided one-half interest in the Partitioned Property.

A copy of a suggested Deed is attached hereto, made part hereof and incorporated herein as "Exhibit B-1". A copy of a suggested Settlement Statement to close the transfer is attached hereto, made part hereof and incorporated herein as "Exhibit B-2".

III. FINDINGS OF FACT OF THE MASTER.

In view of the Agreement as between the parties relative to the private sale confined to the parties, the Master's decision includes the following Findings of Fact:

A. The Partitioned Property was secured by Plaintiff and Defendant by virtue of a Deed dated August 25, 1995 and recorded in Clearfield County D & R Vol. 1736, page 128. A copy of said Deed is attached hereto, made part hereof and incorporated herein as "Exhibit C".

B. The matter as to whether the Partitioned Property is capable of division is irrelevant in that the Agreement of the parties reflects a sale of that entire tract as described in "Exhibit B-1".

C. The value of the property (as determined as a result of the bid auction utilized by the parties at the private sale) totals \$185,000. Each of the parties currently owns an undivided one-half interest therein reducing the actual cash consideration to \$92,500.

D. The parties have agreed that the Deed transfer will be by Special Warranty and the state of title for the Partitioned Property upon conveyance will be as was originally secured by the parties.

E. There are no mortgages, liens or other encumbrances or charges other than those that might be developed as a result of the unresolved issues described above.

F. Real estate taxes are to be prorated as reflected on a Settlement Statement attached hereto, made part hereof and incorporated herein as "Exhibit B-2".

G. Thomas M. Sekula deposited the sum of \$18,500 with the Master on March 24, 2005 and the remaining \$74,500 on April 15, 2005, all in accordance with the understanding of the parties hereto.

H. The sale contemplated above has been deferred pending approval and confirmation by the Court and further questions as to access to the Partitioned Property.

I. The parties also agreed that whoever purchased the Partitioned Property was to secure access to the same via the route utilized by the Master and the parties in inspecting the Partitioned Property over Buck Run Road from Township Route T-336.

IV. DEED/RIGHT OF WAY.

Discussions prior to sale indicated that the parties appeared to be comfortable with a right of way to the Partitioned Property that extended over what was formerly known as "Buck Run Road" from its beginning at Township Route T-336. Those rights were previously confirmed by virtue of an Agreement dated November 20, 1990 and recorded in Deeds & Records Vol. 1375, page 528 ("Agreement") (a copy of the same is attached hereto, made part hereof and incorporated herein as "Exhibit D") as between Brian S. Sekula and Alexander D. Deemer, II, the predecessor in title to the Partitioned Property. The Deed to the parties to this Partition Action (Exhibit C) contained reference to this Agreement with the following language:

"ALSO GRANTING AND CONVEYING to the said grantees all right, title, claim, or interest of the grantors in a certain right-of-way over and upon lands of Brian S.

Sekula by virtue of paragraph 1 of an agreement dated November 20, 1990 between Brian S. Sekula and Alexander D. Deemer, II, individually and as trustee of the Frank C. Deemer, Jr. Estate Trust U/W, which agreement appears of record in the Office of the Recorder of Deeds of Clearfield County in Deed and Record Book Volume 1375, page 528."

Subsequent to the sale as described above, some difficulty appears to have arisen over the language to be inserted in the proposed Deed to Thomas M. Sekula concerning the right of way to the Partitioned Property and what is described in the Agreement as "Buck Run Road".

The Master is of the opinion that the Agreement should be construed as an Agreement that runs with the land to bind subsequent owners and that the same, as a covenant that runs with the land, therefore extends to, binds and benefits Thomas M. Sekula both now, as an owner of an undivided one-half interest in the Partitioned Property, as well as the resultant owner of the Partitioned Property. As noted, that application should extend to the benefits and burdens of the entire Agreement.

Contractual obligations or "covenants", as they relate to real estate, can be either personal or real covenants. Personal covenants are restricted to the people affected in that they are those between people who agree to them; and are enforceable as between those parties. However, other covenants are more than "personal" in application and become enforceable as against the people who agree to them as well as successive purchasers.

Real covenants are those so closely connected with the realty that their benefits or burdens pass with the real estate to subsequent owners (or current parties in interest). DeSanno v. Earle, 117 A. 200, 273 Pa. 265 (1922); P.L.E. Covenants, Section 18; Black's Law Dictionary, Fifth Edition (1929) Covenant.

Generally, the intention of the parties taken from the wording of the covenants will determine if the same do constitute covenants running with the land binding subsequent purchasers. DeSanno, supra; McCloskey v. Kirk, 243 Pa. 319, 90 A. 73 (1914). See also Adams v. Field, 297 Pa. 247, 146 A. 889 (1929), Appeal of J. C. Grille, Incorporated, 181 Pa. Super. 456, 124 A.2d 659 (1956), Parker v. Hough, 420 Pa. 7, 12-13, 215 A.2d 667, 670 (1966) and Birchwood Lakes Community Association, Inc. v. Comis, 442 A.2d 304, (Pa. Super. 1982).

Finally, "the test for determining whether a covenant runs with the land is whether it was so intended by its creators." Philadelphia Fresh Food v. Levin & Company, 239 Pa. Super. 287, 361 A.2d 886 (1976).

Obviously, the purchaser of the partitioned land must have access to Buck Run Road to gain access from Township Route T-336. That access was generally described in the Agreement (even though the Agreement did not specifically address rights of the owner of the Partitioned Property (former Deemer Parcel 2) over Deemer Parcel 1.)

Consequently, Thomas M. Sekula, as current owner and the purchaser of the Partitioned Property, will need access to Buck Run Road as the same traverses Parcels 102-B8-18 (now owned by Brian Sekula) and 102-B8-13 (owned by Deemer or Deemer's successors). The Agreement makes reference to Buck Run Road and discusses its historical background in the various "WHEREAS" paragraphs. The road was apparently a public road at one time and was vacated by Brady Township with the proviso that the same was to constitute a "...private road for the use of the abutting land owners..." (emphasis supplied). This general reference seems to contemplate that the covenants in the Agreement were for the use of any abutting land owner rather

than limiting such application. This would, of necessity, include the Partitioned Property (former Deemer Parcel 2), the current Brian Sekula property and the Deemer Parcel 1 property nearer to Township T-336 (all of which are described in the Agreement).

The parties to the Agreement recited, also in those "WHEREAS" paragraphs, that they believed that "...each and both of them, their respective heirs, executors, administrators, successors and assigns (emphasis supplied), have an easement and right of way in and to the full length of the road..." Again, they could have limited application to only the parties, or parts of the road, but did not.

Thomas M. Sekula, as the full owner of the Partitioned Property, should therefore succeed to the rights of Deemer relative to access over the Brian Sekula property as provided in Paragraph 1 of the Agreement both by such full ownership as well as by virtue of his existing ownership to an undivided one-half interest in the Partitioned Property (formerly Deemer Parcel 2). He should also receive access over the remainder of Buck Run Road as previously noted "...in and to the full length of the road..." Paragraph 4 of the Agreement also indicates that not only would the access rights extend to the parties; but the Agreement went on to say that: "...such that access to the easement across all three parcels will be restricted to the parties hereto, their heirs, successors, assigns, agents, employees and invitees..."(emphasis supplied). Paragraph 6 called for the possibility of an alternate access to Township Route T-336; and Paragraph 7 clearly noted that the Agreement was to be "...binding on the heirs, executors, administrators, successors and assigns of the parties hereto..."

It appears to be entirely clear to the Master that the intent of the Agreement was to provide a clear understanding that access via Buck Run Road was to be shared

equally as between the three abutting land owners (the Partitioned Property, the current Brian Sekula property and Deemer Parcel 1) so that all of the same could jointly use the same, maintain the same, and gain access to Township Route T-336. By virtue of the references to "successors and assigns", the Master also feels as though the Agreement was clearly intended to extend to and bind whoever those property owners might be and that the covenants contained within the Agreement constitute covenants that run with the land and extend to any such owner of any of the three parcels of land including the Partitioned Property.

Therefore, the proposed Deed indicates that Thomas M. Sekula, as purchaser of the entire interest in the Partitioned Property, should secure whatever benefits and burdens that might exist pursuant to the Agreement as if he were an original party to that Agreement.

V. UNRESOLVED ISSUES.

A. The Breach of Contract action contained in Count II of the Amended Complaint of Brian S. Sekula relative to extension of the November 3, 1997 Timbering Agreement (also noted by Thomas M. Sekula in his New Matter).

B. The "Constructive Trust" alleged by Thomas M. Sekula to the effect that Brian S. Sekula purchased a contiguous parcel of land known as the "Spencer" tract for both parties as opposed to just the said Brian S. Sekula who currently retains sole title to that tract as identified in the Counterclaim of Thomas M. Sekula.

C. Breach of Contract relative to cancellation of a coal mining Lease filed by Thomas M. Sekula and also described in the New Matter, Count II filed by the said Thomas M. Sekula.

VI. DISCUSSION AS TO UNRESOLVED ISSUES.

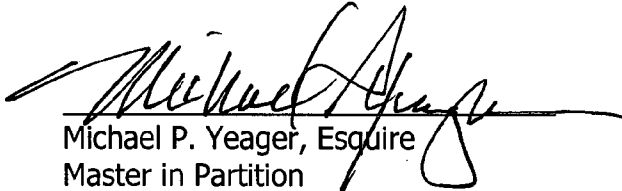
The Master respectfully believes that the Pennsylvania Rules of Civil Procedure as they relate to a Master in Partition (Pa. R.C.P. Rule 1551, et seq.) do not encompass authority to make recommendations as to the above listed unresolved issues. These issues are therefore being returned to your Honorable Court as unresolved.

The parties hereto have continued in their attempts to conclude the unresolved issues with the exchange of Interrogatories and Responses thereto; and it is anticipated that they will complete resolution of these issues in the normal course of litigation.

VII. MASTER'S SUGGESTED ORDER.

The Master's suggested Order is attached as "Exhibit E".

Respectfully submitted:


Michael P. Yeager, Esquire
Master in Partition

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

BRIAN S. SEKULA,
Plaintiff

DOCKET NO. 00-238-CD

-VS-

THOMAS M. SEKULA,
Defendant

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ORDER

AND NOW, this 3rd day of July, 2003, IT IS THE ORDER of this Court that JOHN A. AYRES, JR., ESQUIRE, shall be and is hereby removed as Master in the above-captioned matter, and that Michael P. Yeager, Esq. shall be and is hereby appointed Master to take testimony on those issues raised in the pleadings and make a recommendation and report to the Court.

BY THE COURT:

/s/ JOHN K. REILLY, JR.

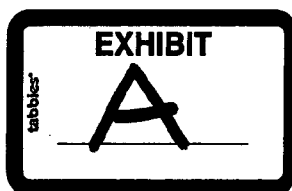
Judge

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

JUL 03 2003

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts



D E E D

THIS DEED, made the _____ day of _____, in the year of our Lord two thousand five (2005) between **MICHAEL P. YEAGER, ESQUIRE, MASTER IN PARTITION**, by Order of Court filed to No. 00-238-CD of Clearfield County dated July 3, 2003, of P.O. Box 752, Clearfield, PA 16830, party of the first part, hereinafter referred to as "Grantor"

- A N D -

THOMAS M. SEKULA, of 8250 Newburg Road, Newburg, PA 17240, party of the second part, hereinafter referred to as "Grantee"

W I T N E S S E T H :

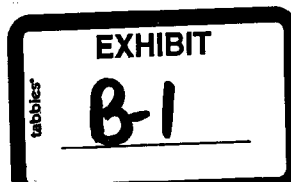
That for and in consideration of the sum of Ninety-Two Thousand Five Hundred (\$92,500) Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said Grantor does grant and convey to the said Grantee:

ALL that certain tract of land situate in Brady Township, Clearfield County, Pennsylvania, bounded and described as follows:

BOUNDED on the North by lands now or formerly of C.G.M. Development Corporation; bounded on the East by lands now or formerly of Calvin Bean and John Bean and the Ideal Foudation; bounded on the South by lands now or formerly of Brian Sekula and Jaye C. McKee; and bounded on the West by lands now or formerly of Spencer Land Company and by W. D. Weber, et al., and by John O. Grape and Emily M. Grape. CONTAINING 140 acres, more or less and being further identified in the Assessment Records of Clearfield County as Parcel No. 107-B7-00022.

UNDER AND SUBJECT, NEVERTHELESS, to all exceptions, reservations, existing easements, conditions and restrictions as contained in prior Deeds in the chain of title.

TOGETHER with all and singular the buildings, improvements, ways, streets, alleys, passages, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever unto the hereby granted



premises belonging, or in any wise appertaining, and the reversions and remainders, rents, issues and profits thereof; and all the estate, right, title and interest, property, claim and demand whatsoever of the said Grantors, their heirs and assigns, in law, equity, or otherwise, howsoever, in and to the same, and every part thereof.

TO HAVE AND TO HOLD the said lot or piece of ground above described, with the message or tenement thereon erected, hereditaments and premises hereby granted, or mentioned an intended so to be, with the appurtenances, unto the Grantee, his heirs and assigns, to and for the only proper use and behoof of the said Grantee, his heirs and assigns, forever.

BEING the same premises which Charles H. Alexander, et al. granted and conveyed to the within Grantor and Grantee by their Deed dated August 25, 1995 and recorded in Clearfield County Deeds & Records Vol. 1736, page 128. Subsequently, an Action in Partition was filed by the within Grantor at No. 2000-238-CD of Clearfield County, Pennsylvania. As a result of that Action in Partition, the parties agreed to a private sale confined to the parties which was ultimately held on March 21, 2005. At that Partition Sale confined to the parties, the within Grantee bid a total price for the above-described parcel in the amount of \$185,000. In view of the current ownership for each party of an undivided one-half interest in said property, the consideration listed above represents the amount to be paid by the within Grantee for the outstanding one-half interest in the land described herein owned by the within Grantor.

ALSO GRANTING AND CONVEYING unto the within Grantee all right, title, claim, or interest of the Grantor (and as successor in interest), in a certain Right of Way over and upon lands of Brian S. Sekula and Alexander D. Deemer, II, individually and as Trustee of the Frank C. Deemer, Jr. Estate Trust, its and their successors and assigns, by virtue of an Agreement dated November 20, 1990 between the said Brian S. Sekula and Alexander D. Deemer, which appears of record in the Office of the Recorder of Deeds of Clearfield County in Deeds & Records Book Volume 1375, page 528.

Grantor states that the above property is not presently being used, nor to the best of his knowledge, information and belief, has it ever been used for the disposal of hazardous wastes. This statement is made in compliance with the Solid Waste Management Act No. 1980-97, Section 405.

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:
.....
.....

Thisday of

For the purpose of complying with the Act of July 17, 1957, P.L. 984; 52

P.S. Supp. 1551, as amended, of the General Assembly of Pennsylvania, and for no other purpose, there is incorporated herein the following notice:

THIS DOCUMENT **MAY NOT** SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND THE RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT.

AND the said Grantor will SPECIALLY WARRANT AND FOREVER DEFEND the property hereby conveyed.

IN WITNESS WHEREOF, said Grantor has set his hand and seal the day and year first above written.

WITNESS:

_____(SEAL)
Brian S. Sekula

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF CLEARFIELD :

On this, the ____ day of _____, 2005, before me, a notary public the undersigned officer, personally appeared **BRIAN S. SEKULA**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

CERTIFICATE OF RESIDENCE

I certify that the precise residence of the Grantee herein is as follows: 8250 Newburg Road, Newburg, PA 17240.

SETTLEMENT STATEMENT

SELLER: BRIAN S. SEKULA via Michael P. Yeager, Master in Partition

BUYER: THOMAS M. SEKULA

CLOSING: March 22, 2005

LOCATION: 140 acres identified as Clearfield County Parcel No. 107-B7-22

SETTLEMENT WITH SELLER & BUYER:

Sale Price

(Entire Bid is \$185,000 ÷ 1/2 for purposes of this transaction) **\$ 92,500.00**

Plus Buyer's share of 2004-05 School taxes (previously paid by Brian S. Sekula)
95.28 x .272 factor **+ 25.92**

Balance due on sale before costs \$92,525.92

SETTLEMENT WITH SELLER

SETTLEMENT WITH BUYER

Balance due on sale **\$ 92,525.92**

Balance Due on Sale **\$ 92,525.92**

Less Costs:

Deed Prep. POC
Sellers' share of 2005 county
& township taxes **5.97**

Plus Costs:

Attorney's fees POC
Buyer's share of 2005 county
& township taxes **20.18**

Balance due on sale \$ 92,519.95

Required for closing \$ 92,546.10

DEPOSITS AND DISBURSEMENTS

Deposits:

1. Wire transfer from Thomas M. Sekula on 3/24/05	\$18,500.00	
2. Wire transfer from Thomas M. Sekula on 4/15/05	<u>74,500.00</u>	
Total deposits		\$ 93,000.00

Disbursements:

1. Elizabeth A. Wingert - 2005 county & township taxes	\$ 26.15	
2. Brian S. Sekula - proceeds of sale	92,519.95	
3. Thomas M. Sekula - refund of excess funds paid	<u>453.90</u>	
Total Disbursements		\$ 93,000.00

SELLER: _____
Brian S. Sekula

BUYER: _____
Thomas M. Sekula

SELLER'S ATTORNEY: _____
Henry Ray Pope, Esq.

BUYER'S ATTORNEY: _____
David C. Mason, Esq.



D E E D

THIS DEED, made the 25th day of August, 1995, between CHARLES H. ALEXANDER and JAY T. SWETT as Executors for the ESTATE OF ALEXANDER D. DEEMER II, deceased, ELIZABETH D. SWETT and JAY T. SWETT, her husband, of Grassmere Farm, Box 246, Ivy, Virginia, 22945, ALEXANDRA D. HANKS and DOUGLAS HANKS, JR., her husband, of P.O. Box 408, Oxford, Maryland, 21654, SUSANNA D. HEGNES and JOHN HEGNES, her husband, of 118 West Hutchison Street, Pittsburgh, Pennsylvania, 15218, S & T BANK of Brookville, Pennsylvania, as Executor and Trustee under the Last Will and Testament of BARBARA GOW DEEMER, deceased, and ANN DEEMER RICHARDS, unmarried, of 14327 Cole Road, Pilot Point, Texas, 76258, GRANTORS,

A
N
D

BRIAN S. SEKULA of RD 1, Box 222, Rockton, Pennsylvania, 15856, and THOMAS M. SEKULA of 8250 Newburg Road, Newburg, Pennsylvania, 17240, as joint tenants with right of survivorship, GRANTEES,

WITNESSETH, that in consideration of Fifty-Six Thousand Five Hundred Forty and 00/100ths (\$56,540.00) Dollars in hand paid, the receipt whereof is hereby acknowledged, the said grantors do hereby grant and convey to the said grantees,

ALL that certain tract of land situate in BRADY TOWNSHIP, Clearfield County, Pennsylvania, bounded and described as follows:

BOUNDED on the North by C.G.M. Development Corporation; bounded on the East by Calvin Bean and John Bean and the Ideal Foundation; bounded on the South by Brian Sekula and Jaye C. McKee; and bounded on the West by Spencer Land Company and by W. D. Weber et al. and by John O. Grape and Emily M. Grape.

CONTAINING 140 acres, more or less.

EXCEPTING AND RESERVING the oil, gas and minerals but only to the same extent as previously excepted and reserved by Grantors' predecessors in title.

BEING the same premises conveyed to F. C. Deemer from A. B. Shaw, trustee in partition in the estates of H. W. Weber and George H. Weber, deceased, by Deed dated December 5, 1940 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Deed Book Volume 334, page 441.

ALSO BEING the same premises awarded to Alexander D. Deemer II and to Frank C. Deemer, Jr. as tenants in common by certificate of award or allotment of real estate dated December 28, 1964 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Deed Book Volume 512, page 379. Said tract is listed therein as Parcel No. 221.



The said Frank C. Deemer, Jr. died testate on October 12, 1973 and by his Last Will and Testament recorded in Jefferson County Will Book Volume 21, page 59, he devised all property held by him as tenants in common with his brother, Alexander D. Deemer II, into a trust naming Alexander D. Deemer II as trustee. Pursuant thereto, Barbara Gow Deemer as executrix of the Frank C. Deemer, Jr. estate conveyed the subject premises to Alexander D. Deemer II, trustee under the testamentary trust established by the Will of the late Frank C. Deemer, Jr. by deed dated September 1, 1974 and recorded in the Office of the Recorder of Deeds for Clearfield County, Pennsylvania in Deed Book Volume 690, page 469. The subject premises is listed therein as Parcel No. 61.

Anne Deemer Sutton, one of the beneficiaries of the aforesaid Deemer Trust, conveyed all of her undivided interest in the trust to Barbara Gow Deemer by virtue of an Assignment dated May 31, 1975, and recorded in the Office of the Recorder of Deeds for Clearfield County, Pennsylvania in Record Book 1672, page 376.

By Deed dated July 11, 1988, Lindsay Deemer, by marriage Lindsay Deemer Skinner, one of the beneficiaries of the Deemer Trust, conveyed all of her undivided interest in the above described trust unto Ann Deemer Richards and Gretchen Skinner Mineweaser which is recorded in the office of the Recorder of Deeds for Clearfield County, Pennsylvania in Record Book 1238, page 60.

By Deed dated October 8, 1990, Gretchen Skinner Mineweaser, et vir., conveyed all of her undivided interest in the above described trust unto Ann Deemer Richards which is recorded in the office of the Recorder of Deeds for Clearfield County, Pennsylvania in Record Book 1369, page 564. The said Ann Deemer Richards was incorrectly referred to as Anne Deemer Richards in those conveyances.

By Family Settlement Agreement filed on August 19, 1986, in the Court of Common Pleas of Jefferson County, Pennsylvania, at No. 172 of 1975, O.C., and approved by said Court on August 19, 1986, Alexander D. Deemer II, Barbara Gow Deemer and Lindsay Deemer, formerly Lindsay Skinner Deemer, agreed that the aforesaid Trust created under the Last Will and Testament of Frank C. Deemer, Jr., would terminate upon the death of Barbara Gow Deemer. The said Barbara Gow Deemer died testate on April 18, 1994 whereupon an Account and Statement of Proposed Distribution was filed by the Trustee at O.C. No. 172 of 1975 and an undivided 3/8 interest in the subject premises was distributed to the estate of Barbara Gow Deemer, deceased, and an undivided 1/8 interest was distributed to Ann Deemer Richards by Certificate of Award or Allotment of Real Estate recorded in the office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Record Book 1642, page 62 as Tract No. 61.

The Last Will and Testament of Barbara Gow Deemer was duly probated in the Office of the Register of Wills of Jefferson County, Pennsylvania, on April 19, 1994, and Letters Testamentary were granted to S & T Bank on the same day. Her Last Will and Testament is recorded in the Office of the Recorder of Deeds of Jefferson County, Pennsylvania, in Will Book 30, page 103. As set forth therein, she devised her interest in the above described tract unto S & T Bank, in trust, pursuant to a Trust Agreement dated September 20, 1993. Accordingly, the undivided 1/2 interest formerly held by F. C. Deemer, Jr. was thereupon held as follows:

- (i) S & T Bank, Executor and Trustee - an undivided 3/8 interest;
- (ii) Ann Deemer Richards - an undivided 1/8 interest.

By Deed dated May 28, 1992, Alexander D. Deemer II conveyed an undivided one percent (1%) interest in the above described tract unto each of the following: Elizabeth D. Swett, Alexandra D. Hanks, and Susanna D.

Hegnos. Said Deed is recorded in the office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Record Book 1499, page 80. Said tract is listed therein as Parcel No. 61.

ALSO BEING the same premises referred to in Clearfield County Assessment Maps and Records as Parcel No. 107-B7-00022.

ALSO GRANTING AND CONVEYING to the said grantees all right, title, claim, or interest of the grantors in a certain right-of-way over and upon lands of Brian S. Sekula by virtue of paragraph 1 of an agreement dated November 20, 1990 between Brian S. Sekula and Alexander D. Deemer, II, individually and as trustee of the Frank C. Deemer, Jr. Estate Trust U/W, which agreement appears of record in the Office of the Recorder of Deeds of Clearfield County in Deed and Record Book Volume 1375, page 528.

AND the said grantors will SPECIALLY WARRANT AND FOREVER DEFEND the property hereby conveyed.

IN WITNESS WHEREOF, said grantors have hereunto set their hands and seals the day and year first above written.

Sealed and delivered in the presence of

Charles H. Alexander
Charles H. Alexander, Executor
of the Estate of Alexander D.
Deemer II, deceased

Jay T. Swett
Jay T. Swett, Executor of the
Estate of Alexander D. Deemer
II, deceased

Elizabeth D. Swett
Elizabeth D. Swett

Jay T. Swett
Jay T. Swett

Alexander D. Hanks
Alexander D. Hanks

Douglas Hanks, Jr.
Douglas Hanks, Jr.

Stacy D. Hegnes
Stacy D. Hegnes

John Hegnes
John Hegnes

S & T BANK
S & T BANK

By: George Walker
George Walker, Vice President
and Trust Officer

Ann Deemer Richards
Ann Deemer Richards

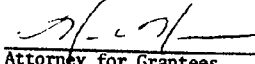
It is hereby certified in compliance with the Pennsylvania Realty Transfer Tax Act that the full, true and complete value of the premises conveyed is \$56,540.00.

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the grantees herein is as follows:

Brian S. Sekula
RD 1, Box 222
Rockton, PA 15856

Thomas M. Sekula
8250 Newburg Road
Newburg, PA 17240


Attorney for Grantees

NOTICE

To comply with the Act of July 17, 1957, P. L. 984, as amended, (52 P.S. Sections 1551-1554) notice is hereby given as follows:

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE OF LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT.

HAZARDOUS WASTE NOTICE

GRANTORS HAVE NO ACTUAL KNOWLEDGE OF ANY HAZARDOUS WASTE, DEFINED IN ACT NO. 1980-97 OF THE COMMONWEALTH OF PENNSYLVANIA, HAVING BEEN OR WHICH IS PRESENTLY BEING DISPOSED ON OR ABOUT THE PROPERTY DESCRIBED IN THIS DEED.

662 B

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

.....
.....

This day of

COMMONWEALTH OF PENNSYLVANIA)

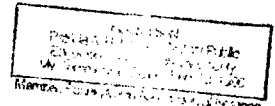
COUNTY OF Allegheny)

SS:

On this, the 1 day of Dec, 1995, before me, the undersigned officer, personally appeared Susanna D. Hegnes and John Hegnes, her husband, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Patricia D. Halverson
Notary Public



COMMONWEALTH OF PENNSYLVANIA)

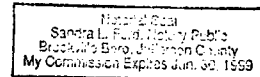
COUNTY OF JEFFERSON)

SS:

On this, the 7th day of February, 1995, before me, the undersigned officer, personally appeared George Walker, Vice President and Trust Officer of S & T Bank, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Andrea L. Ford
Notary Public



STATE OF TEXAS

COUNTY OF

Denton

SS:

On this, the 6th day of February, 1995, before me, the undersigned officer, personally appeared Ann Deemer Richards, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Lesa C. Hunt
Notary Public

I hereby CERTIFY that this document is recorded in the Recorder's Office of Clearfield County, Pennsylvania.

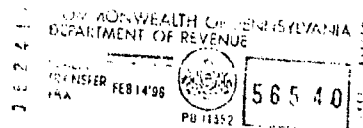
CLEARFIELD COUNTY
ENTERED OF RECORD
TIME 1:15 pm 2-14-96
BY Suzanne Kiser
FEES 26.00
Karen L. Starck, Recorder



Karen L. Starck
Karen L. Starck
Recorder of Deeds

DUBOIS AREA SCHOOL DISTRICT
1% REALTY TRANSFER TAX

AMOUNT \$ 565.40
PAID 2-14-96 KAREN L. STARCK
Date Agent



Entered of Record Feb 14 1996, 1:15 pm Karen L. Starck, Recorder

AGREEMENT

This Agreement made this 20th day of November, 1990 by and between Brian S. Sekula ("Sekula") of R.D. #1, Box 222, Rockton, PA 15856, party of the first part;

AND

Alexander D. Deemer II, individually and as Trustee of the Frank C. Deemer, Jr., Estate Trust U/W ("Deemer") of P.O. Box 422, 130 Pickering Street, Brookville, PA 15825, party of the second part.

WITNESSETH:

WHEREAS, Sekula owns a tract of land situate in Bell Township, Clearfield County consisting of 123.9 acres more or less, identified by Clearfield County Tax Assessment Map No. 102-B08-18 more fully described in a deed recorded in the office of the Recorder of Deeds of Clearfield County in Deed Book Volume 679, page 189 (hereinafter referred to as Sekula Parcel);

WHEREAS, Deemer owns a tract of land situate in Bell Township, Clearfield County, Pennsylvania consisting of 122 acres carrying Clearfield County Tax Assessment Map No. 102-B08-13 more fully described as tract #60 in a deed recorded in the office of the Recorder of Deeds of Clearfield County in Deed Book Volume 690, page 469 (hereinafter referred to as Deemer Parcel 1) and also Deemer owns a tract of land situate in Brady Township, Clearfield County, Pennsylvania consisting of 140 acres carrying Clearfield County Tax Assessment Map No. 107-B07-22 more fully described as tract #61 in a deed recorded in the office of the

EXHIBIT

D

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Recorder of Deeds of Clearfield County in Deed Book Volume 690, page 469 (hereinafter referred to as Deemer Parcel 2).

WHEREAS, Sekula Parcel is bordered on the North by Deemer Parcel 2 and on the Southeast by Deemer Parcel 1 as is generally shown on a map annexed hereto as Exhibit "A";

WHEREAS, a former public road known as the Buck Run Road existed on and across all three parcels;

WHEREAS, of record in Clearfield County is a Petition filed on July 28, 1931 by the Townships of Bell and Brady and Clearfield County Road Docket Volume 6, page 289 to vacate roads in Bell and Brady Township described as "Buck Run Road" consisting of "approximately 2 7/10 miles in length 1 3/10 mile of the same lying in Bell Township and 1 4/10 mile lying in Brady Township...";

WHEREAS, the record indicates that the Board of Viewers appointed by the Court in response to the Petition did not "recommend an absolute vacation of this road but do recommend that the Court make appropriate order or decree making the said road a private road for the use of the abutting land owners, as may be done in such case by Act of Assembly now in force...";

WHEREAS, it appears that the Court accepted and adopted the Board of Viewers recommendation. However, there is no Order or Decree of record explicitly stating such;

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WHEREAS, an existing road bed is evident upon the ground on and across the three parcels which Sekula and Deemer believe to be the former public road known as "Buck Run Road", which existing road bed (hereinafter the "road") is generally shown on Exhibit "A" annexed hereto;

WHEREAS, Sekula and Deemer believe that each and both of them, their respective heirs, executors, administrators, successors and assigns, have an easement and right-of-way in and to the full length of the road by virtue of the above described proceedings;

WHEREAS, notwithstanding this Sekula and Deemer wish to acknowledge, confirm, specify and/or expand upon their respective rights in and to the road consistent with their existing legal rights and privileges and/or to confirm and/or delineate their respective rights between themselves in light of any ambiguity or uncertainty as to the Court's prior action.

NOW THEREFORE, in consideration of the premises and of the mutual promises, covenants and undertakings hereinafter set forth, Sekula and Deemer, each intending to be legally bound hereby, covenant and agree as follows:

1. Sekula does hereby grant and convey unto Deemer, his successors and assigns an easement and right-of-way upon and across the Sekula Parcel described hereinbefore along the line of

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the existing road upon and across the Sekula Parcel as is more generally shown on Exhibit "A".

2. Deemer does hereby grant and convey unto Sekula, his successors and assigns an easement and right-of-way upon and across the Deemer Parcel 1 and Deemer Parcel 2 described hereinbefore along the line of the existing road upon and across the Deemer Parcel as is more generally shown on Exhibit "A".

3. The easements and rights-of-way hereby conveyed shall be 50 feet in width. It is acknowledged by and between Sekula and Deemer that the present road has not been actively maintained for some time. As such, the existing road is not suitable for general vehicular traffic. It is hereby agreed by and between Sekula and Deemer that either party may improve, reconstruct and/or repair the existing road across or upon any of the three parcels. The expense of such shall be solely borne by the party doing such improvement, reconstruction or repair. Once any such improvement, reconstruction or repair has been performed or completed, any damage done by a party, its agents, employees or invitees shall be promptly repaired at the sole cost of such party.

4. It is also agreed by and between Sekula and Deemer that Sekula shall construct a gate (shown on Exhibit "A" as "Sekula gate") across the existing road at the boundary between Deemer Parcel 1 and a tract of land on its Eastern boundary owned by

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Spencer Land Company identified by Clearfield County Tax Assessment Map No. 102-B08-15 more fully described in a deed recorded in the office of the Recorder of Deeds of Clearfield County in Deed Book Volume 676, page 121, which tract is also generally shown on Exhibit "A". Sekula shall be responsible to see that said gate is maintained in good condition and repair and locked at all times except during immediate use by either of the parties, their agents, employees or invitees such that access to the easement across all three parcels will be restricted to the parties hereto, their heirs, successors, assigns, agents, employees and invitees. Furthermore, Sekula is hereby authorized to erect and place in the area of the gate "no trespassing" and "do not block road" signs. Said gate shall remain the property of Sekula notwithstanding its location on Deemer Parcel 1.

5. It is also agreed by and between Sekula and Deemer that Sekula may construct, maintain and/or remove a gate (shown on Exhibit "A" as "North gate") across the existing road at the boundary between Deemer Parcel 2 and a tract of land on its northern boundary owned by G.G.M. Development Corp., which tract is also generally shown on Exhibit "A". Sekula may place "no trespassing" and "do not block road" signs at the gate.

6. In further consideration of the mutual promises, covenants and undertakings set forth herein, including by way of illustration but not limitation the grant by Sekula to Deemer of an easement and right of way upon and across the Sekula Parcel, Deemer hereby agrees that should access to T-336 from Deemer Par-

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cel 1 across lands on its eastern boundary be lost or obstructed Deemer hereby grants to Sekula an easement and right-of-way upon and across Deemer Parcel 1 from the easement granted otherwise herein along the eastern boundary of Deemer Parcel 1 to T-336 which alternate easement is generally shown on Exhibit "A". Said alternate easement shall be 50 feet in width and subject to all terms and conditions stated herein applicable to the easement and right-of-way otherwise granted.

7. This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties hereto.

8. Sekula and Deemer shall obtain written consent from the other before performing any improvement, construction, reconstruction and/or repair of the right-of-way requiring any use and/or disturbance of the three parcels outside of the right-of-way.

9. Either party shall have the right to cut and trim trees or shrubbery which may encroach on the easement area herein conveyed.

IN WITNESS WHEREOF, this Agreement is executed this 20th day of November, 1990.



Brian S. Sekula



Alexander D. Deemer II,
Individually



Alexander D. Deemer II,
as Trustee of the Frank C.
Deemer, Jr., Estate Trust U/W

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COMMONWEALTH OF PENNSYLVANIA

COUNTY OF JEFFERSON

:
: SS.
:

On this, the 21st day of November, 1990,
before me, the undersigned authority, personally appeared Brian
S. Sekula, known to me (or satisfactorily proven) to be the per-
son whose name is subscribed to the within instrument and acknow-
ledged that he executed the same for the purposes therein
contained.

IN WITNESS WHEREOF, I have hereunto subscribed my hand
and official seal.

Charles H. Alexander
Notary Public

My Commission Expires:

NOTARIAL SEAL
CHARLES H. ALEXANDER, NOTARY PUBLIC
BROOKVILLE BORO, JEFFERSON COUNTY
MY COMMISSION EXPIRES MARCH 16, 1991
Member, Pennsylvania Association of Notaries

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COMMONWEALTH OF PENNSYLVANIA

COUNTY OF JEFFERSON

: SS.
:

On this, the 20th day of November, 1990,
before me, the undersigned authority, personally appeared
Alexander D. Deemer II, Individually and as Trustee of the Frank
C. Deemer, Jr., Estate Trust U/W, known to me (or satisfactorily
proven) to be the persons whose names are subscribed to the
within instrument and acknowledged that they executed the same
for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto subscribed my hand
and official seal.

Charles H. Alexander
Notary Public

My Commission Expires:

NOTARIAL SEAL
CHARLES H. ALEXANDER, NOTARY PUBLIC
BROOKVILLE BORO, JEFFERSON COUNTY
MY COMMISSION EXPIRES MARCH 18, 1991
Member, Pennsylvania Association of Notaries

STATE OF PENNSYLVANIA:

COUNTY OF CLEARFIELD: 83

Presented to the Recorder's Office in and for said

County of Clearfield, Book No. 1325Page 528

Subscribed and sworn to before me on this

30 day of Nov A.D. 1990

Michael R. Little Recorder

My Commission Expires
First Monday in January, 1992

CLEARFIELD COUNTY
ENTERED OF RECORDTIME 1:35 pm 11-30-90BY Ron HennesFees 23.00

Michael H. Recorder

VOL 1375 PAGE 536

CLEARFIELD COUNTY

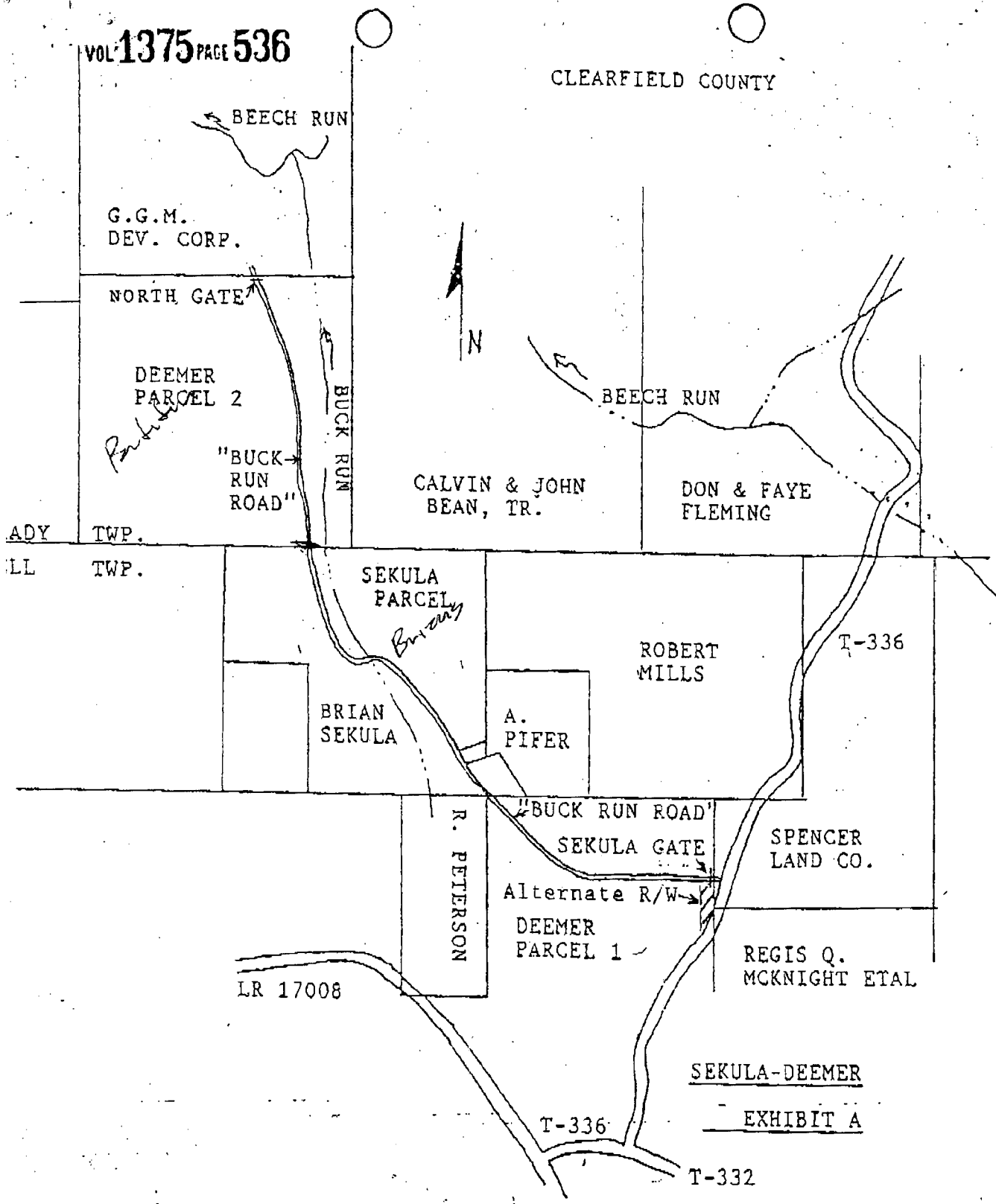


Exhibit "A"

Entered of Record 11/30/39, 1337 Michael R. Lytle, Recorder

Bill# 11329 Mail Date: 3/1/2005 County of Clearfield, Pennsylvania / BRADY TOWNSHIP Control # 1070 17987

50% INT. IN 140 A SURF.

Map #

807-000-00022

ELIZABETH A. WINGERT, TAX COLLECTOR

2716 SCHUCKERS ORCHARD RD P O BOX 111

LUTHERSBURG PA 15848

2005 HOURS - AT HOME - PHONE 814-583-7221

2 PM TO 5 PM WED & FRI & LAST 2 SATURDAYS

IN DISCOUNT PERIOD ONLY

ALL OTHER TIMES BY APPOINTMENT

SEKULA, BRIAN S.

949 SUNSET LAKE RD

ROCKTON PA 15856

Real Estate Tax
For 2005

Assessed Value	Tax Desc	Tax Rate	Count	Face	Penalty
Land	County	17.00	18.94	19.33	21.26
1,137	TOWNSHIP	6.00	6.69	6.82	7.50
Bldg.		0.00			
0		0.00			
Total					
1,137					

Payment Schedule

Received By	4/30/2005	@	2.00 % Discount Pay -->	25.63
Beginning	7/6/2005	@	10.00 % Penalty Pay -->	28.76
Unpaid Taxes Returned To Tax Claim On	1/15/2006		At 8:30 AM	

Tax Collectors

Copy

Entire Statement Must Be Presented With Payment. Self Addressed Stamped Envelope Must Be Enclosed When A Return Receipt Is Requested.

Bill# 1329 Mail Date: 3/1/2005 County of Clearfield, Pennsylvania / BRADY TOWNSHIP Control # 1070 17987

50% INT. IN 140 A SURF.

Map #

807-000-00022

ELIZABETH A. WINGERT, TAX COLLECTOR

2716 SCHUCKERS ORCHARD RD P O BOX 111

LUTHERSBURG PA 15848

2005 HOURS - AT HOME - PHONE 814-583-7221

2 PM TO 5 PM WED & FRI & LAST 2 SATURDAYS

IN DISCOUNT PERIOD ONLY

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SEKULA, BRIAN S.

949 SUNSET LAKE RD

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Unpaid Taxes Returned To Tax Claim On	1/15/2006		At 8:30 AM	

Tax Payers

Receipt

Signature of Tax Collector

Date Paid

Entire Statement Must Be Presented With Payment. Self Addressed Stamped Envelope Must Be Enclosed When A Return Receipt Is Requested.

BRIAN S. SEKULA
ANNE C. SEKULA
VALERIE E. SEKULA
949 SUNSET LAKE ROAD
ROCKTON, PA 15856-2029

8-12 331
430
0003006352
DATE APRIL 10, 2005

8311

PAY TO THE
ORDER OF

ELIZABETH A. WINGERT, TAX COLLECTOR \$25.63

TWENTY - FIVE AND 63/100

DOLLARS

National City.

National City Bank of Pennsylvania
Pittsburgh, Pennsylvania

Twp # 140A-2005

MEMO

T. Brian Sekula

10430001220 0003006352 8311

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

BRIAN S. SEKULA,
Plaintiff

vs

THOMAS M. SEKULA,
Defendant

No. 00-238-CD

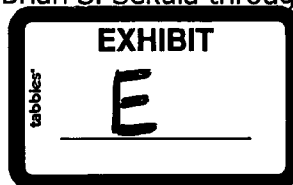
ORDER

AND NOW, this _____ day of _____, upon consideration of the Report of Michael P. Yeager, Esquire, Master appointed in the above-captioned action by Order dated July 3, 2003 and upon consideration of the Report of said Master it is hereby ORDERED, ADJUDGED and DECREED, that:

1. The matter as to partition of the real estate described in that certain Deed dated August 25, 1995 from Charles H. Alexander, et al. to Brian S. Sekula and Thomas M. Sekula and recorded in Clearfield County Deeds & Records Vol. 1736, page 128, is hereby resolved by virtue of the private sale conducted between the parties hereto; and that the suggested Deed to Thomas M. Sekula described in Exhibit B-1 of the Master's Report is hereby confirmed.

2. The Master is hereby authorized to execute and deliver to the said Thomas M. Sekula, the suggested Deed with current reference to the Agreement of November 20, 1990 together with any other instruments of title; and to conclude the transaction.

3. Net proceeds from the sale as described in the Settlement Statement in Exhibit B-2 are to be distributed to Brian S. Sekula through his attorney.



4. Remaining unresolved issues include the following:

(a) The Breach of Contract action contained in Count II of the Amended Complaint of Brian S. Sekula relative to extension of the November 3, 1997 Timbering Agreement (also noted by Thomas M. Sekula in his New Matter).

(b) The "Constructive Trust" alleged by Thomas M. Sekula to the effect that Brian S. Sekula purchased a contiguous parcel of land known as the "Spencer" tract for both parties as opposed to just the said Brian S. Sekula who currently retains sole title to that tract as identified in the Counterclaim of Thomas M. Sekula.

(c) Breach of Contract relative to cancellation of a coal mining Lease filed by Thomas M. Sekula and also described in the New Matter, Count II filed by the said Thomas M. Sekula.

It is further ORDERED, ADJUDGED and DECREED that the remaining unresolved issues are to be resolved by hearing or hearings and an ultimate Order of Court, or settlement. This Court acknowledges that discovery continues relative to those unresolved issues and the Court will await further Motions or scheduling requests by either party hereto relative to resolution of those unresolved issues.

Finally, it is ORDERED, ADJUDGED and DECREED that the Master be compensated in accordance with his Statement of Fees and Costs attached hereto, made part hereof and incorporated herein with each party to pay an equal 1/2 of said Statement of Fees & Costs.

BY THE COURT:

P.J.

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

BRIAN S. SEKULA,
Plaintiff

vs

THOMAS M. SEKULA,
Defendant

No. 00-238-CD

MASTER'S STATEMENT OF FEES AND COSTS

Statement dated June 30, 2004 (copy attached)	\$1,700.68
Paid by Tom Sekula on 8/2/04	- 850.34
Paid by Brian Sekula on 8/3/04	- 850.34
Statement dated November 1, 2004 (copy attached)	483.12
Paid by Tom Sekula on 11/17/04	- 241.56
Paid by Brian Sekula on 12/17/04	- 241.56
Statement dated March 1, 2005 (copy attached)	\$ 325.00
Paid by Brian Sekula on 3/22/05	-162.50
Paid by Thomas Sekula on 4/11/05	-162.50

For Professional Services Rendered 3/16/05 to Date:

3/16/05	Receive & review correspondence, correspondence to Dave Mason & Terry Pope;
3/22/05	Review file, conduct Partition Sale, draft Deed, Settlement Statement & Master's Report & Order;
3/23/05	Calls re: wire transfer, correspondence re: wire, etc.;
3/24/05	Review re: Master's Report & Order, correspondence;
3/30/05	Call Dave Mason, draft deed changes;
3/31/05	Calls to Tom Sekula & Dave Mason re: closing & Master's Report;
4/14/05	Receive & review materials, calls re: Tom Sekula, deposits & status, review re: Report, etc.;
4/15/05	Review documents, research re: right of way applicability
4/18/05	Continued research;
4/19/05	Redraft Master's Report, Opinion & Deed;
4/20/05	Continued review, draft of documents/Exhibits, correspondence, research re: timing;

4/21/05	Review drafts & correspondence, prepare for filing & service, call & draft Rule; Total time 14.5 hours @ \$125/hr.	\$ 1,812.50
	Reserve for Rule to Show Cause Hearing, closing, recording & correspondence; 2 hours @ \$125/hr.	250.00
	150 photocopies @ .20 each	30.00
	Long distance telephone calls	2.01
	Postage	<u>9.57</u>
	TOTAL AMOUNT DUE	\$ 2,104.08

Law Office
MICHAEL P. YEAGER
P. O. Box 752
110 NORTH SECOND STREET
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-9811
FAX (814) 765-9503

FILE

June 30, 2004

David C. Mason, Esquire
P.O. Box 28
Philipsburg, PA 16866

Henry R. Pope, III, Esquire
POPE & DRAYER
10 Grant Street
Clarion, PA 16214

**Re: Sekula Partition
No. 00-238-CD
My File No. Y-2292**

STATEMENT

FOR PROFESSIONAL SERVICES RENDERED:

8/28/03	Correspondence re: meeting dates;
9/23/03	Review Pleadings re: issues for meeting;
9/26/03	Conference with Ben Blakley & Dave Mason, calls to Richard Provost, Gary Thorpe & Robert Fleck, review title notes & maps;
9/25/03	Continued calls re: appraisal, etc., review maps;
10/1/03	Courthouse review re: maps, deeds & assessment cards;
10/8/03	Calls Richard Provost & Robert Fleck, correspondence re: estimated fees (appraisal, survey & Master);
1/21/04	Correspondence to attorneys re: status;
3/30/04	Conference to all parties & attorneys;
4/27/04	Calls Dave Mason, Ben Blakley & Brian Sekula, review file & notes, correspondence to Ben Blakley, Dave Mason & Brian Sekula re: status;
5/4/04	Calls Terry Pope re: status;

6/25/04	Review re: status, fees & estimates, prepare for view;	
6/28/04	Travel to Brady Township & conference with attorneys & Sekula brothers;	
6/29/04	Correspondence to Dave Mason & Terry Pope re: status;	
	Total time 13.4 hours @ \$125/hr.	\$ 1,675.00
	59.2 miles @ .30/mile	17.76
	Long distance telephone calls	1.91
	Postage	<u>6.01</u>
	TOTAL AMOUNT DUE	\$ 1,700.68

pd 8/2/04 D Mason	THOMAS SEKULA SHARE	\$ 850.34
pd 8/3/04 B Sekula	BRIAN SEKULA SHARE	\$ 850.34

Law Office
MICHAEL P. YEAGER
P. O. Box 752
110 NORTH SECOND STREET
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-9611
FAX (814) 765-9503

November 1, 2004

David C. Mason, Esquire
P.O. Box 28
Phillipsburg, PA 16866

Henry R. Pope, III, Esquire
POPE & DRAYER
10 Grant Street
Clarion, PA 16214

Re: Sekula Partition Action

STATEMENT

FOR PROFESSIONAL SERVICES RENDERED:

8/9/04 Correspondence to attorneys;
9/27/04 Review, draft Sale/Purchase/Bid process, courthouse
review re: Deed information, correspondence re: process,
research re: Rules;
Total time 3.8 hours @ \$125/hr. \$ 475.00

Photo processing charges – Wal-Mart 8.12

TOTAL AMOUNT DUE \$ 483.12

Thomas Sekula Share
Brian Sekula Share

\$241.56

241.56

pd 11/17/04 by David Mason
pd 12/17/04 by Brian Sekula

Law Office
MICHAEL P. YEAGER
P. O. Box 752
110 NORTH SECOND STREET
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-9611
FAX (814) 765-9503

March 1, 2005

David C. Mason, Esquire
P.O. Box 28
Phillipsburg, PA 16866

Henry R. Pope, III, Esquire
POPE & DRAYER
10 Grant Street
Clarion, PA 16214

Re: ~~Sekula~~ Partition
No. 00-238-CD
My File No. Y-2292

STATEMENT

FOR PROFESSIONAL SERVICES RENDERED:

11/2/04	Correspondence re: status & inquiries;
11/16/04	Correspondence with H. Pope re: Mason correspondence
1/12/05	Call Dave Mason re: discovery;
1/14/05	Receive & review Interrogatories, correspondence;
2/10/05	Call Terry Pope, review schedule & correspondence re: sale schedule;
2/25/05	Correspondence re: scheduling;
Total time 2.6 hours @ \$125/hr.	

\$ 325.00

THOMAS SEKULA SHARE

\$ 162.50 pd 4/11/05

BRIAN SEKULA SHARE

\$ 162.50 pd 3/22/05

March 22, 2005

Notice of Serving Answer to Interrogatories and
Request for Production of Documents directed
To Plaintiff (First Set)

(Original not in file)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

CIVIL ACTION - LAW

BRIAN S. SEKULA

Plaintiff

No. 00-238-CD

vs.

THOMAS M. SEKULA,

Defendant

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NOTICE OF SERVICE OF INTERROGATORIES

Notice is hereby given that on the 13TH day of JANUARY 2005, the Defendant, THOMAS M. SEKULA, by and through his attorney, David C. Mason, served Interrogatories and Request for Production of Documents Directed to Plaintiff (First Set) on the Plaintiff, Brian S. Sekula, by mailing the original and two copies of the same via First Class United States Mail, postage prepaid, to the following address:

Henry Ray Pope, III., Esquire
Pope & Drayer
Ten Grant Street
Clarion, PA 16214

MASON LAW OFFICE

BY:

David C. Mason, Esquire
Attorney for Defendant

FILED

OK M 16:47 6A NOCL

JAN 14 2005

William A. Shaw
Prothonotary

#32

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

CIVIL ACTION - LAW

BRIAN S. SEKULA

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

No. 00-238-CD

TYPE OF PLEADING:
Certificate of Service

FILED ON BEHALF OF:
Defendant

COUNSEL OF RECORD FOR
THIS PARTY:

David C. Mason, Esquire
I.D. No. 39180
MASON LAW OFFICE
P.O. Box 28
Philipsburg, PA 16866
(814) 342 2240

COUNSEL OF RECORD FOR
PLAINTIFF:

Henry Ray Pope, III., Esquire
Supreme Court #01530
POPE & DRAYER
Ten Grant Street
Clarion, PA 16214
(814) 226-5700

FILED

m/10/27/04
JUL 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

#31

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

CIVIL ACTION - LAW

BRIAN S. SEKULA

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

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No. 00-238-CD

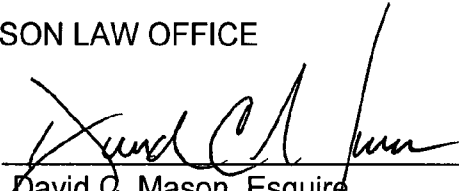
**NOTICE OF SERVICE OF DEFENDANT'S ANSWERS
TO PLAINTIFF'S INTERROGATORIES & REQUEST FOR
PRODUCTION OF DOCUMENTS**

Notice is hereby given that on the 28th day of July, 2004, the Defendant, THOMAS M. SEKULA, by and through his attorney, David C. MASON, served Answers to Plaintiff's Interrogatories and Request for Production of Documents upon the Plaintiff, Brian S. Sekula, by mailing the original and two copies of the same via First Class United States Mail, postage prepaid, to the following address:

Henry Ray Pope, III., Esquire
POPE & DRAYER
Ten Grant Street
Clarion, PA 16214

MASON LAW OFFICE

BY:


David C. Mason, Esquire
Attorney for Defendant

FILED

JUL 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

BRIAN S. SEKULA,
Plaintiff

v.

THOMAS M. SEKULA,
Defendant

No. 00-238-CD

PRAECIPE FOR SUBSTITUTION OF COUNSEL

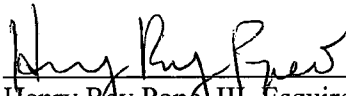
TO THE PROTHONOTARY:

AND NOW comes Benjamin S. Blakley, III, Esquire, 90 Beaver Drive, Box 6, DuBois, Pennsylvania, who withdraws as counsel for the Plaintiff, Brian S. Sekula, and Henry Ray Pope, III, of the law firm of Pope and Drayer, 10 Grant Street, Clarion, Pennsylvania 16214, who is entering his appearance as counsel for the Plaintiff, Brian S. Sekula.

APPEARANCE WITHDRAWN:


Benjamin S. Blakley, III, Esquire

APPEARANCE ENTERED:


Henry Ray Pope, III, Esquire
Pope and Drayer
10 Grant Street
Clarion, PA 16214
(814) 226-5700

Date: 5- 5-, 2004

FILED

MAY 24 2004

William A. Shaw
Prothonotary/Clerk of Courts

#30

FILED

16 cc

MAY 11 2004

Copy to C/A

William A. Shaw

Prothonotary/Clerk of Courts

68

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

BRIAN S. SEKULA,
Plaintiff

vs.

THOMAS M. SEKULA,
Defendant

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NO. 2000-238-C.D.

FILED

FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

ORDER

NOW, this 5th day of February, 2004, the Court noting that a Status Conference is scheduled for Friday, February 6, 2004; due to the forecasted inclement weather conditions which are to arrive in Clearfield County and surrounding areas sometime tonight, it is the ORDER of this Court that said Status Conference be and is hereby cancelled. Counsel for the parties shall have no more than twenty (20) days from the date of this Order to present the Court with a letter detailing the status of the above captioned action.

By the Court,



FREDRIC J. AMMERMAN
PRESIDENT JUDGE

#29

FILED

0111:00-101
FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

- 2 certified copies to Benjamin S. Blakley, III, Esquire
- 2 certified copies to David C. Mason, Esquire
- 1 copy to Judge Ammerman
- 1 copy to Court Administrator

CA

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

BRIAN SEKULA

vs.

THOMAS M. SEKULA

:
:
: No. 00-238-CD
:
:

ORDER


AND NOW, this 21st day of January, 2004, it is the ORDER of the Court that a status conference in the above matter has been scheduled for **Friday, February 6, 2004 at 9:30 A.M.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

FILED

JAN 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

28

FILED

01/10/22
JAN 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

1cc Alys

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K24

Mason Bakley, Peages

GA

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

BRIAN S. SEKULA,
Plaintiff

DOCKET NO. 00-238-CD

-vs-

THOMAS M. SEKULA,
Defendant

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*
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*
*

ORDER

AND NOW, this 3rd day of July, 2003, IT IS THE ORDER of this Court that JOHN A. AYRES, JR., ESQUIRE, shall be and is hereby removed as Master in the above-captioned matter, and that Michael P. Lezger, Esq. shall be and is hereby appointed Master to take testimony on those issues raised in the pleadings and make a recommendation and report to the Court.

BY THE COURT

Judge

FILED

JUL 03 2003

William A. Shaw
Prothonotary

27

FILED

01/12:35 PM
JUL 03 2003

William A. Shaw
Prothonotary

SEP 8 2003

1 cc Atty Blakley
1 cc Atty Mason
1 cc Atty Ayres
1 cc Atty Yeager

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

BRIAN S. SEKULA

:

-vs-

:

No. 00 - 238 - CD

THOMAS M. SEKULA

:

ORDER

NOW, this 25th day of June, 2003, this being the day and date set for status conference in the above-captioned matter, upon agreement of the parties, it is the ORDER of this Court that John A. Gyes, Jr., Esquire, shall be and is hereby appointed Master to take testimony on those issues raised in the pleadings and make a recommendation and report to the Court.

By the Court,

President Judge

FILED

JUN 26 2003

William A. Shaw
Prothonotary

26

FILED

010:17 86H
JUN 26 2003

William A. Shaw
Prothonetary

1 cc Atty Barker
1 cc Atty Mason
1 cc Atty Ayres
[Signature]

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

BRIAN S. SEKULA,

Plaintiff,

vs.

THOMAS M. SEKULA,

Defendant.

CERTIFICATE OF SERVICE

No. 00-238-C.D.

FILED^{NO CC}
JUN 09 2003
1:10 PM
E
[Signature]

William A. Shaw
Prothonotary

LAW OFFICES

BLAKLEY & JONES

90 BEAVER DRIVE - BOX 6
DUBOIS, PA 15801

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

: NO. 00 - 238 - C.D.

: TYPE OF CASE: CIVIL

: TYPE OF PLEADING:
: CERTIFICATE OF SERVICE

: FILED ON BEHALF OF:
: PLAINTIFF

: COUNSEL OF RECORD FOR
: THIS PARTY:
: BENJAMIN S. BLAKLEY, III

: SUPREME COURT NO.: 26331

: BLAKLEY & JONES
: 90 BEAVER DRIVE, BOX 6
: DU BOIS, PA 15801
: (814) 371 - 2730

FILED

JUN 09 2003

William A. Shaw
Prothonotary

#25

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

NO. 00 - 238-C.D.

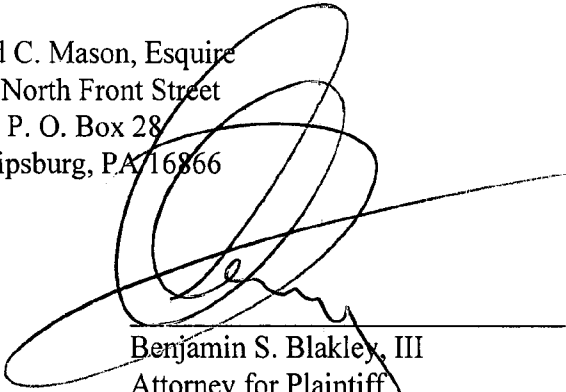
THOMAS M. SEKULA,

DEFENDANT

CERTIFICATE OF SERVICE

I, BENJAMIN S. BLAKLEY, III, Attorney for Plaintiff in the above captioned matter, hereby certify that I served a certified copy of the Praecipe for Request for Status Conference and Order upon attorney for Defendant, by regular, first-class United States Mail, postage prepaid, on the 5th day of June, 2003, addressed as follows:

David C. Mason, Esquire
409 North Front Street
P. O. Box 28
Philipsburg, PA 16866



Benjamin S. Blakley, III
Attorney for Plaintiff
90 Beaver Drive, Box 6
DuBois, PA 15801
(814) 371-2730

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

BRIAN S. SEKULA,

Plaintiff,

vs.

THOMAS M. SEKULA,

Defendant.

PRAECIPE FOR REQUEST FOR STATUS
CONFERENCE

No. 00-238-C.D.

FILED

MAY 13 2003

William A. Shaw
Prothonotary

LAW OFFICES

BLAKLEY & JONES

90 BEAVER DRIVE - BOX 6

DUBOIS, PA 15801

2cc

Atty Blakie

WAS

td

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238 - C.D.

TYPE OF CASE: CIVIL

TYPE OF PLEADING:
PRAECIPE FOR REQUEST FOR STATUS
CONFERENCE

FILED ON BEHALF OF:
PLAINTIFF

COUNSEL OF RECORD FOR
THIS PARTY:
BENJAMIN S. BLAKLEY, III

SUPREME COURT NO.: 26331

BLAKLEY & JONES
90 BEAVER DRIVE, BOX 6
DU BOIS, PA 15801
(814) 371 - 2730

FILED

MAY 28 2003

William A. Shaw
Prothonotary

224

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

NO. 00 - 238-C.D.

THOMAS M. SEKULA,

DEFENDANT

PRAECIPE FOR REQUEST FOR STATUS CONFERENCE

TO: JOHN K. REILLY, JR., PRESIDENT JUDGE

Please schedule a status conference in the above matter at the Court's earliest convenience.

Respectfully submitted,

BLAKLEY & JONES

By:

Benjamin S. Blakley, III
Attorney for Plaintiff

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

NO. 00 - 238-C.D.

THOMAS M. SEKULA,

DEFENDANT

ORDER

AND NOW, this 30th day of May, 2003, upon application of the Plaintiff, **BRIAN S. SEKULA**, it is the Order of this Court that the matter shall be set for Status Conference on the 20 day of June, 2003, at 9:00 o'clock A.M., Courtroom #2, Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

FILED

JUN 02 2003

William A. Shaw
Prothonotary

FILED

2018:52:261
JUN 02 2003

William A. Shaw
Prothonotary

2cc
Amy Blackley
EJP

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW
NO. 00 - 238 - C.D.

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

CERTIFICATE OF SERVICE

FILED

NO
cc

01/21/2013
JAN 15 2013

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825

William A. Shaw
Prothonotary

LAW OFFICES
BLAKLEY & JONES,
90 BEAVER DRIVE - BOX 6
DUBOIS, PA 15801

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

BRIAN S. SEKULA,	:	NO. 00 - 238 - C.D.
	:	
PLAINTIFF	:	TYPE OF CASE: CIVIL
	:	
VS.	:	TYPE OF PLEADING:
	:	CERTIFICATE OF SERVICE
	:	
THOMAS M. SEKULA,	:	FILED ON BEHALF OF:
	:	PLAINTIFF
	:	
DEFENDANT	:	COUNSEL OF RECORD FOR
	:	THIS PARTY:
	:	BENJAMIN S. BLAKLEY, III
	:	
	:	SUPREME COURT NO.: 26331
	:	
	:	BLAKLEY & JONES
	:	90 BEAVER DRIVE, BOX 6
	:	DU BOIS, PA 15801
	:	(814) 371 - 2730

FILED

JAN 15 2003

William A. Shaw
Prothonotary

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

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NO. 00 - 238 - C.D.

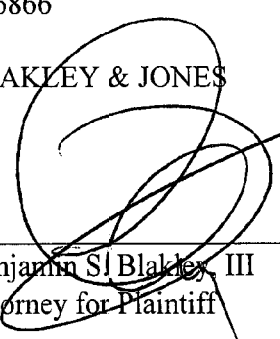
CERTIFICATE OF SERVICE

I hereby certify that a certified copy of Motion for Order Directing Petition filed in the above-captioned matter, was served on counsel for Defendant on the 14th day of January, 2003, by first class United States mail, postage prepaid, addressed as follows:

David C. Mason, Esquire
409 North Front Street
P.O. Box 28
Philipsburg, PA 16866

BLAKLEY & JONES

By



Benjamin S. Blakley, III
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

CIVIL ACTION - LAW

BRIAN S. SEKULA

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

No. 00-238-CD

TYPE OF PLEADING:
Certificate of Service

FILED ON BEHALF OF:
Defendant

COUNSEL OF RECORD FOR
THIS PARTY:

David C. Mason, Esquire
I.D. No. 39180
MASON LAW OFFICE
P.O. Box 28
Philipsburg, PA 16866
(814) 342 2240

COUNSEL OF RECORD FOR
PLAINTIFF:

BENJAMIN BLAKLEY, Esquire
90 Beaver Drive
DuBois, PA 15801
(814) 371-2730

FILED

JAN 14 2003

William A. Shaw
Prothonotary

#22

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

CIVIL ACTION - LAW

BRIAN S. SEKULA

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

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No. 00-238-CD

CERTIFICATE OF SERVICE

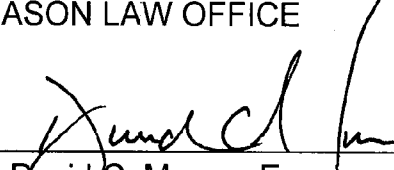
I, DAVID C. MASON, Esquire, do hereby certify that I served a true and correct copy of **PLAINTIFFS' PRE-TRIAL MEMORANDUM** filed to the above captioned action, by placing the same in the United States mail, postage prepaid and addressed as follows:

Benjamin Blakley, Esquire
Attorney at Law
90 Beaver Drive
DuBois, PA 15801

MASON LAW OFFICE

DATED: 1-14-03

BY:


David C. Mason, Esquire

FILED

JAN 13 3 38 PM
JAN 14 2003

no
cc
~~cc~~

William A. Shaw
Prothonotary

January 8, 2003

Rule to Show Cause, Re: Motion for Entry of an Order
directing Partition

(Original not in file)

January 6, 2003

Certificate of Service of Defendant's First Set of Interrogatories

(Original not in file)

January 6, 2003

Motion for Order directing Partition

(Original not in file)

November 7, 2002

Certificate of Readiness

(Original not in file)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL ACTION - LAW

BRIAN S. SEKULA,

Plaintiff

v

THOMAS M. SEKULA,

Defendant

* No. 00-238-CD

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*TYPE OF CASE: Civil Action

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*TYPE OF PLEADING: Reply to Plaintiff's
(Counter-Defendant) New Matter

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*FILED ON BEHALF OF:

*

Defendant

*

*

*COUNSEL OF RECORD FOR THIS

*PARTY:

*

*

David C. Mason, Esquire
MASON LAW OFFICE
Supreme Court No. 39180
Attorney at Law
P. O. Box 28
Philipsburg, PA 16866
(814) 342-2240

*

*COUNSEL OF RECORD FOR PLAINTIFF:

*

Benjamin S. Blakley, III., Esquire
BLAKLEY, JONES & MOHNEY
90 Beaver Drive, Box 6
DuBois, PA 15801
(814) 371-2730

*

FILED

OCT 15 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL ACTION - LAW

BRIAN S. SEKULA,

Plaintiff

v

THOMAS M. SEKULA,

Defendant

* No. 00-238-CD

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REPLY TO PLAINTIFF'S (COUNTER-DEFENDANT)
NEW MATTER

AND NOW comes the Defendant, Thomas M. Sekula, by and through his attorney and files the following Reply to Plaintiff's (Counter-Defendant) New Matter.

25. No response is necessary.

26. ADMITTED. It is admitted that the Plaintiff and Defendant purchased the subject land by virtue of a Deed recorded in Deed Book Volume 1736 at Page 128.

27. ADMITTED IN PART and DENIED IN PART. It is admitted that the Deed referenced in paragraph 26 of Plaintiff's New Matter is attached as Exhibit "A". Being a writing, the document speaks for itself. The Grantors in the aforesaid Deed surrendered a right-of-way or easement with the sale of the dominant tract.

28. DENIED. Plaintiff's averment that it was unnecessary for the parties to acquire any further lands to provide them access to a public road is denied and strict proof thereof is demanded at the time of trial. By way of further answer, it is averred that the right-of-way referenced in paragraph 27 was lengthy, inconvenient and treacherous.

29. ADMITTED IN PART and DENIED IN PART. It is admitted that the parties entered into an Agreement with Darrin Shugarts Lumber Company for the removal of the

timber upon the subject tract. The balance of the averments contained in paragraph 29 are denied in that the timbering contract, as a writing, speaks for itself.

30. DENIED. The timbering contract, as a writing, speaks for itself.

31. DENIED. The averments contained in paragraph 31 of Plaintiff's New Matter are denied. By way of further Answer, Defendant represents that although Plaintiff requested Defendant to work on a craft agreement for the extension of the timbering, Plaintiff gave Defendant no instruction, guidance, details or other criteria on which to formulate that extension, except for an enlargement of the time to complete the work.

By way of further answer, Defendant did prepare an extension of the timbering agreement which was acceptable to Darrin Shugarts Lumber Company (DSLCL).

32. ADMITTED. Defendant then prepared an extension of the timbering agreement acceptable to Darrin Shugarts Lumber Company (DSLCL).

33. DENIED. It is strictly denied that Defendant failed to draft an extension agreement, or that Defendant was responsible for the expiration of the timbering agreement. To the contrary, Plaintiff Brian S. Sekula, pursuant to a letter dated February 28, 1998, terminated the timber contract. A copy of said letter is attached hereto as Exhibit "B". Paragraph 11 of the timber agreement identifies Brian S. Sekula as the parties' representative.

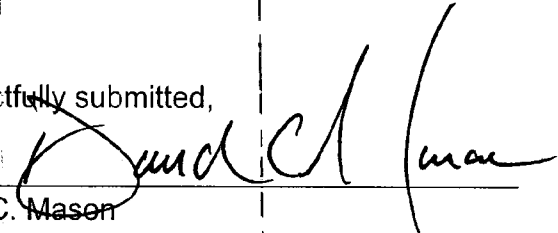
34. ADMITTED.

35. ADMITTED IN PART and DENIED IN PART. It is admitted that Sky Haven Coal Company wrote the letter identified as Exhibit "D". It is specifically denied that the exhaustion of all merchantable and mineable coal was the sole reason for the termination of the lease. By way of further answer, Defendant incorporates herein by reference paragraphs 18 through 24 of his Counter-Claim.

36. DENIED. It is specifically denied that the Plaintiff Brian S. Sekula was not responsible for the early termination of timber and coal agreements and the cessation of those activities on the subject property by the contractors. By way of further answer, Defendant incorporates herein paragraphs 18 through 24 of his Counter-Claim.

WHEREFORE, Defendant prays your Honorable Court for the entry of a judgment in favor of the Defendant and against the Plaintiff.

Respectfully submitted,



David C. Mason
Attorney for Defendant
Supreme Court No. 39180

D E E D

THIS DEED, made the 25th day of August, 1995, between CHARLES H. ALEXANDER and JAY T. SWETT as Executors for the ESTATE OF ALEXANDER D. DEEMER II, deceased, ELIZABETH D. SWETT and JAY T. SWETT, her husband, of Grassmere Farm, Box 246, Ivy, Virginia, 22945, ALEXANDRA D. HANKS and DOUGLAS HANKS, JR., her husband, of P.O. Box 408, Oxford, Maryland, 21654, SUSANNA D. HEGNES and JOHN HEGNES, her husband, of 118 West Hutchison Street, Pittsburgh, Pennsylvania, 15218, S & T BANK of Brookville, Pennsylvania, as Executor and Trustee under the Last Will and Testament of BARBARA GOW DEEMER, deceased, and ANN DEEMER RICHARDS, unmarried, of 14327 Cole Road, Pilot Point, Texas, 76258, GRANTORS,

A
N
D

BRIAN S. SEKULA of RD 1, Box 222, Rockton, Pennsylvania, 15856, and THOMAS M. SEKULA of 8250 Newburg Road, Newburg, Pennsylvania, 17240, as joint tenants with right of survivorship, GRANTEES,

WITNESSETH, that in consideration of Fifty-Six Thousand Five Hundred Forty and 00/100ths (\$56,540.00) Dollars in hand paid, the receipt whereof is hereby acknowledged, the said grantors do hereby grant and convey to the said grantees,

ALL that certain tract of land situate in BRADY TOWNSHIP, Clearfield County, Pennsylvania, bounded and described as follows:

BOUNDED on the North by C.G.M. Development Corporation; bounded on the East by Calvin Bean and John Bean and the Ideal Foundation; bounded on the South by Brian Sekula and Jaye C. McKee; and bounded on the West by Spencer Land Company and by W. D. Weber et al. and by John O. Grape and Emily M. Grape.

CONTAINING 140 acres, more or less.

EXCEPTING AND RESERVING the oil, gas and minerals but only to the same extent as previously excepted and reserved by Grantors' predecessors in title.

BEING the same premises conveyed to F. C. Deemer from A. B. Shaw, trustee in partition in the estates of H. W. Weber and George H. Weber, deceased, by Deed dated December 5, 1940 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Deed Book Volume 334, page 441.

ALSO BEING the same premises awarded to Alexander D. Deemer II and to Frank C. Deemer, Jr. as tenants in common by certificate of award or allotment of real estate dated December 28, 1964 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Deed Book Volume 512, page 379. Said tract is listed therein as Parcel No. 221.

EXHIBIT

"A"

The said Frank C. Deemer, Jr. died testate on October 12, 1973 and by his Last Will and Testament recorded in Jefferson County Will Book Volume 21, page 59, he devised all property held by him as tenants in common with his brother, Alexander D. Deemer II, into a trust naming Alexander D. Deemer II as trustee. Pursuant thereto, Barbara Gow Deemer as executrix of the Frank C. Deemer, Jr. estate conveyed the subject premises to Alexander D. Deemer II, trustee under the testamentary trust established by the Will of the late Frank C. Deemer, Jr. by deed dated September 1, 1974 and recorded in the Office of the Recorder of Deeds for Clearfield County, Pennsylvania in Deed Book Volume 690, page 469. The subject premises is listed therein as Parcel No. 61.

Anne Deemer Sutton, one of the beneficiaries of the aforesaid Deemer Trust, conveyed all of her undivided interest in the trust to Barbara Gow Deemer by virtue of an Assignment dated May 31, 1975, and recorded in the Office of the Recorder of Deeds for Clearfield County, Pennsylvania in Record Book 1672, page 376.

By Deed dated July 11, 1988, Lindsay Deemer, by marriage Lindsay Deemer Skinner, one of the beneficiaries of the Deemer Trust, conveyed all of her undivided interest in the above described trust unto Ann Deemer Richards and Gretchen Skinner Mineweaser which is recorded in the office of the Recorder of Deeds for Clearfield County, Pennsylvania in Record Book 1238, page 60.

By Deed dated October 8, 1990, Gretchen Skinner Mineweaser, et vir., conveyed all of her undivided interest in the above described trust unto Ann Deemer Richards which is recorded in the office of the Recorder of Deeds for Clearfield County, Pennsylvania in Record Book 1369, page 564. The said Ann Deemer Richards was incorrectly referred to as Anne Deemer Richards in those conveyances.

By Family Settlement Agreement filed on August 19, 1986, in the Court of Common Pleas of Jefferson County, Pennsylvania, at No. 172 of 1975, O.C., and approved by said Court on August 19, 1986, Alexander D. Deemer II, Barbara Gow Deemer and Lindsay Deemer, formerly Lindsay Skinner Deemer, agreed that the aforesaid Trust created under the Last Will and Testament of Frank C. Deemer, Jr., would terminate upon the death of Barbara Gow Deemer. The said Barbara Gow Deemer died testate on April 18, 1994 whereupon an Account and Statement of Proposed Distribution was filed by the Trustee at O.C. No. 172 of 1975 and an undivided $\frac{3}{8}$ interest in the subject premises was distributed to the estate of Barbara Gow Deemer, deceased, and an undivided $\frac{1}{8}$ interest was distributed to Ann Deemer Richards by Certificate of Award or Allotment of Real Estate recorded in the office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Record Book 1642, page 62 as Tract No. 61.

The Last Will and Testament of Barbara Gow Deemer was duly probated in the Office of the Register of Wills of Jefferson County, Pennsylvania, on April 19, 1994, and Letters Testamentary were granted to S & T Bank on the same day. Her Last Will and Testament is recorded in the Office of the Recorder of Deeds of Jefferson County, Pennsylvania, in Will Book 30, page 103. As set forth therein, she devised her interest in the above described tract unto S & T Bank, in trust, pursuant to a Trust Agreement dated September 20, 1993. Accordingly, the undivided $\frac{1}{2}$ interest formerly held by F. C. Deemer, Jr. was thereupon held as follows:

- (i) S & T Bank, Executor and Trustee - an undivided $\frac{3}{8}$ interest;
- (ii) Ann Deemer Richards - an undivided $\frac{1}{8}$ interest.

By Deed dated May 28, 1992, Alexander D. Deemer II conveyed an undivided one percent (1%) interest in the above described tract unto each of the following: Elizabeth D. Swett, Alexandra D. Hanks, and Susanna D.

Hegnes. Said Deed is recorded in the office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Record Book 1499, page 80. Said tract is listed therein as Parcel No. 61.

ALSO BEING the same premises referred to in Clearfield County Assessment Maps and Records as Parcel No. 107-B7-00022.

ALSO GRANTING AND CONVEYING to the said grantees all right, title, claim, or interest of the grantors in a certain right-of-way over and upon lands of Brian S. Sekula by virtue of paragraph 1 of an agreement dated November 20, 1990 between Brian S. Sekula and Alexander D. Deemer, II, individually and as trustee of the Frank C. Deemer, Jr. Estate Trust U/W, which agreement appears of record in the Office of the Recorder of Deeds of Clearfield County in Deed and Record Book Volume 1375, page 528.

AND the said grantors will SPECIALLY WARRANT AND FOREVER DEFEND the property hereby conveyed.

IN WITNESS WHEREOF, said grantors have hereunto set their hands and seals the day and year first above written.

Sealed and delivered in the presence of

Charles H. Alexander
Charles H. Alexander, Executor
of the Estate of Alexander D.
Deemer II, deceased

Jay T. Swett
Jay T. Swett, Executor of the
Estate of Alexander D. Deemer
II, deceased

Elizabeth D. Swett
Elizabeth D. Swett

Jay T. Swett
Jay T. Swett

Alexandra D. Hanks
Alexandra D. Hanks

Douglas Banks, Jr.
Douglas Banks, Jr.

Susanna D. Hegnes
Susanna D. Hegnes

John Hegnes
John Hegnes

S & T BANK

By: George Walker
George Walker, Vice President
and Trust Officer

Ann Deemer Richards
Ann Deemer Richards

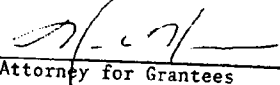
It is hereby certified in compliance with the Pennsylvania Realty Transfer Tax Act that the full, true and complete value of the premises conveyed is \$56,540.00.

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the grantees herein is as follows:

Brian S. Sekula
RD 1, Box 222
Rockton, PA 15856

Thomas M. Sekula
8250 Newburg Road
Newburg, PA 17240


Attorney for Grantees

NOTICE

To comply with the Act of July 17, 1957, P. L. 984, as amended, (52 P.S. Sections 1551-1554) notice is hereby given as follows:

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE OF LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT.

HAZARDOUS WASTE NOTICE

GRANTORS HAVE NO ACTUAL KNOWLEDGE OF ANY HAZARDOUS WASTE, DEFINED IN ACT NO. 1980-97 OF THE COMMONWEALTH OF PENNSYLVANIA, HAVING BEEN OR WHICH IS PRESENTLY BEING DISPOSED ON OR ABOUT THE PROPERTY DESCRIBED IN THIS DEED.

662 B

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

This day of

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF JEFFERSON

) SS:
)
)

On this, the 7th day of February, 1995, before me, the undersigned officer, personally appeared Charles H. Alexander as Executor for the Estate of Alexander D. Deemer II, deceased, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Sandra L. Ford
Notary Public

Notarial Seal
Sandra L. Ford, Notary Public
Brockville Boro, Jefferson County
My Commission Expires Jan 30, 1999

STATE OF VIRGINIA

City
COUNTY OF Charlottesville) SS:
)
)

On this, the 20th day of November, 1995, before me, the undersigned officer, personally appeared Jay T. Swett as Executor for the Estate of Alexander D. Deemer II, deceased, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Term expires: 3/31/98

Myra E. Bruce
Notary Public



STATE OF VIRGINIA

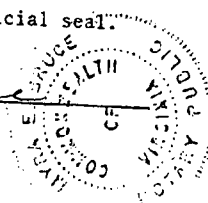
city
COUNTY OF Charlottesville) SS:

On this, the 20th day of November, 1995, before me, the undersigned officer, personally appeared Elizabeth D. Swett and Jay T. Swett, her husband, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Term expires: 3-31-98

Margaret E. Bruce
Notary Public



STATE OF MARYLAND

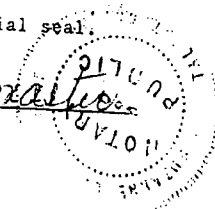
COUNTY OF Calvert) SS:

On this, the 27th day of November, 1995, before me, the undersigned officer, personally appeared Alexandra D. Hanks and Douglas Hanks, Jr., her husband, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Term Expires 9-1-96

Suzanne L. Bourgeois
Notary Public



February 28, 1998

Mr. Darrin Shugarts
Darrin Shugarts Lumber Company
323 West 5th Street
Clearfield, PA 16830

Re: Timber Agreement dated 11-3-97
Brian S. Sekula, et al and Darrin Shugarts Lumber Company

Dear Mr. Shugarts:

Please be advised that the above agreement has expired. There is to be no further cutting of timber until a written extension is provided. Timber cut by this date is permitted to be hauled and removed. This notice acknowledges that there are still payments due for timber previously cut and removed.

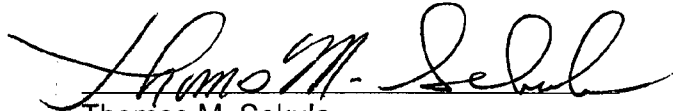
Should you have any questions on this notice, you can contact me at 814-583-5789.

Brian S. Sekula

VERIFICATION

I, **THOMAS M. SEKULA**, the Defendant herein, do hereby certify that the facts set forth in the foregoing **REPLY** are true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

DATED: 10/14/02


Thomas M. Sekula

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL ACTION - LAW

BRIAN S. SEKULA,

Plaintiff

v

THOMAS M. SEKULA,

Defendant

* No. 00-238-CD

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*
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*

CERTIFICATE OF SERVICE

I, DAVID C. MASON, do hereby certify that I served a true and correct copy of Reply to Plaintiff's (Counter-Defendant) New Matter filed to the above captioned action by placing a copy of the same in the United States mail, addressed as follows:

Benjamin S. Blakley, III., Esquire
BLAKLEY, JONES & MOHNEY
90 Beaver Drive, Box 6
DuBois, PA 15801

MASON LAW OFFICE

DATED: 10/14/02

By: _____

David C. Mason, Esquire
Attorney for Defendant

FILED

2cc

OCT 19 54 PM
OCT 13 2002

Atty Mason

REPS

William A. Shaw
Prothonotary

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238 - C.D.

TYPE OF CASE: CIVIL

TYPE OF PLEADING:
PLAINTIFF'S ANSWER TO
COUNTERCLAIM
AND PLAINTIFF'S (COUNTER
DEFENDANT'S) NEW MATTER

FILED ON BEHALF OF:
PLAINTIFF

COUNSEL OF RECORD FOR
THIS PARTY:
BENJAMIN S. BLAKLEY, III

SUPREME COURT NO.: 26331

BLAKLEY, JONES & MOHNEY
90 BEAVER DRIVE, BOX 6
DU BOIS, PA 15801
(814) 371 - 2730

FILED

APR 26 2002

m/l 521 NO CC

William A. Shaw
Prothonotary

#16

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

NO. 00 - 238-C.D.

THOMAS M. SEKULA,

DEFENDANT

PLAINTIFF'S ANSWER TO COUNTERCLAIM
AND PLAINTIFF'S (COUNTER DEFENDANT'S) NEW MATTER

AND NOW, comes the Plaintiff, BRIAN S. SEKULA, by and through his attorneys,
BLAKLEY, JONES & MOHNEY, and Answers Defendant's Counterclaim as follows:

PLAINTIFF'S ANSWER TO COUNTERCLAIM
COUNT I

10. It is admitted that the tract of land subject to the action for partition filed by the Plaintiff was purchased by the parties on or about August 25, 1995. It is also admitted that at the same time, the parties discussed the purchase of other lands contiguous to the subject tract (not the "Spencer" tract), however, it is denied that there was any agreement to acquire said lands or that the subject tract is landlocked by natural and physical barriers, and on the contrary, it is averred that no agreement was reached between the parties for the acquisition of other lands. It is further averred that the deed to the subject tract clearly conveys a right-of-way across other lands of the Plaintiff so as to permit access to a public road. A copy of said deed is attached hereto and made a part hereof and marked as Exhibit "A."

11. It is denied that the Plaintiff purchased a contiguous parcel of land in December of 1997, and on the contrary, it is averred that the Plaintiff's purchase of a contiguous parcel occurred on November 6, 1997. It is admitted, however, that the said lands were not titled in the names of the Plaintiff and Defendant, as no agreement had ever been reached between the Plaintiff and Defendant for the joint purchase of said contiguous parcel of land, and it is denied that any agreement had previously been reached between the Plaintiff and Defendant for the purchase of said land at any time.

12. It is denied that the parties were interested in acquiring the "Spencer" tract of land to provide a means of access from the legislative route to the Deemer tract, and on the contrary, it is averred that the deed to the subject property dated August 25, 1995, and attached hereto and marked as Exhibit "A," conveys to the parties a right-of-way to provide a means of access to the subject property from a township road to the subject tract.

13. It is denied that the Plaintiff acquired the "Spencer" tract of land in his name alone in order to benefit himself at the expense of the Defendant, and on the contrary, it is averred that no agreement had been reached between the Plaintiff and Defendant for the joint purchase of "Spencer" tract of land.

14. It is denied that the Plaintiff in any manner violated any agreement between the parties to acquire the "Spencer" tract of land, and on the contrary, it is averred that no agreement had ever been reached between the parties for the acquisition of the said "Spencer" tract of land, as the deed conveying the subject tract of land to the parties hereto, as set forth in Exhibit "A" attached hereto, provided for a right-of-way to the subject tract.

15. It is denied that the Plaintiff would in any manner be unjustly enriched to the

detriment of the Defendant if the Plaintiff were permitted to retain said title to "Spencer" tract, and on the contrary, it is averred that the parties have an absolute right to a right-of-way servicing the subject tract of land by virtue of their deed of August 25, 1995, attached hereto and marked Exhibit "A."

16. It is denied that the parties to this action participated in any manner as partners in the negotiation and purchase of the "Spencer" tract for their mutual benefit as co-tenants of an adjoining, otherwise landlocked parcel of land, and on the contrary, it is averred that at no time did the parties negotiate for the purchase of the said "Spencer" tract, as the parties were granted a right-of-way to the Deemer tract in their deed of August 25, 1995, attached hereto and marked Exhibit "A."

17. Denied for the reasons set forth in the preceding paragraph.

WHEREFORE, Plaintiff, BRIAN S. SEKULA, prays that the prayer in Count I of Defendant's Counterclaim be dismissed.

COUNT II

18. Admitted.

19. It is agreed that the parties had verbally agreed to extend the timbering operations deadline time. It is further averred that an extension agreement was to be prepared by the Defendant as evidenced by Exhibit "B" attached hereto, however, the Plaintiff was not presented with an extension agreement prior to the expiration of the lease agreement, and therefore, the Plaintiff notified the logger to cease further logging operations pursuant to the parties' lease agreement of November 3, 1997, which expired March 1, 1998. A copy of said lease agreement is attached hereto and made a part hereof and marked as Exhibit "C."

20. It is admitted that the expiration of the timbering agreement terminated the receipt

of proceeds to both Plaintiff and Defendant, however, it is denied that the Defendant suffered any loss as a result of any action by the Plaintiff, and on the contrary, it is averred that the termination and receipt of proceeds was brought about by the expiration of the timber agreement as set forth in the terms of said agreement and by the failure of the Defendant to prepare a timely extension agreement.

21. It is denied that the Plaintiff threatened and harassed Sky Haven, Inc. with threats of lawsuit and regulatory inquiries and investigations in order to force the cancellation of the coal mining lease, and on the contrary, it is averred that the coal mining lease was canceled by Sky Haven, Inc. as a result of the exhaustion of the minable and merchantable coal from the subject property. A copy of the correspondence of Sky Haven, Inc. is attached hereto and made a part hereof and marked as Exhibit "D."

22. It is denied that the cancellation of the Sky Haven, Inc. coal mining lease has caused any loss to the Defendant, and on the contrary, it is averred that as all minable and merchantable coal had been exhausted from the property, neither the Plaintiff nor the Defendant could have expected any further monies from the mining of coal on the subject property pursuant to the correspondence of Sky Haven, Inc., attached hereto and marked as Exhibit "D."

23. It is denied that the Plaintiff caused a termination of the timbering contract or the coal mining lease, and further denies that any actions of the Plaintiff were performed for the intentional purpose and design of freezing the Defendant out and forcing him to sell the Deemer tract to the Plaintiff, and on the contrary, it is averred that the termination of the timber contract was brought about by its expiration under its own terms, and the failure of the Defendant to prepare a timely extension agreement and the cancellation of the coal mining lease was brought about by the

exhaustion of the minable and merchantable coal on the subject property.

24. It is denied that any actions of the Plaintiff caused loss to the Defendant for the reasons set forth above.

WHEREFORE, Plaintiff, BRIAN S. SEKULA, prays that the Defendant's Counterclaim be dismissed.

PLAINTIFF'S (COUNTER DEFENDANT'S) NEW MATTER

25. Plaintiff incorporates by reference paragraphs 1 through 14 of his Complaint, and Paragraphs 10 through 24 of his Answer to Defendant's Counterclaim as if fully set forth herein.

26. The Plaintiff and Defendant purchased the property which is the subject of this action by deed dated August 25, 1995, and recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 736, page 128.

27. That at the time of said purchase, the Plaintiff and Defendant negotiated for and received from the Grantors a grant of a certain right-of-way over and upon other lands of the Plaintiff. A copy of said deed is attached hereto and made a part hereof and is marked as Exhibit "A".

28. That as a result of the grant of said right-of-way, it was unnecessary for the parties to acquire any further lands to provide them access to a public road.

29. That subsequent to the parties taking possession of the subject property, Plaintiff and Defendant entered into a Timbering Agreement with Darin Shuguarts Lumber Company of 323 West Fifth Street, Clearfield, Pennsylvania, for the removal of timber upon the subject property and upon other property of the Plaintiff and of Marilyn and Jaye McKee. A copy of said Timbering Agreement is attached hereto and made a part hereof and marked as Exhibit "C".

30. Under the terms of said Agreement, all timbering activities were to be completed upon

the subject property by March 1, 1998.

31. That prior to the expiration of the Timbering Agreement, Plaintiff and Defendant entered into discussions concerning the extension of the Timbering Agreement so as to permit the Logger to remove additional timber from the lands of the parties.

32. That by electronic mail dated January 25, 1998, the Plaintiffs requested that the Defendant draft a time extension agreement modification and by reply electronic mail dated the same date, the Defendant informed the Plaintiff that he would work on the same. A copy of said electronic mail transmission is attached hereto and made a part hereof and marked as Exhibit "B".

33. That contrary to the representations of the Defendant, the Defendant failed to draft a timely extension agreement for execution by the parties prior to the expiration of the terms of the November 3, 1997 Timbering Agreement and as such by its terms, the said Timbering Agreement expired.

34. During the parties' ownership of the subject property, the parties entered into a Coal Lease with Sky Haven Coal Company, Inc.. A copy of said Strip Mining Lease Agreement dated August 22, 1997 is attached hereto and marked Exhibit "E".

35. That the mining operations upon the subject property continued until October 28, 1998 when Plaintiff received correspondence from Sky Haven Coal Company notifying the Plaintiff of the 30-day notice of cancellation of the August 22, 1997 Lease as all mineable and merchantable coal had been exhausted from the subject property. A copy of said correspondence is attached hereto and made a part hereof and marked as Exhibit "D".

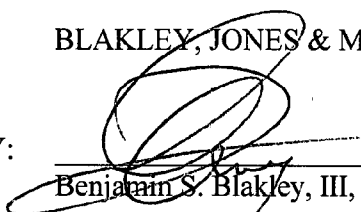
36. That the termination of the Timbering and Mining Agreements were brought about by the terms of said Agreements and not by any actions of the Plaintiff.

WHEREFORE, Plaintiff respectfully requests this Honorable Court deny the relief prayed for in the Defendant's Counterclaim and dismiss the same with prejudice.

Respectfully submitted,

BLAKLEY, JONES & MOHNEY

BY:


Benjamin S. Blakley, III, Esquire

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

DATE: _____

4/25/02



BRIAN S. SEKULA

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

NO. 00 - 238-C.D.

THOMAS M. SEKULA,

DEFENDANT

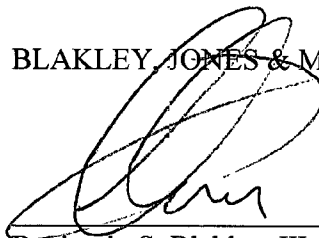
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Plaintiff's Answer to Defendant's Counterclaim, and Plaintiff's (Counter Defendant's) New Matter, filed in the above-captioned matter, was served upon Defendant's counsel on this 25th day of April, 2002, by First Class, United States Mail, postage prepaid, addressed as follows:

David C. Mason, Esquire
MASON LAW OFFICE
P.O. Box 28
Philipsburg, PA 16866

BLAKLEY, JONES & MOHNEY

By



Benjamin S. Blakley, III
Attorney for Plaintiff

D E E D

THIS DEED, made the 25th day of August, 1995, between CHARLES H. ALEXANDER and JAY T. SWETT as Executors for the ESTATE OF ALEXANDER D. DEEMER II, deceased, ELIZABETH D. SWETT and JAY T. SWETT, her husband, of Grassmere Farm, Box 246, Ivy, Virginia, 22945, ALEXANDRA D. HANKS and DOUGLAS HANKS, JR., her husband, of P.O. Box 408, Oxford, Maryland, 21654, SUSANNA D. HEGNES and JOHN HEGNES, her husband, of 118 West Hutchison Street, Pittsburgh, Pennsylvania, 15218, S & T BANK of Brookville, Pennsylvania, as Executor and Trustee under the Last Will and Testament of BARBARA GOW DEEMER, deceased, and ANN DEEMER RICHARDS, unmarried, of 14327 Cole Road, Pilot Point, Texas, 76258, GRANTORS,

A
N
D

BRIAN S. SEKULA of RD 1, Box 222, Rockton, Pennsylvania, 15856, and THOMAS M. SEKULA of 8250 Newburg Road, Newburg, Pennsylvania, 17240, as joint tenants with right of survivorship, GRANTEES,

WITNESSETH, that in consideration of Fifty-Six Thousand Five Hundred Forty and 00/100ths (\$56,540.00) Dollars in hand paid, the receipt whereof is hereby acknowledged, the said grantors do hereby grant and convey to the said grantees,

ALL that certain tract of land situate in BRADY TOWNSHIP, Clearfield County, Pennsylvania, bounded and described as follows:

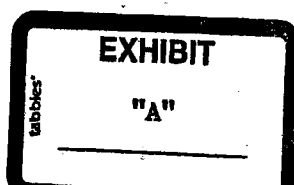
BOUNDED on the North by C.G.M. Development Corporation; bounded on the East by Calvin Bean and John Bean and the Ideal Foundation; bounded on the South by Brian Sekula and Jaye C. McKee; and bounded on the West by Spencer Land Company and by W. D. Weber et al. and by John O. Grape and Emily M. Grape.

CONTAINING 140 acres, more or less.

EXCEPTING AND RESERVING the oil, gas and minerals but only to the same extent as previously excepted and reserved by Grantors' predecessors in title.

BEING the same premises conveyed to F. C. Deemer from A. B. Shaw, trustee in partition in the estates of H. W. Weber and George H. Weber, deceased, by Deed dated December 5, 1940 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Deed Book Volume 334, page 441.

ALSO BEING the same premises awarded to Alexander D. Deemer II and to Frank C. Deemer, Jr. as tenants in common by certificate of award or allotment of real estate dated December 28, 1964 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Deed Book Volume 512, page 379. Said tract is listed therein as Parcel No. 221.



The said Frank C. Deemer, Jr. died testate on October 12, 1973 and by his Last Will and Testament recorded in Jefferson County Will Book Volume 21, page 59, he devised all property held by him as tenants in common with his brother, Alexander D. Deemer II, into a trust naming Alexander D. Deemer II as trustee. Pursuant thereto, Barbara Gow Deemer as executrix of the Frank C. Deemer, Jr. estate conveyed the subject premises to Alexander D. Deemer II, trustee under the testamentary trust established by the Will of the late Frank C. Deemer, Jr. by deed dated September 1, 1974 and recorded in the Office of the Recorder of Deeds for Clearfield County, Pennsylvania in Deed Book Volume 690, page 469. The subject premises is listed therein as Parcel No. 61.

Anne Deemer Sutton, one of the beneficiaries of the aforesaid Deemer Trust, conveyed all of her undivided interest in the trust to Barbara Gow Deemer by virtue of an Assignment dated May 31, 1975, and recorded in the Office of the Recorder of Deeds for Clearfield County, Pennsylvania in Record Book 1672, page 376.

By Deed dated July 11, 1988, Lindsay Deemer, by marriage Lindsay Deemer Skinner, one of the beneficiaries of the Deemer Trust, conveyed all of her undivided interest in the above described trust unto Ann Deemer Richards and Gretchen Skinner Mineweaser which is recorded in the office of the Recorder of Deeds for Clearfield County, Pennsylvania in Record Book 1238, page 60.

By Deed dated October 8, 1990, Gretchen Skinner Mineweaser, et vir., conveyed all of her undivided interest in the above described trust unto Ann Deemer Richards which is recorded in the office of the Recorder of Deeds for Clearfield County, Pennsylvania in Record Book 1369, page 564. The said Ann Deemer Richards was incorrectly referred to as Anne Deemer Richards in those conveyances.

By Family Settlement Agreement filed on August 19, 1986, in the Court of Common Pleas of Jefferson County, Pennsylvania, at No. 172 of 1975, O.C., and approved by said Court on August 19, 1986, Alexander D. Deemer II, Barbara Gow Deemer and Lindsay Deemer, formerly Lindsay Skinner Deemer, agreed that the aforesaid Trust created under the Last Will and Testament of Frank C. Deemer, Jr., would terminate upon the death of Barbara Gow Deemer. The said Barbara Gow Deemer died testate on April 18, 1994 whereupon an Account and Statement of Proposed Distribution was filed by the Trustee at O.C. No. 172 of 1975 and an undivided $\frac{3}{8}$ interest in the subject premises was distributed to the estate of Barbara Gow Deemer, deceased, and an undivided $\frac{1}{8}$ interest was distributed to Ann Deemer Richards by Certificate of Award or Allotment of Real Estate recorded in the office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Record Book 1642, page 62 as Tract No. 61.

The Last Will and Testament of Barbara Gow Deemer was duly probated in the Office of the Register of Wills of Jefferson County, Pennsylvania, on April 19, 1994, and Letters Testamentary were granted to S & T Bank on the same day. Her Last Will and Testament is recorded in the Office of the Recorder of Deeds of Jefferson County, Pennsylvania, in Will Book 30, page 103. As set forth therein, she devised her interest in the above described tract unto S & T Bank, in trust, pursuant to a Trust Agreement dated September 20, 1993. Accordingly, the undivided $\frac{1}{2}$ interest formerly held by F. C. Deemer, Jr. was thereupon held as follows:

- (i) S & T Bank, Executor and Trustee - an undivided $\frac{3}{8}$ interest;
- (ii) Ann Deemer Richards - an undivided $\frac{1}{8}$ interest.

By Deed dated May 28, 1992, Alexander D. Deemer II conveyed an undivided one percent (1%) interest in the above described tract unto each of the following: Elizabeth D. Swett, Alexandra D. Hanks, and Susanna D.

Hegnes. Said Deed is recorded in the office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Record Book 1499, page 80. Said tract is listed therein as Parcel No. 61.

ALSO BEING the same premises referred to in Clearfield County Assessment Maps and Records as Parcel No. 107-B7-00022.

ALSO GRANTING AND CONVEYING to the said grantees all right, title, claim, or interest of the grantors in a certain right-of-way over and upon lands of Brian S. Sekula by virtue of paragraph 1 of an agreement dated November 20, 1990 between Brian S. Sekula and Alexander D. Deemer, II, individually and as trustee of the Frank C. Deemer, Jr. Estate Trust U/W, which agreement appears of record in the Office of the Recorder of Deeds of Clearfield County in Deed and Record Book Volume 1375, page 528.

AND the said grantors will SPECIALLY WARRANT AND FOREVER DEFEND the property hereby conveyed.

IN WITNESS WHEREOF, said grantors have hereunto set their hands and seals the day and year first above written.

Sealed and delivered in the presence of

Charles H. Alexander
Charles H. Alexander, Executor
of the Estate of Alexander D.
Deemer II, deceased

Jay T. Swett
Jay T. Swett, Executor of the
Estate of Alexander D. Deemer
II, deceased

Elizabeth D. Swett
Elizabeth D. Swett

Jay T. Swett
Jay T. Swett

Alexandra D. Hanks
Alexandra D. Hanks

Douglas Hanks, Jr.
Douglas Hanks, Jr.

Susanna D. Hegnes
Susanna D. Hegnes

John Hegnes
John Hegnes

S & T BANK

By: George Walker
George Walker, Vice President
and Trust Officer

Ann Deemer Richards
Ann Deemer Richards

It is hereby certified in compliance with the Pennsylvania Realty Transfer Tax Act that the full, true and complete value of the premises conveyed is \$56,540.00.

STATE OF VIRGINIA

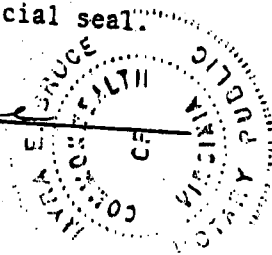
City
COUNTY OF Charlottesville) SS:
)

On this, the 20th day of November, 1995, before me, the undersigned officer, personally appeared Elizabeth D. Swett and Jay T. Swett, her husband, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Term expires: 3-31-98

Mary E. Bruce
Notary Public



STATE OF MARYLAND

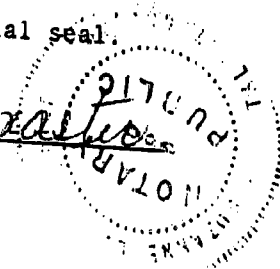
COUNTY OF Calvert) SS:
)

On this, the 27th day of November, 1995, before me, the undersigned officer, personally appeared Alexandra D. Hanks and Douglas Hanks, Jr., her husband, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Term Expires 9-1-96

Supreme L. Bourgeois
Notary Public

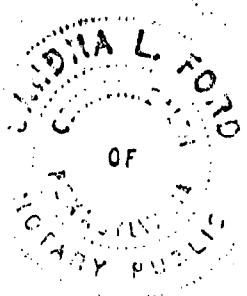


COMMONWEALTH OF PENNSYLVANIA
COUNTY OF JEFFERSON

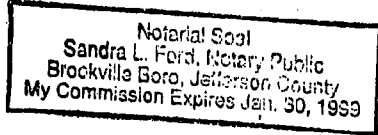
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On this, the 7th day of February, 1995, before me, the undersigned officer, personally appeared Charles H. Alexander as Executor for the Estate of Alexander D. Deemer II, deceased, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Sandra L. Ford
Notary Public



STATE OF VIRGINIA
City
COUNTY OF Charlottesville

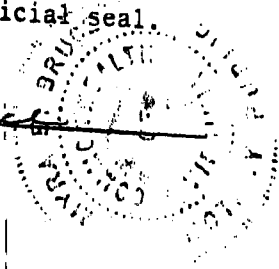
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) SS:
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On this, the 20th day of November, 1995, before me, the undersigned officer, personally appeared Jay T. Swett as Executor for the Estate of Alexander D. Deemer II, deceased, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Term expires: 3/31/98

Mary E. Bruce
Notary Public



CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the grantees herein is as follows:

Brian S. Sekula
RD 1, Box 222
Rockton, PA 15856

Thomas M. Sekula
8250 Newburg Road
Newburg, PA 17240



Attorney for Grantees

NOTICE

To comply with the Act of July 17, 1957, P. L. 984, as amended, (52 P.S. Sections 1551-1554) notice is hereby given as follows:

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE OF LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT.

HAZARDOUS WASTE NOTICE

GRANTORS HAVE NO ACTUAL KNOWLEDGE OF ANY HAZARDOUS WASTE, DEFINED IN ACT NO. 1980-97 OF THE COMMONWEALTH OF PENNSYLVANIA, HAVING BEEN OR WHICH IS PRESENTLY BEING DISPOSED ON OR ABOUT THE PROPERTY DESCRIBED IN THIS DEED.

662 B

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

This day of

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA
No. 00-238-C.D.

BRIAN S. SEKULA,

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

PLAINTIFF'S ANSWER TO
COUNTERCLAIM AND PLAINTIFF'S
((COUNTER DEFENDANT'S) NEW
MATTER.

LAW OFFICES

BLAKLEY, JONES & MOHNEY

90 BEAVER DRIVE - BOX 6

DUBOIS, PA 15801

la, Thomas M., 04:32 PM 1/25/98 , RE: darrin

From: "Sekula, Thomas M." <tmsekula@CBDCOM-RMH7.APCGA.ARMY.MIL>
To: "Sekula" <bsekula@penn.com>
Subject: RE: darrin
Date: Sun, 25 Jan 1998 16:32:11 -0500
X-Mailer: Internet Mail Service (5.0.1458.49)

I will work on. t

> -----
> From: Sekula[SMTP:bsekula@penn.com]
> Sent: Sunday, January 25, 1998 10:53 AM
> To: Sekula, Thomas M.
> Cc: ssekula
> Subject: darrin
>
> how about you draft the time extension agreement modification.
>

EXHIBIT

"B"

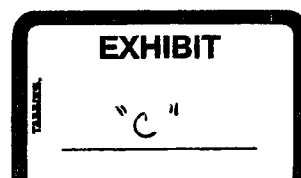
AGREEMENT

This AGREEMENT entered into this 3RD day of November, 1997 by and between Brian S. Sekula of R.D. #1 Box 222, Rockton, PA 15856-9633 (Tract No. 1), Brian S. Sekula (address above) and Thomas M. Sekula of 8250 Newburg Road, Newburg, PA 17240-9704 (Tract No. 2), and Jaye and Marilyn McKee of R.D. #3 Box 306, Punxsutawney, PA 15767 (Tract No. 3), hereinafter referred to as "Owners" and Darrin Shugarts Lumber Company of 323 West 5th Street, Clearfield, PA 16830 hereinafter referred to as "Logger".

Witnesseth, that Owners for and in consideration of the amounts and payment terms identified on Exhibit "B" attached, do by these presents grant, bargain and sell to said Logger all of the timber (excluding tree tops as defined herein) within the "Timber Area" on the tracts herein identified as described below and shown on Exhibit "A" attached. The subject tracts are located in Bell and Brady Townships, Clearfield County, Pennsylvania identified as tax parcel numbers 102-B-8-18 (Tract No. 1), 107-B-7-22 (Tract No. 2), and 102-B-8-5 (Tract No. 3). Said parcels are bounded as follows: (Tract No. 1, Bell Township) - on the north by Sekula's (Tract No. 2) and Ideal Foundation, on the east by Mills and Pifer, on the south Cunkleman and Weber, and on the west by McKee (Tract No. 3). (Tract No. 2, Brady Township) - on the north by CGM Development, on the east by Ideal Foundation, on the south by Sekula (Tract No. 1) and McKee (Tract No. 3). (Tract No. 3, Bell Township) - on the north by Spencer Land Company and Sekula's (Tract No. 2), on the east by Sekula (Tract No. 1), on the south by Weber, and on the west by Bell and Steurnagle.

Owners and Logger set forth and agree as follows:

- (1) Logger shall pay to each of the respective Owners upon signing this agreement, sums in accordance with the amounts set forth on Exhibit "B". Payments will be made every two weeks following the date of this Agreement for the timber cut and removed from the Timber Area as follows; Tract No.1 to Brian S. Sekula; Tract No. 2, ½ of any payment to Brian S. Sekula and ½ of any payment to Thomas M. Sekula; Tract No. 3 to Jaye and Marilyn McKee. With each payment a summary of all log volumes and weigh slips shall be provided. Logger shall permit Owners to review and provide copies of all records relating to the logging activities, volumes, and weights.
- (2) Owners sell to Logger all of the trees and logs greater than 3 inches in diameter within the "Timber Area" defined as approximately shown in red on the map identified as "Exhibit "A"" and marked in the field by a boundary of blue ribbon and trees marked with three slashes of yellow paint.
- (3) Logger shall carry a minimum of liability (\$500,000), property damage (\$500,000), and workmen's compensation insurance (Statutory) at its own cost and agrees to indemnify and hold Owners harmless from any claim, action, or damage by Logger. Logger shall provide Owners a certificate of insurance naming Owners as an additional insured.
- (4) Logger shall perform their logging activities in accordance with all applicable laws and regulations.



BSS

(5) Logger shall keep all access roads open and free of tree tops and debris during the logging activities and upon completion.

(6) Brian S. Sekula hereby grants a License to Logger to use his rights-of-way across lands owned by Deemer and Spencer for the life of the timbering activity on the Owner's parcels. Logger shall repair any and all damage to the road used for hauling. The License shall expire on March 1, 1998.

(7) Logger may cut all trees within the "Timber Area". In no case however, may the Logger remove any tree tops for chipping. All tree tops shall be left on the subject properties. For the purposes of this agreement, paper wood logs shall be at minimum of 3 inches in diameter. This is a clear cut with the restriction of removal of tree tops within the Timber Area on the three tracts.

(8) All timbering activities shall be completed by Logger by March 1, 1998. However, all timber shall be removed from the bonded areas shown on Exhibit "C" attached by December 31, 1997.

(9) Exhibit "A" (Timber Area map), Exhibit "B" (Payment Terms), and Exhibit "C" (Bonded Area map) are a part of this agreement.

(10) The Owner's property lines as noted on Exhibit "A" shall be kept free of treetops. All trees shall be felled on the Owners property and within the "Timber Area" as identified.

(11) Owners identify as their representative Brian S. Sekula with the full power to enforce all of the conditions of this contract.

(12) Logger shall repair any and all haul roads utilized on the Owners and other properties used for access to their original condition including but limited to cross drains, (open and functioning), grading the road surface to either a crown or sloped to one side, ditches where existing, and water bars reconstructed to the sole satisfaction of Owners's representative. In addition, all disturbed areas shall be seeded. Any haul road built on Spencer Land Company will be left as a drive-able road upon the written permission of Spencer Land Company. In addition, for any road built on Spencer Land Company, a gate shall be placed near the entrance at SR 3009. Said gate shall be provided and installed by the Logger and shall become the property of Brian S. Sekula and Thomas M. Sekula, who shall also receive keys for any lock installed. Any gate if placed, shall be constructed in accordance with the design and direction of Brian S. Sekula.

(13) Logger shall pay for any trees cut or damaged that were not within the "Timber Area" in accordance with Exhibit B. Saw Log volumes shall be measured by the Scribner Log Scale. Veneer log volumes shall be measured on the Doyle Log Scale. The Owners reserve the right to identify additional trees outside of the "Timber Area" to be cut on a case by case basis. For those trees, the price paid per 1000 board feet shall be in accordance with the schedule shown on Exhibit B for each species.

(14) Logger shall provide Owners (payable to Brian S. Sekula) a certified bank check in the amount of \$3,000.00 as a performance guarantee which will be returned to Logger after Owners are satisfied with Logger's site clean-up and completion of the terms of this agreement.

(15) Property corners are existing. Property lines are identified with blue paint. Logger shall be responsible to stay within the Owners properties. Logger shall not disturb, remove, or damage in any way any traverse points, property corners, or line pins. Any property corners, line pins, or traverse points damaged will be replaced only by Brian S. Sekula, PE, PLS with the cost of said replacement to taken from the Logger's certified bank check acting as a performance guarantee.

(16) Logger may not assign this agreement to any other party without the prior written approval of Owners.

(17) For this Agreement, time is of the essence.

(18) Owners reserve the right to cancel this Agreement upon immediate notice through their designated representative or jointly if the Logger fails to act in accordance with the terms of this Agreement.

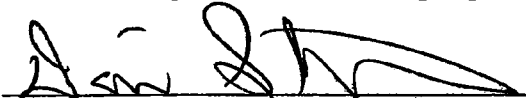
This agreement shall be construed under the laws of the Commonwealth of Pennsylvania. If any term, condition, clause or provision of this Agreement shall be deemed to be void or invalid in law or otherwise, then only that term, condition, clause or provision shall be stricken from this Agreement as is held to be void or invalid, and in all other respects, this Agreement shall be valid and in full force and operation.

This Agreement contains the entire understanding between the parties, no oral amendments shall be permitted, nor shall any oral amendments have any legal force and effect. This Agreement may be amended in writing signed by all parties and attached to the original hereof.

This agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors, and assigns.

In witness whereof, the parties hereto have hereunto set, their hands and seals the day and year first above written.

Darrin Shugarts Lumber Company



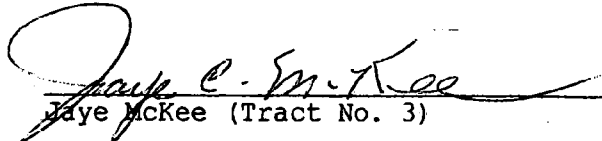
By: Darrin K. Shugarts, Owner



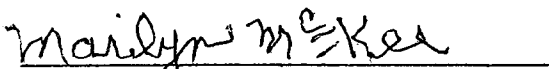
Brian S. Sekula (Tracts No. 1 & 2)



Thomas M. Sekula (Tract No. 2)



Jaye McKee (Tract No. 3)



Marilyn McKee (Tract No. 3)

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF Clarion SS:

On this, the 3rd day of November, 1997, before me, the undersigned officer, personally appeared Brian S. Sekula, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARIAL SEAL
JAMIE A. STIDINGER, Notary Public
Clarion Twp., Clarion County

My commission Expires April 24, 2000

Jamie A. Stidinger
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF Cumberland SS:

On this, the 5th day of November, 1997, before me, the undersigned officer, personally appeared Thomas M. Sekula, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Jan 2, 1999
My commission Expires

Gene W. Swope
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF _____ SS:

Notarial Seal
Gene W. Swope, Notary Public
Hopewell Twp., Cumberland County
My Commission Expires Jan. 2, 1999

Member, Pennsylvania Association of Notaries

On this, the 12th day of November, 1997, before me, the undersigned officer, personally appeared Jaye and Marilyn McKee, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notarial Seal
Lois Wymer, Notary Public
Berkton Twp., Jefferson County
My Commission Expires Sept. 24, 2001

My commission Expires
Member, Pennsylvania Association of Notaries

Lois Wymer
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF Jefferson SS:

On this, the 28 day of November, 1997, before me, the undersigned officer, personally appeared Darin K. Shugarts, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARIAL SEAL
LISA L. ROBBINS, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Feb. 1, 2001

Lisa L. Robbins
Notary Public

SKY HAVEN COAL, INC.
R.D. 1 - BOX 180 PENFIELD, PA. 15849

October 28, 1998

Brian S. Sekula
R.D. 1. Box 222
Rockton, PA 15856-9633

RE: Lease Agreement, Dated August 22, 1997, Brady
Township, Clearfield County

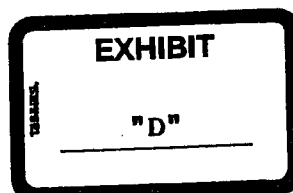
Dear Mr. Sekula:

Please consider this letter a 30 notice of cancellation of your Lease Agreement we have with you, dated August 22, 1997. This property is located in Brady Township, Clearfield County. This tract is described in a deed recorded in Clearfield County Record Book 1736, Page 128 and is also shown on Clearfield County tax map 107-B-7-22.

All minable and merchantable coal has been exhausted from this property.

Sincerely,

Joseph A. Owens
Joseph A. Owens
President



STRIP MINING LEASE AGREEMENT

THIS LEASE, Made and executed in duplicate this 22ND day of August, 1997, between Brian S. Sekula, R.D. #1 Box 222, Rockton, PA 15856-9633, and Thomas M. Sekula, 8250 Newburg Road, Newburg, PA 17240-9704, hereinafter referred to as "Lessors" and Parties of the First Part,

and

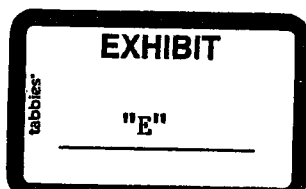
SKY HAVEN COAL, INC., a Pennsylvania Corporation, with its principal office and address at R.D. #1, Box 180, Penfield, Pennsylvania 15849, hereinafter referred to as "Lessee" and Party of the Second Part.

WITNESSETH

Now, therefore, in consideration of the rents, royalties, and other consideration to be paid by the Lessee to the Lessors and in further consideration of the covenants herein contained and with the intent to be legally bound hereby, the Lessors and the Lessee agree as follows:

(1) Lessors hereby demise and lease to the Lessee the "Leased Premises" for the purpose of conducting strip mining operations on those premises situate in Brady Township, Clearfield County, Pennsylvania more particularly described and shown on the attached Exhibit "A" and hereinafter referred to as the "Leased Premises". The Leased Premises are a part of the tract described in a deed recorded in Clearfield County Record Book 1736, Page 128. The tract is also that shown on Clearfield County tax map 107-B-7-22.

(2) The Lessors do hereby grant a License to exercise and convey the full and complete rights for the mining and removing of the coal in, under, and upon the Leased Premises by modern strip mining methods (excluding augering, deep mining methods, and coal refuse only permits), with the right of ingress, egress, and regress into, upon, and under said Leased Premises for the purpose of examining, testing, mining, stripping, and removing said coal, with the right to deposit spoil therefrom upon the surface with the right to redeposit the same, and with all rights and privileges necessary and convenient in mining, digging, stripping, removing, and transporting said coal from the Leased Premises. The Lessee shall have the right to auger mine upon the receipt of specific written consent from the Lessors. Lessors



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permit the coal from the adjacent property owned by Brian S. Sekula to be transported without payment of wheelage fees across the Leased Premises. Coal transported from any other property across the Leased Premises shall be paid at the wheelage rate of ten (10) cents per ton.

(3) The Lease term shall begin as of the date of its execution and shall continue for a period of 3 calendar years or until the exhaustion of the coal, whichever event shall first occur. If Lessee has complied with all of the covenants and terms contained herein at the expiration of the initial term, the Lessee may renew this Lease for an additional two, one (1) year terms upon giving written notice to the Lessors 30 days prior to the date of the original expiration, provided the Lessee is continuously mining the Leased Premises. The Lessee may, at any time during the original or renewal terms hereof, terminate this Lease by giving notice thereof in writing, thirty (30) days prior to the effective date of such termination. Continuous mining shall mean the active production of coal from the Leased Premises.

(4) In consideration of such Lease, the Lessee covenants and agrees to pay to the Lessors a royalty per ton (two thousand pounds) as provided for in the following schedule:

(a) One dollar fifty (\$1.50) cents per ton or five (5%) percent of the selling price of the coal, whichever sum is the greater for the surface rights only. As used herein, the "selling price" shall be the price per ton received by the Lessee at the pit for all coal mined and removed from the Leased Premises.

(5) Payments shall be made on the twenty-fifth (25th) day of each month for coal mined and removed during the preceding calendar month and shall be accompanied by a copy of all weigh slips for coal mined and removed, showing the number of tons mined, and the selling price of the same.

(6) The Lessee shall not be required to mine and/or remove any of the leased coal which in its judgement is not merchantable or mineable owing to natural conditions which make the production cost excessive in its judgement or the quality inferior.

(7) All normal real estate taxes (as defined by the 1997 real estate tax statements) shall be paid by the Lessors. Any and all additions to the real estate taxes solely due to the

mining activities or extraction assessment levies shall be paid by the Lessee.

(8) The Lessee shall and will keep accurate and correct books and accounts, showing the amount of coal produced from said Leased Premises, and shall and will furnish the Lessors accurate statements of all coal produced; shall and will keep all mine maps, books, plans and records necessary in the operations of said Leased Premises; and will furnish to the Lessors or their duly authorized agents or employees, at any time upon request, access to all weight sheets, maps and plans relating to the production and quantity of coal produced from said Leased Premises; shall and will also give to Lessors or their duly authorized agents or employees, at any and all reasonable times, access at their own risk to any and all portions of the Leased Premises and operations in connection therewith.

(9) The Lessors do further consent as a part of the consideration on the Lease that the Lessee shall have full authority in the name of the Lessors to make application to the Commonwealth of Pennsylvania, Department of Environmental Protection (DEP), for seedlings or grass to be used for purposes of restoring the property herein listed the same as the Lessors could do, and the Lessee agrees to furnish the Lessors a copy of such contract. Lessee shall perform all mining activities, backfilling, planting, restoration, reclamation, etc. at its sole expense and plant said seedlings or grass on such areas as designated on the Surface Mine Permit map (Exhibit 18, Reclamation Map) of said Leased Premises.

(10) If any royalties or other sums payable by the Lessee to the Lessors under the terms of this Lease shall remain unpaid for a period of thirty (30) days after the 25th of any month, the Lessee does hereby authorize and empower any attorney of any court of record in Pennsylvania or elsewhere, to appear for it and confess judgement against it for any and all such sums or sums, with costs of suit and attorney's commission of ten (10%) percent of the amount due, with release of all errors, and any stay of execution and inquisition and extension upon any levy on real estate is hereby waived and condemnation agreed to, and the exemption of personal property from levy and sale on any execution is also hereby waived, and no benefit of exemption shall be claimed under and by virtue of any exemption laws now in force or hereinafter to be enacted; and the above provisions, however, shall not be a bar to any other remedy which the Lessors may have for the enforcement of payment of royalties in arrears,

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or sums or payment as may be due from the Lessee to the Lessors. The Lessee agrees that the landlord and tenant laws, including landlord's distraint, relating to the collection of rents shall apply to the collection of royalty or other payments due under this Lease. Lessee hereby agrees and it is made part of this contract that the power to confess judgment against it may be used time and time again, as often as there is a default and any exercise of said power shall in no way extinguish the power to confess judgment for other default. Should a judgment be recovered and be declared void or invalid for any reason whatsoever, the power to confess another judgment to correct any mistake on the original judgment or judgments is specifically authorized.

(11) The Lessors hereby state that the title to the property (surface rights), as indicated, of the Leased Premises, is vested solely in them, and that this statement is made as an inducement to the Lessee to enter into this Lease and that this Lease shall be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto, and that the singular as herein used shall include the plural and the plural the singular.

(12) The weight of all coal removed from the Leased Premises shall be determined by approved truck scale weights under the control of a certified scale weighmaster.

(13) Lessors hereby grant unto the Lessee the right to construct, and maintain roads and transport coal (free of a wheelage charge) across the Leased Premises herein only from the Leased Premises and the adjacent property of Brian S. Sekula included in the Surface Mine Permit area. Coal transported from any other property across the Leased Premises shall be paid at the wheelage rate of ten (10) cents per ton.

(14) The Lessee shall, upon completion of mining operations, fully and completely restore the Leased Premises in the manner required (meets or exceeds) by the Pennsylvania and Federal surface mining laws.

(15) The Lessee shall provide a minimum of 90 days notice to the Lessors to allow the Lessors to remove marketable timber from the Leased Premises prior to beginning any mining activity. The Lessors retain the option to phase the timber removal so that the timber is removed ahead of the mining. The Lessee, prior to providing the stated 90 days notice to the Lessors, shall mark on the property the extent of the mining permit area, said marking

and identification of the permit area shall constitute the extent of mining operations and the Leased Premises. This marking shall be used for the timbering of the permit area.

(16) The Lessors do further grant a License and give to the Lessee the right of ingress, egress, and regress in, under and upon the Leased Premises at any time after the termination of this Lease for the purpose of backfilling and complying with the Mining Laws of Pennsylvania. This License shall automatically expire upon the final release of all mining bonds by the Pennsylvania Department of Environmental Resources. In addition, the Lessee shall provide to the Lessors upon release of all mining bonds a release of the Supplemental C suitable for recording in the Clearfield County Courthouse. Upon approval of the release by the Lessors, the Lessee shall record the release and provide the recorded copy to the Lessors. During any re-entry, the Lessee shall have no rights to mine or remove any coal and shall promptly repair any damage done to the Leased Premises or adjacent lands of the Lessors.

(17) The Lessee agrees to conduct its strip mining operations on the Leased Premises, at its sole cost, in strict compliance with any statute, law, ordinance or regulation of any municipality, the Commonwealth of Pennsylvania, or the United States in force now or in the future relating to the mining, backfilling, restoration, reforestation, and reclamation of the Leased Premises or any adjacent lands of the Lessors. The Lessee agrees to indemnify the Lessors and to hold the Lessors harmless from any liability, damage, or other cost resulting from the failure of the Lessee to observe, keep or perform any obligations, duties or acts required in said statutes, laws, ordinances or regulations upon the Leased Premises or adjacent lands of the Lessors. The Lessee does further covenant and agree that it will protect and save harmless the Lessors from any claims for damages to persons or property that may arise as a result of the Lessee's operations upon the Leased Premises or adjacent lands of the Lessors. The Lessee's covenant to indemnify and save harmless the Lessors shall be a continuing obligation, notwithstanding this Lease may be terminated by its terms or by the Lessors because of a breach of default of the Lessee or by cancellation by the Lessee as provided for in this Lease.

(18) The Lessee shall begin mining operations under this Lease as soon as practicable and shall at all times thereafter diligently and energetically prosecute the mining operations upon

the Leased Premises in compliance with the terms of this Lease until the proper termination thereof.

(19) If the Lessee does not follow the terms of this Lease, the Lessors may at their sole option terminate this Lease upon 30 days notice to the Lessee.

(20) Lessee shall not mortgage or encumber with liens of any kind, or sell, assign, or sublet the whole or any part of the Leased Premises without the written consent of the Lessors. The Lessee may not assign this Lease to any other party without the prior written consent of the Lessors.

(21) It is agreed and provided that any adjudication or sale in bankruptcy or insolvency or under any other compulsory procedure or any receivership created shall be deemed and taken to be an assignment or subletting within the meaning of this Agreement, and shall work an immediate forfeiture without notice, and thereupon possession may be immediately taken by Lessors without further formality.

(22) The Lessee shall pay, in addition to other lease payments, to the Lessors the amount of \$2,000.00 for the replacing of property corners of the Lessors. One half of that amount shall be paid for the south line of the Leased Premises upon demand by Lessors and one half of that amount shall be paid for the west line of the Leased Premises upon demand by the Lessors. No other Registered Professional Land Surveyor shall be permitted to work on the boundary lines of the Leased Premises without the specific written consent of the Lessors. The Lessee shall maintain property lines provided by the Lessors at all times to delineate the ownership of the coal. The Lessee shall provide a minimum of six months notice to the Lessors for the west property line needed for mining.

(23) Roads (and cross drain pipes-as directed by the Lessors) shall be left on the restored surface of the Leased Premises as shown on the Exhibit 18, Reclamation Map as approved by the Lessors. The Lessee shall acquire the necessary DEP permit approvals to leave the roads as a post mining land use and Lessors shall provide the Lessee with the documents as required by DEP for the roads. In addition, the Lessee shall file with DEP a Reclamation Map (Exhibit 18) showing the post mining land use as Wildlife Habitat as outlined and approved by the Lessors. Changes to the stated post mining land use shall only be made when approved by the Lessors. The planting plan as outlined by

(24) The Lessee shall carry General Liability and Property Damage Insurance and shall provide the Lessors a certificate of insurance. Minimum insurance limits shall be \$1,000,000 for General Liability and \$500,000 for Property Damage.

(25) A minimum monthly royalty of \$200.00 payable on the 25th day of each month is required by this Lease beginning on the 25th day of September, 1997. In addition a one time advance royalty payment of \$1,400.00 shall be paid upon the execution of this Lease and delivered with the same to the Lessors. All advance and monthly minimum royalties may be recoupable as a credit against production royalties.

(27) All notices or payments required to be sent to the lessors or to be made to the Lessors shall be deemed to have been properly sent or paid if mailed to:

Thomas M. Sekula for payment 50%
8250 Newburg Road
Newburg, PA 17240-9704

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Sky Haven Coal, Inc.
R.D. #1 Box 180
Penfield, PA 15849

(28) Lessors agree to execute a consent of landowner form "Supplemental C". All restrictions and conditions outlined on the "Supplemental C" are incorporated herein by reference and shall be part of this Lease.

(29) The Lessors shall have, at all times, access to all of the operations conducted on the Leased Premises for any purpose. The Lessors shall have the right and privilege to use any roads developed by the Lessee on the Leased Premises.

(30) As the operations of the Lessee on the Leased Premises proceed, the Lessors shall have the right from time to time to require the Lessee to release from this Lease an area, or successive areas, of not less than 5 acres, when such areas have been refilled, graded, and planted in accordance with the approved reclamation plan and when the bonds for such areas have been completely released.

(31) The Parties agree that the present statutory obligation of the Lessee to restore the property after strip mining is completed, in accordance with the reclamation plan (Exhibit 18, Reclamation Map and other supporting permit documents) in the permit, shall also be a contractual obligation, whether or not the statutory provision is in effect at the time of restoration. The Lessee shall backfill the Leased Premises to the approximate original contour as it existed prior to mining and establish the stated post-mining land use of wildlife habitat.

(32) The Lessors hereby give permission and encourage the Lessee to apply to DEP for approval to apply biosolids on the permit area to the replaced topsoil as part of the reclamation plan and planting process. The Lessee shall perform all applications of biosolids at the Lessee's sole cost in strict compliance with all applicable laws and regulations and plant and restore the post-mining land use to wildlife habitat as shown on the Exhibit 18 Reclamation Plan.

(33) In addition to the payments set forth above, the Lessee shall install as further consideration of this lease a road with a minimum of a sixteen foot width running from within the Leased Premises (at a point designated by the Lessors within the permit area) in a generally westerly direction to the former LR 17008

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now State Route 3009. This road shall be built where located and directed by the Lessors and be constructed to their sole satisfaction on lands now or formerly of Spencer Land Company. The road construction is to be with the minimum of a bulldozer(s) of sufficient or adequate size to construct said road, with water bars and ditches as directed by the Lessors. If the Lessee should install a haul road on the Spencer Land Company property, said road shall meet the requirements of this section as long as it extends from within the Leased Premises at a point designated to the former LR 17008 now State Route 3009. The Spencer Land Company tract herein referred to is the parcel identified as Tax Parcel No. 107-B-7-21 and described in Deed Book 437 Page 425.

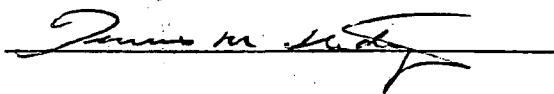
(34) This Agreement shall be construed under the laws of the Commonwealth of Pennsylvania. If any term, condition, clause or provision of this Agreement shall be deemed to be void or invalid in law or otherwise, then only that term, condition, clause or provision shall be stricken from this Agreement as is held to be void or invalid, and in all other respects, this Agreement shall be valid and in full force and operation.

This Agreement contains the entire understanding between the parties, no oral amendments shall be permitted, nor shall any oral amendments have any legal force and effect. This Lease may be amended in writing signed by all parties and attached to the original hereof.

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors, and assigns.


In witness whereof, the parties hereto have hereunto set, their hands and seals the day and year first above written.

WITNESS:



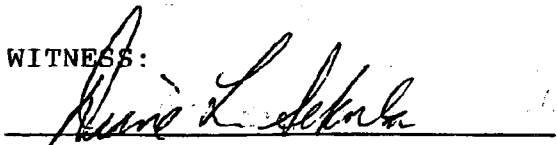
Lessors

By

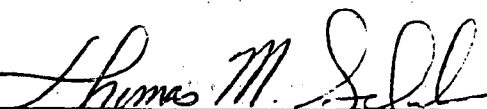

Brian S. Sekula

SS # 174-40-2470

WITNESS:



By


Thomas M. Sekula

SS # 195-42-8988

ATTEST:

Lessee
Sky Haven Coal, Inc.

Joel L. Albert

By Joseph A. Owens
Joseph A. Owens, President

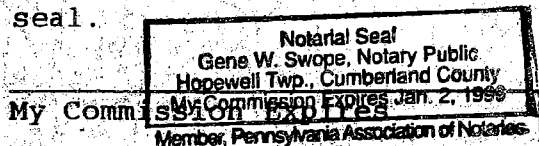
COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF CUMBERLAND :

On this, the 18th day of July, 1997,
before me, the undersigned officer, personally appeared
Thomas M. Sekda, known to me to be the
person(s) whose name(s) is/are subscribed to the within
instrument, acknowledged that he or they executed the same for
the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official
seal.



Gene W. Swope
Notary Public

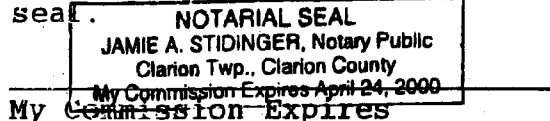
COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF Clarion :

On this, the 22nd day of August, 1997,
before me, the undersigned officer, personally appeared
Brian S. Sekda, known to me to be the
person(s) whose name(s) is/are subscribed to the within
instrument, acknowledged that he or they executed the same for
the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official
seal.



Jamie A. Stidinger
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

SS:

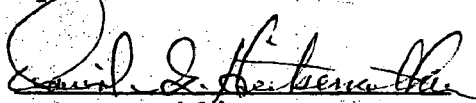
COUNTY OF CLEARFIELD :

On this, the 29th day of SEPTEMBER, 1997,

before me, the undersigned officer, personally appeared
JOSEPH A. OWENS, known to me to be the
person(s) whose name(s) is/are subscribed to the within
instrument, acknowledged that he or they executed the same for
the purposes therein contained.

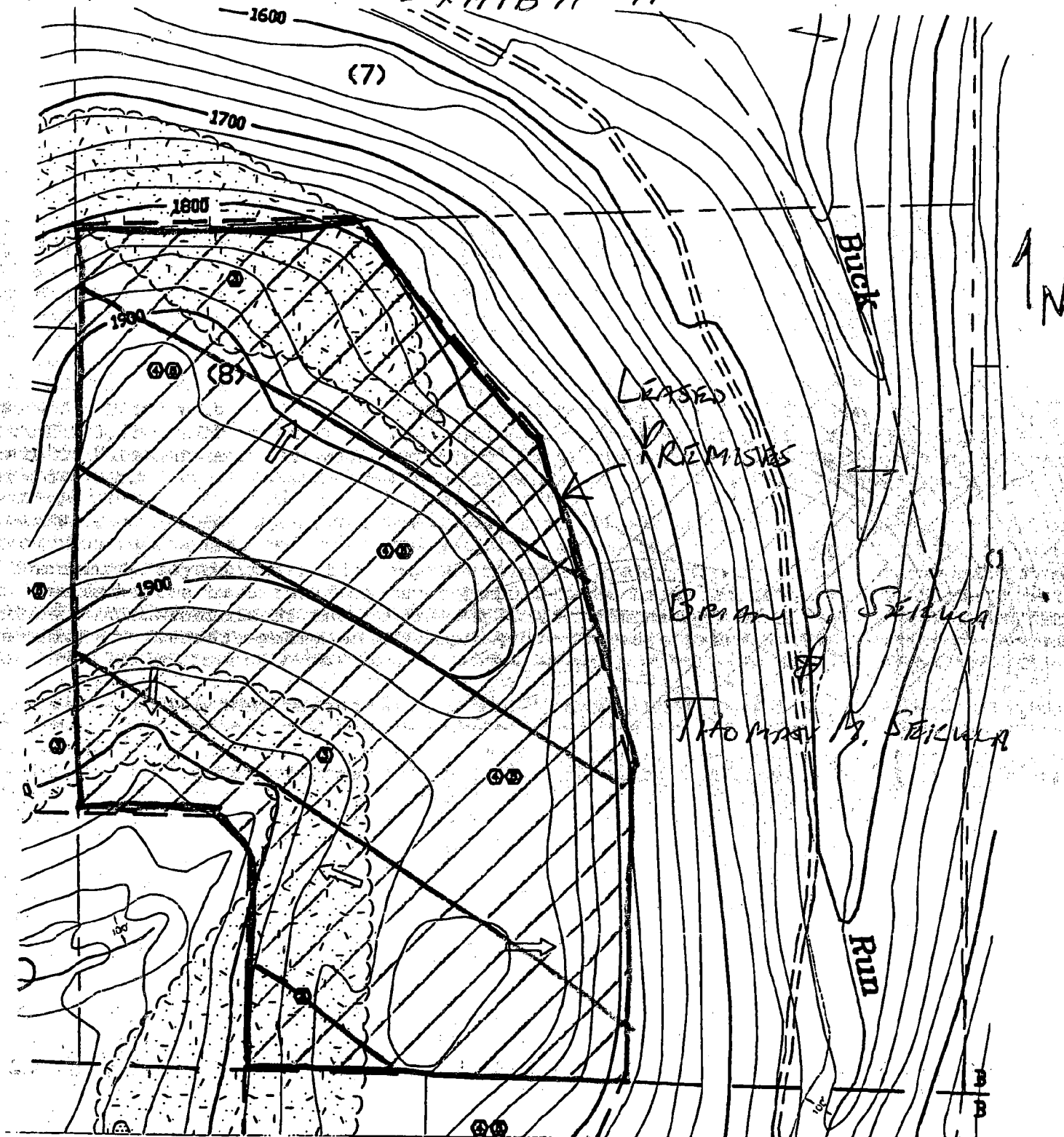
IN WITNESS WHEREOF, I hereunto set my hand and official
seal.

NOTARIAL SEAL
DAVID G. HEITSENRETH, Notary Public
Lawrence Twp., Clearfield County
My Commission Expires August 29, 1998


Notary Public

My Commission Expires

DRIP MINING LEASE AGREEMENT
EXHIBIT A



Brian S. Sekula

Brian S. Sekula

Thomas M. Sekula

Thomas M. Sekula TMS

SMP # 17960124

BSS

J.A.B.

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

BRIAN S. SEKULA

PLAINTIFF,

v.

THOMAS M. SEKULA

DEFENDANT.

NO. 00-238-CD

Pleading filed:
**Answer to Plaintiff's Complaint for
Partition, New Matter and Counter
Claim**

Filed by:
David C. Mason, Esq.
MASON LAW OFFICE
P.O. Box 28
Philipsburg, PA 16866
(814) 342-2240
PA Id No. 39180

Attorney for Defendant

Attorney for Plaintiff:
Benjamin S. Blakley, III
BLAKLEY JONES & MOHNEY
90 Beaver Drive, Box 6
DuBois, PA 15801
(814) 371-2730

FILED

APR 12 2002

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William A. Shaw
Prothonotary

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

BRIAN S. SEKULA

PLAINTIFF,

v.

NO. 00-238-CD

THOMAS M. SEKULA

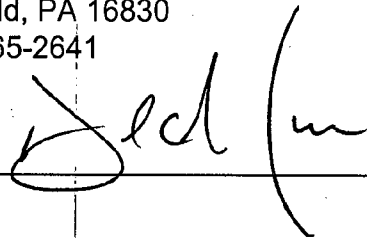
DEFENDANT.

NOTICE TO DEFEND

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

Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641

A handwritten signature in dark ink, appearing to read 'Deed (m)', is written over a horizontal line.

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

BRIAN S. SEKULA

PLAINTIFF,

v.

NO. 00-238-CD

THOMAS M. SEKULA

DEFENDANT.

**ANSWER TO PLAINTIFF'S AMENDED
COMPLAINT FOR PARTITION,
NEW MATTER, AND COUNTERCLAIM**

AND NOW, comes the Defendant, **Thomas M. Sekula**, by and through his attorney
David C. Mason, Esq. and answers Plaintiff's Complaint for Partition as follows:

1. **Admitted.**

2. **Admitted.**

3. **Admitted in Part and Denied in Part.** The subject lands are held as tenants
in common as the result of the recording of a deed on March 10, 2000, in Instrument No.
200003281.

4. **Admitted in part and denied in part.** Defendant admits the referenced
deed exists. The deed is a written document which speaks for itself. Any attempt by the
Plaintiff to interpret or explain the meaning of this document is specifically denied.

COUNT I

5. **No Response is Necessary.**

6. **Admitted.**

7. **Admitted.**

WHEREFORE, Defendant prays your Honorable Court for the entry of an Order dismissing Plaintiff's prayer for partition.

COUNT II

8. **No Response is Necessary.**

9. **Admitted in part and denied in part.** It is admitted that the parties entered into an Agreement with Darrin Shugarts Lumber Company for the removal of the timber upon the subject tract. The balance of the averments contained in paragraph 9 are denied in that the timbering contract, as a writing, speaks for itself.

10. **Denied.** The timbering contract, as writing, speaks for itself.

11. **Denied.** While it is admitted that the parties did discuss the extension of a timbering contract, said discussions were related only to the removal of the timber from the original ands under the terms of the Agreement.

12. **Admitted.**

13. **Denied.** The averments contained in paragraph 13 of Plaintiff's Complaint are denied. By way of further answer, Defendant represents that:

A. Although Plaintiff requested Defendant to work on a draft agreement for the extension of the timbering, Plaintiff gave Defendant no instructions, guidance, details or other criteria on which to formulate that extension, except for an enlargement of the time to complete work.

B. Defendant did prepare an extension of timbering agreement which was acceptable to Darrin Shugarts Lumber Company (DSLCL).

C. Plaintiff, in fact, was the party which terminated the timber contract pursuant to a letter dated February 28, 1998. This termination of the timbering agreement was effective inasmuch as paragraph 11 of Exhibit "A" to Plaintiff's Complaint identifies the Plaintiff Brian S. Sekula as the parties' representative.

14. **Denied.** The averments contained in paragraph 14 of the Plaintiff's Complaint constitute Conclusions of Law not averments of fact and therefore no response is necessary or required. To the extent a response is necessary, the said averments are denied in that for the reasons set forth in Defendant's answer (paragraph 13 above is hereby incorporated by reference), the Plaintiff terminated the timbering contract, and it is denied that the actions of the Defendant in failing to draft a timely extension agreement resulted in any loss to the Plaintiff.

WHEREFORE, Defendant prays your Honorable Court for the entry of a judgment in favor of the Defendant and against the Plaintiff.

**COUNTERCLAIM
THOMAS M. SEKULA vs. BRIAN S. SEKULA
CIVIL ACTION-EQUITY
SEEKING DECLARATION OF CONSTRUCTIVE TRUST**

10. The tract of land subject to the action for partition filed by the Plaintiff (hereinafter the "Deemer" tract) was purchased by the parties on or about August 25, 1995. At or about the same time the parties discussed and agreed to acquire other lands contiguous to the subject tract, as the same was landlocked by natural and physical

barriers.

11. Brian S. Sekula purchased the contiguous parcel of land in December 1997, without telling Thomas M. Sekula, and took title to the "Spencer" tract of land in the name of Brian S. Sekula, and did not title the lands in the names of Thomas M. Sekula and Brian S. Sekula, like the Deemer tract, or as previously agreed upon.

12. The parties were interested in acquiring the "Spencer" tract of land to provide a means of access from the legislative route to the Deemer tract.

13. Brian S. Sekula acquired the "Spencer" tract of land in his name alone in order to benefit himself, at the expense of his brother and co-tenant, Thomas M. Sekula.

14. This purchase violated the agreement of the partners to acquire the "Spencer" tract together, in order to permit the establishment of an access road to the Deemer tract.

15. Brian S. Sekula would be unjustly enriched to the detriment of Thomas M. Sekula if he, Brian S. Sekula, were to be permitted to retain sole title to the "Spencer" tract.

16. Both parties to this action participated as partners in the negotiation of the purchase of the "Spencer" tract, for their mutual benefit as co-tenants of an adjoining, otherwise landlocked parcel of land, which is the Deemer tract.

17. Permitting Brian S. Sekula to retain sole title to the "Spencer" tract would allow him to be unjustly and unfairly enriched.

WHEREFORE, Thomas M. Sekula prays for the entry of an Order and Decree declaring that Brian S. Sekula holds title to the "Spencer" tract as the Trustee of a Trust for the benefit of Thomas M. Sekula and Brian S. Sekula.

COUNT II-
THOMAS M. SEKULA vs BRIAN S. SEKULA
CIVIL ACTION-LAW
BREACH OF CONTRACT

18. The parties were Lessors of the Deemer tract for timbering operations and for surface mining of coal. The timber lease was with Darrin Shugarts Lumber Company (DSLCL), and the coal lease with Sky Haven Coal Company, Inc. (Sky Haven).

19. Thomas M. Sekula and Brian S. Sekula had agreed to extend the timbering operations' time deadline, and as a result, the DSLCL slowed operations while working elsewhere. Thereafter, without the approval or knowledge of Thomas M. Sekula, Brian S. Sekula notified DSLCL to immediately cease operations.

20. The cancellation of the timbering agreement by Brian S. Sekula terminated the receipt of proceeds, and resulted in a loss to Thomas M. Sekula of those receipts in an amount in excess of \$15,000.00, plus interest since June 1, 1998.

21. Thomas M. Sekula believes and therefore avers that Brian S. Sekula harassed and threatened Sky Haven with threats of lawsuits and regulatory inquiries and investigations to force the cancellation of the coal mining lease.

22. The cancellation by Sky Haven of the coal mining lease caused the loss to Thomas M. Sekula in an amount in excess of \$100,000.00, plus interest since November 1, 1998.

23. The actions of Brian S. Sekula in terminating the timbering contract, and effectively causing the cancellation of the coal mining lease were performed for the intentional purpose and design of attempting to freeze out Thomas M. Sekula on the

Deemer tract, and force him to sell the same to Brian S. Sekula.

24. The actions of Brian S. Sekula in causing the loss of the timbering and mining activities on the Deemer tract have directly caused Thomas M. Sekula to suffer loss in the amount of \$115,000.00, plus interest.

WHEREFORE, Thomas M. Sekula prays for the entry of a judgment in his favor and against the Defendant, Brian S. Sekula, in an amount in excess of \$25,000.00, plus interest and costs of suit.

Respectfully submitted,
MASON LAW OFFICE

By: 

David C. Mason
P.O. Box 28
Philipsburg, PA 16866
(814) 342-2240
Pa. Id. No. 39180

VERIFICATION

I DAVID C. MASON, Esquire, Attorney for the Defendant, verify that the facts set forth in the foregoing Pleading are true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

This verification is made by Defendant's counsel pursuant to Pa. R.C.P. §1024(c) in that Defendant is outside the jurisdiction of the Court and his verification cannot be obtained within the time allowed for filing this Pleading. The information contained in this Pleading was obtained from defense counsel in the course of his representation of the Defendant, is based upon knowledge derived in the course of that representation, and is not factually different or contrary to previous pleadings personally verified by the Defendant.



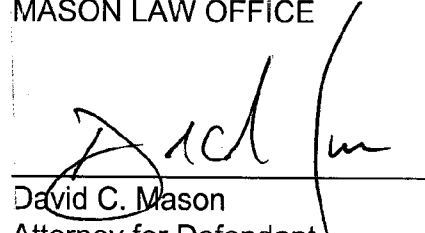
David C. Mason, Attorney for Defendant

CERTIFICATE OF SERVICE

I, David C. Mason, do hereby certify that a true and correct copy of Defendant's Answer to Plaintiff's Amended Complaint for Partition, New Matter and Counter-claim was served on the 12th day of April, 2002, via U.S. First Class mail, postage pre-paid to counsel of record for Plaintiff:

Benjamin S. Blakley, III
BLAKLEY JONES & MOHNEY
90 Beaver Drive, Box 6
DuBois, PA 15801

MASON LAW OFFICE



David C. Mason
Attorney for Defendant

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA
No. 00-238-C.D.

BRIAN S. SEKULA,

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

CERTIFICATE OF SERVICE

FILED

11:34 AM

MAR 04 2002

William A. Shaw
Prothonotary

LAW OFFICES

BLAKLEY, JONES & MOHNEY

90 BEAVER DRIVE - BOX 6

DUBOIS, PA 15801

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238 - C.D.

TYPE OF CASE: CIVIL

TYPE OF PLEADING:
CERTIFICATE OF SERVICE

FILED ON BEHALF OF:
PLAINTIFF

COUNSEL OF RECORD FOR
THIS PARTY:
BENJAMIN S. BLAKLEY, III

SUPREME COURT NO.: 26331

BLAKLEY, JONES & MOHNEY
90 BEAVER DRIVE, BOX 6
DU BOIS, PA 15801
(814) 371 - 2730

FILED

MAR 04 2002

William A. Shaw
Prothonotary

#14

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

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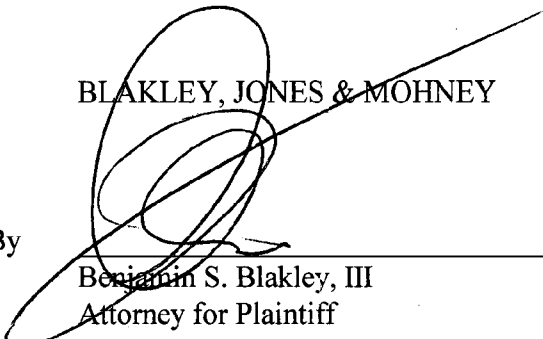
NO. 00 - 238-C.D.

CERTIFICATE OF SERVICE

I hereby certify that a certified copy of **Stipulation to Amended Pleading** and a certified copy of **Amended Complaint** filed in the above-captioned matter, was served upon DAVID C. MASON, ESQUIRE, attorney for Defendant, on this 28th day of February, 2002, by hand-delivery.

BLAKLEY, JONES & MOHNEY

By


Benjamin S. Blakley, III
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA
NO. 00-238-C.D.

BRIAN S. SEKULA,

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

AMENDED COMPLAINT

FILED

FEB 28 2002

0/2:44 p.m.

William A. Shaw
Prothonotary

Dec to Att'y

LAW OFFICES

BLAKLEY, JONES & MOHNEY

90 BEAVER DRIVE - BOX 6

DUBOIS, PA 15801

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

BREAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238 - C.D.

TYPE OF CASE: CIVIL

TYPE OF PLEADING:
AMENDED COMPLAINT

FILED ON BEHALF OF:
PLAINTIFF

COUNSEL OF RECORD FOR
THIS PARTY:
BENJAMIN S. BLAKLEY, III

SUPREME COURT NO.: 26331

BLAKLEY, JONES & MOHNEY
90 BEAVER DRIVE, BOX 6
DU BOIS, PA 15801
(814) 371 - 2730

FILED

FEB 28 2002

William A. Shaw
Prothonotary

#13

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

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NO. 00 - 238 - C.D.

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 AMENDED 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.

DAVID MEHOLICK, COURT ADMINISTRATOR
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238 - C.D.

AMENDED COMPLAINT

AND NOW, comes Plaintiff, **BRIAN S. SEKULA**, by and through his attorneys, **BLAKLEY, JONES & MOHNEY**, and brings this Complaint upon causes of action of which the following is a statement:

1. The Plaintiff is **BRIAN S. SEKULA**, an adult individual residing at R.D. # 1, Box 222, Rockton, Clearfield County, Pennsylvania.

2. The Defendant is **THOMAS M. SEKULA**, an adult individual residing at 8250 Newburg Road, Newburg, Franklin County, Pennsylvania.

3. Plaintiff and Defendants are the owners of certain real estate in Clearfield County, Pennsylvania, as described below and all interest of the parties in the property are held as joint tenants with right of survivorship and are undivided.

4. The parties acquired title to the property by Deed from Charles H. Alexander, et al. dated August 25, 1995 and recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 1736, page 128 wherein said Grantors conveyed:

ALL that certain tract of land situate in Brady Township, Clearfield County, Pennsylvania,

bounded and described as follows:

BOUNDED on the North by C.G.M. Development Corporation; bounded on the East by Calvin Bean and John Bean and the Ideal Foundation; bounded on the South by Brian Sekula and Jaye C. McKee; and bounded on the West by Spencer Land Company and by W. D. Weber et al. And by John O. Grape and Emily M. Grape.

CONTAINING 140 acres, more or less.

EXCEPTING AND RESERVING the oil, gas and minerals but only to the same extent as previously excepted and reserved by Grantors' predecessors in title.

to have and to hold as joint tenants with right of survivorship in equal shares between Plaintiff and Defendant.

COUNT I - COMPLAINT IN EQUITY - PARTITION

5. Plaintiff incorporates by reference the averments contained in paragraphs 1 through 4 above as if fully set forth herein.

6. No other person other than the parties to this suit has any interest in the property which is presently in the possession of the Plaintiff and Defendant.

7. No partition or division of the property has ever been made.

WHEREFORE, Plaintiff demands that:

(a) the Court decree partition of the real estate;

(b) the shares to which the respective parties are entitled be set out to them severally and that all proper and necessary conveyances and assurances be executed for carrying such partition into effect.

(c) such other and further relief be granted as the Court deems just and proper.

COUNT II - CIVIL ACTION - LAW
BREACH OF CONTRACT

8. Plaintiff incorporates by reference the averments contained in paragraphs 1 through 7 as if fully set forth herein.

9. Subsequent to the parties taking possession of the subject real property, Plaintiff and Defendant entered into a Timbering Agreement with Darrin Shugarts Lumber Company of 323 West Fifth Street, Clearfield, Clearfield County, Pennsylvania, for the removal of timber upon the subject property and upon other property of the Plaintiff and of Marilyn and Jay McKee. A copy of said Timbering Agreement is attached hereto and made a part hereof and marked as Exhibit "A."

10. Under the terms of said Agreement, all timbering activities were to be completed upon the subject property by March 1, 1998.

11. That prior to the expiration of the Timbering Agreement, Plaintiff and Defendant entered into discussions concerning the extension of the Timbering Agreement so as to permit the Logger to remove additional timber from the lands of the parties.

12. That by electronic mail dated January 25, 1998, the Plaintiff requested that the Defendant draft a time extension agreement modification and by reply electronic mail dated the same date, the Defendant informed the Plaintiff that he would work on the same. A copy of said electronic mail transmission is attached hereto and made a part hereof and marked as Exhibit "B".

13. That contrary to the representations of the Defendant, the Defendant failed to draft a timely extension agreement for execution by the parties prior to the expiration of the terms of the November 3, 1997 Timbering Agreement and as such by its terms, the said Timbering Agreement expired.

14. That the actions of the Defendant in failing to draft a timely Extension Agreement for execution by the parties prior to the expiration of the terms of the November 3, 1997, Timbering Agreement has resulted in a loss to the Plaintiff, **BRIAN S. SEKULA**, of those timber receipts in an amount in excess of \$15,000.00, plus interest since March 1, 1998, the expiration date of the original Timbering Agreement.

WHEREFORE, Plaintiff demands judgment against the Defendant in an amount in excess of \$15,000.00, plus interest and costs of suit.

Respectfully Submitted,
BLAKLEY, JONES & MOHNEY

BY: 

Benjamin S. Blakley, III
Attorney for Plaintiff

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

DATE: 2/15/02

Brian S. Sekula

BRIAN S. SEKULA

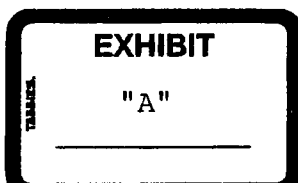
AGREEMENT

This AGREEMENT entered into this 3RD day of November, 1997 by and between Brian S. Sekula of R.D. #1 Box 222, Rockton, PA 15856-9633 (Tract No. 1), Brian S. Sekula (address above) and Thomas M. Sekula of 8250 Newburg Road, Newburg, PA 17240-9704 (Tract No. 2), and Jaye and Marilyn McKee of R.D. #3 Box 306, Punxsutawney, PA 15767 (Tract No. 3), hereinafter referred to as "Owners" and Darrin Shugarts Lumber Company of 323 West 5th Street, Clearfield, PA 16830 hereinafter referred to as "Logger".

Witnesseth, that Owners for and in consideration of the amounts and payment terms identified on Exhibit "B" attached, do by these presents grant, bargain and sell to said Logger all of the timber (excluding tree tops as defined herein) within the "Timber Area" on the tracts herein identified as described below and shown on Exhibit "A" attached. The subject tracts are located in Bell and Brady Townships, Clearfield County, Pennsylvania identified as tax parcel numbers 102-B-8-18 (Tract No. 1), 107-B-7-22 (Tract No. 2), and 102-B-8-5 (Tract No. 3). Said parcels are bounded as follows: (Tract No. 1, Bell Township) - on the north by Sekula's (Tract No. 2) and Ideal Foundation, on the east by Mills and Pifer, on the south Cunkleman and Weber, and on the west by McKee (Tract No. 3). (Tract No. 2, Brady Township) - on the north by CGM Development, on the east by Ideal Foundation, on the south by Sekula (Tract No. 1) and McKee (Tract No. 3). (Tract No. 3, Bell Township) - on the north by Spencer Land Company and Sekula's (Tract No. 2), on the east by Sekula (Tract No. 1), on the south by Weber, and on the west by Bell and Steurnagle.

Owners and Logger set forth and agree as follows:

- (1) Logger shall pay to each of the respective Owners upon signing this agreement, sums in accordance with the amounts set forth on Exhibit "B". Payments will be made every two weeks following the date of this Agreement for the timber cut and removed from the Timber Area as follows; Tract No.1 to Brian S. Sekula; Tract No. 2, ½ of any payment to Brian S. Sekula and ½ of any payment to Thomas M. Sekula; Tract No. 3 to Jaye and Marilyn McKee. With each payment a summary of all log volumes and weigh slips shall be provided. Logger shall permit Owners to review and provide copies of all records relating to the logging activities, volumes, and weights.
- (2) Owners sell to Logger all of the trees and logs greater than 3 inches in diameter within the "Timber Area" defined as approximately shown in red on the map identified as "Exhibit "A"" and marked in the field by a boundary of blue ribbon and trees marked with three slashes of yellow paint.
- (3) Logger shall carry a minimum of liability (\$500,000), property damage (\$500,000), and workmen's compensation insurance (Statutory) at its own cost and agrees to indemnify and hold Owners harmless from any claim, action, or damage by Logger. Logger shall provide Owners a certificate of insurance naming Owners as an additional insured.
- (4) Logger shall perform their logging activities in accordance with all applicable laws and regulations.



BSS

(5) Logger shall keep all access roads open and free of tree tops and debris during the logging activities and upon completion.

(6) Brian S. Sekula hereby grants a License to Logger to use his rights-of-way across lands owned by Deemer and Spencer for the life of the timbering activity on the Owner's parcels. Logger shall repair any and all damage to the road used for hauling. The License shall expire on March 1, 1998.

(7) Logger may cut all trees within the "Timber Area". In no case however, may the Logger remove any tree tops for chipping. All tree tops shall be left on the subject properties. For the purposes of this agreement, paper wood logs shall be at minimum of 3 inches in diameter. This is a clear cut with the restriction of removal of tree tops within the Timber Area on the three tracts.

(8) All timbering activities shall be completed by Logger by March 1, 1998. However, all timber shall be removed from the bonded areas shown on Exhibit "C" attached by December 31, 1997.

(9) Exhibit "A" (Timber Area map), Exhibit "B" (Payment Terms), and Exhibit "C" (Bonded Area map) are a part of this agreement.

(10) The Owner's property lines as noted on Exhibit "A" shall be kept free of treetops. All trees shall be felled on the Owners property and within the "Timber Area" as identified.

(11) Owners identify as their representative Brian S. Sekula with the full power to enforce all of the conditions of this contract.

(12) Logger shall repair any and all haul roads utilized on the Owners and other properties used for access to their original condition including but limited to cross drains, (open and functioning), grading the road surface to either a crown or sloped to one side, ditches where existing, and water bars reconstructed to the sole satisfaction of Owners's representative. In addition, all disturbed areas shall be seeded. Any haul road built on Spencer Land Company will be left as a drive-able road upon the written permission of Spencer Land Company. In addition, for any road built on Spencer Land Company, a gate shall be placed near the entrance at SR 3009. Said gate shall be provided and installed by the Logger and shall become the property of Brian S. Sekula and Thomas M. Sekula, who shall also receive keys for any lock installed. Any gate if placed, shall be constructed in accordance with the design and direction of Brian S. Sekula.

(13) Logger shall pay for any trees cut or damaged that were not within the "Timber Area" in accordance with Exhibit B. Saw Log volumes shall be measured by the Scribner Log Scale. Veneer log volumes shall be measured on the Doyle Log Scale. The Owners reserve the right to identify additional trees outside of the "Timber Area" to be cut on a case by case basis. For those trees, the price paid per 1000 board feet shall be in accordance with the schedule shown on Exhibit B for each species.

(14) Logger shall provide Owners (payable to Brian S. Sekula) a certified bank check in the amount of \$3,000.00 as a performance guarantee which will be returned to Logger after Owners are satisfied with Logger's site clean-up and completion of the terms of this agreement.

(15) Property corners are existing. Property lines are identified with blue paint. Logger shall be responsible to stay within the Owners properties. Logger shall not disturb, remove, or damage in any way any traverse points, property corners, or line pins. Any property corners, line pins, or traverse points damaged will be replaced only by Brian S. Sekula, PE, PLS with the cost of said replacement to taken from the Logger's certified bank check acting as a performance guarantee.

(16) Logger may not assign this agreement to any other party without the prior written approval of Owners.

(17) For this Agreement, time is of the essence.

(18) Owners reserve the right to cancel this Agreement upon immediate notice through their designated representative or jointly if the Logger fails to act in accordance with the terms of this Agreement.

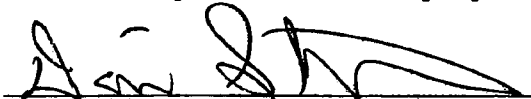
This agreement shall be construed under the laws of the Commonwealth of Pennsylvania. If any term, condition, clause or provision of this Agreement shall be deemed to be void or invalid in law or otherwise, then only that term, condition, clause or provision shall be stricken from this Agreement as is held to be void or invalid, and in all other respects, this Agreement shall be valid and in full force and operation.

This Agreement contains the entire understanding between the parties, no oral amendments shall be permitted, nor shall any oral amendments have any legal force and effect. This Agreement may be amended in writing signed by all parties and attached to the original hereof.

This agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors, and assigns.

In witness whereof, the parties hereto have hereunto set, their hands and seals the day and year first above written.

Darrin Shugarts Lumber Company



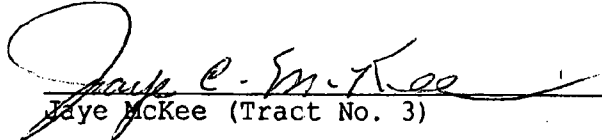
By: Darrin K. Shugarts, Owner



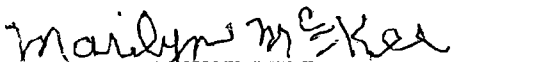
Brian S. Sekula (Tracts No. 1 & 2)



Thomas M. Sekula (Tract No. 2)



Jaye McKee (Tract No. 3)



Marilyn McKee (Tract No. 3)

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF Clarion

SS:

On this, the 3rd day of November, 1997, before me, the undersigned officer, personally appeared Brian J. Sekula, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARIAL SEAL
JAMIE A. STIDINGER, Notary Public
Clarion Twp., Clarion County

My commission Expires April 24, 2000

Jamie A. Stidinger
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF Cumberland

SS:

On this, the 5th day of November, 1997, before me, the undersigned officer, personally appeared Thomas M. Sekula, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Jan 2, 1999
My commission Expires

Gene W. Swope
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF

SS:

Notarial Seal
Gene W. Swope, Notary Public
Hopewell Twp., Cumberland County
My Commission Expires Jan. 2, 1999

Member, Pennsylvania Association of Notaries

On this, the 12th day of November, 1997, before me, the undersigned officer, personally appeared Jaye and Marilyn McKee, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notarial Seal
Lois Wymer, Notary Public

My commission Expires Sept. 24, 2001
Jefferson County

Lois Wymer
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF Jefferson

SS:

On this, the 28 day of November, 1997, before me, the undersigned officer, personally appeared Darwin K. Shugarto, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My commission Expires Feb. 1, 2001
NOTARIAL SEAL
LISA L. ROBBINS, Notary Public
Clearfield Boro., Clearfield County

Lisa L. Robbins
Notary Public

10:21

814 764 5055

BRIAN SEKULA

004

la, Thomas M., 04:32 PM 1/25/98 , RE: darrin

From: "Sekula, Thomas M." <tmsekula@CSDCOM-RMHT.APGRA.ARMY.MIL>
To: "Sekula" <bsekula@penn.com>
Subject: RE: darrin
Date: Sun, 25 Jan 1998 16:32:11 -0500
X-Mailer: Internet Mail Service (5.0.1458.49)

I will work on. t

>
> From: Sekula[SMTP:bsekula@penn.com]
> Sent: Sunday, January 25, 1998 10:50 AM
> To: Sekula, Thomas M.
> Cc: ssekula
> Subject: darrin
>
> how about you draft the time extension agreement modification.
>

EXHIBIT

"B"

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

: NO. 00 - 238 - C.D.
:
: TYPE OF CASE: CIVIL
:
: TYPE OF PLEADING:
: STIPULATION TO AMENDED
: PLEADING
:
: FILED ON BEHALF OF:
: PLAINTIFF
:
: COUNSEL OF RECORD FOR
: THIS PARTY:
: BENJAMIN S. BLAKLEY, III
:
: SUPREME COURT NO.: 26331
:
: BLAKLEY, JONES & MOHNEY
: 90 BEAVER DRIVE, BOX 6
: DU BOIS, PA 15801
: (814) 371 - 2730

FILED

FEB 28 2002

William A. Shaw
Prothonotary

#12

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

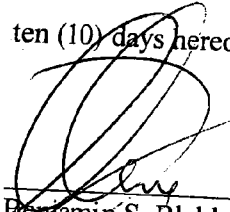
NO. 00 - 238 - C.D.

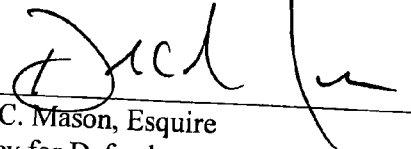
THOMAS M. SEKULA,

DEFENDANT

STIPULATION TO AMENDED PLEADING

And now, this 28th day of February, 2002, it is hereby stipulated by and between the parties herein through their undersigned counsel, that Plaintiff be allowed to file within ten (10) days hereof an Amended Complaint as set forth in the attached Exhibit "A."


Benjamin S. Blakley, III, Esquire
Attorney for Plaintiff


David C. Mason, Esquire
Attorney for Defendant

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

BRIAN S. SEKULA,

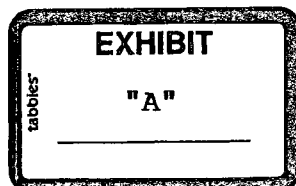
PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

: NO. 00 - 238 - C.D.
:
: TYPE OF CASE: CIVIL
:
: TYPE OF PLEADING:
: AMENDED COMPLAINT
:
: FILED ON BEHALF OF:
: PLAINTIFF
:
: COUNSEL OF RECORD FOR
: THIS PARTY:
: BENJAMIN S. BLAKLEY, III
:
: SUPREME COURT NO.: 26331
:
: BLAKLEY, JONES & MOHNEY
: 90 BEAVER DRIVE, BOX 6
: DU BOIS, PA 15801
: (814) 371 - 2730



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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238 - C.D.

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 AMENDED 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.

DAVID MEHOLICK, COURT ADMINISTRATOR
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238 - C.D.

AMENDED COMPLAINT

AND NOW, comes Plaintiff, **BRIAN S. SEKULA**, by and through his attorneys, **BLAKLEY, JONES & MOHNEY**, and brings this Complaint upon causes of action of which the following is a statement:

1. The Plaintiff is **BRIAN S. SEKULA**, an adult individual residing at R.D. # 1, Box 222, Rockton, Clearfield County, Pennsylvania.
2. The Defendant is **THOMAS M. SEKULA**, an adult individual residing at 8250 Newburg Road, Newburg, Franklin County, Pennsylvania.
3. Plaintiff and Defendants are the owners of certain real estate in Clearfield County, Pennsylvania, as described below and all interest of the parties in the property are held as joint tenants with right of survivorship and are undivided.
4. The parties acquired title to the property by Deed from Charles H. Alexander, et al. dated August 25, 1995 and recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 1736, page 128 wherein said Grantors conveyed:

ALL that certain tract of land situate in Brady Township, Clearfield County, Pennsylvania,

bounded and described as follows:

BOUNDED on the North by C.G.M. Development Corporation; bounded on the East by Calvin Bean and John Bean and the Ideal Foundation; bounded on the South by Brian Sekula and Jaye C. McKee; and bounded on the West by Spencer Land Company and by W. D. Weber et al. And by John O. Grape and Emily M. Grape.

CONTAINING 140 acres, more or less.

EXCEPTING AND RESERVING the oil, gas and minerals but only to the same extent as previously excepted and reserved by Grantors' predecessors in title.

to have and to hold as joint tenants with right of survivorship in equal shares between Plaintiff and Defendant.

COUNT I - COMPLAINT IN EQUITY - PARTITION

5. Plaintiff incorporates by reference the averments contained in paragraphs 1 through 4 above as if fully set forth herein.

6. No other person other than the parties to this suit has any interest in the property which is presently in the possession of the Plaintiff and Defendant.

7. No partition or division of the property has ever been made.

WHEREFORE, Plaintiff demands that:

(a) the Court decree partition of the real estate;

(b) the shares to which the respective parties are entitled be set out to them severally and that all proper and necessary conveyances and assurances be executed for carrying such partition into effect.

(c) such other and further relief be granted as the Court deems just and proper.

COUNT II - CIVIL ACTION - LAW
BREACH OF CONTRACT

8. Plaintiff incorporates by reference the averments contained in paragraphs 1 through 7 as if fully set forth herein.

9. Subsequent to the parties taking possession of the subject real property, Plaintiff and Defendant entered into a Timbering Agreement with Darrin Shugarts Lumber Company of 323 West Fifth Street, Clearfield, Clearfield County, Pennsylvania, for the removal of timber upon the subject property and upon other property of the Plaintiff and of Marilyn and Jay McKee. A copy of said Timbering Agreement is attached hereto and made a part hereof and marked as Exhibit "A."

10. Under the terms of said Agreement, all timbering activities were to be completed upon the subject property by March 1, 1998.

11. That prior to the expiration of the Timbering Agreement, Plaintiff and Defendant entered into discussions concerning the extension of the Timbering Agreement so as to permit the Logger to remove additional timber from the lands of the parties.

12. That by electronic mail dated January 25, 1998, the Plaintiff requested that the Defendant draft a time extension agreement modification and by reply electronic mail dated the same date, the Defendant informed the Plaintiff that he would work on the same. A copy of said electronic mail transmission is attached hereto and made a part hereof and marked as Exhibit "B".

13. That contrary to the representations of the Defendant, the Defendant failed to draft a timely extension agreement for execution by the parties prior to the expiration of the terms of the November 3, 1997 Timbering Agreement and as such by its terms, the said Timbering Agreement expired.

14. That the actions of the Defendant in failing to draft a timely Extension Agreement for execution by the parties prior to the expiration of the terms of the November 3, 1997, Timbering Agreement has resulted in a loss to the Plaintiff, **BRIAN S. SEKULA**, of those timber receipts in an amount in excess of \$15,000.00, plus interest since March 1, 1998, the expiration date of the original Timbering Agreement.

WHEREFORE, Plaintiff demands judgment against the Defendant in an amount in excess of \$15,000.00, plus interest and costs of suit.

Respectfully Submitted,
BLAKLEY, JONES & MOHNEY

BY: _____

Benjamin S. Blakley, III
Attorney for Plaintiff

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

DATE: _____

BRIAN S. SEKULA

AGREEMENT

This AGREEMENT entered into this 3RD day of November, 1997 by and between Brian S. Sekula of R.D. #1 Box 222, Rockton, PA 15856-9633 (Tract No. 1), Brian S. Sekula (address above) and Thomas M. Sekula of 8250 Newburg Road, Newburg, PA 17240-9704 (Tract No. 2), and Jaye and Marilyn McKee of R.D. #3 Box 306, Punxsutawney, PA 15767 (Tract No. 3), hereinafter referred to as "Owners" and Darrin Shugarts Lumber Company of 323 West 5th Street, Clearfield, PA 16830 hereinafter referred to as "Logger".

Witnesseth, that Owners for and in consideration of the amounts and payment terms identified on Exhibit "B" attached, do by these presents grant, bargain and sell to said Logger all of the timber (excluding tree tops as defined herein) within the "Timber Area" on the tracts herein identified as described below and shown on Exhibit "A" attached. The subject tracts are located in Bell and Brady Townships, Clearfield County, Pennsylvania identified as tax parcel numbers 102-B-8-18 (Tract No. 1), 107-B-7-22 (Tract No. 2), and 102-B-8-5 (Tract No. 3). Said parcels are bounded as follows: (Tract No. 1, Bell Township) - on the north by Sekula's (Tract No. 2) and Ideal Foundation, on the east by Mills and Pifer, on the south Cunkleman and Weber, and on the west by McKee (Tract No. 3). (Tract No. 2, Brady Township) - on the north by CGM Development, on the east by Ideal Foundation, on the south by Sekula (Tract No. 1) and McKee (Tract No. 3). (Tract No. 3, Bell Township) - on the north by Spencer Land Company and Sekula's (Tract No. 2), on the east by Sekula (Tract No. 1), on the south by Weber, and on the west by Bell and Steurnagle.

Owners and Logger set forth and agree as follows:

- (1) Logger shall pay to each of the respective Owners upon signing this agreement, sums in accordance with the amounts set forth on Exhibit "B". Payments will be made every two weeks following the date of this Agreement for the timber cut and removed from the Timber Area as follows; Tract No. 1 to Brian S. Sekula; Tract No. 2, 1/2 of any payment to Brian S. Sekula and 1/2 of any payment to Thomas M. Sekula; Tract No. 3 to Jaye and Marilyn McKee. With each payment a summary of all log volumes and weigh slips shall be provided. Logger shall permit Owners to review and provide copies of all records relating to the logging activities, volumes, and weights.
- (2) Owners sell to Logger all of the trees and logs greater than 3 inches in diameter within the "Timber Area" defined as approximately shown in red on the map identified as "Exhibit A" and marked in the field by a boundary of blue ribbon and trees marked with three slashes of yellow paint.
- (3) Logger shall carry a minimum of liability (\$500,000), property damage (\$500,000), and workmen's compensation insurance (Statutory) at its own cost and agrees to indemnify and hold Owners harmless from any claim, action, or damage by Logger. Logger shall provide Owners a certificate of insurance naming Owners as an additional insured.
- (4) Logger shall perform their logging activities in accordance with all applicable laws and regulations.

EXHIBIT

"A"

BSS

(5) Logger shall keep all access roads open and free of tree tops and debris during the logging activities and upon completion.

(6) Brian S. Sekula hereby grants a License to Logger to use his rights-of-way across lands owned by Deemer and Spencer for the life of the timbering activity on the Owner's parcels. Logger shall repair any and all damage to the road used for hauling. The License shall expire on March 1, 1998.

(7) Logger may cut all trees within the "Timber Area". In no case however, may the Logger remove any tree tops for chipping. All tree tops shall be left on the subject properties. For the purposes of this agreement, paper wood logs shall be at minimum of 3 inches in diameter. This is a clear cut with the restriction of removal of tree tops within the Timber Area on the three tracts.

(8) All timbering activities shall be completed by Logger by March 1, 1998. However, all timber shall be removed from the bonded areas shown on Exhibit "C" attached by December 31, 1997.

(9) Exhibit "A" (Timber Area map), Exhibit "B" (Payment Terms), and Exhibit "C" (Bonded Area map) are a part of this agreement.

(10) The Owner's property lines as noted on Exhibit "A" shall be kept free of treetops. All trees shall be felled on the Owners property and within the "Timber Area" as identified.

(11) Owners identify as their representative Brian S. Sekula with the full power to enforce all of the conditions of this contract.

(12) Logger shall repair any and all haul roads utilized on the Owners and other properties used for access to their original condition including but limited to cross drains, (open and functioning), grading the road surface to either a crown or sloped to one side, ditches where existing, and water bars reconstructed to the sole satisfaction of Owners's representative. In addition, all disturbed areas shall be seeded. Any haul road built on Spencer Land Company will be left as a drive-able road upon the written permission of Spencer Land Company. In addition, for any road built on Spencer Land Company, a gate shall be placed near the entrance at SR 3009. Said gate shall be provided and installed by the Logger and shall become the property of Brian S. Sekula and Thomas M. Sekula, who shall also receive keys for any lock installed. Any gate if placed, shall be constructed in accordance with the design and direction of Brian S. Sekula.

(13) Logger shall pay for any trees cut or damaged that were not within the "Timber Area" in accordance with Exhibit B. Saw Log volumes shall be measured by the Scribner Log Scale. Veneer log volumes shall be measured on the Doyle Log Scale. The Owners reserve the right to identify additional trees outside of the "Timber Area" to be cut on a case by case basis. For those trees, the price paid per 1000 board feet shall be in accordance with the schedule shown in Exhibit B for each species.

(14) Logger shall provide Owners (payable to Brian S. Sekula) a certified bank check in the amount of \$3,000.00 as a performance guarantee which will be returned to Logger after Owners are satisfied with Logger's site clean-up and completion of the terms of this agreement.

(15) Property corners are existing. Property lines are identified with blue paint. Logger shall be responsible to stay within the Owners properties. Logger shall not disturb, remove, or damage in any way any traverse points, property corners, or line pins. Any property corners, line pins, or traverse points damaged will be replaced only by Brian S. Sekula, PE, PLS with the cost of said replacement to be taken from the Logger's certified bank check acting as a performance guarantee.

(16) Logger may not assign this agreement to any other party without the prior written approval of Owners.

(17) For this Agreement, time is of the essence.

(18) Owners reserve the right to cancel this Agreement upon immediate notice through their designated representative or jointly if the Logger fails to act in accordance with the terms of this Agreement.


This agreement shall be construed under the laws of the Commonwealth of Pennsylvania. If any term, condition, clause or provision of this Agreement shall be deemed to be void or invalid in law or otherwise, then only that term, condition, clause or provision shall be stricken from this Agreement as is held to be void or invalid, and in all other respects, this Agreement shall be valid and in full force and operation.

This Agreement contains the entire understanding between the parties, no oral amendments shall be permitted, nor shall any oral amendments have any legal force and effect. This Agreement may be amended in writing signed by all parties and attached to the original hereof.

This agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors, and assigns.

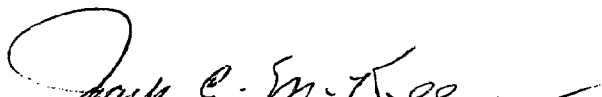
In witness whereof, the parties hereto have hereunto set, their hands and seals the day and year first above written.

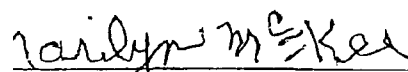
Darrin Shugarts Lumber Company


y: Darrin K. Shugarts, Owner


Brian S. Sekula (Tracts No. 1 & 2)


Thomas M. Sekula (Tract No. 2)


Jaye McKee (Tract No. 3)


Marilyn McKee (Tract No. 3)

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF Clarion

SS:

On this, the 3rd day of November, 1997, before me, the undersigned officer, personally appeared Brian S. Sekula, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARIAL SEAL
JAMIE A. STIDINGER, Notary Public
Clarion Twp., Clarion County

My commission expires April 24, 2000

Jamie A. Stidinger
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF Cumberland

SS:

On this, the 5th day of November, 1997, before me, the undersigned officer, personally appeared Thomas M. Sekula, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Jan 2, 1999
My commission Expires

Gene W. Swope
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF

SS:

Notarial Seal
Gene W. Swope, Notary Public
Hopewell Twp., Cumberland County
My Commission Expires Jan. 2, 1999

Member, Pennsylvania Association of Notaries

On this, the 12th day of November, 1997, before me, the undersigned officer, personally appeared Jane and Marilyn McKee, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notarial Seal
Lois Wymer, Notary Public
Baskin Twp., Jefferson County
My Commission Expires Sept. 24, 2001

Member, Pennsylvania Association of Notaries

Lois Wymer
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF Jefferson

On this, the 28 day of November, 1997, before me, the undersigned officer, personally appeared Darwin K. Shugarts, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Lisa L. Robbins
Notary Public

NOTARIAL SEAL
LISA L. ROBBINS, Notary Public
Clearfield Boro., Clearfield County
My Commission Expires Feb. 1, 2001

BSS

10:21

0914

5053

BRIAN SEKULA

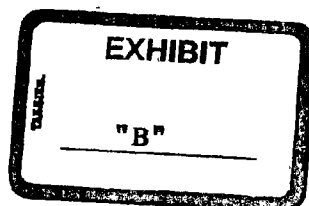
004

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> Subject: darrin
>
> how about you draft the time extension agreement modification.
>



FILED

FEB 28 2002

0/2:44 p.m.

William A. Shaw

Prothonotary

2 cc to Atty

[Signature]

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

No. 00-238-C.D.

BRIAN S. SEKULA,

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

CERTIFICATE OF SERVICE

LAW OFFICES

BLAKLEY, JONES & MOHNEY

90 BEAVER DRIVE - BOX 6
DUBOIS, PA 15801

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238 - C.D.

TYPE OF CASE: CIVIL

TYPE OF PLEADING:
CERTIFICATE OF SERVICE

FILED ON BEHALF OF:
PLAINTIFF

COUNSEL OF RECORD FOR
THIS PARTY:
BENJAMIN S. BLAKLEY, III

SUPREME COURT NO.: 26331

BLAKLEY, JONES & MOHNEY
90 BEAVER DRIVE, BOX 6
DU BOIS, PA 15801
(814) 371 - 2730

FILED

FEB 28 2002

m/1-38/no cc
William A. Shaw
Prothonotary

11

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

NO. 00 - 238-C.D.

THOMAS M. SEKULA,

DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a certified copy of **Petition for Leave to Amend Plaintiff's Complaint to Add Additional Claim** filed in the above-captioned matter, was served upon Defendant's counsel on this 27th day of February, 2002, by First Class, United States Mail, postage prepaid, addressed as follows:

David C. Mason, Esquire
MASON LAW OFFICE
P.O. Box 28
Philipsburg, PA 16866

BLAKLEY, JONES & MOHNEY

By

Benjamin S. Blakley, III
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

No. 00-238-C.D.

BRTANISN SEKULA,
Plaintiff

vs.

THOMAS M. SEKULA,
Defendant

PETITION FOR LEAVE TO AMEND
PLAINTIFF'S COMPLAINT TO ADD
ADDITIONAL CLAIM

FILED

FEB 20 2002

01115012ccathy Bailey
William A. Shaw
Prothonotary *WAS*

LAW OFFICES

BLAKLEY, JONES & MOHNEY

90 BEAVER DRIVE - BOX 6
DUBOIS, PA 15801

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238 - C.D.

TYPE OF CASE: CIVIL

TYPE OF PLEADING:
PETITION FOR LEAVE TO
AMEND PLAINTIFF'S COMPLAINT
TO ADD ADDITIONAL CLAIM

FILED ON BEHALF OF:
PLAINTIFF

COUNSEL OF RECORD FOR
THIS PARTY:
BENJAMIN S. BLAKLEY, III

SUPREME COURT NO.: 26331

BLAKLEY, JONES & MOHNEY
90 BEAVER DRIVE, BOX 6
DU BOIS, PA 15801
(814) 371 - 2730

FILED

FEB 20 2002

William A. Shaw
Prothonotary

#10

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

NO. 00 - 238-C.D.

THOMAS M. SEKULA,

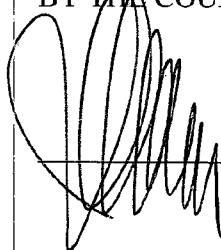
DEFENDANT

RULE TO SHOW CAUSE


AND NOW, this 25th day of February, 2002, upon consideration of the foregoing Petition to Amend Plaintiff's Complaint by Adding an Additional Claim, it is the ORDER of this Court that a Rule be issued upon Defendant to show cause why the prayers in said Petition should not be granted.

Rule Returnable for filing a written response with the Court on the 18 day of March, 2002.

BY THE COURT:



FILED

FEB 25 2002
01914212cc atty Blakley
William A. Shaw
Prothonotary


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

BRIAN S. SEKULA,
PLAINTIFF

VS.

NO. 00 - 238-C.D.

THOMAS M. SEKULA,
DEFENDANT

NOTICE

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING MOTION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITIONER OR MOVANT. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 50-51

BY THE COURT:

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

NO. 00 - 238-C.D.

THOMAS M. SEKULA,

DEFENDANT

**PETITION FOR LEAVE TO AMEND PLAINTIFF'S
COMPLAINT TO ADD ADDITIONAL CLAIM**

AND NOW, comes Plaintiff, BRIAN S. SEKULA, by and through his attorneys, BLAKLEY, JONES & MOHNEY, and petitions this Honorable Court for leave to amend his Complaint to add an additional claim against the Defendant, THOMAS M. SEKULA, and in support thereof, the following is averred:

1. Plaintiff is BRIAN S. SEKULA, an adult individual residing at R.D. #1, Box 222, Rockton, Clearfield County, Pennsylvania.
2. Defendant is THOMAS M. SEKULA, an adult individual residing at 8250 Newburg Road, Newburg, Franklin County, Pennsylvania.
3. By Complaint dated February 24, 2000, the Plaintiff did bring an action in partition against the Defendant for the partition of the parties' real property located in Brady Township, Clearfield County, Pennsylvania.
4. That the Defendant, THOMAS M. SEKULA, did file and submit an Answer to Plaintiff's Complaint for Partition, New Matter and Counterclaim on September 22, 2000, and in

response thereof, the Plaintiff did file a Reply to Defendant's New Matter, and Answer to the Defendant's Counterclaim and further filed New Matter to said Counterclaim on June 29, 2001.

5. That Plaintiff wishes to include in his Complaint a Count for Breach of Contract against the said THOMAS M. SEKULA arising from the actions of the Defendant in failing to fulfill an agreement between the parties for the preparation of an extension of a certain timber agreement between the parties and Darrin Shugarts Lumber Company.

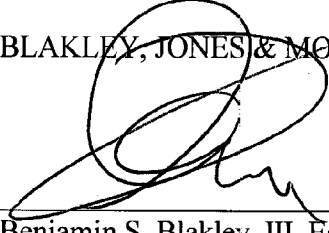
6. Defendant will not be unduly prejudiced or surprised by the addition of this additional count, as Defendant has filed a similar count against the Plaintiff in his Counterclaim and was a party to the transactions between the parties.

WHEREFORE, Plaintiff respectfully requests this Honorable Court grant Plaintiff's Petition and grant Plaintiff leave to amend his Complaint to add an additional claim against the Defendant.

Respectfully submitted,

BLAKLEY, JONES & MOHNEY

BY:


Benjamin S. Blakley, III, Esquire

VERIFICATION

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

DATE: 4/3/02

Brian S. Sekula
BRIAN S. SEKULA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

No. 00-238-C.D.

BRIAN S. SEKULA,

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

PLAINTIFF'S REPLY TO
DEFENDANT'S NEW MATTER AND
ANSWER TO COUNTERCLAIM

FILED

JUN 29 2001

08:53/2cc atty

William A. Shaw

Prothonotary

E. Blakley
RB

LAW OFFICES

BLAKLEY, JONES & MOHNEY

90 BEAVER DRIVE - BOX 6

DUBOIS, PA 15801

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238 - C.D.

TYPE OF CASE: CIVIL

TYPE OF PLEADING:
PLAINTIFF'S REPLY TO
DEFENDANT'S NEW MATTER
ANSWER TO COUNTERCLAIM,
AND PLAINTIFF'S NEW MATTER

FILED ON BEHALF OF:
PLAINTIFF

COUNSEL OF RECORD FOR
THIS PARTY:
BENJAMIN S. BLAKLEY, III

SUPREME COURT NO.: 26331

BLAKLEY, JONES & MOHNEY
90 BEAVER DRIVE, BOX 6
DU BOIS, PA 15801
(814) 371 - 2730

FILED

JUN 29 2001

William A. Shaw
Prothonotary

#9

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238-C.D.

**PLAINTIFF'S REPLY TO DEFENDANT'S NEW MATTER,
ANSWER TO COUNTERCLAIM, AND PLAINTIFF'S NEW MATTER**

AND NOW, comes the Plaintiff, BRIAN S. SEKULA, by and through his attorneys, BLAKLEY, JONES & MOHNEY, and replies to the Defendant's New Matter as follows:

7. Requires no answer.
8. Admitted.
9. It is denied that there are disparate amounts of timber upon the subject property, or that any coal, oil and natural gas rights belonging to the parties exist on the premises, and it is further denied that if there are disparate amounts of timber such would render an equitable partition of the property impossible, and on the contrary, it is averred that an equitable partition of the property is possible after a valuation of the timber and a monetary adjustment being paid between the parties to account for any disparate amounts of timber or any other mineral rights, if the same exist, on those portions of the property being assigned to the individual parties.

DEFENDANT'S ANSWER TO COUNTERCLAIM

COUNT I

10. It is admitted that the tract of land subject to the action for partition filed by the Plaintiff was purchased by the parties on or about August 25, 1995. It is also admitted that at the same time, the parties discussed the purchase of other lands contiguous to the subject tract (not the "Spencer" tract), however, it is denied that there was any agreement to acquire said lands or that the subject tract is landlocked by natural and physical barriers, and on the contrary, it is averred that no agreement was reached between the parties for the acquisition of other lands. It is further averred that the deed to the subject tract clearly conveys a right-of-way across other lands of the Plaintiff so as to permit access to a public road. A copy of said deed is attached hereto and made a part hereof and marked as Exhibit "A."

11. It is denied that the Plaintiff purchased a contiguous parcel of land in December of 1997, and on the contrary, it is averred that the Plaintiff's purchase of a contiguous parcel occurred on November 6, 1997. It is admitted, however, that the said lands were not titled in the names of the Plaintiff and Defendant, as no agreement had ever been reached between the Plaintiff and Defendant for the joint purchase of said contiguous parcel of land, and it is denied that any agreement had previously been reached between the Plaintiff and Defendant for the purchase of said land at any time.

12. It is denied that the parties were interested in acquiring the "Spencer" tract of land to provide a means of access from the legislative route to the Deemer tract, and on the contrary, it is averred that the deed to the subject property dated August 25, 1995, and attached hereto and marked

as Exhibit "A," conveys to the parties a right-of-way to provide a means of access to the subject property from a township road to the subject tract.

13. It is denied that the Plaintiff acquired the "Spencer" tract of land in his name alone in order to benefit himself at the expense of the Defendant, and on the contrary, it is averred that no agreement had been reached between the Plaintiff and Defendant for the joint purchase of "Spencer" tract of land.

14. It is denied that the Plaintiff in any manner violated any agreement between the parties to acquire the "Spencer" tract of land, and on the contrary, it is averred that no agreement had ever been reached between the parties for the acquisition of the said "Spencer" tract of land, as the deed conveying the subject tract of land to the parties hereto, as set forth in Exhibit "A" attached hereto, provided for a right-of-way to the subject tract.

15. It is denied that the Plaintiff would in any manner be unjustly enriched to the detriment of the Defendant if the Plaintiff were permitted to retain said title to "Spencer" tract, and on the contrary, it is averred that the parties have an absolute right to a right-of-way servicing the subject tract of land by virtue of their deed of August 25, 1995, attached hereto and marked Exhibit "A."

16. It is denied that the parties to this action participated in any manner as partners in the negotiation and purchase of the "Spencer" tract for their mutual benefit as co-tenants of an adjoining, otherwise landlocked parcel of land, and on the contrary, it is averred that at no time did the parties negotiate for the purchase of the said "Spencer" tract, as the parties were granted a right-of-way to the Deemer tract in their deed of August 25, 1995, attached hereto and marked Exhibit "A."

17. Denied for the reasons set forth in the preceding paragraph.

WHEREFORE, Plaintiff, BRIAN S. SEKULA, prays that the prayer in Count I of Defendant's Counterclaim be dismissed.

COUNT II

18. Admitted.

19. It is agreed that the parties had verbally agreed to extend the timbering operations deadline time. It is further averred that an extension agreement was to be prepared by the Defendant as evidenced by Exhibit "B" attached hereto, however, the Plaintiff was not presented with an extension agreement prior to the expiration of the lease agreement, and therefore, the Plaintiff notified the logger to cease further logging operations pursuant to the parties' lease agreement of November 3, 1997, which expired March 1, 1998. A copy of said lease agreement is attached hereto and made a part hereof and marked as Exhibit "C."

20. It is admitted that the expiration of the timbering agreement terminated the receipt of proceeds to both Plaintiff and Defendant, however, it is denied that the Defendant suffered any loss as a result of any action by the Plaintiff, and on the contrary, it is averred that the termination and receipt of proceeds was brought about by the expiration of the timber agreement as set forth in the terms of said agreement and by the failure of the Defendant to prepare a timely extension agreement.

21. It is denied that the Plaintiff threatened and harassed Sky Haven, Inc. with threats of lawsuit and regulatory inquiries and investigations in order to force the cancellation of the coal mining lease, and on the contrary, it is averred that the coal mining lease was canceled by Sky Haven, Inc. as a result of the exhaustion of the minable and merchantable coal from the subject property. A copy of the correspondence of Sky Haven, Inc. is attached hereto and made a part hereof

and marked as Exhibit "D."

22. It is denied that the cancellation of the Sky Haven, Inc. coal mining lease has caused any loss to the Defendant, and on the contrary, it is averred that as all minable and merchantable coal had been exhausted from the property, neither the Plaintiff nor the Defendant could have expected any further monies from the mining of coal on the subject property pursuant to the correspondence of Sky Haven, Inc., attached hereto and marked as Exhibit "D."

23. It is denied that the Plaintiff caused a termination of the timbering contract or the coal mining lease, and further denies that any actions of the Plaintiff were performed for the intentional purpose and design of freezing the Defendant out and forcing him to sell the Deemer tract to the Plaintiff, and on the contrary, it is averred that the termination of the timber contract was brought about by its expiration under its own terms, and the failure of the Defendant to prepare a timely extension agreement and the cancellation of the coal mining lease was brought about by the exhaustion of the minable and merchantable coal on the subject property.

24. It is denied that any actions of the Plaintiff caused loss to the Defendant for the reasons set forth above.

WHEREFORE, Plaintiff, BRIAN S. SEKULA, prays that the Defendant's Counterclaim be dismissed.

PLAINTIFF'S NEW MATTER

25. Plaintiff incorporates by reference paragraphs 1 through 6 of his Complaint, 7 through 9 of his Reply to Defendant's New Matter and paragraphs 10 through 24 of his Answer to Defendant's Counterclaim as if fully set forth herein.

26. The Plaintiff and Defendant purchased the property which is the subject of this action

by deed dated August 25, 1995, and recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 736, page 128.

27. That at the time of said purchase, the Plaintiff and Defendant negotiated for and received from the Grantors a grant of a certain right-of-way over and upon other lands of the Plaintiff. A copy of said deed is attached hereto and made a part hereof and is marked as Exhibit "A".

28. That as a result of the grant of said right-of-way, it was unnecessary for the parties to acquire any further lands to provide them access to a public road.

29. That subsequent to the parties taking possession of the subject property, Plaintiff and Defendant entered into a Timbering Agreement with Darin Shuguarts Lumber Company of 323 West Fifth Street, Clearfield, Pennsylvania, for the removal of timber upon the subject property and upon other property of the Plaintiff and of Marilyn and Jaye McKee. A copy of said Timbering Agreement is attached hereto and made a part hereof and marked as Exhibit "C".

30. Under the terms of said Agreement, all timbering activities were to be completed upon the subject property by March 1, 1998.

31. That prior to the expiration of the Timbering Agreement, Plaintiff and Defendant entered into discussions concerning the extension of the Timbering Agreement so as to permit the Logger to remove additional timber from the lands of the parties.

32. That by electronic mail dated January 25, 1998, the Plaintiffs requested that the Defendant draft a time extension agreement modification and by reply electronic mail dated the same date, the Defendant informed the Plaintiff that he would work on the same. A copy of said electronic mail transmission is attached hereto and made a part hereof and marked as Exhibit "B".

33. That contrary to the representations of the Defendant, the Defendant failed to draft a

timely extension agreement for execution by the parties prior to the expiration of the terms of the November 3, 1997 Timbering Agreement and as such by its terms, the said Timbering Agreement expired.

34. During the parties' ownership of the subject property, the parties entered into a Coal Lease with Sky Haven Coal Company, Inc.. A copy of said Strip Mining Lease Agreement dated August 22, 1997 is attached hereto and marked Exhibit "E".

35. That the mining operations upon the subject property continued until October 28, 1998 when Plaintiff received correspondence from Sky Haven Coal Company notifying the Plaintiff of the 30-day notice of cancellation of the August 22, 1997 Lease as all mineable and merchantable coal had been exhausted from the subject property. A copy of said correspondence is attached hereto and made a part hereof and marked as Exhibit "D".

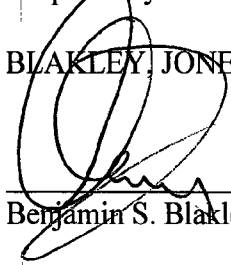
36. That the termination of the Timbering and Mining Agreements were brought about by the terms of said Agreements and not by any actions of the Plaintiff.

WHEREFORE, Plaintiff respectfully requests this Honorable Court deny the relief prayed for in the Defendant's Counterclaim and dismiss the same with prejudice.

Respectfully submitted,

BLAKLEY, JONES & MOHNEY

BY:


Benjamin S. Blakley, III, Esquire

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

DATE: 6/27/01

Brian S. Sekula
BRIAN S. SEKULA

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

NO. 00 - 238-C.D.

THOMAS M. SEKULA,

DEFENDANT

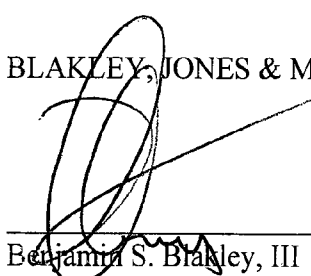
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Plaintiff's Reply to Defendant's New Matter and Answer to Counterclaim, filed in the above-captioned matter, was served upon Defendant's counsel on this 29 day of June, 2001, by First Class, United States Mail, postage prepaid, addressed as follows:

David C. Mason, Esquire
MASON LAW OFFICE
P.O. Box 28
Philipsburg, PA 16866

BLAKLEY, JONES & MOHNEY

By


Benjamin S. Blakley, III
Attorney for Plaintiff

D E E D

THIS DEED, made the 25th day of August, 1995, between CHARLES H. ALEXANDER and JAY T. SWETT as Executors for the ESTATE OF ALEXANDER D. DEEMER II, deceased, ELIZABETH D. SWETT and JAY T. SWETT, her husband, of Grassmere Farm, Box 246, Ivy, Virginia, 22945, ALEXANDRA D. HANKS and DOUGLAS HANKS, JR., her husband, of P.O. Box 408, Oxford, Maryland, 21654, SUSANNA D. HEGNES and JOHN HEGNES, her husband, of 118 West Hutchison Street, Pittsburgh, Pennsylvania, 15218, S & T BANK of Brookville, Pennsylvania, as Executor and Trustee under the Last Will and Testament of BARBARA GOW DEEMER, deceased, and ANN DEEMER RICHARDS, unmarried, of 14327 Cole Road, Pilot Point, Texas, 76258, GRANTORS,

A
N
D

BRIAN S. SEKULA of RD 1, Box 222, Rockton, Pennsylvania, 15856, and THOMAS M. SEKULA of 8250 Newburg Road, Newburg, Pennsylvania, 17240, as joint tenants with right of survivorship, GRANTEES,

WITNESSETH, that in consideration of Fifty-Six Thousand Five Hundred Forty and 00/100ths (\$56,540.00) Dollars in hand paid, the receipt whereof is hereby acknowledged, the said grantors do hereby grant and convey to the said grantees,

ALL that certain tract of land situate in BRADY TOWNSHIP, Clearfield County, Pennsylvania, bounded and described as follows:

BOUNDED on the North by C.G.M. Development Corporation; bounded on the East by Calvin Bean and John Bean and the Ideal Foundation; bounded on the South by Brian Sekula and Jaye C. McKee; and bounded on the West by Spencer Land Company and by W. D. Weber et al. and by John O. Grape and Emily M. Grape.

CONTAINING 140 acres, more or less.

EXCEPTING AND RESERVING the oil, gas and minerals but only to the same extent as previously excepted and reserved by Grantors' predecessors in title.

BEING the same premises conveyed to F. C. Deemer from A. B. Shaw, trustee in partition in the estates of H. W. Weber and George H. Weber, deceased, by Deed dated December 5, 1940 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Deed Book Volume 334, page 441.

ALSO BEING the same premises awarded to Alexander D. Deemer II and to Frank C. Deemer, Jr. as tenants in common by certificate of award or allotment of real estate dated December 28, 1964 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Deed Book Volume 512, page 379. Said tract is listed therein as Parcel No. 221.

EXHIBIT

"A"

tabbies

The said Frank C. Deemer, Jr. died testate on October 12, 1973 and by his Last Will and Testament recorded in Jefferson County Will Book Volume 21, page 59, he devised all property held by him as tenants in common with his brother, Alexander D. Deemer II, into a trust naming Alexander D. Deemer II as trustee. Pursuant thereto, Barbara Gow Deemer as executrix of the Frank C. Deemer, Jr. estate conveyed the subject premises to Alexander D. Deemer II, trustee under the testamentary trust established by the Will of the late Frank C. Deemer, Jr. by deed dated September 1, 1974 and recorded in the Office of the Recorder of Deeds for Clearfield County, Pennsylvania in Deed Book Volume 690, page 469. The subject premises is listed therein as Parcel No. 61.

Anne Deemer Sutton, one of the beneficiaries of the aforesaid Deemer Trust, conveyed all of her undivided interest in the trust to Barbara Gow Deemer by virtue of an Assignment dated May 31, 1975, and recorded in the Office of the Recorder of Deeds for Clearfield County, Pennsylvania in Record Book 1672, page 376.

By Deed dated July 11, 1988, Lindsay Deemer, by marriage Lindsay Deemer Skinner, one of the beneficiaries of the Deemer Trust, conveyed all of her undivided interest in the above described trust unto Ann Deemer Richards and Gretchen Skinner Mineweaser which is recorded in the office of the Recorder of Deeds for Clearfield County, Pennsylvania in Record Book 1238, page 60.

By Deed dated October 8, 1990, Gretchen Skinner Mineweaser, et vir., conveyed all of her undivided interest in the above described trust unto Ann Deemer Richards which is recorded in the office of the Recorder of Deeds for Clearfield County, Pennsylvania in Record Book 1369, page 564. The said Ann Deemer Richards was incorrectly referred to as Anne Deemer Richards in those conveyances.

By Family Settlement Agreement filed on August 19, 1986, in the Court of Common Pleas of Jefferson County, Pennsylvania, at No. 172 of 1975, O.C., and approved by said Court on August 19, 1986, Alexander D. Deemer II, Barbara Gow Deemer and Lindsay Deemer, formerly Lindsay Skinner Deemer, agreed that the aforesaid Trust created under the Last Will and Testament of Frank C. Deemer, Jr., would terminate upon the death of Barbara Gow Deemer. The said Barbara Gow Deemer died testate on April 18, 1994 whereupon an Account and Statement of Proposed Distribution was filed by the Trustee at O.C. No. 172 of 1975 and an undivided 3/8 interest in the subject premises was distributed to the estate of Barbara Gow Deemer, deceased, and an undivided 1/8 interest was distributed to Ann Deemer Richards by Certificate of Award or Allotment of Real Estate recorded in the office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Record Book 1642, page 62 as Tract No. 61.

The Last Will and Testament of Barbara Gow Deemer was duly probated in the Office of the Register of Wills of Jefferson County, Pennsylvania, on April 19, 1994, and Letters Testamentary were granted to S & T Bank on the same day. Her Last Will and Testament is recorded in the Office of the Recorder of Deeds of Jefferson County, Pennsylvania, in Will Book 30, page 103. As set forth therein, she devised her interest in the above described tract unto S & T Bank, in trust, pursuant to a Trust Agreement dated September 20, 1993. Accordingly, the undivided 1/2 interest formerly held by F. C. Deemer, Jr. was thereupon held as follows:

- (i) S & T Bank, Executor and Trustee - an undivided 3/8 interest;
- (ii) Ann Deemer Richards - an undivided 1/8 interest.

By Deed dated May 28, 1992, Alexander D. Deemer II conveyed an undivided one percent (1%) interest in the above described tract unto each of the following: Elizabeth D. Swett, Alexandra D. Hanks, and Susanna D.

Hegnes. Said Deed is recorded in the office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Record Book 1499, page 80. Said tract is listed therein as Parcel No. 61.

ALSO BEING the same premises referred to in Clearfield County Assessment Maps and Records as Parcel No. 107-B7-00022.

ALSO GRANTING AND CONVEYING to the said grantees all right, title, claim, or interest of the grantors in a certain right-of-way over and upon lands of Brian S. Sekula by virtue of paragraph 1 of an agreement dated November 20, 1990 between Brian S. Sekula and Alexander D. Deemer, II, individually and as trustee of the Frank C. Deemer, Jr. Estate Trust U/W, which agreement appears of record in the Office of the Recorder of Deeds of Clearfield County in Deed and Record Book Volume 1375, page 528.

AND the said grantors will SPECIALLY WARRANT AND FOREVER DEFEND the property hereby conveyed.

IN WITNESS WHEREOF, said grantors have hereunto set their hands and seals the day and year first above written.

Sealed and delivered in the presence of

Charles H. Alexander
Charles H. Alexander, Executor
of the Estate of Alexander D.
Deemer II, deceased

Jay T. Swett
Jay T. Swett, Executor of the
Estate of Alexander D. Deemer
II, deceased

Elizabeth D. Swett
Elizabeth D. Swett

Jay T. Swett
Jay T. Swett

Alexandra D. Hanks
Alexandra D. Hanks

Douglas Hanks, Jr.
Douglas Hanks, Jr.

Susanna D. Hegnes
Susanna D. Hegnes

John Hegnes
John Hegnes

S & T BANK

By: George Walker
George Walker, Vice President
and Trust Officer

Ann Deemer Richards
Ann Deemer Richards

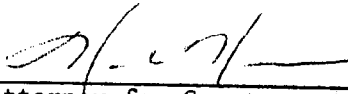
It is hereby certified in compliance with the Pennsylvania Realty Transfer Tax Act that the full, true and complete value of the premises conveyed is \$56,540.00.

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the grantees herein is as follows:

Brian S. Sekula
RD 1, Box 222
Rockton, PA 15856

Thomas M. Sekula
8250 Newburg Road
Newburg, PA 17240



Attorney for Grantees

NOTICE

To comply with the Act of July 17, 1957, P. L. 984, as amended, (52 P.S. Sections 1551-1554) notice is hereby given as follows:

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE OF LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT.

HAZARDOUS WASTE NOTICE

GRANTORS HAVE NO ACTUAL KNOWLEDGE OF ANY HAZARDOUS WASTE, DEFINED IN ACT NO. 1980-97 OF THE COMMONWEALTH OF PENNSYLVANIA, HAVING BEEN OR WHICH IS PRESENTLY BEING DISPOSED ON OR ABOUT THE PROPERTY DESCRIBED IN THIS DEED.

662 B

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:
.....
.....

This day of

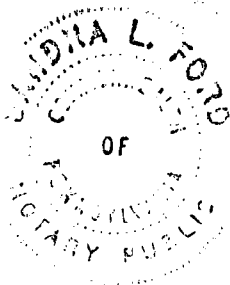
COMMONWEALTH OF PENNSYLVANIA

COUNTY OF JEFFERSON

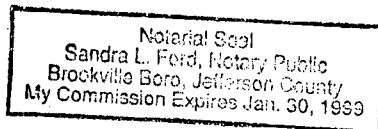
)
) SS:
)

On this, the 7th day of February, 1995, before me, the undersigned officer, personally appeared Charles H. Alexander as Executor for the Estate of Alexander D. Deemer II, deceased, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Sandra L. Ford
Notary Public



STATE OF VIRGINIA

City
COUNTY OF Charlottesville

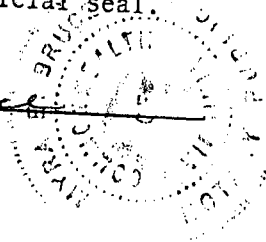
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) SS:
)

On this, the 20th day of November, 1995, before me, the undersigned officer, personally appeared Jay T. Swett as Executor for the Estate of Alexander D. Deemer II, deceased, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Term expires: 3/31/98

Margaret E. Bruce
Notary Public



STATE OF VIRGINIA

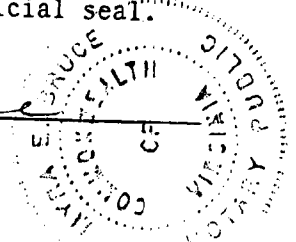
city
COUNTY OF Charlottesville) SS:
)
)

On this, the 20th day of November, 1995, before me, the undersigned officer, personally appeared Elizabeth D. Swett and Jay T. Swett, her husband, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Term expires: 3-31-98

Marya E. Bruce
Notary Public



STATE OF MARYLAND

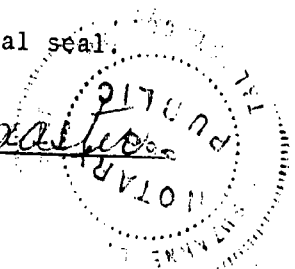
COUNTY OF Talbot) SS:
)
)

On this, the 27th day of November, 1995, before me, the undersigned officer, personally appeared Alexandra D. Hanks and Douglas Hanks, Jr., her husband, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Term Expires 9-1-96

Supreme L. Lawrence
Notary Public



la, Thomas M., 04:32 PM 1/25/98 , RE: darrin

From: "Sekula, Thomas M." <tmsekula@CBDCOM-EMH1.APGFA.ARMY.MIL>
To: "Sekula" <bsekula@penn.com>
Subject: RE: darrin
Date: Sun, 25 Jan 1998 16:32:11 -0500
X-Mailer: Internet Mail Service (5.0.1458.49)

I will work on. t

>
> From: Sekula[SMTP:bsekula@penn.com]
> Sent: Sunday, January 25, 1998 10:50 AM
> To: Sekula, Thomas M.
> Cc: ssekula
> Subject: darrin
>
> how about you draft the time extension agreement modification.
>

EXHIBIT

"B"

AGREEMENT

This AGREEMENT entered into this 3RD day of November, 1997 by and between Brian S. Sekula of R.D. #1 Box 222, Rockton, PA 15856-9633 (Tract No. 1), Brian S. Sekula (address above) and Thomas M. Sekula of 8250 Newburg Road, Newburg, PA 17240-9704 (Tract No. 2), and Jaye and Marilyn McKee of R.D. #3 Box 306, Punxsutawney, PA 15767 (Tract No. 3), hereinafter referred to as "Owners" and Darrin Shugarts Lumber Company of 323 West 5th Street, Clearfield, PA 16830 hereinafter referred to as "Logger".

Witneseth, that Owners for and in consideration of the amounts and payment terms identified on Exhibit "B" attached, do by these presents grant, bargain and sell to said Logger all of the timber (excluding tree tops as defined herein) within the "Timber Area" on the tracts herein identified as described below and shown on Exhibit "A" attached. The subject tracts are located in Bell and Brady Townships, Clearfield County, Pennsylvania identified as tax parcel numbers 102-B-8-18 (Tract No. 1), 107-B-7-22 (Tract No. 2), and 102-B-8-5 (Tract No. 3). Said parcels are bounded as follows: (Tract No. 1, Bell Township) - on the north by Sekula's (Tract No. 2) and Ideal Foundation, on the east by Mills and Pifer, on the south Cunkleman and Weber, and on the west by McKee (Tract No. 3). (Tract No. 2, Brady Township) - on the north by CGM Development, on the east by Ideal Foundation, on the south by Sekula (Tract No. 1) and McKee (Tract No. 3). (Tract No. 3, Bell Township) - on the north by Spencer Land Company and Sekula's (Tract No. 2), on the east by Sekula (Tract No. 1), on the south by Weber, and on the west by Bell and Steurnagle.

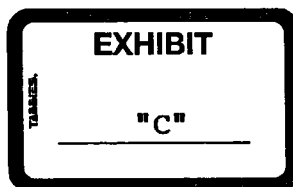
Owners and Logger set forth and agree as follows:

(1) Logger shall pay to each of the respective Owners upon signing this agreement, sums in accordance with the amounts set forth on Exhibit "B". Payments will be made every two weeks following the date of this Agreement for the timber cut and removed from the Timber Area as follows; Tract No.1 to Brian S. Sekula; Tract No. 2, ½ of any payment to Brian S. Sekula and ½ of any payment to Thomas M. Sekula; Tract No. 3 to Jaye and Marilyn McKee. With each payment a summary of all log volumes and weigh slips shall be provided. Logger shall permit Owners to review and provide copies of all records relating to the logging activities, volumes, and weights.

(2) Owners sell to Logger all of the trees and logs greater than 3 inches in diameter within the "Timber Area" defined as approximately shown in red on the map identified as "Exhibit "A"" and marked in the field by a boundary of blue ribbon and trees marked with three slashes of yellow paint.

(3) Logger shall carry a minimum of liability (\$500,000), property damage (\$500,000), and workmen's compensation insurance (Statutory) at its own cost and agrees to indemnify and hold Owners harmless from any claim, action, or damage by Logger. Logger shall provide Owners a certificate of insurance naming Owners as an additional insured.

(4) Logger shall perform their logging activities in accordance with all applicable laws and regulations.



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(5) Logger shall keep all access roads open and free of tree tops and debris during the logging activities and upon completion.

(6) Brian S. Sekula hereby grants a License to Logger to use his rights-of-way across lands owned by Deemer and Spencer for the life of the timbering activity on the Owner's parcels. Logger shall repair any and all damage to the road used for hauling. The License shall expire on March 1, 1998.

(7) Logger may cut all trees within the "Timber Area". In no case however, may the Logger remove any tree tops for chipping. All tree tops shall be left on the subject properties. For the purposes of this agreement, paper wood logs shall be at minimum of 3 inches in diameter. This is a clear cut with the restriction of removal of tree tops within the Timber Area on the three tracts.

(8) All timbering activities shall be completed by Logger by March 1, 1998. However, all timber shall be removed from the bonded areas shown on Exhibit "C" attached by December 31, 1997.

(9) Exhibit "A" (Timber Area map), Exhibit "B" (Payment Terms), and Exhibit "C" (Bonded Area map) are a part of this agreement.

(10) The Owner's property lines as noted on Exhibit "A" shall be kept free of treetops. All trees shall be felled on the Owners property and within the "Timber Area" as identified.

(11) Owners identify as their representative Brian S. Sekula with the full power to enforce all of the conditions of this contract.

(12) Logger shall repair any and all haul roads utilized on the Owners and other properties used for access to their original condition including but limited to cross drains, (open and functioning), grading the road surface to either a crown or sloped to one side, ditches where existing, and water bars reconstructed to the sole satisfaction of Owners's representative. In addition, all disturbed areas shall be seeded. Any haul road built on Spencer Land Company will be left as a drive-able road upon the written permission of Spencer Land Company. In addition, for any road built on Spencer Land Company, a gate shall be placed near the entrance at SR 3009. Said gate shall be provided and installed by the Logger and shall become the property of Brian S. Sekula and Thomas M. Sekula, who shall also receive keys for any lock installed. Any gate if placed, shall be constructed in accordance with the design and direction of Brian S. Sekula.

(13) Logger shall pay for any trees cut or damaged that were not within the "Timber Area" in accordance with Exhibit B. Saw Log volumes shall be measured by the Scribner Log Scale. Veneer log volumes shall be measured on the Doyle Log Scale. The Owners reserve the right to identify additional trees outside of the "Timber Area" to be cut on a case by case basis. For those trees, the price paid per 1000 board feet shall be in accordance with the schedule shown on Exhibit B for each species.

(14) Logger shall provide Owners (payable to Brian S. Sekula) a certified bank check in the amount of \$3,000.00 as a performance guarantee which will be returned to Logger after Owners are satisfied with Logger's site clean-up and completion of the terms of this agreement.

(15) Property corners are existing. Property lines are identified with blue paint. Logger shall be responsible to stay within the Owners properties. Logger shall not disturb, remove, or damage in any way any traverse points, property corners, or line pins. Any property corners, line pins, or traverse points damaged will be replaced only by Brian S. Sekula, PE, PLS with the cost of said replacement to taken from the Logger's certified bank check acting as a performance guarantee.

(16) Logger may not assign this agreement to any other party without the prior written approval of Owners.

(17) For this Agreement, time is of the essence.

(18) Owners reserve the right to cancel this Agreement upon immediate notice through their designated representative or jointly if the Logger fails to act in accordance with the terms of this Agreement.

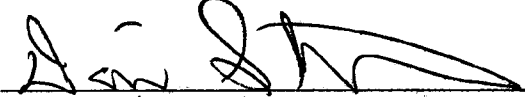
This agreement shall be construed under the laws of the Commonwealth of Pennsylvania. If any term, condition, clause or provision of this Agreement shall be deemed to be void or invalid in law or otherwise, then only that term, condition, clause or provision shall be stricken from this Agreement as is held to be void or invalid, and in all other respects, this Agreement shall be valid and in full force and operation.

This Agreement contains the entire understanding between the parties, no oral amendments shall be permitted, nor shall any oral amendments have any legal force and effect. This Agreement may be amended in writing signed by all parties and attached to the original hereof.

This agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors, and assigns.

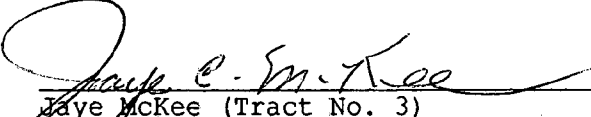
In witness whereof, the parties hereto have hereunto set, their hands and seals the day and year first above written.

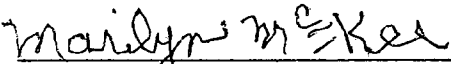
Darrin Shugarts Lumber Company


By: Darrin K. Shugarts, Owner


Brian S. Sekula (Tracts No. 1 & 2)


Thomas M. Sekula (Tract No. 2)


Jaye McKee (Tract No. 3)


Marilyn McKee (Tract No. 3)

COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF Clarion

On this, the 3rd day of November, 1997, before me, the undersigned officer, personally appeared Brian J. Sekula, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARIAL SEAL
JAMIE A. STIDINGER, Notary Public
Clarion Twp., Clarion County

My commission Expires April 24, 2000

Jamie A. Stidinger
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF Cumberland

On this, the 5th day of November, 1997, before me, the undersigned officer, personally appeared Thomas M. Sekula, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Jan 2, 1999

My commission Expires

Gene W. Swope
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF

Notarial Seal
Gene W. Swope, Notary Public
Hopewell Twp., Cumberland County
My Commission Expires Jan. 2, 1999

Member, Pennsylvania Association of Notaries

On this, the 12th day of November, 1997, before me, the undersigned officer, personally appeared Jaye and Marilyn McKee, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notarial Seal
Lois Wymer, Notary Public
Saskatoon Twp., Jefferson County
My Commission Expires Sept. 24, 2001

My commission Expires

Lois Wymer
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF Jefferson

On this, the 28 day of November, 1997, before me, the undersigned officer, personally appeared Darwin K. Shugarts, known to be to be the person(s) whose name(s) is/are subscribed to the within instrument, acknowledged that he or they executed the same for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARIAL SEAL
LISA L. ROBBINS, Notary Public
Clearfield Boro., Clearfield County
My Commission Expires Feb. 1, 2001

Lisa L. Robbins
Notary Public

SKY HAVEN COAL, INC.
R.D. 1 - BOX 180 PENFIELD, PA. 15849

October 28, 1998

Brian S. Sekula
R.D. 1, Box 222
Rookton, PA 15856-9633

RE: Lease Agreement, Dated August 22, 1997, Brady
Township, Clearfield County

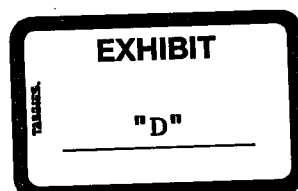
Dear Mr. Sekula:

Please consider this letter a 30 notice of cancellation of your Lease Agreement we have with you, dated August 22, 1997. This property is located in Brady Township, Clearfield County. This tract is described in a deed recorded in Clearfield County Record Book 1736, Page 126 and is also shown on Clearfield County tax map 107-B-7-22.

All minable and merchantable coal has been exhausted from this property.

Sincerely,

Joseph A. Owens
Joseph A. Owens
President



STRIP MINING LEASE AGREEMENT

THIS LEASE, Made and executed in duplicate this 22ND day of August, 1997, between Brian S. Sekula, R.D. #1 Box 222, Rockton, PA 15856-9633, and Thomas M. Sekula, 8250 Newburg Road, Newburg, PA 17240-9704, hereinafter referred to as "Lessors" and Parties of the First Part,

and

SKY HAVEN COAL, INC., a Pennsylvania Corporation, with its principal office and address at R.D. #1, Box 180, Penfield, Pennsylvania 15849, hereinafter referred to as "Lessee" and Party of the Second Part.

WITNESSETH

Now, therefore, in consideration of the rents, royalties, and other consideration to be paid by the Lessee to the Lessors and in further consideration of the covenants herein contained and with the intent to be legally bound hereby, the Lessors and the Lessee agree as follows:

(1) Lessors hereby demise and lease to the Lessee the "Leased Premises" for the purpose of conducting strip mining operations on those premises situate in Brady Township, Clearfield County, Pennsylvania more particularly described and shown on the attached Exhibit "A" and hereinafter referred to as the "Leased Premises". The Leased Premises are a part of the tract described in a deed recorded in Clearfield County Record Book 1736, Page 128. The tract is also that shown on Clearfield County tax map 107-B-7-22.

(2) The Lessors do hereby grant a License to exercise and convey the full and complete rights for the mining and removing of the coal in, under, and upon the Leased Premises by modern strip mining methods (excluding augering, deep mining methods, and coal refuse only permits), with the right of ingress, egress, and regress into, upon, and under said Leased Premises for the purpose of examining, testing, mining, stripping, and removing said coal, with the right to deposit spoil therefrom upon the surface with the right to redeposit the same, and with all rights and privileges necessary and convenient in mining, digging, stripping, removing, and transporting said coal from the Leased Premises. The Lessee shall have the right to auger mine upon the receipt of specific written consent from the Lessors. Lessors

EXHIBIT

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permit the coal from the adjacent property owned by Brian S. Sekula to be transported without payment of wheelage fees across the Leased Premises. Coal transported from any other property across the Leased Premises shall be paid at the wheelage rate of ten (10) cents per ton.

(3) The Lease term shall begin as of the date of its execution and shall continue for a period of 3 calendar years or until the exhaustion of the coal, whichever event shall first occur. If Lessee has complied with all of the covenants and terms contained herein at the expiration of the initial term, the Lessee may renew this Lease for an additional two, one (1) year terms upon giving written notice to the Lessors 30 days prior to the date of the original expiration, provided the Lessee is continuously mining the Leased Premises. The Lessee may, at any time during the original or renewal terms hereof, terminate this Lease by giving notice thereof in writing, thirty (30) days prior to the effective date of such termination. Continuous mining shall mean the active production of coal from the Leased Premises.

(4) In consideration of such Lease, the Lessee covenants and agrees to pay to the Lessors a royalty per ton (two thousand pounds) as provided for in the following schedule:

(a) One dollar fifty (\$1.50) cents per ton or five (5%) percent of the selling price of the coal, whichever sum is the greater for the surface rights only. As used herein, the "selling price" shall be the price per ton received by the Lessee at the pit for all coal mined and removed from the Leased Premises.

(5) Payments shall be made on the twenty-fifth (25th) day of each month for coal mined and removed during the preceding calendar month and shall be accompanied by a copy of all weigh slips for coal mined and removed, showing the number of tons mined, and the selling price of the same.

(6) The Lessee shall not be required to mine and/or remove any of the leased coal which in its judgement is not merchantable or mineable owing to natural conditions which make the production cost excessive in its judgement or the quality inferior.

(7) All normal real estate taxes (as defined by the 1997 real estate tax statements) shall be paid by the Lessors. Any and all additions to the real estate taxes solely due to the

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mining activities or extraction assessment levies shall be paid by the Lessee.

(8) The Lessee shall and will keep accurate and correct books and accounts, showing the amount of coal produced from said Leased Premises; and shall and will furnish the Lessors accurate statements of all coal produced; shall and will keep all mine maps, books, plans and records necessary in the operations of said Leased Premises; and will furnish to the Lessors or their duly authorized agents or employees, at any time upon request, access to all weight sheets, maps and plans relating to the production and quantity of coal produced from said Leased Premises; shall and will also give to Lessors or their duly authorized agents or employees, at any and all reasonable times, access at their own risk to any and all portions of the Leased Premises and operations in connection therewith.

(9) The Lessors do further consent as a part of the consideration on the Lease that the Lessee shall have full authority in the name of the Lessors to make application to the Commonwealth of Pennsylvania, Department of Environmental Protection (DEP), for seedlings or grass to be used for purposes of restoring the property herein listed the same as the Lessors could do, and the Lessee agrees to furnish the Lessors a copy of such contract. Lessee shall perform all mining activities, backfilling, planting, restoration, reclamation, etc. at its sole expense and plant said seedlings or grass on such areas as designated on the Surface Mine Permit map (Exhibit 18, Reclamation Map) of said Leased Premises.

(10) If any royalties or other sums payable by the Lessee to the Lessors under the terms of this Lease shall remain unpaid for a period of thirty (30) days after the 25th of any month, the Lessee does hereby authorize and empower any attorney of any court of record in Pennsylvania or elsewhere, to appear for it and confess judgement against it for any and all such sums or sums, with costs of suit and attorney's commission of ten (10%) percent of the amount due, with release of all errors, and any stay of execution and inquisition and extension upon any levy on real estate is hereby waived and condemnation agreed to, and the exemption of personal property from levy and sale on any execution is also hereby waived, and no benefit of exemption shall be claimed under and by virtue of any exemption laws now in force or hereinafter to be enacted; and the above provisions, however, shall not be a bar to any other remedy which the Lessors may have for the enforcement of payment of royalties in arrears,

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or sums or payment as may be due from the Lessee to the Lessors. The Lessee agrees that the landlord and tenant laws, including landlord's distraint, relating to the collection of rents shall apply to the collection of royalty or other payments due under this Lease. Lessee hereby agrees and it is made part of this contract that the power to confess judgment against it may be used time and time again, as often as there is a default and any exercise of said power shall in no way extinguish the power to confess judgment for other default. Should a judgment be recovered and be declared void or invalid for any reason whatsoever, the power to confess another judgment to correct any mistake on the original judgment or judgments is specifically authorized.

(11) The Lessors hereby state that the title to the property (surface rights), as indicated, of the Leased Premises, is vested solely in them, and that this statement is made as an inducement to the Lessee to enter into this Lease and that this Lease shall be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto, and that the singular as herein used shall include the plural and the plural the singular.

(12) The weight of all coal removed from the Leased Premises shall be determined by approved truck scale weights under the control of a certified scale weighmaster.

(13) Lessors hereby grant unto the Lessee the right to construct, and maintain roads and transport coal (free of a wheelage charge) across the Leased Premises herein only from the Leased Premises and the adjacent property of Brian S. Sekula included in the Surface Mine Permit area. Coal transported from any other property across the Leased Premises shall be paid at the wheelage rate of ten (10) cents per ton.

(14) The Lessee shall, upon completion of mining operations, fully and completely restore the Leased Premises in the manner required (meets or exceeds) by the Pennsylvania and Federal surface mining laws.

(15) The Lessee shall provide a minimum of 90 days notice to the Lessors to allow the Lessors to remove marketable timber from the Leased Premises prior to beginning any mining activity. The Lessors retain the option to phase the timber removal so that the timber is removed ahead of the mining. The Lessee, prior to providing the stated 90 days notice to the Lessors, shall mark on the property the extent of the mining permit area, said marking

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and identification of the permit area shall constitute the extent of mining operations and the Leased Premises. This marking shall be used for the timbering of the permit area.

(16) The Lessors do further grant a License and give to the Lessee the right of ingress, egress, and regress in, under and upon the Leased Premises at any time after the termination of this Lease for the purpose of backfilling and complying with the Mining Laws of Pennsylvania. This License shall automatically expire upon the final release of all mining bonds by the Pennsylvania Department of Environmental Resources. In addition, the Lessee shall provide to the Lessors upon release of all mining bonds a release of the Supplemental C suitable for recording in the Clearfield County Courthouse. Upon approval of the release by the Lessors, the Lessee shall record the release and provide the recorded copy to the Lessors. During any re-entry, the Lessee shall have no rights to mine or remove any coal and shall promptly repair any damage done to the Leased Premises or adjacent lands of the Lessors.

(17) The Lessee agrees to conduct its strip mining operations on the Leased Premises, at its sole cost, in strict compliance with any statute, law, ordinance or regulation of any municipality, the Commonwealth of Pennsylvania, or the United States in force now or in the future relating to the mining, backfilling, restoration, reforestation, and reclamation of the Leased Premises or any adjacent lands of the Lessors. The Lessee agrees to indemnify the Lessors and to hold the Lessors harmless from any liability, damage, or other cost resulting from the failure of the Lessee to observe, keep or perform any obligations, duties or acts required in said statutes, laws, ordinances or regulations upon the Leased Premises or adjacent lands of the Lessors. The Lessee does further covenant and agree that it will protect and save harmless the Lessors from any claims for damages to persons or property that may arise as a result of the Lessee's operations upon the Leased Premises or adjacent lands of the Lessors. The Lessee's covenant to indemnify and save harmless the Lessors shall be a continuing obligation, notwithstanding this Lease may be terminated by its terms or by the Lessors because of a breach of default of the Lessee or by cancellation by the Lessee as provided for in this Lease.

(18) The Lessee shall begin mining operations under this Lease as soon as practicable and shall at all times thereafter diligently and energetically prosecute the mining operations upon

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the Leased Premises in compliance with the terms of this Lease until the proper termination thereof.

(19) If the Lessee does not follow the terms of this Lease, the Lessors may at their sole option terminate this Lease upon 30 days notice to the Lessee.

(20) Lessee shall not mortgage or encumber with liens of any kind, or sell, assign, or sublet the whole or any part of the Leased Premises without the written consent of the Lessors. The Lessee may not assign this Lease to any other party without the prior written consent of the Lessors.

(21) It is agreed and provided that any adjudication or sale in bankruptcy or insolvency or under any other compulsory procedure or any receivership created shall be deemed and taken to be an assignment or subletting within the meaning of this Agreement, and shall work an immediate forfeiture without notice, and thereupon possession may be immediately taken by Lessors without further formality.

(22) The Lessee shall pay, in addition to other lease payments, to the Lessors the amount of \$2,000.00 for the replacing of property corners of the Lessors. One half of that amount shall be paid for the south line of the Leased Premises upon demand by Lessors and one half of that amount shall be paid for the west line of the Leased Premises upon demand by the Lessors. No other Registered Professional Land Surveyor shall be permitted to work on the boundary lines of the Leased Premises without the specific written consent of the Lessors. The Lessee shall maintain property lines provided by the Lessors at all times to delineate the ownership of the coal. The Lessee shall provide a minimum of six months notice to the Lessors for the west property line needed for mining.

(23) Roads (and cross drain pipes-as directed by the Lessors) shall be left on the restored surface of the Leased Premises as shown on the Exhibit 18, Reclamation Map as approved by the Lessors. The Lessee shall acquire the necessary DEP permit approvals to leave the roads as a post mining land use and Lessors shall provide the Lessee with the documents as required by DEP for the roads. In addition, the Lessee shall file with DEP a Reclamation Map (Exhibit 18) showing the post mining land use as Wildlife Habitat as outlined and approved by the Lessors. Changes to the stated post mining land use shall only be made when approved by the Lessors. The planting plan as outlined by

the Lessors shall be considered a schematic which may be modified by the Lessors. In addition, the Lessee shall provide the Lessors one copy of all applications and documents filed (original and any and all revisions) for the permit application on the Leased Premises. The Lessee shall place pipes (HDPE - Hi-Q, minimum diameter of 15 inches or larger as directed) across any road as directed by the Lessors. Lessee shall not bury any tree tops, stumps, or other woody plant debris on the Leased Premises.

(24) The Lessee shall carry General Liability and Property Damage Insurance and shall provide the Lessors a certificate of insurance. Minimum insurance limits shall be \$1,000,000 for General Liability and \$500,000 for Property Damage.

(25) A minimum monthly royalty of \$200.00 payable on the 25th day of each month is required by this Lease beginning on the 25th day of September, 1997. In addition a one time advance royalty payment of \$1,400.00 shall be paid upon the execution of this Lease and delivered with the same to the Lessors. All advance and monthly minimum royalties may be recoupable as a credit against production royalties.

(26) The Lessee shall at its sole expense repair, place or replace any existing pipes, roads, or waterways damaged by the discharge from sediment ponds on the permit area. This includes any effects from increased water flows. In addition, the Lessee shall pay the Lessors for any damage to timber outside of the Leased Premises as established by a Forester selected by the Lessors and shall pay for the services of the Forester.

(27) All notices or payments required to be sent to the lessors or to be made to the Lessors shall be deemed to have been properly sent or paid if mailed to:

Brian S. Sekula
R.D. #1 Box 222
Rockton, PA 15856-9633

for payment 50%

Thomas M. Sekula
8250 Newburg Road
Newburg, PA 17240-9704

for payment 50%

Any notices to be given by the Lessors to the Lessee shall be deemed to have been properly given if mailed to:

Sky Haven Coal, Inc.
R.D. #1 Box 180
Penfield, PA 15849

(28) Lessors agree to execute a consent of landowner form "Supplemental C". All restrictions and conditions outlined on the "Supplemental C" are incorporated herein by reference and shall be part of this Lease.

(29) The Lessors shall have, at all times, access to all of the operations conducted on the Leased Premises for any purpose. The Lessors shall have the right and privilege to use any roads developed by the Lessee on the Leased Premises.

(30) As the operations of the Lessee on the Leased Premises proceed, the Lessors shall have the right from time to time to require the Lessee to release from this Lease an area, or successive areas, of not less than 5 acres, when such areas have been refilled, graded, and planted in accordance with the approved reclamation plan and when the bonds for such areas have been completely released.

(31) The Parties agree that the present statutory obligation of the Lessee to restore the property after strip mining is completed, in accordance with the reclamation plan (Exhibit 18, Reclamation Map and other supporting permit documents) in the permit, shall also be a contractual obligation, whether or not the statutory provision is in effect at the time of restoration. The Lessee shall backfill the Leased Premises to the approximate original contour as it existed prior to mining and establish the stated post-mining land use of wildlife habitat.

(32) The Lessors hereby give permission and encourage the Lessee to apply to DEP for approval to apply biosolids on the permit area to the replaced topsoil as part of the reclamation plan and planting process. The Lessee shall perform all applications of biosolids at the Lessee's sole cost in strict compliance with all applicable laws and regulations and plant and restore the post-mining land use to wildlife habitat as shown on the Exhibit 18 Reclamation Plan.

(33) In addition to the payments set forth above, the Lessee shall install as further consideration of this lease a road with a minimum of a sixteen foot width running from within the Leased Premises (at a point designated by the Lessors within the permit area) in a generally westerly direction to the former LR 17008

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now State Route 3009. This road shall be built where located and directed by the Lessors and be constructed to their sole satisfaction on lands now or formerly of Spencer Land Company. The road construction is to be with the minimum of a bulldozer(s) of sufficient or adequate size to construct said road, with water bars and ditches as directed by the Lessors. If the Lessee should install a haul road on the Spencer Land Company property, said road shall meet the requirements of this section as long as it extends from within the Leased Premises at a point designated to the former LR 17008 now State Route 3009. The Spencer Land Company tract herein referred to is the parcel identified as Tax Parcel No. 107-B-7-21 and described in Deed Book 437 Page 425.

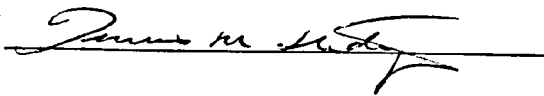
(34) This Agreement shall be construed under the laws of the Commonwealth of Pennsylvania. If any term, condition, clause or provision of this Agreement shall be deemed to be void or invalid in law or otherwise, then only that term, condition, clause or provision shall be stricken from this Agreement as is held to be void or invalid, and in all other respects, this Agreement shall be valid and in full force and operation.

This Agreement contains the entire understanding between the parties, no oral amendments shall be permitted, nor shall any oral amendments have any legal force and effect. This Lease may be amended in writing signed by all parties and attached to the original hereof.

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors, and assigns.


In witness whereof, the parties hereto have hereunto set, their hands and seals the day and year first above written.

WITNESS:



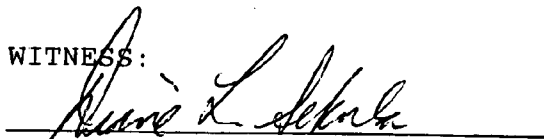
Lessors

By

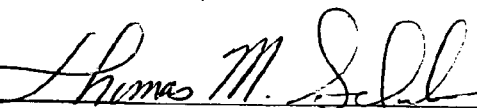

Brian S. Sekula

SS # 174-40-2470

WITNESS:



By


Thomas M. Sekula

SS # 195-42-8988

ATTEST:

Lessee
Sky Haven Coal, Inc.

Joel L. Albert

By Joseph A. Owens
Joseph A. Owens, President

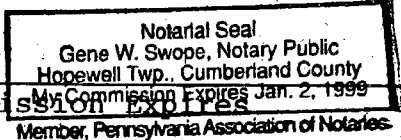
COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF CUMBERLAND :

On this, the 18th day of July, 1997,
before me, the undersigned officer, personally appeared
Thomas M. Sekula, known to me to be the
person(s) whose name(s) is/are subscribed to the within
instrument, acknowledged that he or they executed the same for
the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official
seal.



Gene W. Swope
Notary Public

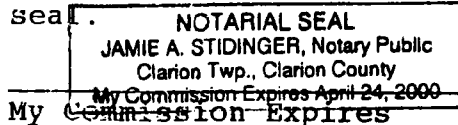
COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF Clarion :

On this, the 22nd day of August, 1997,
before me, the undersigned officer, personally appeared
Brian S. Sekula, known to me to be the
person(s) whose name(s) is/are subscribed to the within
instrument, acknowledged that he or they executed the same for
the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official
seal.



Jamie A. Stidinger
Notary Public

COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF CLAREFIELD :

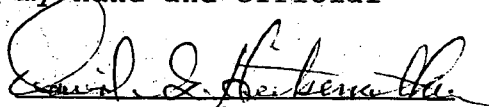
On this, the 29TH day of SEPTEMBER, 1997,

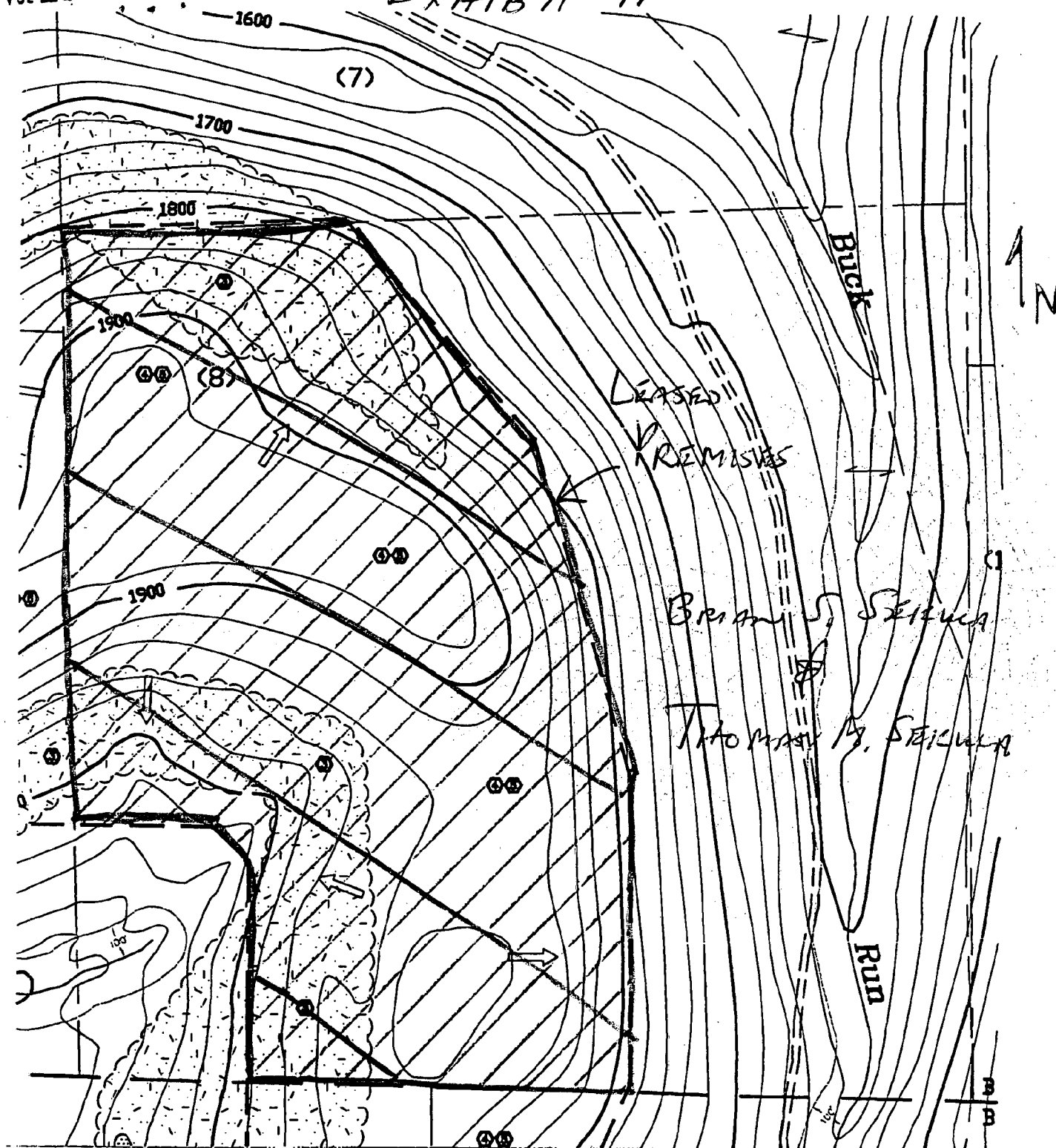
before me, the undersigned officer, personally appeared
JOSEPH A. OWENS, known to me to be the
person(s) whose name(s) is/are subscribed to the within
instrument, acknowledged that he or they executed the same for
the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official
seal.

NOTARIAL SEAL
DAVID G. HEITSENRETH, Notary Public
Lawrence Twp., Clearfield County
My Commission Expires August 29, 1998

My Commission Expires


Notary Public



Brian S. Sekula

Brian S. Sekula

Thomas M. Sekula

Thomas M. Sekula TMS

SMP # 17960124

BSS

J.A.B.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

BRIAN S. SEKULA

-vs-

THOMAS M. SEKULA

:

:

:

NO. 00 - 238 - CD

OPINION AND ORDER

Defendant in the above-captioned action in partition has filed a Counterclaim seeking to impose a constructive trust on property adjoining the subject premises and also seeking money damages. Plaintiff has filed Preliminary Objections thereto arguing that under Pennsylvania Rule of Civil Procedure 1556 Defendant is limited to filing a Counterclaim seeking partition of any or all property which the Plaintiff might have included in the Complaint.

Defendant argues that Rule 1551 provides that actions in partition shall be subject to the rules relating to actions in equity and that Rule 1510 would permit the matters raised by Defendant in his Counterclaim.

This Court is of the opinion that Rule 1556 does not restrict the Defendant to the permitted Counterclaim therein but merely expands upon the contents of Rule 1510 and therefore enters the following:

FILED

DEC 28 2000

William A. Shaw
Prothonotary

#8

ORDER

NOW, this 28th day of December, 2000, upon consideration of Preliminary Objections of Plaintiff to Defendant's Counterclaim, and briefs thereon, it is the ORDER of this Court that said Objections be and are hereby dismissed and Plaintiff directed to file Responsive Pleadings to Defendant's New Matter and Counterclaim within 20 days from date hereof.

By the Court,



President Judge

FILED

DEC 28 2000

013146

William A. Shaw

Prothonotary

cc atty Bailey

cc atty Mearns

1 copy Mearns

4/6/01

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
No. 00-238-C.D.

BRIAN S. SEKULA,

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

CERTIFICATE OF SERVICE

FILED

OCT 11 2007
William A. Shaw
Prothonotary

LAW OFFICES
BLAKLEY, JONES & MOHNEY
90 BEAVER DRIVE - BOX 6
DUBOIS, PA 15801

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238 - C.D.

TYPE OF CASE: CIVIL

TYPE OF PLEADING:
CERTIFICATE OF SERVICE

FILED ON BEHALF OF:
PLAINTIFF

COUNSEL OF RECORD FOR
THIS PARTY:
BENJAMIN S. BLAKLEY, III

SUPREME COURT NO.: 26331

BLAKLEY, JONES & MOHNEY
90 BEAVER DRIVE, BOX 6
DU BOIS, PA 15801
(814) 371 - 2730

FILED

OCT 11 2000

William A. Shaw
Prothonotary

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

NO. 00 - 238-C.D.

THOMAS M. SEKULA,

DEFENDANT

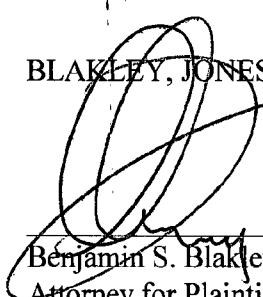
CERTIFICATE OF SERVICE

I hereby certify that a certified copy of **Plaintiff's Preliminary Objections to Defendant's Counterclaim and Brief in Support of Plaintiff's Preliminary Objections** filed in the above-captioned matter, was served upon Defendant's counsel on this 10th day of October, 2000, by First Class, United States Mail, postage prepaid, addressed as follows:

David C. Mason, Esquire
MASON LAW OFFICE
P.O. Box 28
Philipsburg, PA 16866

BLAKLEY, JONES & MOHNEY

By


Benjamin S. Blakley, III
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
No. 00-238-C.D.

BRIAN S. SEKULA,

Plaintiff

vs.

THOMAS M. SEKULA,

Defendant

PLAINTIFF'S PRELIMINARY
OBJECTIONS TO DEFENDANT'S
COUNTERCLAIM

FILED

OCT 09 2000

072134/3 cc atty

William A. Shaw

Prothonotary

Mohney

LAW OFFICES

BLAKLEY, JONES & MOHNEY

90 BEAVER DRIVE - BOX 6

DUBOIS, PA 15801

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00 - 238 - C.D.

TYPE OF CASE: CIVIL

TYPE OF PLEADING:
PLAINTIFF'S PRELIMINARY
OBJECTIONS TO DEFENDANT'S
COUNTERCLAIM

FILED ON BEHALF OF:
PLAINTIFF

COUNSEL OF RECORD FOR
THIS PARTY:
BENJAMIN S. BLAKLEY, III

SUPREME COURT NO.: 26331

BLAKLEY, JONES & MOHNEY
90 BEAVER DRIVE, BOX 6
DU BOIS, PA 15801
(814) 371 - 2730

FILED

OCT 09 2000

William A. Shaw
Prothonotary

#12

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

NO. 00 - 238-C.D.

THOMAS M. SEKULA,

DEFENDANT

PLAINTIFF'S PRELIMINARY OBJECTIONS TO
DEFENDANT'S COUNTERCLAIM

AND NOW, comes the Plaintiff, BRIAN S. SEKULA, by and through his attorneys, BLAKLEY, JONES & MOHNEY, and files these Preliminary Objections to Defendant's Counterclaim in the above matter as follows:

**PRELIMINARY OBJECTION RAISING
FAILURE TO CONFORM TO P.A.R.C.P. 1556**

1. Plaintiff has filed a Complaint for Partition of real property owned by the Plaintiff and Defendant as joint tenants with the right of survivorship and located in Brady Township, Clearfield County, Pennsylvania. A copy of said Complaint is attached hereto and marked as Exhibit "A."
2. The Defendant has filed an Answer to Plaintiff's Complaint for Partition, New Matter and Counterclaim. A copy of said Answer, New Matter and Counterclaim is attached hereto and marked as Exhibit "B."

3. Count I of Defendant's Counterclaim as contained in Paragraphs 10 through 17, seeks a declaration of constructive trust upon land adjoining the real property which is the subject of Plaintiff's Complaint in Partition. Said adjoining piece of property being owned exclusively by the Plaintiff and which in the past has been owned exclusively by the Plaintiff or by other parties other than the Plaintiff and Defendant.

4. In Count II of his Counterclaim, the Defendant seeks monetary damages caused by certain alleged actions of the Plaintiff involving timber and mining contracts on the real property which is the subject of the Plaintiff's Action in Partition.

5. Neither of the Counts in the Defendant's Counterclaim prays for the partition of any or all property which the Plaintiff may have included in his Complaint.

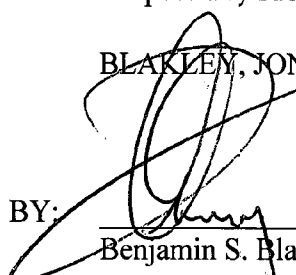
6. Counts I and II of Defendant's Counterclaim violate Rule 1556 of the Pennsylvania Rules of Civil Procedure, in that they did not seek the partition of any and all property which the Plaintiff may have included in his Complaint, but seek the employment of a Trustee on an adjoining piece of landed owned solely by the Plaintiff, and further seeks a money judgment against the Plaintiff.

WHEREFORE, Plaintiff, BRIAN S. SEKULA, requests that Defendant's Counterclaim be stricken and the action against him be dismissed.

Respectfully submitted,

BLAKLEY, JONES & MOHNEY

BY:


Benjamin S. Blakley, III, Esquire

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

DATE: 10/6/00


BRIAN S. SEKULA

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

NO. 00-238 - ~~BEV~~ CO

TYPE OF CASE: CIVIL

TYPE OF PLEADING:
COMPLAINT IN EQUITY - PARTITION

FILED ON BEHALF OF:
PLAINTIFFS

COUNSEL OF RECORD FOR
THIS PARTY:
BENJAMIN S. BLAKLEY, III

SUPREME COURT NO.: 26331

BLAKLEY, JONES & MOHNEY
90 BEAVER DRIVE, BOX 6
DU BOIS, PA 15801
(814) 371 - 2730

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

EXHIBIT "A"

FEB 24 2000

Attest:

William L. Shaw
Prothonotary

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

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NO. 00 -

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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 AMENDED 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.

DAVID MEHOLICK, COURT ADMINISTRATOR
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

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NO. 00 - - EQU

COMPLAINT IN EQUITY - PARTITION

AND NOW, comes Plaintiff, **BRIAN S. SEKULA**, by and through his attorneys, **BLAKLEY, JONES & MOHNEY**, and brings this Complaint in Equity - Partition upon a cause of action of which the following is a statement:

1. The Plaintiff is **BRIAN S. SEKULA**, an adult individual residing at R.D. # 1, Box 222, Rockton, Clearfield County, Pennsylvania.

2. The Defendant is **THOMAS M. SEKULA**, an adult individual residing at 8250 Newburg Road, Newburg, Franklin *NSH* County, Pennsylvania.

3. Plaintiff and Defendants are the owners of certain real estate in Clearfield County, Pennsylvania, as described below and all interest of the parties in the property are held as joint tenants with right of survivorship and are undivided.

4. The parties acquired title to the property by Deed from Charles H. Alexander, et al. dated August 25, 1995 and recorded in the Office of the Recorder of Deeds of Clearfield County in Deed

Book 1736, page 128 wherein said Grantors conveyed:

ALL that certain tract of land situate in Brady Township, Clearfield County, Pennsylvania, bounded and described as follows:

BOUNDED on the North by C.G.M. Development Corporation; bounded on the East by Calvin Bean and John Bean and the Ideal Foundation; bounded on the South by Brian Sekula and Jaye C. McKee; and bounded on the West by Spencer Land Company and by W. D. Weber et al. And by John O. Grape and Emily M. Grape.

CONTAINING 140 acres, more or less.

EXCEPTING AND RESERVING the oil, gas and minerals but only to the same extent as previously excepted and reserved by Grantors' predecessors in title.

to have and to hold as joint tenants with right of survivorship in equal shares between Plaintiff and Defendant.

5. No other person other than the parties to this suit has any interest in the property which is presently in the possession of the Plaintiff and Defendant.

6. No partition or division of the property has ever been made.

WHEREFORE, Plaintiff demands that:

(a) the Court decree partition of the real estate;

(b) the shares to which the respective parties are entitled be set out to them severally and that all proper and necessary conveyances and assurances be executed for carrying such partition into effect.

(c) such other and further relief be granted as the Court deems just and proper.

Respectfully Submitted,

BLAKLEY, JONES & MOHNEY

BY: 

Benjamin S. Blakley, III
Attorney for Plaintiff

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

DATE: _____

2/15/00



BRIAN S. SEKULA

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

BRIAN S. SEKULA

PLAINTIFF,

v.

THOMAS M. SEKULA

DEFENDANT.

NO. 00-238-CD

Pleading filed:
**Answer to Plaintiff's Complaint for
Partition, New Matter and Counter
Claim**

Filed by:
David C. Mason, Esq.
MASON LAW OFFICE
P.O. Box 28
Philipsburg, PA 16866
(814) 342-2240
PA Id No. 39180

Attorney for Defendant

Attorney for Plaintiff:
Benjamin S. Blakley, III
BLAKLEY.JONES & MOHNEY
90 Beaver Drive, Box 6
DuBois, PA 15801
(814) 371-2730

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

SEP 22 2000

Attest:

William L. Shaw
Prothonotary

EXHIBIT "B"

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

BRIAN S. SEKULA,

Plaintiff

vs.

THOMAS M. SEKULA

Defendant

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*
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*
*

No. 00-238-CD

TO: Brian Sekula
c/o Benjamin S. Blakley, III
BLAKLEY, JONES & MOHNEY
90 Beaver Drive, Box 6
DuBois, PA 15801

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

David Meholic
Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641

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

BRIAN S. SEKULA

PLAINTIFF,

v.

THOMAS M. SEKULA

DEFENDANT.

NO. 00-238-CD

**ANSWER TO PLAINTIFF'S COMPLAINT FOR PARTITION,
NEW MATTER, AND COUNTERCLAIM**

AND NOW, comes the Defendant, **Thomas M. Sekula**, by and through his attorney David C. Mason, Esq. and answers Plaintiff's Complaint for Partition as follows:

1. **Admitted.**
2. **Admitted.**
3. **Admitted.**
4. **Admitted in part and denied in part.** Defendant admits the referenced deed exists. The deed is a written document which speaks for itself. Any attempt by the Plaintiff to interpret or explain the meaning of this document is specifically denied.

5. **Admitted.**

6. **Admitted.**

NEW MATTER

7. Defendant incorporates by reference paragraphs 1-6 as if fully set forth herein.
8. Certain portions of the land at issue herein previously have been strip

mined and timbered, prior to the filing of Plaintiff's Complaint.

9. Disparate amounts of timber, coal, and upon information and belief, oil and natural gas, exist on the premises at issue which render an equitable partition of this property impossible.

WHEREFORE, Defendant respectfully requests this Honorable Court deny the relief prayed for in Plaintiff's Complaint and dismiss the same with prejudice.

COUNTERCLAIM
THOMAS M. SEKULA vs. BRIAN S. SEKULA
CIVIL ACTION-EQUITY--SEEKING DECLARATION OF CONSTRUCTIVE TRUST

10. The tract of land subject to the action for partition filed by the Plaintiff (hereinafter the "Deemer" tract) was purchased by the parties on or about August 25, 1995. At or about the same time the parties discussed and agreed to acquire other lands contiguous to the subject tract, as the same was landlocked by natural and physical barriers.

11. Brian S. Sekula purchased the contiguous parcel of land in December 1997, without telling Thomas M. Sekula, and took title to the "Spencer" tract of land in the name of Brian S. Sekula, and did not title the lands in the names of Thomas M. Sekula and Brian S. Sekula, like the Deemer tract, or as previously agreed upon.

12. The parties were interested in acquiring the "Spencer" tract of land to provide a means of access from the legislative route to the Deemer tract.

13. Brian S. Sekula acquired the "Spencer" tract of land in his name alone in order to benefit himself, at the expense of his brother and co-tenant, Thomas M. Sekula.

14. This purchase violated the agreement of the partners to acquire the "Spencer" tract together, in order to permit the establishment of an access road to the Deemer tract.

15. Brian S. Sekula would be unjustly enriched to the detriment of Thomas M. Sekula if he, Brian S. Sekula, were to be permitted to retain sole title to the "Spencer" tract.

16. Both parties to this action participated as partners in the negotiation of the purchase of the "Spencer" tract, for their mutual benefit as co-tenants of an adjoining, otherwise landlocked parcel of land, which is the Deemer tract.

17. Permitting Brian S. Sekula to retain sole title to the "Spencer" tract would allow him to be unjustly and unfairly enriched.

WHEREFORE, Thomas M. Sekula prays for the entry of an Order and Decree declaring that Brian S. Sekula holds title to the "Spencer" tract as the Trustee of a Trust for the benefit of Thomas M. Sekula and Brian S. Sekula.

COUNT II-
THOMAS M. SEKULA vs BRIAN S. SEKULA
CIVIL ACTION-LAW
BREACH OF CONTRACT

18. The parties were Lessors of the Deemer tract for timbering operations and for surface mining of coal. The timber lease was with Darrin Shugarts Lumber Company (DSLCL), and the coal lease with Sky Haven Coal Company, Inc. (Sky Haven).

19. Thomas M. Sekula and Brian S. Sekula had agreed to extend the timbering operations' time deadline, and as a result, the DSLCL slowed operations while working elsewhere. Thereafter, without the approval or knowledge of Thomas M. Sekula, Brian S. Sekula notified DSLCL to immediately cease operations.

20. The cancellation of the timbering agreement by Brian S. Sekula terminated the receipt of proceeds, and resulted in a loss to Thomas M. Sekula of those receipts in an

amount in excess of \$15,000.00, plus interest since June 1, 1998.

21. Thomas M. Sekula believes and therefore avers that Brian S. Sekula harassed and threatened Sky Haven with threats of lawsuits and regulatory inquiries and investigations to force the cancellation of the coal mining lease.

22. The cancellation by Sky Haven of the coal mining lease caused the loss to Thomas M. Sekula in an amount in excess of \$100,000.00, plus interest since November 1, 1998.

23. The actions of Brian S. Sekula in terminating the timbering contract, and effectively causing the cancellation of the coal mining lease were performed for the intentional purpose and design of attempting to freeze out Thomas M. Sekula on the Deemer tract, and force him to sell the same to Brian S. Sekula.

24. The actions of Brian S. Sekula in causing the loss of the timbering and mining activities on the Deemer tract have directly caused Thomas M. Sekula to suffer loss in the amount of \$115,000.00, plus interest.

WHEREFORE, Thomas M. Sekula prays for the entry of a judgment in his favor and against the Defendant, Brian S. Sekula, in an amount in excess of \$25,000.00, plus interest and costs of suit.

Respectfully submitted,
MASON LAW OFFICE

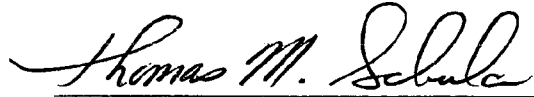
By: 

David C. Mason
P.O. Box 28
Philipsburg, PA 16866
(814) 342-2240
Pa. Id. No. 39180

VERIFICATION

I verify that the facts set forth in the foregoing Answer to Plaintiff's Complaint for Partition, New Matter and Counter Claim are true and correct to the best of my knowledge, information and belief. This verification is made subject to

the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

A handwritten signature in cursive script, reading "Thomas M. Sekula". The signature is written in dark ink and is positioned above a horizontal line.

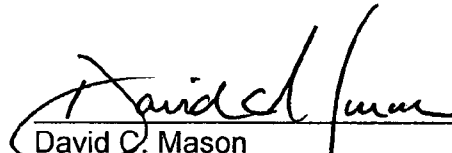
Thomas M. Sekula

CERTIFICATE OF SERVICE

I, David C. Mason, do hereby certify that a true and correct copy of Defendant's Answer to Plaintiff's Complaint for Partition, New Matter and Counter-claim was served on the _____ day of _____, 2000, via U.S. First Class mail, postage pre-paid to counsel of record for Plaintiff:

Benjamin S. Blakley, III
BLAKLEY JONES & MOHNEY
90 Beaver Drive, Box 6
DuBois, PA 15801

MASON LAW OFFICE


David C. Mason
Attorney for Defendant

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

BRIAN S. SEKULA

PLAINTIFF,

v.

THOMAS M. SEKULA

DEFENDANT

NO. 00-238-CD

FILED

OCT 04 2000

William A. Shaw
Prothonotary

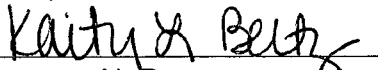
AFFIDAVIT OF SERVICE

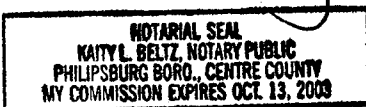
I, DAVID C. MASON, Esquire, being duly sworn according to Law do depose and state that I served upon the following individual a certified, true and correct copy of an **ANSWER TO PLAINTIFF'S COMPLAINT FOR PARTITION, NEW MATTER AND COUNTER CLAIM** in the above captioned action by mailing the same, certified mail, return receipt requested, (said return receipt card attached hereto) by placing the same in the United States mail, postage-pre paid and addressed as follows:

Benjamin S. Blakley, III, Esquire
BLAKLEY, JONES & MOHNEY
90 Beaver Drive, Box 6
DuBois, PA 15801


David C. Mason

SWORN TO and SUBSCRIBED
before me this 29th day of
September, 2000.


N. P.



CAOFFICE\PLEADING\SEKULA.AFF\1b

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Benjamin S. Blakley, III
Blakley, Jones & Mohny
90 Beaver Drive, Box 6
DuBois, PA 15801

4a. Article Number

7099 3220 0002 0110

4b. Service Type

2745

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

9-25-00

5. Received By: (Print Name)

Kristin D. Masch

6. Signature: (Addressee or Agent)

X Kristin D. Masch

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

FILED

OCT 04 2000
11:35/10CC
William A. Shaw
Prothonotary

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

BRIAN S. SEKULA

PLAINTIFF,

v.

THOMAS M. SEKULA

DEFENDANT.

NO. 00-238-CD

Pleading filed:
**Answer to Plaintiff's Complaint for
Partition, New Matter and Counter
Claim**

Filed by:
David C. Mason, Esq:
MASON LAW OFFICE
P.O. Box 28
Philipsburg, PA 16866
(814) 342-2240
PA Id No. 39180

Attorney for Defendant

Attorney for Plaintiff:
Benjamin S. Blakley, III
BLAKLEY JONES & MOHNEY
90 Beaver Drive, Box 6
DuBois, PA 15801
(814) 371-2730

FILED

SEP 22 2000

William A. Shaw
Prothonotary

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

BRIAN S. SEKULA,

Plaintiff

vs.

THOMAS M. SEKULA

Defendant

No. 00-238-CD

TO: Brian Sekula
c/o Benjamin S. Blakley, III
BLAKLEY, JONES & MOHNEY
90 Beaver Drive, Box 6
DuBois, PA 15801

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

David Meholic
Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641

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

BRIAN S. SEKULA

PLAINTIFF,

v.

NO. 00-238-CD

THOMAS M. SEKULA

DEFENDANT.

**ANSWER TO PLAINTIFF'S COMPLAINT FOR PARTITION,
NEW MATTER, AND COUNTERCLAIM**

AND NOW, comes the Defendant, **Thomas M. Sekula**, by and through his attorney David C. Mason, Esq. and answers Plaintiff's Complaint for Partition as follows:

1. **Admitted.**
2. **Admitted.**
3. **Admitted.**
4. **Admitted in part and denied in part.** Defendant admits the referenced deed exists. The deed is a written document which speaks for itself. Any attempt by the Plaintiff to interpret or explain the meaning of this document is specifically denied.
5. **Admitted.**
6. **Admitted.**

NEW MATTER

7. Defendant incorporates by reference paragraphs 1-6 as if fully set forth herein.
8. Certain portions of the land at issue herein previously have been strip

mined and timbered, prior to the filing of Plaintiff's Complaint.

9. Disparate amounts of timber, coal, and upon information and belief, oil and natural gas, exist on the premises at issue which render an equitable partition of this property impossible.

WHEREFORE, Defendant respectfully requests this Honorable Court deny the relief prayed for in Plaintiff's Complaint and dismiss the same with prejudice.

**COUNTERCLAIM
THOMAS M. SEKULA vs. BRIAN S. SEKULA
CIVIL ACTION-EQUITY--SEEKING DECLARATION OF CONSTRUCTIVE TRUST**

10. The tract of land subject to the action for partition filed by the Plaintiff (hereinafter the "Deemer" tract) was purchased by the parties on or about August 25, 1995. At or about the same time the parties discussed and agreed to acquire other lands contiguous to the subject tract, as the same was landlocked by natural and physical barriers.

11. Brian S. Sekula purchased the contiguous parcel of land in December 1997, without telling Thomas M. Sekula, and took title to the "Spencer" tract of land in the name of Brian S. Sekula, and did not title the lands in the names of Thomas M. Sekula and Brian S. Sekula, like the Deemer tract, or as previously agreed upon.

12. The parties were interested in acquiring the "Spencer" tract of land to provide a means of access from the legislative route to the Deemer tract.

13. Brian S. Sekula acquired the "Spencer" tract of land in his name alone in order to benefit himself, at the expense of his brother and co-tenant, Thomas M. Sekula.

14. This purchase violated the agreement of the partners to acquire the "Spencer" tract together, in order to permit the establishment of an access road to the Deemer tract.

15. Brian S. Sekula would be unjustly enriched to the detriment of Thomas M. Sekula if he, Brian S. Sekula, were to be permitted to retain sole title to the "Spencer" tract.

16. Both parties to this action participated as partners in the negotiation of the purchase of the "Spencer" tract, for their mutual benefit as co-tenants of an adjoining, otherwise landlocked parcel of land, which is the Deemer tract.

17. Permitting Brian S. Sekula to retain sole title to the "Spencer" tract would allow him to be unjustly and unfairly enriched.

WHEREFORE, Thomas M. Sekula prays for the entry of an Order and Decree declaring that Brian S. Sekula holds title to the "Spencer" tract as the Trustee of a Trust for the benefit of Thomas M. Sekula and Brian S. Sekula.

**COUNT II-
THOMAS M. SEKULA vs BRIAN S. SEKULA
CIVIL ACTION-LAW
BREACH OF CONTRACT**

18. The parties were Lessors of the Deemer tract for timbering operations and for surface mining of coal. The timber lease was with Darrin Shugarts Lumber Company (DSLCL), and the coal lease with Sky Haven Coal Company, Inc. (Sky Haven).

19. Thomas M. Sekula and Brian S. Sekula had agreed to extend the timbering operations' time deadline, and as a result, the DSLC slowed operations while working elsewhere. Thereafter, without the approval or knowledge of Thomas M. Sekula, Brian S. Sekula notified DSLC to immediately cease operations.

20. The cancellation of the timbering agreement by Brian S. Sekula terminated the receipt of proceeds, and resulted in a loss to Thomas M. Sekula of those receipts in an

amount in excess of \$15,000.00, plus interest since June 1, 1998.

21. Thomas M. Sekula believes and therefore avers that Brian S. Sekula harassed and threatened Sky Haven with threats of lawsuits and regulatory inquiries and investigations to force the cancellation of the coal mining lease.

22. The cancellation by Sky Haven of the coal mining lease caused the loss to Thomas M. Sekula in an amount in excess of \$100,000.00, plus interest since November 1, 1998.

23. The actions of Brian S. Sekula in terminating the timbering contract, and effectively causing the cancellation of the coal mining lease were performed for the intentional purpose and design of attempting to freeze out Thomas M. Sekula on the Deemer tract, and force him to sell the same to Brian S. Sekula.

24. The actions of Brian S. Sekula in causing the loss of the timbering and mining activities on the Deemer tract have directly caused Thomas M. Sekula to suffer loss in the amount of \$115,000.00, plus interest.

WHEREFORE, Thomas M. Sekula prays for the entry of a judgment in his favor and against the Defendant, Brian S. Sekula, in an amount in excess of \$25,000.00, plus interest and costs of suit.

Respectfully submitted,
MASON LAW OFFICE

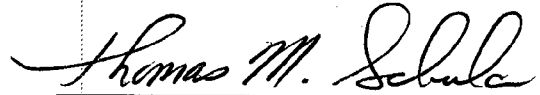
By: 

David C. Mason
P.O. Box 28
Philipsburg, PA 16866
(814) 342-2240
Pa. Id. No. 39180

VERIFICATION

I verify that the facts set forth in the foregoing Answer to Plaintiff's Complaint for Partition, New Matter and Counter Claim are true and correct to the best of my knowledge, information and belief. This verification is made subject to

the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

A handwritten signature in cursive script, reading "Thomas M. Sekula". The signature is written in dark ink and is positioned above a horizontal line.

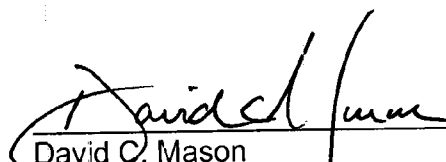
Thomas M. Sekula

CERTIFICATE OF SERVICE

I, David C. Mason, do hereby certify that a true and correct copy of Defendant's Answer to Plaintiff's Complaint for Partition, New Matter and Counter-claim was served on the 22nd day of September, 2000, via U.S. First Class mail, postage pre-paid to counsel of record for Plaintiff:

Benjamin S. Blakley, III
BLAKLEY JONES & MOHNEY
90 Beaver Drive, Box 6
DuBois, PA 15801

MASON LAW OFFICE


David C. Mason
Attorney for Defendant

FILED

SEP 22 2000

0111:2013<< Cath Moxon

William A. Shaw

Prothonotary

~~for~~

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SEKULA, BRIAN S.

00-238-CD

VS

SEKULA, THOMAS M.

COMPLAINT IN EQUITY-PARTITION

SHERIFF RETURNS

NOW FEBRUARY 24, 2000 ROBERT WOLLYUNG, SHERIFF OF FRANKLIN COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT IN EQUITY-PARTITION ON THOMAS M. SEKULA, DEFENDANT.

NOW MARCH 3, 2000 SERVED THE WITHIN COMPLAINT IN EQUITY-PARTITION ON THOMAS M. SEKULA, DEFENDANT BY DEPUTIZING THE SHERIFF OF FRANKLIN COUNTY. THE RETURN OF SHERIFF WOLLYUNG IS HERETO ATTACHED AND MADE A PART OF THIS RETURN.

27.88 SHFF. HAWKINS PAID BY: ATTY.
22.00 SHFF. WOLLYUNG PAID BY: ATTY.
10.00 SURCHARGE PAID BY: ATTY.

SWORN TO BEFORE ME THIS

29th DAY OF March 2000
William A. Shaw

SO ANSWERS,

Chester A. Hawkins
by Marilyn Hamr

CHESTER A. HAWKINS
SHERIFF

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co., Clearfield, PA.

FILED

MAR 29 2000

01329 pm
William A. Shaw
Prothonotary

EKB

SHERIFF'S RETURN - REGULAR

CASE NO: 2000-00238

COMMONWEALTH OF PENNSYLVANIA:
COUNTY OF FRANKLIN

SEKULA BRIAN S

VS

SEKULA THOMAS M

GUS ALEXIOU, Deputy Sheriff of FRANKLIN
County, Pennsylvania, who being duly sworn according to law,
says, the within _____ was served upon

SEKULA THOMAS M the

_____, at 1244:00 Hour, on the 3rd day of March, 2000
at 8250 NEWBURG ROAD

NEWBURG, PA 17240 by handing to

THOMAS M SEKULA - SHERIFFS OFFICE

a true and attested copy of _____ together with

_____ and at the same time directing His attention to the contents thereof.

Sheriff's Costs:

Docketing	9.00
Service	9.00
Affidavit	4.00
Surcharge	.00
	.00
	<u>22.00</u>

So Answers:

GUS ALEXIOU

By

Deputy Sheriff

03/06/2000

BLAKLEY JONES & MAHONEY

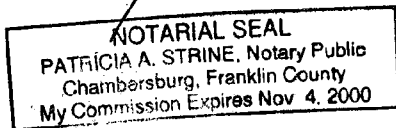
Sworn and Subscribed to before
me this 6th day of March

2000

A.D.

Notary

~~Notary~~





Sheriff's Office
Clearfield County

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

OFFICE (814) 765-2641
AFTER 4:00 P.M. (814) 765-1533
CLEARFIELD COUNTY FAX
(814) 765-6089

CHESTER A. HAWKINS
SHERIFF

DARLENE SHULTZ
CHIEF DEPUTY

MARGARET PUTT
OFFICE MANAGER

MARILYN HAMM
DEPT. CLERK

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BRIAN S. SEKULA

VS

THOMAS M. SEKULA

NO. 00-238-CD

ACTION: COMPLAINT IN EQUITY-PARTITION

SERVE BY: 3/25/00

OR

HEARING DATE:

SERVE: THOMAS M. SEKULA

ADDRESS: 8250 Newburg Road, Newburg, Pa.

Know all men by these presents, that I, CHESTER A. HAWKINS,
HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby
deputize the SHERIFF of FRANKLIN County to execute this writ.

This deputation being made at the request and risk of the plaintiff
this 24th day of FEBRUARY 2000.

Respectfully,


CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

MAKE REFUND PAYABLE TO: BLAKLEY JONES & MOHNEY, Attorneys

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

BRIAN S. SEKULA

Plaintiff

vs.

THOMAS M. SEKULA

Defendant

*
* No. 00-238-CD
*

* CIVIL ACTION - LAW
*

* TYPE OF PLEADING
* PRAECIPE FOR ENTRY
* OF APPEARANCE
*

* FILED ON BEHALF OF:
* DEFENDANT
*

* ATTORNEY FOR DEFENDANT:
* David C. Mason, Esquire
* Supreme Court ID #39180
* DAVID C. MASON LAW OFFICE
* P.O. Box 28
* Philipsburg, PA 16866
* (814) 342-2240
*

* ATTORNEY FOR PLAINTIFF:
* Benjamin S. Blakley, III
* Supreme Court ID #26331
* BLAKLEY, JONES & MOHNEY
* 90 Beaver Drive, Box 6
* DuBois, PA 15801
* (814) 371-2730
*

FILED

MAR 08 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

BRIAN S. SEKULA

Plaintiff

vs.

THOMAS M. SEKULA

Defendant

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*
*
*
*
*

No. 00-238-CD

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY OF SAID COURT:

Kindly enter my appearance on the behalf of the above named
Defendant.

DAVID C. MASON LAW OFFICE

DATED: *March 7, 2000*

By:

David C. Mason
David C. Mason, Esquire,
Attorney for Defendant

FILED

MAR 08 2000

MAR 17 2000
William A. Shaw

Prothonotary

691

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW
NO. 99 - - EQU

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

COMPLAINT IN EQUITY-
PARTITION

FILED

FEB 24 2000

01/14/01 atty Blakley

William A. Shaw
Prothonotary

PD \$ 80.00

2cc atty Blakley

LAW OFFICES

BLAKLEY, JONES & MOHNEY

90 BEAVER DRIVE - BOX 6

DUBOIS, PA 15801

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

① BRIAN S. SEKULA,

PLAINTIFF

VS.

② THOMAS M. SEKULA,

DEFENDANT

: NO. 00 - 238 - ~~EQE~~ CO
:
: TYPE OF CASE: CIVIL
:
: TYPE OF PLEADING:
: COMPLAINT IN EQUITY - PARTITION
:
: FILED ON BEHALF OF:
: PLAINTIFFS
:
: COUNSEL OF RECORD FOR
: THIS PARTY:
: BENJAMIN S. BLAKLEY, III
:
: SUPREME COURT NO.: 26331
:
: BLAKLEY, JONES & MOHNEY
: 90 BEAVER DRIVE, BOX 6
: DU BOIS, PA 15801
: (814) 371 - 2730

FILED

FEB 24 2000

William A. Shaw
Prothonotary

①

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

THOMAS M. SEKULA,

DEFENDANT

:
:
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:
:
:
:
:
:

NO. 00 -

- EQU

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 AMENDED 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.

DAVID MEHOLICK, COURT ADMINISTRATOR
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641

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

BRIAN S. SEKULA,

PLAINTIFF

VS.

NO. 00 - - EQU

THOMAS M. SEKULA,

DEFENDANT

COMPLAINT IN EQUITY - PARTITION

AND NOW, comes Plaintiff, **BRIAN S. SEKULA**, by and through his attorneys, **BLAKLEY, JONES & MOHNEY**, and brings this Complaint in Equity - Partition upon a cause of action of which the following is a statement:

1. The Plaintiff is **BRIAN S. SEKULA**, an adult individual residing at R.D. # 1, Box 222, Rockton, Clearfield County, Pennsylvania.

2. The Defendant is **THOMAS M. SEKULA**, an adult individual residing at 8250 Newburg Road, Newburg, ^{Franklin} ~~Clearfield~~ County, Pennsylvania.

3. Plaintiff and Defendants are the owners of certain real estate in Clearfield County, Pennsylvania, as described below and all interest of the parties in the property are held as joint tenants with right of survivorship and are undivided.

4. The parties acquired title to the property by Deed from Charles H. Alexander, et al. dated August 25, 1995 and recorded in the Office of the Recorder of Deeds of Clearfield County in Deed

Book 1736, page 128 wherein said Grantors conveyed:

ALL that certain tract of land situate in Brady Township, Clearfield County, Pennsylvania, bounded and described as follows:

BOUNDED on the North by C.G.M. Development Corporation; bounded on the East by Calvin Bean and John Bean and the Ideal Foundation; bounded on the South by Brian Sekula and Jaye C. McKee; and bounded on the West by Spencer Land Company and by W. D. Weber et al. And by John O. Grape and Emily M. Grape.

CONTAINING 140 acres, more or less.

EXCEPTING AND RESERVING the oil, gas and minerals but only to the same extent as previously excepted and reserved by Grantors' predecessors in title.

to have and to hold as joint tenants with right of survivorship in equal shares between Plaintiff and Defendant.

5. No other person other than the parties to this suit has any interest in the property which is presently in the possession of the Plaintiff and Defendant.

6. No partition or division of the property has ever been made.

WHEREFORE, Plaintiff demands that:

(a) the Court decree partition of the real estate;

(b) the shares to which the respective parties are entitled be set out to them severally and that all proper and necessary conveyances and assurances be executed for carrying such partition into effect.

(c) such other and further relief be granted as the Court deems just and proper.

Respectfully Submitted,

BLAKLEY, JONES & MOHNEY

BY: 

Benjamin S. Blakley, III
Attorney for Plaintiff

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

DATE: _____

2/15/00



BRIAN S. SEKULA

 COPY

November 1, 2005

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

Re: Brian S. Sekula
Vs.
Thomas M. Sekula
No. 00-238-CD
Superior Court No. 1661 WDA 2005

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

 COPY

Fredric J. Ammerman, P.J.
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Henry Ray Pope, III
Ten Grant Street
Clarion, PA 16214

David C. Mason
409 North Front Street
Philipsburg, PA 16866

Brian S. Sekula
Vs.
Thomas M. Sekula

Court No. 00-238-CD; Superior Court No. 1661 WDA 2005

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on November 1, 2005.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

Civil Other

Date		Judge
12/28/2000	Transferred from the docket.	No Judge
	Opinion and Order, re: Objections be and are hereby dismissed, Plaintiff to file Responsive Pleadings within 20 days. By the Court, s/JKR,JR., PJ. 1 cc atty Blakley, Mason, & Midesell	No Judge
06/29/2001	Plaintiff's Reply to Defendant's New Matter Answer to Counterclaim and Plaintiff's New Matter. Filed by s/Benjamin S. Blakley, III, Esq. Verification, s/Brian S. Sekula Cert of Svc 2 cc atty Blakley	No Judge
02/20/2002	Petition For Leave to Amend Plaintiff's Complaint to Add Additional Claim. Filed by s/Benjamin S. Blakley, III, Esq. Verification s/Brian S. Sekula 2 cc Atty Blakley	No Judge
02/25/2002	Rule to Show Cause, And Now, this 25th day of Feb., 2002, upon Defendant, returnable for filing a Written Response with the Court on the 18th day of March, 2002. by the Court, s/JKR,JR.,P.J. 2 cc Atty Blakley	No Judge
02/28/2002	Certificate of Service, Petition for Leave to Amend Plaintiff's Complaint to Add Additional Claim upon David C. Mason, Esq. Filed by s/Benjamin S. Blakley, III, Esq. no cc	No Judge
	Stipulation to Amended Pleading, this 28th day of February, 2002. s/Benjamin S. Blakley, III, Esq. s/David C. Mason, Esq. 2 cc to Atty	No Judge
	Amended Complaint. Filed by s/Benjamin S. Blakley, III, Esquire Verification s/Brian S. Sekula 2 cc to Atty	No Judge
03/04/2002	Certificate of Service, Stipulation to Amended Pleading and Amended Complaint, upon DAVID C. MASON, ESQ. by s/Benjamin S. Blakley, III, Esq. no cc	No Judge
04/12/2002	Answer to Plaintiff's Complaint for Partition, New Matter and Counterclaim. Filed by s/David C. Mason, Esq. Verification s/David C. Mason, Esq. Certificate of Service s/David C. Mason, Esq. 2 cc Atty Mason	No Judge
04/26/2002	Plaintiff's Answer to Counterclaim and Plaintiff's (Counter Defendant's) New Matter. Filed by s/Benjamin S. Blakley, Esq. no cc	No Judge
10/15/2002	Reply to Plaintiff's (Counter-Defendant) New Matter. s/David C. Mason, Esq. Verification s/Thomas M. Sekula Certificate of Service 2 cc Atty Mason	No Judge
11/07/2002	Filing: Certificate of Readiness filed by Atty. Blakley requesting a non-jury trial. 3 CC to Atty. Blakley.	No Judge
01/06/2003	Motion for order directing Partition filed on behalf of Plaintiff.	John K. Reilly Jr.
	Filing Certificate of Service of Defendant's First Set on Interrogatories Directed to Plaintiff.	John K. Reilly Jr.
01/08/2003	Rule to Show Cause: AND NOW, this 8th day of January, 2003 Rule Returnable and Hearing on Motion for Entry of an Order Directing Partition be held on Jan 17, 2003 at 9:45 s/JKR 3 CC to Atty. Blakely	John K. Reilly Jr.
01/14/2003	Certificate of Service, Plaintiffs' Pre-Trial Memorandum upon BENJAMIN BLAKLEY, ESQUIRE. s/David C. Mason, Esquire no cc	John K. Reilly Jr.
01/15/2003	Certificate of Service, Motion for Order Directing Petition upon DAVID C. MASON, ESQ. filed by s/Benjamin S. Blakley, III, Esquire no cc	John K. Reilly Jr.
05/28/2003	Praeipe For Request For Status Conference. filed by s/Benjamin S. Blakley, III, Esquire 2 cc Atty Blakley	John K. Reilly Jr.
06/02/2003	ORDER, AND NOW, this 30th day of May, 2003, re: Matter set for Status Conference on the 20th day of June, 2003, at 9:00 a.m. by the Court, s/JKR,JR.,P.J. 2 cc Atty Blakley	John K. Reilly Jr.
06/09/2003	Certificate of Service, Praeipe for Request for Status Conference and Order upon: DAVID C. MASON, ESQ. filed by s/Benjamin S. Blakley, III, Esquire no cc	John K. Reilly Jr.

Date: 11/01/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 01:53 PM

ROA Report

Page 2 of 3

Case: 2000-00238-CD

Current Judge: Fredric Joseph Ammerman

Brian S. Sekula vs. Thomas M. Sekula

Civil Other

Date		Judge
06/26/2003	ORDER, NOW, this 25th day of June, 2003, re: John A. Ayres, Jr., Esquire appointed Master. by the Court, s/JKR,JR.,P.J. 1 cc Atty Blakley, Mason & Ayres	John K. Reilly Jr.
07/03/2003	ORDER, AND NOW, this 3rd day of July, 2003, re: JOHN A. AYRES, JR., ESQUIRE is REMOVED as Master and replaced by MICHAEL P. YEAGER, ESQ. by the Court, s/JKR,JR.,P.J. 1 cc Atty Blakley, III, Atty Mason, Atty Ayres, and Atty Yeager	John K. Reilly Jr.
01/21/2004	ORDER, AND NOW, this 21st day of January, 2004, re: Status Conference scheduled for Friday, February 6, 2004, at 9:30 a.m. in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Attys Mason, Blakley, Yeager	John K. Reilly Jr.
02/06/2004	ORDER, NOW, this 5th day of Feb., 2004, re: Status Conference is CANCELLED. Counsel for the parties shall have no more than 20 days from the date of this Order to present the Court with a letter detailing the status of the above captioned action. by the Court, s/FJA,P.J. 2 cc to Atty Blakley, Mason, 1 copy to President Judge Ammerman and CA	John K. Reilly Jr.
05/24/2004	Praecipe For Substitution Of Counsel. Benjamin S. Blakley, III, Esq. WITHDRAWS. Henry Ray Pope, Esq. ENTERS on Behalf of the Plaintiff, Brian S. Sekula. s/Benjamin S. Blakley, III, Esq. s/Henry Ray Pope, III, Esq. no cc Copy to C/A	John K. Reilly Jr.
07/29/2004	Certificate of Service, filed by Atty. Mason Served Answers to Plaintiff's Interrogatories and & Request to Atty. Pope III	John K. Reilly Jr.
01/14/2005	Notice of Service of Interrogatories, 13th day of Jan., 2005, on the Plaintiff addressed to Henry Ray Pope, III, Esquire. Filed by s/ David C. Mason, Esquire. No CC	John K. Reilly Jr.
03/22/2005	Notice of Serving "Answer to Interrogatories and Request for Production of Documents Directed to Plaintiff (First Set)" filed by s/ Henry Ray Pope III, Esquire. No CC	John K. Reilly Jr.
04/22/2005	Rule to Show Cause and Master's Report and Return of Sale, AND NOW, this 22 day of April, 2005, Ordered that a Rule be granted upon the Plaintiff and Defendant, to show cause why the Master's Report and Return of Sale filed by the Master should not be approved and confirmed and that the suggested Order should not be executed and formalized. Rule returnable and hearing to be held May 9, 2005, at 9:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. Three CC Attorney Yeager	Fredric Joseph Ammerman
04/26/2005	Certificate of Service, copy of Rule to Show Cause with attached Master's Report and Return of Service, on April 2005 upon Henry R. Pope, III, Esquire; and David C. Mason, Esquire. Filed by s/ Michael P. Yeager, Esquire. No CC	Fredric Joseph Ammerman
05/05/2005	Exceptions to Master's Report, filed by s/ Henry Ray Pope, III, Esquire. No CC	Fredric Joseph Ammerman
06/24/2005	Order, NOW, this 23rd day of June, 2005, it is the ORDER of the Court that argument on Plaintiff's Exceptions to Master's Report has been scheduled for August 4, 2005 at 2:00 p.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Mason, Pope, Yeager	Fredric Joseph Ammerman
07/08/2005	Motion For Continuance, filed by s/ David C. Mason, Esquire. No CC	Fredric Joseph Ammerman
07/12/2005	Order, this 12th day of July, 2005, Motion for Continuance is granted, matter is rescheduled for August 15, 2005 at 2:00 in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Mason	Fredric Joseph Ammerman
08/16/2005	Order, NOW, this 15th day of August, 2005, following argument relative Plaintiff's Exceptions to Master's Report, Order that both parties submit proposed Order to the Court within no more than five days from this date. BY THE COURT: /s/Fredric J. Ammerman, P.J. CC to Atty Pope and Mason	Fredric Joseph Ammerman

Date: 11/01/2005

Clearfield County Court of Common Pleas

User: BHUDSOI

Time: 01:53 PM

ROA Report

Page 3 of 3

Case: 2000-00238-CD

Current Judge: Fredric Joseph Ammerman

Brian S. Sekula vs. Thomas M. Sekula

Civil Other

Date		Judge
09/01/2005	Order, NOW, this 31st day of August, 2005, upon consideration of the Report of Michael P. Yeager, Esquire, Master appointed in the above-captioned action by Order dated July 3, 2003 it is Ordered that: The Report of the Master is approved and adopted by the Court, (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge 1cc Attys: Pope, Mason & Yeager.	Fredric Joseph Ammerman
09/23/2005	Filing: Appeal to High Court Paid by: Pope, Henry Ray III (attorney for Sekula, Brian S.) Receipt number: 1908863 Dated: 09/23/2005 Amount: \$45.00 (Check) Filed by s/ Henry Ray Pope III, Esquire. 1CC & Check to Superior Court.	Fredric Joseph Ammerman
09/28/2005	Order NOW, this 27th day of September, 2005, the Court having been notified to Appeal to the Superior Court of Pennsylvania in the above-captioned matter, it is the ORDER of this Court that Brian S. Sekula, Appellant, file a concise statement of the matters complained of on said Appeal no later than fourteen (14) days herefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Pope and Mason.	Fredric Joseph Ammerman
09/30/2005	Appeal Docket Sheet, filed	Fredric Joseph Ammerman
10/14/2005	Concise Sttement of Matters Complained of , filed by Atty. Pope no cert. copies.	Fredric Joseph Ammerman
11/01/2005	Appeal Mailed to Superior Court November 1, 2005.	Fredric Joseph Ammerman

FILED

m 12:39 PM
NOV 01 2005

William A. Shaw
Prothonotary/Clerk of Courts

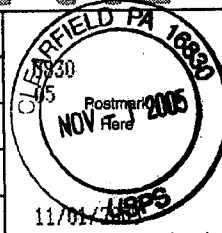
2562 4105 4000 0602 2002

U.S. Postal Service [®]	
CERTIFIED MAIL [®] RECEIPT	
(Domestic Mail Only, No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
PITTSBURGH PA 15219	
Postage	\$ 5.30
Certified Fee	\$ 2.30
Return Receipt Fee (Endorsement Required)	\$ 1.75
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 9.35

00-238-CD

Sent To
Superior Court of PA-Prothonotary
Street, Apt. No.,
or PO Box No. 600 Grant Building
City, State, ZIP+4 Pittsburgh, PA 15219

PS Form 3800, June 2002 See Reverse



FILED

NOV 01 2005

William A. Shaw
Prothonotary/Clerk of Courts

00-238-CD

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Superior Court of Pennsylvania 600 Grant Building Pittsburgh, PA 15219</p>		<p>B. Received by (Printed Name)</p>	<p>C. Date of Delivery 11-2</p>
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

2. Article Number
 (Transfer from service label)

7002 2030 0004 5014 7937

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Notary/Clerk of Courts

FILED

NOV 04 2005

William A. Shay,
Prothonotary/Clerk of Courts



Supreme Court of Pennsylvania

Western District

November 2, 2006

John A. Vaskov, Esq.
Deputy Prothonotary
Patricia A. Nicola
Chief Clerk

801 City-County Building
Pittsburgh, PA 15219
412-565-2816
www.aopc.org

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

RE: Brian S. Sekula, Petitioner
v.
Thomas M. Sekula, Respondent
Superior Docket Number - 1661 WDA 2005

Trial Court/Agency Dkt. Number: No. 00-238-CD
No. 580 WAL 2006

Appeal Docket No.:

Date Petition for Allowance of Appeal Filed: November 1, 2006

Disposition:

Date:

Reargument/Reconsideration Disposition:

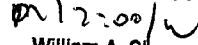
Reargument/Reconsideration

Disposition Date:

/kao

FILED 

NOV 06 2006



William A. Shaw
Prothonotary/Clerk of Courts



Supreme Court of Pennsylvania

Western District

March 5, 2007

John A. Vaskov, Esq.
Deputy Prothonotary
Patricia A. Nicola
Chief Clerk

801 City-County Building
Pittsburgh, PA 15219
412-565-2816
www.aopc.org

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

RE: Brian S. Sekula, Petitioner
v.
Thomas M. Sekula, Respondent
Superior Docket Number - 1661 WDA 2005

Trial Court/Agency Dkt. Number: No. 00-238-CD
No. 580 WAL 2006

Appeal Docket No.:

Date Petition for Allowance of Appeal Filed: November 1, 2006

Disposition: Order Denying Petition for Allowance of Appeal
Date: February 14, 2007

Reargument/Reconsideration Disposition:
Reargument/Reconsideration
Disposition Date:

/kao

FILED NO
MAR 06 2007 CC

William A. Shaw
Prothonotary/Clerk of Courts

**IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT**

BRIAN S. SEKULA,

Petitioner

v.

THOMAS M. SEKULA,

Respondent

: No. 580 WAL 2006

:

:

: Petition for Allowance of Appeal from the
: Order of the Superior Court

:

:

:

:

ORDER

PER CURIAM

AND NOW, this 14th day of February, 2007, the Petition for Allowance of Appeal is hereby **denied**.

A True Copy John A. Vaskov

As of: February 14, 2007,

Attest: 

Deputy Prothonotary

Supreme Court of Pennsylvania

00-238-CD

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

BRIAN S. SEKULA,

Petitioner

v.

THOMAS M. SEKULA,

Respondent

: No. 580 WAL 2006

:

:

: Petition for Allowance of Appeal from the
: Order of the Superior Court

:

:

:

:

ORDER

PER CURIAM

AND NOW, this 14th day of February, 2007, the Petition for Allowance of Appeal is
hereby **denied**.

A True Copy John A. Vaskov
As of: February 14, 2007
Attest: *John A. Vaskov*
Deputy Prothonotary
Supreme Court of Pennsylvania

FILED

MAR 08 2007

(CW)

William A. Shaw
Prothonotary/Clerk of Courts



Supreme Court of Pennsylvania

Western District

November 2, 2006

John A. Vaskov, Esq.
Deputy Prothonotary
Patricia A. Nicola
Chief Clerk

801 City-County Building
Pittsburgh, PA 15219
412-565-2816
www.acpc.org

Ms. Eleanor R. Valecko
Deputy Prothonotary
310 Grant Street, Suite 600
Pittsburgh, PA 15219-2297

FILED

RE: Brian S. Sekula, Petitioner
v.
Thomas M. Sekula, Respondent
Superior Docket Number - 1661 WDA 2005

OFFICE OF
CLERK OF COURT

Trial Court/Agency Dkt. Number: No. 00-238-CD
No. 580 WAL 2006

Appeal Docket No.:

Date Petition for Allowance of Appeal Filed: November 1, 2006

Disposition:
Date:

Reargument/Reconsideration Disposition:
Reargument/Reconsideration
Disposition Date:

/kao



Supreme Court of Pennsylvania

Western District

March 5, 2007

John A. Vaskov, Esq.
Deputy Prothonotary
Patricia A. Nicola
Chief Clerk

801 City-County Building
Pittsburgh, PA 15219
412-565-2816
www.aopc.org

Ms. Eleanor R. Valecko
Deputy Prothonotary
310 Grant Street, Suite 600
Pittsburgh, PA 15219-2297

FILED
MAR 06 2007
PITTSBURGH OFFICE OF
SUPERIOR COURT

RE: Brian S. Sekula, Petitioner
v.
Thomas M. Sekula, Respondent
Superior Docket Number - 1661 WDA 2005

Trial Court/Agency Dkt. Number: No. 00-238-CD

No. 580 WAL 2006

Appeal Docket No.:

Date Petition for Allowance of Appeal Filed: November 1, 2006

Disposition: Order Denying Petition for Allowance of Appeal
Date: February 14, 2007

Reargument/Reconsideration Disposition:
Reargument/Reconsideration
Disposition Date:

/kao

BRIAN S. SEKULA,	:	IN THE SUPERIOR COURT OF
Appellant	:	PENNSYLVANIA
v.	:	
THOMAS M. SEKULA,	:	
Appellee	:	No. 1661 WDA 2005

Appeal from the Order Entered September 1, 2005
In the Court of Common Pleas, Civil Division
Clearfield County, No. 00-238-CD

BEFORE: MUSMANNO, TODD, and JOHNSON, JJ.

JUDGMENT ORDER

FILED: August 16, 2006

Brian S. Sekula timely appeals the trial court's September 1, 2005 order in this partition action. We affirm.

The record reveals that, by order dated September 27, 2005 and entered on the docket on the following day, the trial court ordered Appellant to file, within 14 days, a statement of matters of complained of on appeal pursuant to Rule 1925(b) of the Pennsylvania Rules of Appellate Procedure. Appellant, however, did not file his 1925(b) statement until October 14, 2005, several days beyond the 14-day deadline. The trial court did not file a 1925(a) opinion.

Due to Appellant's failure to timely file a 1925(b) statement in compliance with the trial court's order, we are compelled to find, under the bright-line rule established by our Supreme Court, that he has waived all issues on appeal. **See Commonwealth v. Castillo**, 888 A.2d 775 (Pa. 2005) (reaffirming bright-line waiver rule established in **Commonwealth v.**

Lord, 553 Pa. 415, 719 A.2d 306 (1998), and holding that untimely filing of court-ordered 1925(b) statement results in waiver of all issues on appeal). Accordingly, finding that all of Appellant's issues are waived, we must affirm the trial court's order.

Order **AFFIRMED**.

FILED

MAR 08 2007

William A. Shaw
Prothonotary/Clerk of Courts

The Superior Court of Pennsylvania
Sitting at Pittsburgh

600 Grant Building
Pittsburgh, Pennsylvania
15219

**CERTIFICATE OF CONTENTS OF REMANDED RECORD
AND NOTICE OF REMAND
under**

PENNSYLVANIA RULES OF APPELLATE PROCEDURE 2571 AND 2572

FILED
MAR 08 2007
m/118/207

William A. Shaw
Prothonotary/Clerk of Courts

THE UNDERSIGNED, Prothonotary (or Deputy Prothonotary) of the Superior Court of Pennsylvania, the said court of record, does hereby certify that annexed to the original hereof, is a true and correct copy of the entire record:
ORIGINAL RECORD 1 PART(S), 1 SUPERIOR COURT OPINION.

As remanded from said court in the following matter:

IN RE: BRIAN SEKULA V. THOMAS SEKULA
No(s). 1661 WDA 2005
COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION NO. 00-238-CD

In compliance with Pennsylvania Rules of Appellate Procedure 2571.

The date of which the record is remanded is MARCH 7, 2007

An additional copy of this certificate is enclosed with the original hereof and the clerk or prothonotary of the lower court or the head, chairman, deputy, or the secretary of the other government unit is hereby directed to acknowledge receipt of the remanded record by executing such copy at the place indicated by forthwith returning the same to this court.

Eleanor R. Valecko

DEPUTY PROTHONOTARY

RECORD, ETC. RECEIVED:

DATE: March 8, 2007

William A. Shaw
(Signature & Title)

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

FILED

MAR 08 2007

William A. Shaw
Prothonotary/Clerk of Courts

WILLIAM A. SHAW
Prothonotary/Clerk of Courts
MAR 08 2007

Notice of Proposed Termination of Court Case

January 22, 2010

RE: 2000-238-CD

Brian S. Sekula
Vs.
Thomas M. Sekula

Dear Henry Ray Pope, III, Esq.

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **March 23, 2010**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,



Daniel J. Nelson
Court Administrator

5
FILED
018:55/11
JAN 22 2010
William A. Shaw
Prothonotary/Clerk of Courts

Notice of Proposed Termination of Court Case

January 22, 2010

RE: 2000-238-CD

Brian S. Sekula
Vs.
Thomas M. Sekula


Dear David C. Mason, Esq.

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **March 23, 2010**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,



Daniel J. Nelson
Court Administrator

Benjamin S. Blakley, III	BRIAN S. SEKULA	①	FEBRUARY 24, 2000, COMPLAINT IN EQUITY - PARTITION, filed by Benjamin S. Blakley, III, Attorney for the Plaintiff Two Certified Copies to Attorney Blakley	7
		②	MAR. 08, 2000, PRAECIPE FOR ENTRY OF APPEARANCE, filed by s/DAVID C. MASON, ESQUIRE NO CC	2
		③	MAR. 29, 2000, SHERIFF RETURN, COMPLAINT UPON DEFENDANT, SO ANSWERS, CHESTER A. HAWKINS, SHERIFF by s/Marilyn Hamm	3
		④	SEP. 22, 2000, ANSWER TO PLAINTIFF'S COMPLAINT FOR PARTITION, NEW MATTER AND COUNTER CLAIM, filed by s/DAVID C. MASON, ESQ. 00-238-CD	7
			VERIFICATION, s/THOMAS M. SEKULA CERTIFICATE OF SERVICE, filed.	
		⑤	OCT. 04, 2000, AFFIDAVIT OF SERVICE, ANSWER TO PLAINTIFF'S COMPLAINT FOR PARTITION, NEW MATTER AND COUNTER CLAIM, UPON BENJAMIN S. BLAKLEY, III, ESQ.: s/ DAVID C. MASON, ESQ.	2
David C. Mason	THOMAS M. SEKULA	⑥	OCTOBER 9, 2000, PLAINTIFF'S PRELIMINARY OBJECTIONS TO DEFENDANT'S COUNTERCLAIM, filed by Atty. Blakley Three Cert. to Atty.	19
		⑦	OCTOBER 11, 2000, CERTIFICATE OF SERVICE, filed by Atty. Blakley No Cert. Copies Served Plaintiff's Preliminary Objection & Brief upon Atty. Mason s/B. Blakley	2
	Pro BY ATTY	80.00		
	Shff			
	Hawkins By Atty	37.88		
	Shff			
	Wollyung By Atty	22.00		
			<div style="border: 1px solid black; padding: 10px; text-align: center;"> <p>PLEASE REFER TO COMPUTER</p> <p>FOR FURTHER ENTRIES</p> </div>	

Date: 10/28/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 11:27 AM

ROA Report

Page 1 of 3

Case: 2000-00238-CD

Current Judge: Fredric Joseph Ammerman

Brian S. Sekula vs. Thomas M. Sekula

Civil Other

Date		Judge
12/28/2000	Transferred from the docket.	No Judge
	(8) Opinion and Order, re: Objections be and are hereby dismissed, Plaintiff to file Responsive Pleadings within 20 days. By the Court, s/JKR,JR., P.J. 1 cc atty Blakley, Mason, & Midesell	No Judge \$ 2
06/29/2001	(9) Plaintiff's Reply to Defendant's New Matter Answer to Counterclaim and Plaintiff's New Matter. Filed by s/Benjamin S. Blakley, III, Esq. Verification, s/Brian S. Sekula Cert of Svc 2 cc atty Blakley	No Judge 34
02/20/2002	(10) Petition For Leave to Amend Plaintiff's Complaint to Add Additional Claim. Filed by s/Benjamin S. Blakley, III, Esq. Verification s/Brian S. Sekula 2 cc Atty Blakley	No Judge 45
02/25/2002	(11) Rule to Show Cause, And Now, this 25th day of Feb., 2002, upon Defendant, returnable for filing a Written Response with the Court on the 18th day of March, 2002. by the Court, s/JKR,JR.,P.J. 2 cc Atty Blakley	No Judge 4
02/28/2002	(12) Certificate of Service, Petition for Leave to Amend Plaintiff's Complaint to Add Additional Claim upon David C. Mason, Esq. Filed by s/Benjamin S. Blakley, III, Esq. no cc	No Judge 2
	(13) Stipulation to Amended Pleading, this 28th day of February, 2002. s/Benjamin S. Blakley, III, Esq. s/David C. Mason, Esq. 2 cc to Atty	No Judge 14
	(14) Amended Complaint. Filed by s/Benjamin S. Blakley, III, Esquire Verification s/Brian S. Sekula 2 cc to Atty	No Judge 12
03/04/2002	(15) Certificate of Service, Stipulation to Amended Pleading and Amended Complaint, upon DAVID C. MASON, ESQ. by s/Benjamin S. Blakley, III, Esq. no cc	No Judge 2
04/12/2002	(16) Answer to Plaintiff's Complaint for Partition, New Matter and Counterclaim. Filed by s/David C. Mason, Esq. Verification s/David C. Mason, Esq. Certificate of Service s/David C. Mason, Esq. 2 cc Atty Mason	No Judge 10
04/26/2002	(17) Plaintiff's Answer to Counterclaim and Plaintiff's (Counter Defendant's) New Matter. Filed by s/Benjamin S. Blakley, Esq. no cc	No Judge 33
10/15/2002	(18) Reply to Plaintiff's (Counter-Defendant) New Matter. s/David C. Mason, Esq. Verification s/Thomas M. Sekula Certificate of Service 2 cc Atty Mason	No Judge 15
11/07/2002	(19) Filing: Certificate of Readiness filed by Atty. Blakley requesting a non-jury trial. 3 CC to Atty. Blakley.	No Judge missing
01/06/2003	(20) Motion for order directing Partition filed on behalf of Plaintiff.	John K. Reilly Jr. missing
	(21) Filing Certificate of Service of Defendant's First Set on Interrogatories Directed to Plaintiff.	John K. Reilly Jr. missing
01/08/2003	(22) Rule to Show Cause: AND NOW, this 8th day of January, 2003 Rule Returnable and Hearing on Motion for Entry of an Order Directing Partition be held on Jan 17, 2003 at 9:45 s/JKR 3 CC to Atty. Blakely	John K. Reilly Jr. missing
01/14/2003	(23) Certificate of Service, Plaintiffs' Pre-Trial Memorandum upon BENJAMIN BLAKLEY, ESQUIRE. s/David C. Mason, Esquire no cc	John K. Reilly Jr. 2
01/15/2003	(24) Certificate of Service, Motion for Order Directing Petition upon DAVID C. MASON, ESQ. filed by s/Benjamin S. Blakley, III, Esquire no cc	John K. Reilly Jr. 2
05/28/2003	(25) Praecipe For Request For Status Conference. filed by s/Benjamin S. Blakley, III, Esquire 2 cc Atty Blakley	John K. Reilly Jr. 2
06/02/2003	(26) ORDER, AND NOW, this 30th day of May, 2003, re: Matter set for Status Conference on the 20th day of June, 2003, at 9:00 a.m. by the Court, s/JKR,JR.,P.J. 2 cc Atty Blakley	John K. Reilly Jr. 3
06/09/2003	(27) Certificate of Service, Praecipe for Request for Status Conference and Order upon: DAVID C. MASON, ESQ. filed by s/Benjamin S. Blakley, III, Esquire no cc	John K. Reilly Jr. 2

Date: 10/28/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 11:27 AM

ROA Report

Page 2 of 3

Case: 2000-00238-CD

Current Judge: Fredric Joseph Ammerman

Brian S. Sekula vs. Thomas M. Sekula

Civil Other

Date		Judge
06/26/2003	(26) ORDER, NOW, this 25th day of June, 2003, re: John A. Ayres, Jr., Esquire appointed Master. by the Court, s/JKR,JR.,P.J. 1 cc Atty Blakley, Mason & Ayres	John K. Reilly Jr. 1
07/03/2003	(27) ORDER, AND NOW, this 3rd day of July, 2003, re: JOHN A. AYRES, JR., ESQUIRE is REMOVED as Master and replaced by MICHAEL P. YEAGER, ESQ. by the Court, s/JKR,JR.,P.J. 1 cc Atty Blakley, III, Atty Mason, Atty Ayres, and Atty Yeager	John K. Reilly Jr. 1
01/21/2004	(28) ORDER, AND NOW, this 21st day of January, 2004, re: Status Conference scheduled for Friday, February 6, 2004, at 9:30 a.m. in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Attys Mason, Blakley, Yeager	John K. Reilly Jr. 1
02/06/2004	(29) ORDER, NOW, this 5th day of Feb., 2004, re: Status Conference is CANCELLED. Counsel for the parties shall have no more than 20 days from the date of this Order to present the Court with a letter detailing the status of the above captioned action. by the Court, s/FJA,P.J. 2 cc to Atty Blakley, Mason, 1 copy to President Judge Ammerman and CA	John K. Reilly Jr. 1
05/24/2004	(30) Praecipe For Substitution Of Counsel. Benjamin S. Blakley, III, Esq. WITHDRAWS. Henry Ray Pope, Esq. ENTERS on Behalf of the Plaintiff, Brian S. Sckula. s/Benjamin S. Blakley, III, Esq. s/Henry Ray Pope, III, Esq. no cc Copy to C/A	John K. Reilly Jr. 1
07/29/2004	(31) Certificate of Service, filed by Atty. Mason Served Answers to Plaintiff's Interrogatories and & Request to Atty. Pope III	John K. Reilly Jr. 2
01/14/2005	(32) Notice of Service of Interrogatories, 13th day of Jan., 2005, on the Plaintiff addressed to Henry Ray Pope, III, Esquire. Filed by s/ David C. Mason, Esquire. No CC	John K. Reilly Jr. 1
03/22/2005	(33) Notice of Serving "Answer to Interrogatories and Request for Production of Documents Directed to Plaintiff (First Set)" filed by s/ Henry Ray Pope III, Esquire. No CC <i>and Master's Report & Return of Sale</i>	John K. Reilly Jr. missing
04/22/2005	(34) Rule to Show Cause, AND NOW, this 22 day of April, 2005, Ordered that a Rule be granted upon the Plaintiff and Defendant, to show cause why the Master's Report and Return of Sale filed by the Master should not be approved and confirmed and that the suggested Order should not be executed and formalized. Rule returnable and hearing to be held May 9, 2005, at 9:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. Three CC Attorney Yeager	Fredric Joseph Ammerman 39
04/26/2005	(35) Certificate of Service, copy of Rule to Show Cause with attached Master's Report and Return of Service, on April 2005 upon Henry R. Pope, III, Esquire; and David C. Mason, Esquire. Filed by s/ Michael P. Yeager, Esquire. No CC	Fredric Joseph Ammerman 1
05/05/2005	(36) Exceptions to Master's Report, filed by s/ Henry Ray Pope, III, Esquire. No CC	Fredric Joseph Ammerman 5
06/24/2005	(37) Order, NOW, this 23rd day of June, 2005, it is the ORDER of the Court that argument on Plaintiff's Exceptions to Master's Report has been scheduled for August 4, 2005 at 2:00 p.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Mason, Pope, Yeager	Fredric Joseph Ammerman 1
07/08/2005	(38) Motion For Continuance, filed by s/ David C. Mason, Esquire. No CC	Fredric Joseph Ammerman 3
07/12/2005	(39) Order, this 12th day of July, 2005, Motion for Continuance is granted, matter is rescheduled for August 15, 2005 at 2:00 in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Mason	Fredric Joseph Ammerman 1
08/16/2005	(40) Order, NOW, this 15th day of August, 2005, following argument relative Plaintiff's Exceptions to Master's Report, Order that both parties submit proposed Order to the Court within no more than five days from this date. BY THE COURT: /s/Fredric J. Ammerman, P.J. CC to Atty Pope and Mason	Fredric Joseph Ammerman 1

Date: 10/28/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 11:27 AM

ROA Report

Page 3 of 3

Case: 2000-00238-CD

Current Judge: Fredric Joseph Ammerman

Brian S. Sekula vs. Thomas M. Sekula

Civil Other

Date		Judge	
09/01/2005	Order, NOW, this 31st day of August, 2005, upon consideration of the Report of Michael P. Yeager, Esquire, Master appointed in the above-captioned action by Order dated July 3, 2003 it is Ordered that: The Report of the Master is approved and adopted by the Court, (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge 1cc Attys: Pope, Mason & Yeager.	Fredric Joseph Ammerman	3
09/23/2005	Filing: Appeal to High Court Paid by: Pope, Henry Ray III (attorney for Sekula, Brian S.) Receipt number: 1908863 Dated: 09/23/2005 Amount: \$45.00 (Check) Filed by s/ Henry Ray Pope III, Esquire. 1CC & Check to Superior Court.	Fredric Joseph Ammerman	7
09/28/2005	Order NOW, this 27th day of September, 2005, the Court having been notified to Appeal to the Superior Court of Pennsylvania in the above-captioned matter, it is the ORDER of this Court that Brian S. Sekula, Appellant, file a concise statement of the matters complained of on said Appeal no later than fourteen (14) days herefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Pope and Mason.	Fredric Joseph Ammerman	2
09/30/2005	Appeal Docket Sheet, filed	Fredric Joseph Ammerman	3
10/14/2005	Concise Sttement of Matters Complained of , filed by Atty. Pope no cert. copies.	Fredric Joseph Ammerman	3

Date: 05/05/2005

Clearfield County Court of Common Pleas

User: CROWLES

Time: 03:03 PM

ROA Report

Page 2 of 2

Case: 2000-00238-CD

Current Judge: Fredric Joseph Ammerman

Brian S. Sekula vs. Thomas M. Sekula

Civil Other

Date		Judge
06/02/2003	✓ ORDER, AND NOW, this 30th day of May, 2003, re: Matter set for Status Conference on the 20th day of June, 2003, at 9:00 a.m. by the Court, s/JKR,JR.,P.J. 2 cc Atty Blakley	John K. Reilly Jr.
06/09/2003	✓ Certificate of Service, Praeipce for Request for Status Conference and Order upon: DAVID C. MASON, ESQ. filed by s/Benjamin S. Blakley, III, Esquire no cc	John K. Reilly Jr.
06/26/2003	✓ ORDER, NOW, this 25th day of June, 2003, re: John A. Ayres, Jr., Esquire appointed Master. by the Court, s/JKR,JR.,P.J. 1 cc Atty Blakley, Mason & Ayres	John K. Reilly Jr.
07/03/2003	✓ ORDER, AND NOW, this 3rd day of July, 2003, re: JOHN A. AYRES, JR., ESQUIRE is REMOVED as Master and replaced by MICHAEL P. YEAGER, ESQ. by the Court, s/JKR,JR.,P.J. 1 cc Atty Blakley, III, Atty Mason, Atty Ayres, and Atty Yeager	John K. Reilly Jr.
01/21/2004	✓ ORDER, AND NOW, this 21st day of January, 2004, re: Status Conference scheduled for Friday, February 6, 2004, at 9:30 a.m. in Courtroom No. 1. by the Court, s/FJA,P.J. 1 cc Attys Mason, Blakley, Yeager	John K. Reilly Jr.
02/06/2004	✓ ORDER, NOW, this 5th day of Feb., 2004, re: Status Conference is CANCELLED. Counsel for the parties shall have no more than 20 days from the date of this Order to present the Court with a letter detailing the status of the above captioned action. by the Court, s/FJA,P.J. 2 cc to Atty Blakley, Mason, 1 copy to President Judge Ammerman and CA	John K. Reilly Jr.
05/24/2004	✓ Praeipce For Substitution Of Counsel. Benjamin S. Blakley, III, Esq. WITHDRAWS. Henry Ray Pope, Esq. ENTERS on Behalf of the Plaitniff, Brian S. Skula. s/Benjamin S. Blakley, III, Esq. s/Henry Ray Pope, III, Esq. no cc Copy to C/A	John K. Reilly Jr.
07/29/2004	✓ Certificate of Service, filed by Atty. Mason Served Answers to Plaintiff's Interrogatories and & Request to Atty. Pope III	John K. Reilly Jr.
01/14/2005	✓ Notice of Service of Interrogatories, 13th day of Jan., 2005, on the Plaintiff addressed to Henry Ray Pope, III, Esquire. Filed by s/ David C. Mason, Esquire. No CC	John K. Reilly Jr.
03/22/2005	Notice of Serving "Answer to Interrogatories and Request for Production of Documents Directed to Plaintiff (First Set)" filed by s/ Henry Ray Pope III, Esquire. No CC	John K. Reilly Jr.
04/22/2005	✓ Rule to Show Cause, AND NOW, this 22 day of April, 2005, Ordered that a Rule be granted upon the Plaintiff and Defendant, to show cause why the Master's Report and Return of Sale filed by the Master should not be approved and confirmed and that the suggested Order should not be executed and formalized. Rule returnable and hearing to be held May 9, 2005, at 9:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. Three CC Attorney Yeager	Fredric Joseph Ammerman
04/26/2005	✓ Certificate of Service, copy of Rule to Show Cause with attached Master's Report and Return of Service, on April 2005 upon Henry R. Pope, III, Esquire; and David C. Mason, Esquire. Filed by s/ Michael P. Yeager, Esquire. No CC	Fredric Joseph Ammerman

Missing
5/5/05

Missing

00-238

11/7/02 Cert of
Readiness

1/6/03 Motion for
Order

1/8/03 Rule to Show
Cause

3-2-05
not

slightly

11-7-02

CENT OF

READ IN

MISSION

JURY SELECTION

DATE: Feb 24, 2005

JUDGE: Cherry

CASE#: DA-521-04-523-04-623-CA

Trial Date: March 30, 2005

David Lee Anthony

(3 days)

Steven Curran Zachary Waggoner

		Comm #9
37. WINFIELD CLINE	CURWENSVILLE	
38. JOYCE WELKER	WOODLAND	Comm #5
39. SUSAN FREEMAN	WEST DECATUR	Comm #8
1. TRACI CRYSTER #28	DUBOIS	
2. ROBERT WILSON	CLEARFIELD	
3. BRIDGET REILLY	DUBOIS	
4. dorcas JUNOD	LALOSE	
5. MARSHA SROCK	SROKE RUN	
6. JACQUELYN MYERS	CURWENSVILLE	
7. RANDY DRUM	DUBOIS	
8. REBECCA PETERSON	KAHAFEEY	
9. RICHARD DESALVE	DUBOIS	
10. BRIAN GONDEK	COALPORT	
11. PATRICIA BRITTEN	BRISBIN	
12. IRENE SIPES	CURWENSVILLE	
13. JOHN CAVANER	IRVONA	
14. ROBERT SEDGWICK	HOUTZDALE	
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11-6-03

Motion For Order

missing

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LENT OF SRM.

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1-8-03

Run to show cause

JURY SELECTION

DATE: Feb. 24, 2005
CASE#: 04-521, 04-523, & 04-523-CRA
COMMONWEALTH OF PA

JUDGE: CHERRY
Trial date: March 30, 2005
(3 days)
DAVID LEE ANTHONY, STEVEN CURRIE,
-vs- ZACHARY A. WAGNER

1.	LINDA OLEWICK	DUBOIS	1	
2.	ARDELL MC CALL	GRANTIAN	2	
3.	BERNADETTE IDdings	DUBOIS	3	
4.	JERRY JOE WILES	DUBOIS		Comm #6
5.	SHIRLEY RICHARDS	XANATHEN HAWK RUN		W #7
6.	JAMES SLOAN	DUBOIS		Δ #1
7.	SHANNON ROOVER	KATERSUS		Comm #2
8.	JOELLE ADAMS	DUBOIS	4	
9.	ARLENE SAULA	GRANTIAN	5	
10.	BARBARA DUBRE	DUBOIS		Comm #1
11.	RECHARD RHOADES	ROUSEDALE		Δ #3
12.	XXXX DIANE SWIGART	DUBOIS	6	
13.	WALTER FRY	CLEARFIELD		Δ #4
14.	MARY TAPPER	DUBOIS	7	
15.	JOHN EMIGH	WOODLAND	8	
16.	CHARLES FEELEH	DUBOIS		Comm #7
17.	JONCE TURNER	CLEARFIELD		Δ #5
18.	DONALD UBERTI	PENFIELD		W #5
19.	ANNETTE FUGATE	DUBOIS	9	
20.	AMY TAPPER	TROUTVILLE		Comm #6
21.	JOHN SMITH	BOATPORT		Δ #10
22.	PATRICK CASELEY	CORWENSVILLE		Comm #3
23.	DARLENE LITZ-GROSS	hyde	10	
24.	DEBRA SAGGESE	RANEY	11	
25.	DONALD DINANT	MORRISDALE	12	
26.	ANGEL CALDWELL	DUBOIS		Comm #4
27.	CHESTER THOMPSON	BRISBIN	A1	
28.	JANE THOMPSON THOMPSON	THOMPSON THOMPSON	THOMPSON THOMPSON	Δ #9
29.	SILAS BORTFIELD	CLEARFIELD		Δ #8
30.	TINA BARONICK	DUBOIS	A2	
31.	SCOTT MUSCAVISH	MUTZDALE		Δ #8
32.	WILLIAM XXXXXXXXXXXX XXXXXXXXXXXX	MORRISDALE		Δ #7
33.	JOHN SHIRO	CLEARFIELD		Δ #2
34.	LORI CROYLE	VINEBURNE		
35.	HAROLD DAVIDSON	MAHAFFEY		
36.	SANDRA CERVENAK	MORANN		

JOHN A. AYRES, JR.
ATTORNEY AT LAW

101 SOUTH SECOND STREET
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-2611
FAX (814) 765-2612

1222 PENNSYLVANIA AVENUE
HESS BUILDING, SUITE 201
TYRONE, PENNSYLVANIA 16686
(814) 684-4695
FAX (814) 684-5587

July 2, 2003

David Meholic, Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830

RE: SEKULA v. SEKULA

Dear Dave:

Pursuant to our discussion today, I am providing you with a letter and proposed Court Order. For reference, I am providing you with copy of the Court Order appointing me as Master in this matter.

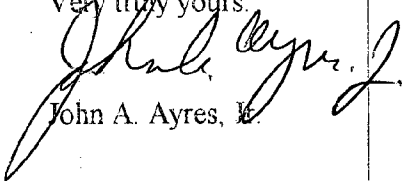
I realize that all practicing attorneys are busy and have great demands on their time. However, it is likely that this particular partition will take a great deal of time and attention.

The attorneys for the parties told me that they had talked to Michael Yeager, Peter Smith and John Ryan as to their willingness and availability for appointment in this matter, and that all of them indicated their willingness to be appointed on this matter. Both Ben Blakely and Dave Mason told me that it would be acceptable if I were removed and if any of the above-referred to attorneys were appointed. With my present press of business and commitments, I believe that someone else would be better able to give this matter more immediate time and attention and that it would be in the best interest of the parties if someone else were appointed to serve as Master.

I am providing a proposed Order to remove me as Master and to appoint one of the other attorneys if the Court is willing to consider and grant this request.

Please do not hesitate to contact me if you or the Judge have any questions about this matter.

Very truly yours,


John A. Ayres, Jr.

JAA/kamc
Enclosure:

Court Order

Proposed Court Order

cc: David C. Mason, Esquire
Benjamin S. Blakely, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

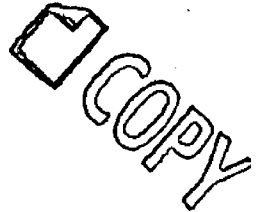
CIVIL ACTION

BRIAN S. SEKULA

-VS-

THOMAS M. SEKULA

No. 00 - 238 - CD

COPY

ORDER

NOW, this 25th day of June, 2003, this being the day and date set for status conference in the above-captioned matter, upon agreement of the parties, it is the ORDER of this Court that John A. Ayres, Jr., Esquire, shall be and is hereby appointed Master to take testimony on those issues raised in the pleadings and make a recommendation and report to the Court.

By the Court,


/s/ JOHN K. REILLY, JR.

President Judge

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

JUN 26 2003

Attest,


Prothonotary/
Clerk of Courts