

00-1261-CD  
BRYCE E. SWISHER -vs- DAVID W. GRAHAM et ux

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA NOV 17 2003

CIVIL DIVISION

FILED  
William A. Shaw  
Prothonotary/Clerk of Courts

BRYCE E. SWISHER

:

VS

: NO. 00-1261-CD

DAVID W. GRAHAM AND

:

CONNIE M. GRAHAM,

:

O R D E R

NOW, this 17th day of November, 2003, based upon stipulations of the parties, it is ORDERED and DECREED as follows:

1. That the Defendants shall pay to the Plaintiff the sum of \$3,782.91, being the amount incurred by the Plaintiff for survey costs and the sum of \$500.00 for the land containing their encroachment identified as 547 square feet on Plaintiff's land as set forth in a certain survey entered as Joint Exhibit 1 and attached hereto.

2. Said payments of the aforesaid amount shall be paid together with interest at the rate of 6 percent per annum over an 18-month period with the first payment due December 17, 2003, in the amount of \$249.40.

3. To ensure payment, the Defendants shall sign a mortgage for the amount of \$4,282.91 to Plaintiff setting forth the above terms. The property held for security shall be Defendants' property as described in Deed Book 1824, Page 238.

4. Upon payment in full of the aforesaid mortgage, Plaintiff shall deliver a quit claim deed for the 547 square foot parcel to Defendants.

5. Defendants shall have until May 31, 2004 to remove all shrubs and/or trees and satellite dish from other parts of Plaintiff's land and restore the said land to its original condition.

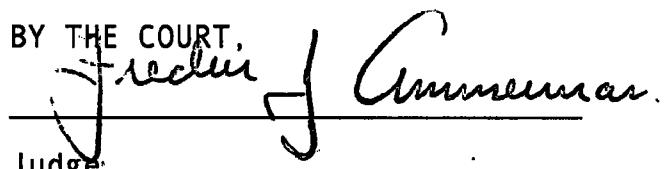
6. Defendants, their heirs and assigns shall have a 10-foot right-of-way through Plaintiff's land and use of the existing private road for access to their residence.

7. Plaintiff, his heirs and assigns shall have the right to use the said private road crossing other land of the Defendants described in a deed recorded in Deed Book 1824, Page 238.

8. Each party shall sign a right-of-way easement to the other party which they can have recorded if they so desire.

9. Defendants shall pay filing fees and court costs of \$132.65 within Ten (10) Days of the date of this Order to Plaintiff's attorney.

BY THE COURT,

  
\_\_\_\_\_  
Judge

**Note: Intent of conveyance is to establish a property line with minimum of 3.0 feet from the Swisher property to any house wall as it presently exists.**



# House

**David W. Graham &  
Connie M. Graham  
819/544**

**Area to be conveyed  
547sq. ft. (0.0125ac.)**



**Survey Plat of Land to be Conveyed  
to  
DAVID W. GRAHAM & CONNIE M. GRAHAM  
by  
Bryce Swisher 14 Nov**

14 November, 2003

Surveyor's diagram showing a rectangular property line with various survey data:

- Top edge: N 4°39'54" E 106.1 FT to 1" Steel Pin on Line
- Bottom edge: N 85°20'06" W 13.92 FT to 3/4" I. Pin
- Left edge: N 4°39'54" W 39.33 FT to Bryce Swisher's SE Corner
- Right edge: 4°39'54" W 39.33 FT to 3/4" I. Pin
- Interior corner: 3.0' S 85°20'06" E 13.92 FT
- Interior corner: 3.0' N 4°39'54" E 13.92 FT
- Bottom corner: N 85°20'06" W 13.92 FT
- Bottom-left corner: N 4°39'54" W 39.33 FT
- Bottom-right corner: 4°39'54" W 39.33 FT
- Bottom-left corner: 3.0' N 4°39'54" W 39.33 FT
- Bottom-right corner: 3.0' 4°39'54" W 39.33 FT

JOIN EXHIBIT

11-17-03

N. Gary Barger, P.L.  
Frenchville, Pennsylvania  
Reg. No. SU-540-A

**JOINT  
EXHIBIT**

11-17-03 1 BAK

Corner T N. Gary Barger, P.L.S.  
Frenchville, Pennsylvania  
Reg. No. SU-540-A

FILED acc Atlys Shope, Rentz  
NOV 17 2003  
William A. Shaw  
Prothonotary/Clerk of Courts

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

BRYCE E. SWISHER, \*  
Plaintiff \*  
\*  
vs. \* NO. 2000-1261-C.D.  
\*  
\*  
DAVID W. GRAHAM and \*  
CONNIE M. GRAHAM, \*  
Defendants \*

O R D E R

NOW, this 15<sup>th</sup> day of August, 2003, following Pre-Trial Conference with counsel for both parties and the Court, it is the ORDER of this Court as follows:

1. Non-Jury Trial be scheduled for one day, November 17, 2003, beginning at 9:00 a.m. in Courtroom No. 2, Clearfield County Courthouse, Clearfield, Pennsylvania.

By the Court,



JUDGE FREDRIC J. AMMERMAN

FILED

AUG 15 2003

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

of 3:  
AUG 15 2003



William A. Shaw  
Prothonotary/Clerk of Courts

2 certified copies to Barbara J. Hugney-Shope, Esquire  
2 certified copies to Chris A. Pentz, Esquire  
1 copy to Judge Ammerman  
1 copy to Court Administrator

Date: 10/31/2000

**Clearfield County Court of Common Pleas**

NO. 0050333

Time: 01:38 PM

**Receipt**

Page 1 of 1

Received of: Hugney-Shope, Barbara (attorney for Swisher, Bryce \$ 0.00

Zero and 00/100 Dollars

Case: 2000-01261-CD	Plaintiff: Swisher, Bryce E.	Amount
Civil Complaint		0.00
Paid Prior to FullCourt		
<b>Total:</b>		<b>0.00</b>

Payment Method: Cash

William A. Shaw, Prothonotary/Clerk of Courts

Clerk: OLDCASE

By: \_\_\_\_\_  
Deputy Clerk

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

14

**BRYCE E. SWISHER,**  
Plaintiff

vs.

21

**DAVID W. GRAHAM and CONNIE M.  
GRAHAM,**  
Defendants

\*  
\*  
\*  
\* NO. 00- 1261 -CD

\*  
\*  
\*  
\*  
\* Type of Case: CIVIL ACTION

\*  
\*  
\*  
\* Type of Pleading: COMPLAINT IN  
EJECTMENT

\*  
\*  
\* Filed on behalf of: PLAINTIFF  
BRYCE E. SWISHER

\*  
\*  
\* Counsel of Record for Plaintiff:  
\* BARBARA J. HUGNEY-SHOPE, ESQUIRE  
\* Supreme Court I. D. No. 26274  
\* 23 North Second Street  
\* Clearfield, PA 16830  
\* (814) 765-5155

FILED

OCT 10 2000

William A. Shaw  
Prothonotary

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

**BRYCE E. SWISHER,**  
Plaintiff

vs. \* NO. 00- -CD

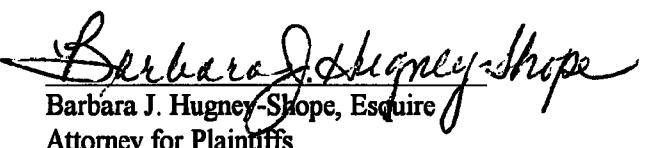
**DAVID W. GRAHAM and CONNIE M.  
GRAHAM,**  
Defendants \*

**NOTICE TO DEFEND**

You have been sued in Court. If you wish to defend against these claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A  
LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW  
TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

Court Administrator  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, PA 16830  
(814) 765-2641, Ext. 5982

  
Barbara J. Hugney-Shope, Esquire  
Attorney for Plaintiff

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

**BRYCE E. SWISHER,** \*  
Plaintiffs, \*  
\*  
vs. \* NO. 00- -CD  
\*  
**DAVID W. GRAHAM and CONNIE M.** \*  
**GRAHAM,** \*  
Defendants. \*

**COMPLAINT IN EJECTMENT**

AND NOW, comes the Plaintiff, who by and through his attorney, BARBARA J. HUGNEY-SHOPE, ESQUIRE, files the following Complaint in Ejectment and avers as follows:

**COUNT I -- EJECTMENT**

1. Plaintiff, BRYCE E. SWISHER, is an adult individual, whose address is R. D. Box 248, Frenchville, Clearfield County, Pennsylvania.
2. Defendants, DAVID W. GRAHAM and CONNIE M. GRAHAM, are husband and wife, whose address is R.D., Box 401, Frenchville, Clearfield County, Pennsylvania.

3. Plaintiff is the owner of a parcel of land containing 39.220 acres in Girard Township, Clearfield County, Pennsylvania, more fully described in Exhibit "A" attached hereto and incorporated herein.

4. Plaintiff acquired title to the above-described real property on October 14, 1983, through a deed recorded in the Recorder's office of Clearfield County, on page 333 in Deed Book Volume 912.

5. Plaintiff's property and Defendant's property are adjacent and share a common boundary along the southwest corner of Plaintiff's property as indicated in the survey prepared by N. Gary Barger, P.L.S., on January 28, 2000, and attached hereto as Exhibit "B" and incorporated herein.

6. Defendants are the owners of a parcel of land containing one (1) acre, more or less, in Girard Township, Clearfield County, Pennsylvania, having acquired this parcel in 1981 by a deed recorded in the recorder's office of Clearfield County in Deed Book 819, page 544, a copy of which is attached hereto as Exhibit "C" and incorporated herein.

7. Sometime after acquiring the parcel described in Exhibit "C", Defendants constructed a one (1) story house and garage.

8. In 1999, Plaintiff had his property surveyed as he was constructing a new home and during the survey it was discovered that the Defendants' had constructed a portion of their house and their garage on land belonging to the Plaintiff.

9. When Plaintiff informed the Defendants of this encroachment, Defendant David Graham stated that he was aware that they had constructed a portion of their home and garage on Plaintiff's land.

10. Plaintiff then had his surveyor subdivide the area of Defendant's encroachment with a sufficient area of offset, and offered to sell this area amounting to 0.364 acres to the Defendants.

11. Although verbally agreeing to purchase the area where their house and garage encroached on Plaintiff's land, the Defendants have taken no further action either in removing the encroachment or compensating the Plaintiff for his land.

12. Despite Plaintiff's repeated requests, Defendants have failed and refused to either remove the encroachment or compensate the Plaintiff as agreed.

13. Plaintiff, relying on Defendants' verbal agreement to purchase the area where they encroach, incurred survey costs of \$3,000 to subdivide his property where the Defendants encroached and has incurred legal fees in filing this ejectment action.

14. Plaintiff has no desire to sell any portion of his land and the encroachment of Defendants' house on his land was done intentionally and willfully by the Defendants without Plaintiff's knowledge and consent.

WHEREFORE, Plaintiff requests that this Court:

- (a) enter judgment in favor of Plaintiff against Defendants for possession of the real property described as 0.364 acres in Exhibit "B";
- (b) enter an order directing Defendants to remove any and all structures or other obstacles placed by them on the property;
- (c) enter an order directing Defendants to reimburse Plaintiff for survey costs incurred up to \$3,000;
- (d) enter an order awarding Plaintiff reasonable attorney fees and costs; and
- (e) grant any other relief that the Court may deem appropriate.

**COUNT II -- TRESPASS**

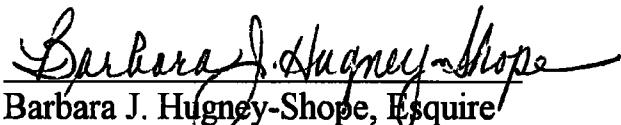
15. Paragraphs 1 through 14 inclusive of Count I are incorporated herein by reference as though here set forth at length.

16. As a result of constructing a portion of their house and garage on Plaintiff's property, Defendants have damaged Plaintiff's land to Plaintiff's damage in an amount to be determined.

17. As a result of maintaining a portion of their house and garage on Plaintiff's property, Defendants have deprived Plaintiff of the use and enjoyment of his property to Plaintiff's damage in an amount to be determined.

WHEREFORE, Plaintiff requests that this Court enter judgment in favor of Plaintiff and against Defendants for money damages in an amount not exceeding Twenty Thousand ( \$20,000.00) Dollars.

Respectfully submitted,

  
Barbara J. Hugney-Shope, Esquire  
Attorney for Plaintiff

# This Indenture,

MADE the 14th day of October

in the year nineteen hundred and eighty-three (1983).

BETWEEN MARSHALL E. RUGH and ANNA RUGH, husband and wife, of LeContes Mills, Girard Township, Clearfield County, Pennsylvania, parties of the first part, hereinafter referred to as "Grantors";

A  
N  
D

BRYCE SWISHER, an individual, of Girard Township, Clearfield County, Pennsylvania, party of the second part, hereinafter referred to as "Grantee".

WITNESSETH, That is consideration of -----

----THIRTY-FOUR THOUSAND Dollars (\$34,000.00) ----- Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said grantors do hereby grant and convey to the said grantees, his heirs, executors and assigns.

ALL that certain piece or parcel of land situate in Girard Township,

Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a post in the line of Highway Route No. 17052, being the improved road leading from Clearfield to Karthaus; thence along said road North 62  $\frac{1}{4}$  degrees East, 700 feet to a post; thence still along said road due East 200 feet to a post; thence continuing along said road South 75 degrees East, 100 feet to a post; thence along said road South 68 degrees East, 750 feet to a post; thence along said road South 58  $\frac{1}{4}$  degrees East, 380 feet to a cucumber tree at line of lot reserved by Roy Shomo and Pearl Shomo; thence by said Shomo lot South 32  $\frac{1}{4}$  degrees West, 100 feet to a post; thence still by said Shomo lot and by lot of Harry Hansen South 65 degrees East, 340 feet to a post in the line of land of Renaud; thence by Renaud lands South 6  $\frac{1}{4}$  degrees West, 850 feet to a black cherry tree; thence by land of W. B. Martell North 88 degrees West, 400 feet to a post; thence still by Martell land South 80 degrees West, 580 feet to a post; thence still by Martell land, North 12 degrees East, 600 feet to a post; North 4 degrees East, 200 feet to a post; North 50 degrees West, 300 feet to a post, North 72 degrees West, 150 feet to a post; South 69 degrees West, 650 feet to a post; North 86 degrees West, 315 feet to a post in line of lands of Al Murray Estate; thence along the Murray lands North 6  $\frac{1}{4}$  degrees East, 600 feet to a post at the improved road leading from Clearfield to Frenchville and to place of beginning. Having erected thereon a house, barn and other out buildings.

EXCEPTING AND RESERVING from the above described premises, all that certain piece or parcel of land bounded and described as follows:

BEGINNING at an iron pin South zero degrees four minutes East (S 00° 04' E) four hundred twenty-five and six tenths (425.6) feet from the Southern edge of the thirty-three (33.0) foot wide right-of-way of old Legislative Route 17052 at the line of land of Linglewood Lodge, Inc.; thence North seventy-three degrees forty-nine minutes

EXHIBIT "A"

East (N 73° 49' E) through land of Marshall E. Rugh and Anna Rugh, the Grantors herein, five hundred eighty and one tenth (580.1) feet to an iron pin approximately thirty (30.0) feet from a water line installed by Floyd C. Martell across the land of the Grantors; thence South thirty-three degrees forty-five minutes East (S 33° 45' E) still through land of the Grantors and approximately thirty (30.0) feet distance from said water line one hundred seventy-four and four tenths (174.4) feet to an iron pin at the line of land of Floyd C. Martell; thence South sixty-two degrees twenty-six minutes West (S 62° 26' W) along said Martell three hundred eighty-two and one tenth (382.1) feet to an iron pin; thence South eighty-seven degrees twenty-six minutes West (S 87° 26' W) still along said Martell three hundred fifteen and three tenths (315.3) feet to an iron pin at the line of land of Linglewood Lodge, Inc.; thence North zero degrees four minutes West (N 00° 04' W) along land of Linglewood Lodge, Inc., one hundred seventy-four and four tenths (174.4) feet to an iron pin and place of beginning. Containing 3.00 acres; being the same premises previously conveyed by the grantors herein to Gerald Sterner and Cheryl Sterner, husband and wife, by deed dated August 8, 1980, recorded in Clearfield County Deed Book 800, at page 485.

ALSO EXCEPTING and RESERVING the right of ingress, egress and regress from Legislative Route 17052 to the property of Gerald Sterner that the Grantors herein had previously granted and conveyed. Said right-of-way over the parcel herein being conveyed is 30 feet in width and is located as set forth on the survey map previously recorded.

AND FURTHER SUBJECT, to all exceptions and reservations contained in former deeds of record in the chain of title.

BEING the same premises which were conveyed to Marshall E. Rugh and Anna Rugh, grantors herein, by deed of CLEARTRU, a partnership, dated January 22, 1970, and recorded in Clearfield County Deed Book 557, at page 524.

THIS IS A CONVEYANCE FROM PARENT TO CHILD.

### NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I, the undersigned grantee/grantors, hereby certify that I/we/you 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:

Barbara H. Schellberg

*Bryce E. Swisher*  
BRYCE SWISHER

This 1400 day of October, 1983

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND 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. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

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:

Valarie J. Flegal  
Valarie J. Flegal, Notary Public  
Clearfield, Clearfield Co. Pa.  
My commission expires Dec. 31, 1984

Marshall E. Rugh (SEAL)  
MARSHALL E. RUGH  
Anna Rugh (SEAL)  
ANNA RUGH

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 9:19 A.M.  
BY Carlton H. Schubell  
FEES 13.57  
TIM MORGAN, Recorder

VOL 912 PAGE 336

State of PENNSYLVANIA }  
County of CLEARFIELD } SS:

On this, the 14th day of October 1983 before me

the undersigned officer, personally appeared MARSHALL E. RUGH and ANNA RUGH,  
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 purpose therein  
contained.

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

*Valarie J. Flegel*  
Valarie J. Flegel, Notary Public  
Clearfield Co., Pa.  
My Commission Expires Dec. 31, 1984  
My commission expired Dec. 31, 1984

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ } SS:

On this, the 19, before me

the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that they  
executed the same for the purpose therein  
contained.

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

My Commission Expires

*Deed*

MARSHALL E. RUGH and  
ANNA RUGH, Grantors

to

BRYCE SWISHER, Grantee

Dated October 14, 1983

For All that certain piece  
or parcel of land situate  
in Girard Twp., Clfd. Co., PA  
Consideration \$34,000.00  
Recorded \_\_\_\_\_

Entered for Record in the Recorder's  
Office of Clearfield  
County, the 19 day of  
October 1983  
Fees \$ \_\_\_\_\_  
Recorder \_\_\_\_\_

CERTIFICATE OF RESIDENCE

I hereby certify that the correct address and place of residence of the grantee is as follows:  
Box 248,  
LeContes Mills, Girard Twp.  
Clfd. Co., Pennsylvania

*Barbara H. Schickling*  
Barbara H. Schickling, Esquire  
Attorney or Agent for Grantee

RECORDED in the office for Recording of Deeds, etc., in and for said County in  
Deed Book No. Vol. 912, Page 336

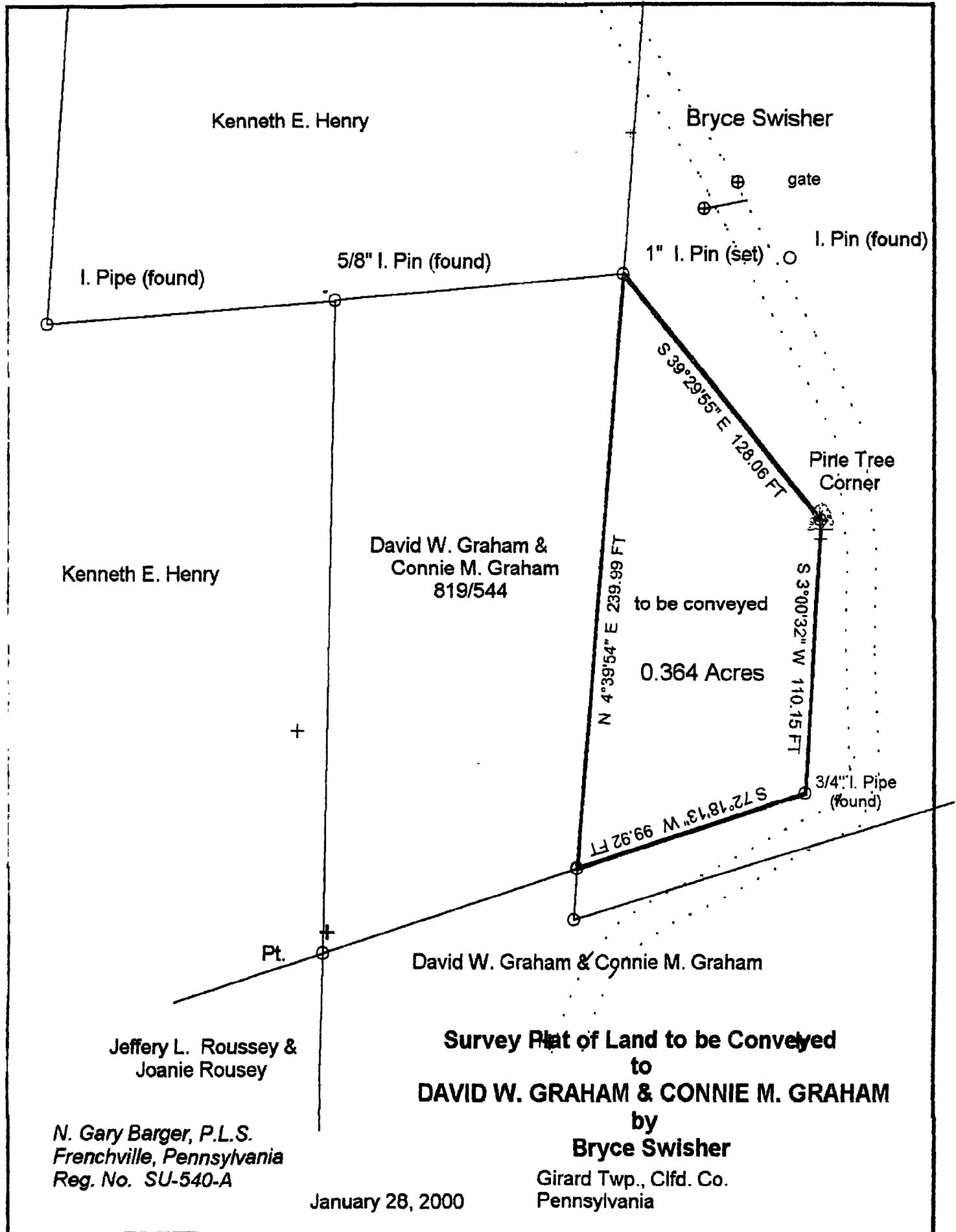
WITNESS my Hand and Official Seal this 17th day of October, 1983

First Monday in January 1984

*Tim Morgan*  
Recorder of Deeds

Entered of Record 10/19/83

1983, 7-102, Tim Morgan, Recorder





Made the Twenty-ninth day of September  
Nineteen hundred and eighty-one (1981)

Arthur FLOYD C. MARTELL and DOROTHY MARTELL, husband and wife,  
of the Township of Girard, County of Clearfield and State of Pennsylvania,  
hereinafter called the grantors, parties of the first part;

A

N

D

DAVID W. GRAHAM and CONNIE M. GRAHAM, husband and wife, tenants by the  
entireties, of the Township of Bradford, County of Clearfield and State  
of Pennsylvania, hereinafter called the grantees, parties of the second  
part.

Witnesseth, That in consideration of One Thousand (\$1,000.00) —————

Dollars,  
in hand paid, the receipt whereof is hereby acknowledged, the said grantor ~~is do~~ hereby grant  
and convey to the said grantee ~~is~~, and to the survivor of them, his or her heirs  
and assigns. —————

All that certain parcel of land situate in the Township of Girard,  
County of Clearfield and State of Pennsylvania, bounded and described as  
follows:

BEGINNING at a point in the northeastern corner of land now  
or formerly of Floyd E. Coons; thence along line of land of Floyd G.  
Martell and Dorothy Martell, husband and wife, in a northerly direction  
two hundred nine (209) feet, more or less, to a point; thence continuing  
through other lands of the grantors herein in an easterly direction two  
hundred nine (209) feet, more or less, to a point; thence still through  
other lands of the grantors herein, in a southerly direction two hundred  
nine (209) feet, more or less, to a point; thence still by other lands  
of the grantors herein, in a westerly direction two hundred nine (209)  
feet, more or less, to a point at corner of land now or formerly of  
Floyd E. Coons, and the place of beginning. Having no improvements  
thereon. Containing one (1) acre, more or less.

BEING part of the same premises granted and conveyed to the  
grantors herein by deed of Eva Martell, widow, dated May 13, 1972,  
recorded at Clearfield in Deed Book No. 596, page 126. —————

EXHIBIT "C"

And the said grantor do — hereby warrant — specially — the property hereby conveyed,

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF REVENUE  
REALTY TRANSFER OCT-2-81  
TAX F.D.11352 10.00

In Witness Whereof, said grantors have hereunto set their hand and seals — the day and year first above written.

Signed, Sealed and Delivered,  
In the Presence of

Kathleen M. Conklin

Floyd C. Martell

Dorothy J. Martell

Dorothy Martell

CLEARFIELD AREA SCHOOL DISTRICT

1% REALTY TRANSFER TAX

AMOUNT \$ 10.00

PAID 10-2-81 Tim Morgan

Date Agent

Commonwealth of Pennsylvania

County of Clearfield

On this, the 30 day of September 1981, before me Kathleen M. Conklin Notary

the undersigned officer, personally appeared Floyd C. Martell and Dorothy Martell, husband and wife,

known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that they executed the same for the purpose therein contained.

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

MY COMMISSION EXPIRES  
July 22, 1982

Kathleen M. Conklin

Kathleen M. Conklin, Notary Public  
Clearfield Borough, Clearfield County  
My Commission Expires July 22, 1982  
Member, Pennsylvania Association of Notaries

I hereby Certify, that the precise address of the grantee herein is

R. D. 1, Yeager's Trailer Court, Woodland, Pennsylvania 16881

CLEARFIELD COUNTY  
ENTERED OF RECORD 10-2-81

TIME 9:55 A.M.

BY C.R. Kramer

FEES \$0.00

TIM MORGAN, Recorder

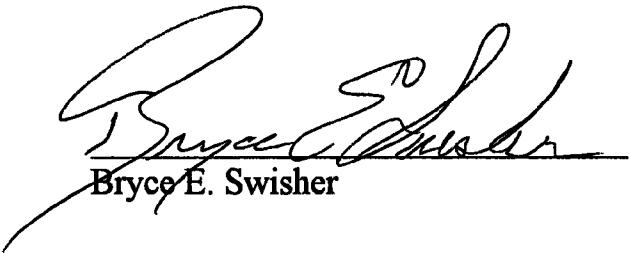
Entered of Record Oct 2 1981, 9:55 A.M. Tim Morgan, Recorder

Clarence R. Kramer

VERIFICATION

I verify that the statements made in the foregoing Complaint are true and correct.

I understand that false statements herein made are subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.



Bryce E. Swisher  
Bryce E. Swisher

Dated: 10-3-, 2000

BARBARA J. HUGNEY-SHOPE  
Attorney-at-Law  
23 N. Second Street  
Clearfield, PA 16830

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

NO. 00-  
-CD

BRYCE E. SWISHER,  
Plaintiff,

vs.

DAVID W. GRAHAM and  
CONNIE M. GRAHAM,  
Defendants.

COMPLAINT IN EJECTMENT

10/22/00/4ccatty Shoppe  
Atty Shoppe  
pd \$80.00

BARBARA J. HUGNEY-SHOPE

Attorney-at-Law  
23 N. Second Street  
Clearfield, PA 16830  
(814) 765-5155  
FAX (814) 765-2957

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

**BRYCE E. SWISHER,**  
Plaintiff

vs

\* No. 00-1261-CD

**DAVID W. GRAHAM and  
CONNIE M. GRAHAM,  
Defendants**

\* Type of Case: Civil

- \* **Type of Pleading:** Answer to
- \* Complaint in Ejectment

\* Filed on Behalf of: Defendants

\* Counsel of Record for  
+ CURTIS A. RENTZ, ESQUIRE

\* Supreme Court I.D. # 39232  
\* 211 1/2 East Locust Street  
\* P. O. Box 552  
\* Clearfield PA 16830  
\* 814 765-4000

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OCT 20 2000

William A. Shaw  
Prothonotary

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

\*

**BRYCE E. SWISHER,**  
Plaintiff

\*

vs.

No. 00-1261-CD

\*

**DAVID W. GRAHAM and CONNIE M.**  
**GRAHAM,**  
Defendants

\*

**ANSWER TO COMPLAINT IN EJECTMENT**

**COUNT I—EJECTMENT**

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted.
3. Paragraph 3 is denied. After reasonable investigation, Defendants are without sufficient knowledge or information to form a belief as to the averment.
4. Paragraph 4 is denied. After reasonable investigation, Defendants are without sufficient knowledge or information to form a belief as to the averment.
5. Paragraph 5 is admitted in part and denied in part. Paragraph 5 is admitted to the extent that it is believed that Plaintiff's and Defendants' properties share a common boundary. It is denied as to Plaintiff's ownership in that the Defendants are without sufficient knowledge and information to form a belief as to the averment.
6. Paragraph 6 is admitted.
7. Paragraph 7 is admitted.

8. Paragraph 8 is denied. The Defendants deny that any portion of their house and garage are located on land belonging to the Plaintiff.

9. Paragraph 9 is denied. The Defendant, David Graham, did not admit that a portion of their home and garage had been constructed on Plaintiff's land. The Defendant, David Graham, stated that he was not aware and did not know that a portion of their home and garage had been constructed on Plaintiff's land.

10. Paragraph 10 is admitted in part and denied in part. It is admitted that Plaintiff offered to sell land to the Defendants. It is denied that the land in question is a result of Defendants encroachment.

11. Paragraph 11 is denied. The Plaintiff and Defendants had discussed a sale of the parcel but never had reached an agreement. The Defendants further deny that any encroachment or necessity to compensate the Plaintiff for his land exists.

12. Paragraph 12 is admitted in part and denied in part. It is admitted that the Plaintiff has made repeated requests. It is denied that there is any encroachment or need to compensate the Plaintiff.

13. Paragraph 13 is denied. There never was a verbal agreement to purchase between the Plaintiff and the Defendants. As to the costs, the Defendants are without sufficient knowledge or information to form a belief as to the averment.

14. Paragraph 14 is denied. The Defendants deny any encroachment on Plaintiff's land. In the event that it is legally determined that an encroachment exists, said encroachment was not done intentionally and willfully, and the Plaintiff was aware at all time during the construction of the Defendants' house and garage.

WHEREFORE, Defendants respectfully request Your Honorable Court to deny the relief sought by Plaintiff in his Complaint.

**COUNT II-TRESPASS**

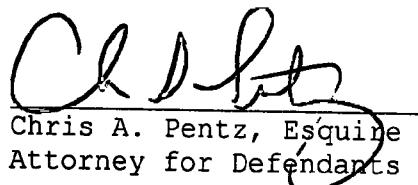
15. Paragraphs 1 through 14 inclusive of Count I of this Answer are incorporated herein by reference as though set forth in full.

16. Paragraph 16 is denied. The Defendants deny constructing any portion of their house and garage on Plaintiff's property.

17. Paragraph 17 is denied. The Defendants deny maintaining any portion of their house and garage on Plaintiff's property.

WHEREFORE, Defendants respectfully request Your Honorable Court to deny any relief to the Plaintiff.

Respectfully submitted this 20 day of October, 2000.

  
Chris A. Pentz, Esquire  
Attorney for Defendants

**VERIFICATION**

I, DAVID W. GRAHAM, 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. § 4904 relating to unsworn  
falsification to authorities.

10/18/00  
Date

David W. Graham  
David W. Graham

VERIFICATION

I, CONNIE M. GRAHAM, 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. § 4904 relating to unsworn  
falsification to authorities.

10-18-2000  
Date

Connie Graham  
Connie M. Graham

CHRIS A. PENTZ  
ATTORNEY AT LAW  
811 1/2 EAST LOCUST ST. P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

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OB 2000  
William A. Shaw  
Notary  
Fees

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

Sheriff Docket # 10278

**SWISHER, BRYCE E.**

00-1261-CD

**VS.**

**GRAHAM, DAVID W. & CONNIE M.**

**COMPLAINT IN EJECTMENT**

**SHERIFF RETURNS**

**OCTOBER 11, 2000 AT 1:40 PM DST SERVED THE WITHIN COMPLAINT IN  
EJECTMENT ON CONNIE M. GRAHAM, DEFENDANT AT RESIDENCE RD BOX 401  
FRENCHVILLE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO CONNIE  
GRAHAM A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN EJECTMENT  
AND MADE KNOWN TO HER THE CONTENTS THEREOF.**

**SERVED BY: NEVLING/MCINTOSH**

**OCTOBER 11, 2000 AT 1:40 PM DST SERVED THE WITHIN COMPLAINT IN  
EJECTMENT ON DAVID W. GRAHAM, DEFENDANT AT RESIDENCE RD BOX 401,  
FRENCHVILLE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO CONNIE  
GRAHAM, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN  
EJECTMENT AND MADE KNOWN TO HER THE CONTENTS THEREOF.**

**SERVED BY: NEVLING/MCINTOSH**

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**Return Costs**

<b>Cost</b>	<b>Description</b>
<b>32.65</b>	<b>SHFF. HAWKINS PAID BY: ATTY.</b>
<b>20.00</b>	<b>SURCHARGE PAID BY: ATTY.</b>

**FILED**

**OCT 25 2000  
014.00  
William A. Shaw E  
Prothonotary**

**Sworn to Before Me This**

**26th Day of October 2000**  
**William A. Shaw**  
**Prothonotary**  
**My Commission Expires**  
**1st Monday in Jan. 2002**  
**Clearfield Co., Clearfield, PA.**

**So Answers,**

**Chester A. Hawkins**  
**My Marly Hantz**  
**Chester A. Hawkins**  
**Sheriff**

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

**BRYCE E. SWISHER,  
Plaintiff**

**vs.**

**DAVID W. GRAHAM and CONNIE M.  
GRAHAM,  
Defendants**

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**\* NO. 00-1261-CD**

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**\* Type of Case: CIVIL ACTION**

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**\* Type of Pleading: PRAECIPE TO  
LIST MATTER FOR TRIAL**

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**\***

**\* Filed on behalf of: PLAINTIFF  
BRYCE E. SWISHER**

**\***  
**\***  
**\***  
**\***

**\* Counsel of Record for Plaintiff:  
\* BARBARA J. HUGNEY-SHOPE, ESQUIRE  
\* Supreme Court I. D. No. 26274  
\* 23 North Second Street  
\* Clearfield, PA 16830  
\* (814) 765-5155**

*William A. Shaw  
Prothonotary*

**JUL 07 2003**

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

**BRYCE E. SWISHER,** \*  
Plaintiffs, \*  
\*  
vs. \* **NO. 00-1261-CD**  
\*  
**DAVID W. GRAHAM and CONNIE M.** \*  
**GRAHAM,** \*  
Defendants. \*

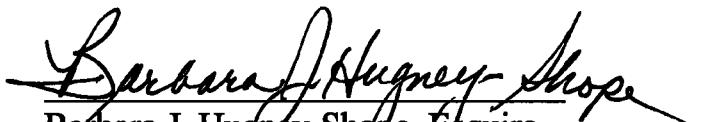
**PRAECIPE TO LIST FOR TRIAL**

TO: WILLIAM A. SHAW, PROTHONOTARY

Please place the above-captioned matter on the next list for trial. In support thereof, I certify the following:

1. There are no Motions outstanding.
2. Discovery has been completed and the case is ready for trial.
3. The case is to be heard non-jury.
4. Notice of the Praecipe has been given to opposing counsel.
5. The time for trial is estimated at one (1) day.

Respectfully submitted,

  
Barbara J. Hugney-Shope, Esquire  
Attorney for Plaintiff

Dated: July 7, 2003

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

**BRYCE E. SWISHER,**  
Plaintiffs,

vs.

\*  
\*  
\*  
\* NO. 00-1261-CD  
\*

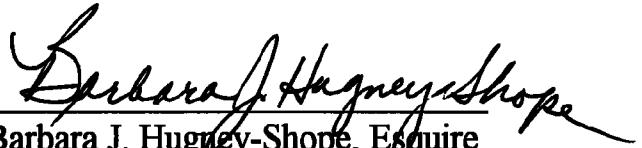
**DAVID W. GRAHAM and CONNIE M.  
GRAHAM,**  
Defendants.

\*  
\*  
\*

CERTIFICATE OF SERVICE

AND NOW, this 7<sup>th</sup> day of July, 2003, I, Barbara J. Hugney-Shope, Esquire, do hereby certify that a true and correct copy of the Praeclipe to List for Trial filed in the above-captioned action was served on Chris A. Pentz, Esquire, Attorney for the Defendants in the above-captioned matter, by depositing the same with the United States Postal Service, postage prepaid, on the 7<sup>th</sup> day of July, 2003, at the following address:

Chris A. Pentz, Esquire  
Attorney for Defendants  
211½ East Locust Street  
Clearfield, PA 16830

  
\_\_\_\_\_  
Barbara J. Hugney-Shope, Esquire  
Attorney for Plaintiff

BARBARA J. HUGNEY-SHOPE  
Attorney-at-Law  
23 N. Second Street  
Clearfield, PA 16830

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IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW  
NO. 00-1261-CD

BRYCE E. SWISHER, Plaintiff,

vs.

DAVID W. GRAHAM and  
CONNIE M. GRAHAM,  
Defendants.

PRAECIPE TO LIST MATTER  
FOR TRIAL

300 AM 5/16/00  
copy to CJA  
BTS

BARBARA J. HUGNEY-SHOPE  
Attorney-at-Law  
23 N. Second Street  
Clearfield, PA 16830  
(814) 765-5155  
FAX (814) 765-2957