

00-1378-CD
PAUL AURANDT et ux -vs- JOHN E. GALLAGHER et ux

COPY

February 9, 2004

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

Re: Paul Aurandt and Jennifer Neely-Aurandt
Vs.
John Gallagher and Genevieve Gallagher
No. 00-1378-CD
Superior Court No. 1215 WDA 2003

Dear Prothonotary:

Enclosed, please find the Plaintiff's exhibit, submitted after the transmittal of the appeal to your office. Please attach to the appeal.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

COPY

February 6, 2004

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

Re: Paul Aurandt and Jennifer Neely-Aurandt, husband and wife
Vs.
John E. Gallagher and Genevieve M. Gallagher
No. 00-1378-CD
Superior Court No. 1215 WDA 2003

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office. Please also find enclosed three transcripts.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

John K. Reilly, Jr., Senior Judge
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Joseph Colavecchi, Esq.
221 East Market Street
Clearfield, PA 16830

Lee G. Nollau
2153 East College Ave.
State College, PA 16801

Paul Aurandt and Jennifer Neely-Aurandt, husband and wife
Vs.
John E. Gallagher and Genevieve M. Gallagher

Court No. 00-1378-CD; Superior Court No. 1215 WDA 2003

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on February 6, 2004.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

John K. Reilly, Jr., Senior Judge
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

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Court No. 00-1378-CD; Superior Court No. 1215 WDA 2003

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Sincerely,

William A. Shaw
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00-1378 ~D

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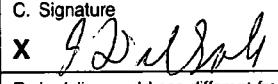
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Superior Court of PA - Prothonotary
Street, Apt. No.: 600 Grant Building
or PO Box No.
City, State, ZIP+4 Pittsburgh PA 15219

See Reverse for Instructions

PS Form 3800, June 2002

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01/4/00
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WAS
William A. Shaw
Prothonotary/Clerk of Courts

00-1378-CD

SENDER: COMPLETE THIS SECTION	
<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.	
1. Article Addressed to:	Superior Court of Pennsylvania Office of the Prothonotary 600 Grant Building Pittsburgh, PA 15219
2. Article Number (Copy)	7002 3150 0000 7855 1260 00-1378-CD
COMPLETE THIS SECTION ON DELIVERY	
A. Received by (Please Print Clearly)	B. Date of Delivery 2-7
C. Signature 	
<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
E. Service Type <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.	
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William A. Shaw
Prothonotary/Clerk of Courts

4:48 P.M.

Appeal Docket Sheet

Docket Number: 1215 WDA 2003

Page 1 of 4

July 1, 2003

Paul Aurandt, and Jennefer Neely-Aurandt,
husband and wife.

v.

John E. Gallagher and Genevieve M. Gallagher, Appellants

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: July 1, 2003 Awaiting Original Record

Journal Number:

Case Category: Civil Case Type: Ejectment

Consolidated Docket Nos.: Related Docket Nos.: 1215 WDA 2003

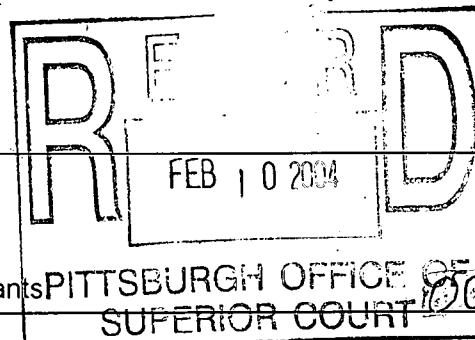
SCHEDULED EVENT

Next Event Type: Docketing Statement Received

Next Event Due Date: July 15, 2003

Next Event Type: Original Record Received

Next Event Due Date: July 30, 2003



1215 WDA 2003

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3 Trans
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FILED

JUL 07 2003

William A. Shaw
Prothonotary

Appeal Docket Sheet

Docket Number: 1215 WDA 2003

Page 2 of 4

July 1, 2003

Superior Court of Pennsylvania



COUNSEL INFORMATION

Appellant Gallagher, John E
 Pro Se: Appoint Counsel Status:

IFP Status: No

Appellant Attorney Information:

Attorney: Nollau, Lee Gordon
 Bar No.: 24732 Law Firm: Nollau & Young
 Address: Nollau & Young
 2153 E College Avenue
 State College, PA 16801

Phone No.: (814)235-1110 Fax No.: (814)235-1114

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellant Gallagher, Genevieve M.
 Pro Se: Appoint Counsel Status:

IFP Status: No

Appellant Attorney Information:

Attorney: Nollau, Lee Gordon
 Bar No.: 24732 Law Firm: Nollau & Young
 Address: Nollau & Young
 2153 E College Avenue
 State College, PA 16801

Phone No.: (814)235-1110 Fax No.: (814)235-1114

Receive Mail: No

E-Mail Address:

Receive E-Mail: No

Appellee Aurandt, Paul
 Pro Se: Appoint Counsel Status:

IFP Status: No

Appellee Attorney Information:

Attorney: Colavecchi, Joseph
 Bar No.: 06810 Law Firm: Colavecchi, Ryan & Colavecchi
 Address: Colavecchi Ryan et al
 221 E Market St PO Box 131
 Clearfield, PA 16830-0131

Phone No.: (814)765-1566 Fax No.: (814)765-4570

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee Aurandt, Jennifer Neely
 Pro Se: Appoint Counsel Status:

IFP Status: No

7/1/2003

Appeal Docket Sheet

Docket Number: 1215 WDA 2003

Page 3 of 4

July 1, 2003

Superior Court of Pennsylvania



Appellee Attorney Information:

Attorney: Colavecchi, Joseph
 Bar No.: 06810 Law Firm: Colavecchi, Ryan & Colavecchi
 Address: Colavecchi Ryan et al
 221 E Market St PO Box 131
 Clearfield, PA 16830-0131
 Phone No.: (814)765-1566 Fax No.: (814)765-4570
 Receive Mail: No
 E-Mail Address:
 Receive E-Mail: No

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
6/20/03	Notice of Appeal	60.00	60.00	2003SPRWD000855

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas
 County: Clearfield Division: Civil
 Date of OrderAppealed From: May 22, 2003 Judicial District: 46
 Date Documents Received: July 1, 2003 Date Notice of Appeal Filed: June 20, 2003
 Order Type: Order Entered OTN:
 Judge: Reilly, Jr., John K. Lower Court Docket No.: No. 00-1378-CD
 President Judge

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
July 1, 2003	Notice of Appeal Filed	Appellant	Gallagher, John E
July 1, 2003	Docketing Statement Exited (Civil)		Western District Filing Office

Appeal Docket Sheet

Docket Number: 1215 WDA 2003

Page 4 of 4

July 1, 2003

Superior Court of Pennsylvania



FILED No cc
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JUL 07 2003
cc

copy to Judge Ammerman
William A. Shaw
Prothonotary

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:

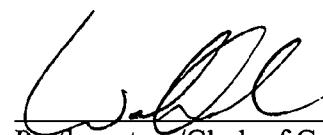
00-1378-CD

Paul Aurandt and Jennifer Neely-Aurandt, husband and wife
VS.
John E. Gallagher and Genevieve M. Gallagher

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

The documents compromising the record have been numbered from **No. 1 to No. 33**, 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
February 16, 2004.


Prothonotary/Clerk of Courts

(seal)

Current Judge: John K. Reilly Jr.

Paul Aurandt, Jennifer Neely-Aurandt vs. John Gallagher, Genevieve Gallagher

Civil Other

Date	Judge	
11/07/2000	Filing: Praeclipe for Writ of Summons in Ejectment Paid by: Colavecchi, Joseph (attorney for Neely-Aurandt, Jennifer) Receipt number: 0051056 Dated: 11/07/2000 Amount: \$80.00 (Check) Three Certified Copies to Attorney Writs to Sheriff	No Judge
11/27/2000	Praeclipe for Entry of Appearance, filed by s/Lee G. Nollau, Esq. NO CC Praeclipe for Rule to File Complaint, filed by s/Lee G. Nollau, Esq. NO CC	No Judge
11/30/2000	Complaint in Ejectment, filed by s/Joseph Colavecchi, Esq. 3 cc to atty Colavecchi	No Judge
12/13/2000	Sheriff Costs, Praeclipe for Writ of Summons in Ejectment & Summons, upon Defendants, So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
01/18/2001	Answer, New Matter and Counterclaim. Filed by s/Lee G. Nollau, Esq. Verification, s/Lee G. Nollau, Esq. Cert of Service	No Judge
01/24/2001	Reply to New Matter and Answer to Counterclaim. Filed by s/Joseph Colavecchi, Esq. Verification, s/Paul Aurandt and Jennifer Neely-Aurandt. 2 cc to atty	No Judge
05/18/2001	Verification of Service of Notice of Deposition by oral examination of Paul Aurandt. filed by s/Lee G. Nollau, Esq. no cc Verification of Service of Notice of Deposition by oral examination of Jennifer Neely-Aurandt. filed by s/Lee G. Nollau, Esq. No cc	No Judge
08/13/2001	Certificate of Readiness. Filed by s/Joseph Colavecchi, Esq. no cc Copy to CA	No Judge
12/21/2001	Transcript of Deposition of John Gallagher, June 5, 2001. Filed no cc Transcript of Deposition of Genevieve Gallagher, June 5, 2001. Filed no cc	John K. Reilly Jr. John K. Reilly Jr.
01/02/2002	Verification of Service of Defendants' Pre-Trial Memorandum upon parties of interest. Filed by s/Lee G. Nollau, Esq. no cc	John K. Reilly Jr.
01/09/2002	ORDER, NOW, this 9th day of Jan. 2002, re: Pre-Trial Conference. by the Court, s/JKR,JR.,P.J. cc Atty Colavecchi,Nollau	John K. Reilly Jr.
01/28/2002	ORDER, AND NOW, this 28th day of Jan. 2002, re: Non-Jury Trial scheduled for Apr. 8, 2002 at 9:00 a.m. and 1/2 day Apr. 9, 2002, at 9:00 a.m. by the Court, s/JKR,JR.,P.J. 1cc Atty Nollau, Colavecchi	John K. Reilly Jr.
02/08/2002	Filing: Subpoena Paid by: Colavecchi, Joseph (attorney for Aurandt, Paul) Receipt number: 1838001 Dated: 02/08/2002 Amount: \$9.00 (Check)	John K. Reilly Jr.
03/20/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	John K. Reilly Jr.
04/01/2002	Motion for Continuance. Filed by s/Lee G. Nollau, Esq. Verification s/Lee G. Nollau, Esq. no cc	John K. Reilly Jr.
04/02/2002	RULE, AND NOW, this 2nd day of April, 2002, re: Issued upon Plaintiffs, returnable the 4th day of June, 2002, at 8:30 a.m. by the Court, s/JKR,JR.,P.J. copy to CA	John K. Reilly Jr.
04/03/2002	Answer to Motion for Continuance. Filed by s/Joseph Colavecchi, Esq. no cc	John K. Reilly Jr.
04/04/2002	Filing: Subpoena Paid by: Nollau, Lee G. (attorney for Gallagher, John) Receipt number: 1840566 Dated: 04/04/2002 Amount: \$3.00 (Cash)	John K. Reilly Jr.
04/08/2002	ORDER, NOW, this 8th day of April, 2002, re: Plaintiff to have no more than John K. Reilly Jr. 20 days from date hereof to submit brief, Defendant shall have no more than 10 days thereafter which to respond in kind. by the Court, s/JKR,JR.,P.J. 2 cc to Atty Colavecchi, Nollau	John K. Reilly Jr.

Date: 02/06/2004

Time: 12:49 PM

Page 2 of 2

field County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2000-01378-CD

Current Judge: John K. Reilly Jr.

Paul Aurandt, Jennifer Neely-Aurandt vs. John Gallagher, Genevieve Gallagher

Civil Other

Date	Judge	
04/30/2002	OPINION AND ORDER, NOW, this 30th day of April, 2002, Partial Judgment shall be entered in favor of the Plaintiffs and Partial Judgment in favor of the Defendants in accordance with the foregoing Opinion. by the Court, s/JKR,JR.,P.J. 1 cc Atty Colavecchi, Nollau, and D. Mikesell	John K. Reilly Jr.
05/09/2002	Motion For Post-Trial Relief. filed by s/Lee G. Nollau, Esq. Verification s/Lee G. Nollau no cc	John K. Reilly Jr.
05/13/2002	RULE, AND NOW, this 13th day of May, 2002, issued upon Plaintiffs, returnable on the 21st day of June, 2002, at 2:00 p.m. by the Court, s/JKR,JR.,P.J. 2 cc to atty	John K. Reilly Jr.
05/15/2002	Answer of Plaintiffs To Defendants' Motion For Post-Trial Relief. Filed by s/Joseph Colavecchi, Esq. 3 cc Atty Colavecchi	John K. Reilly Jr.
05/16/2002	Answer of Plaintiffs To Defendants' Motion For Post-Trial Relief. Filed by s/Joseph Colavecchi, Esq. no cc Certificate of Service, Answers of Plaintiffs to Defendants' Motion for Post-Trial Relief upon Lee G. Nollau, Esq. Filed by s/Joseph Colavecchi, Esq. no cc	John K. Reilly Jr.
05/20/2002	Motion For Post-Trial Relief Filed on Behalf of Plaintiffs. Filed by s/Joseph Colavecchi, Esq. 3 cc Atty Colavecchi	John K. Reilly Jr.
05/23/2002	ORDER, AND NOW, this 23rd day of May, 2002, Rule issued upon DEFENDANT. Rule Returnable the 21st day of June, 2002, at 2:00 p.m. by the Court, s/JKR,JR.,P.J. 2 cc Atty Colavecchi	John K. Reilly Jr.
07/26/2002	Verification of Service of Post-Trial Motions Brief upon The Honorable John K. Reilly, Jr., President Judge and Joseph Colavecchi, Esquire Filed by s/Lee G. Nollau, Esquire no cc	John K. Reilly Jr.
05/22/2003	OPINION AND ORDER, NOW, this 22nd day of May, 2003, re: Post-Trial Motions shall be and are hereby DISMISSED. by the Court, s/JKR,JR.,P.J. 1 cc Atty J. Colavecchi, Atty Nollau, and Mikesell	John K. Reilly Jr.
06/20/2003	Filing: Appeal to High Court Paid by: Nollau, Lee G. (attorney for Gallagher, John) Receipt number: 1861886, Dated: 06/20/2003 Amount: \$45.00 (Check) 1 cert. to Superior Court and 1 Cert. to Atty. Notice of Appeal to Superior Court of Pennsylvania. filed by s/Lee G. Nollau, Esq. 1 cc to Superior Court w/Check 1 cc to Atty	John K. Reilly Jr.
07/07/2003	Appeal Docket Sheet Number: 1215 WDA 2003. no cc	John K. Reilly Jr.
12/17/2003	Transcript of Proceedings, Non Jury Trial, April 18, 2002, filed.	John K. Reilly Jr.
12/31/2003	ORDER OF COURT, Upon consideration of appellant's John E. Gallagher and Gevevieve M. Gallagher's December 19, 2003 "application for reconsideration, "the application is GRANTED and the instant appeal is REINSTATED. The original record is due in the Court forty (40) days from the date of this Order. December 23, 2003 PER CURIAM"	John K. Reilly Jr.
02/04/2004	Supplemental Opinion, BY THE COURT: /s/John K. Reilly, Jr., Senior Judge, Specially Presiding Two CC Atty J. Colavecchi Two CC Atty Nollau Copy to D. Mikesell	John K. Reilly Jr.

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

FEB 06 2004

Attest.

William J. Hudson
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 00-1378-CD

Paul Aurandt and Jennifer Neely-Aurandt, his wife
VS.
John Gallagher and Genevieve Gallagher, his wife

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	11/07/00	Praecepse for Writ of Summons	08
02	11/27/00	Praecepse for Entry of Appearance	03
03	11/27/00	Praecepse for Rule to File Complaint	03
04	11/30/00	Complaint in Ejectment	36
05	12/13/00	Sheriff Costs	01
06	01/18/01	Answer, New Matter and Counterclaim	17
07	01/24/01	Reply to New Matter and Answer to Counterclaim	05
08	05/18/01	Verification of Service of Notice of Deposition by Oral Examination of Paul Aurandt	02
09	05/18/01	Verification of Service of Notice of Deposition by Oral Examination of Jennifer Neely-Aurandt	02
10	08/13/01	Certificate of Readiness	01
11	12/21/01	Transcript of Deposition of John Gallagher, June 5, 2001	Separate Cover
12	12/21/01	Transcript of Deposition of Genevieve Gallagher, June 5, 2001	Separate Cover
13	01/02/02	Verification of Service of Defendant's Pre-Trial Memorandum	01
14	01/09/02	Order, Re: Pre-Trial Conference	01
15	01/28/02	Order, Re: Non-Jury Trial scheduled	01
16	03/20/02	Sheriff Return	10
17	04/01/02	Motion for Continuance and Rule, filed on April 2, 2002	05
18	04/03/02	Answer to Motion for Continuance	03
19	04/08/02	Order, Re: brief schedule	01
20	04/30/02	Opinion and Order	04
21	05/09/02	Motion for Post-Trial Relief and Rule, filed May 13, 2002	06
22	05/15/02	Answer of Plaintiffs to Defendants' Motion for Post-Trial Relief	03
23	05/16/02	Answer of Plaintiffs to Defendants' Motion for Post-Trial Relief	03
24	05/16/02	Certificate of Service, Answers of Plaintiffs of Defendants' Motion for Post-Trial Relief	01
25	05/20/02	Motion for Post-Trial Relief filed on behalf of Plaintiffs	06
26	05/23/02	Order, Re: Rule issued upon Defendant, Rule Returnable	01
27	07/26/02	Verification of Service of Post-Trial Motions Brief	02
28	05/22/03	Opinion and Order	01
29	06/20/03	Notice of Appeal	05
30	07/07/03	Appeal Docket Sheet	04
31	12/17/03	Transcript of Proceedings, Non Jury Trial, April 18, 2002	Separate Cover
32	12/31/03	Order, Re: Application for Reconsideration Granted; Appeal Reinstated (copy)	01
33	02/04/04	Supplemental Opinion	04

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

Paul Aurandt and Jennifer Neely-Aurandt, husband and wife

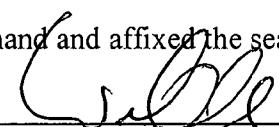
VS.

John E. Gallagher and Genevieve M. Gallagher

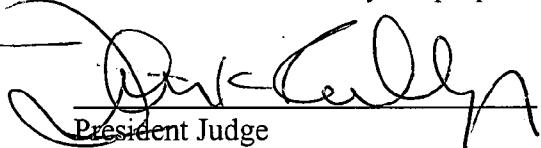
00-1378-CD

So full and entire as the same remains of record before the said Court, at No. 00-1378-CD

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 28th Day of June, 2003.

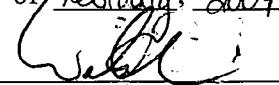

Prothonotary/Clerk of Courts

I, **John K. Reilly, Jr.**, ^{Senior}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 **John K. Reilly, Jr.**, ^{Senior}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 ^{Senior}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 16th day of February, 2004.


Prothonotary/Clerk of Courts

Leave over margin

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION
No. 00-
-EQU

PAUL AURANDT and JENNIFER
NEELY-AURANDT, his wife,
Plaintiffs

vs.

JOHN E. GALLAGHER and
GENEVIEVE GALLAGHER, his wife,
Defendants

PRAECIPE FOR WRIT OF
SUMMONS IN EJECTMENT

FILED

REC'D NOV 07 2000
3:50 AM

William A. Shaw

Prothonotary

Colavecchi

3cc atty Colavecchi
Wnts to Sheriff

COLAVECCHI
RYAN & COLAVECCHI

ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER
NEELY-AURANDT, his wife,
Plaintiffs

vs.

JOHN E. GALLAGHER and
GENEVIEVE GALLAGHER, his
wife,

Defendants

CIVIL DIVISION

No. 00 - 1378 - ~~1378~~ CO

PRAECIPE FOR WRIT OF SUMMONS
IN EJECTMENT

Filed on behalf of:

Plaintiffs, PAUL AURANDT and
JENNIFER NEELY-AURANDT

Counsel of Record For
Said Party:

JOSEPH COLAVECCHI, ESQUIRE
PA I.D. 06810

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

NOV 07 2000

William A. Shaw
Prothonotary

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

PAUL AURANDT and JENNIFER :
NEELY-AURANDT, his wife, :
Plaintiffs :
:
vs. : No. 00 - - EQU
:
JOHN E. GALLAGHER and :
GENEVIEVE GALLAGHER, his wife, :
Defendants :
:

PRAECIPE FOR WRIT OF SUMMONS IN EJECTMENT

TO: WILLIAM SHAW, PROTHONOTARY

Please issue a Writ of Summons in the above-captioned action of ejectment. This action concerns the land herein described:

ALL that certain piece or parcel of land situate in the Township of Woodward, County of Clearfield and State of Pennsylvania, bounded and described as follows:

BEGINNING at an existing iron pin located on the eastern side of an existing 33 foot right of way, said pin being the northwest corner of the property herein described; thence along the line of Raymond and Dorothy Peck, North two (2) degrees twenty-five (25) minutes twenty-four (24) seconds West, a distance of two hundred seventy-five and thirty-six one-hundredths (275.36) feet to an existing iron pin; thence along the line of land of Leonard L. and

Margaret Sternesky, South eighty-nine (89) degrees fifty-three (53) minutes forty-nine (49) seconds East, a distance of two hundred six and sixty-one one-hundredths (206.61) feet to an existing iron pin; thence along same, North four (04) degrees thirty-seven (37) minutes thirty (30) seconds East, a distance of four hundred nine and ninety-seven (409.97) feet to an existing iron pin; thence along same, South eighty-seven (87) degrees thirty-three (33) minutes zero (00) seconds West, a distance of two hundred fifty-six and ninety-eight one-hundredths (256.98) feet to an existing iron pin; thence along the line of land of Raymond and Dorothy Peck, North two (02) degrees twenty-five (25) minutes forty-five (45) seconds West, a distance of eighty-seven and eighty-four one-hundredths (87.84) feet to an existing iron pin; thence North fifty-three (53) degrees fifty-two (52) minutes fifty-three (53) seconds East, a distance of two hundred eighty-six and ninety-one one-hundredths (286.91) feet to an existing iron pin; thence North fifty-three (53) degrees fifty-two (52) minutes fifty-three (53) seconds East, a distance of six and seventy one-hundredths (6.70) feet; thence North seventy-nine (79) degrees nineteen (19) minutes thirty-seven (37) seconds East, a distance of thirty-two and fifty-three one-hundredths (32.53) feet to an existing iron pin; thence along the line of land of Timothy and Trudy Kokoskie North seventy-

nine (79) degrees nineteen (19) minutes thirty-seven (37) seconds East, a distance of two hundred ninety-six and thirty-five one-hundredths (296.35) feet to an existing iron pin; thence along the line of land of David K. Dahlgren South one (1) degree thirty-three (33) minutes two (2) seconds East, a distance of five hundred fifty-nine and seventy-five one-hundredths (559.75) feet to an existing iron pin; thence along the line of land of Edmond M. and Joanne M. George South eighty-eight (88) degrees fifteen (15) minutes twenty-two (22) seconds West a distance of two hundred nine and ninety-eight one-hundredths (209.98) feet to an existing iron pin; thence along same, South one (1) degree thirty-two (32) minutes seven (7) seconds East, a distance of four hundred and five one-hundredths (400.05) feet to an existing iron pin; thence along same, South eighty-eight (88) degrees sixteen (16) minutes fifty (50) seconds West, a distance of two hundred nine and ninety-four one-hundredths (209.94) feet to a Railroad Spike; thence along same, South one (1) degree twenty-four (24) minutes zero (00) seconds East, a distance of twenty and one one-hundredth (20.01) feet to an existing iron pin; thence along the line of land of Jacob George Ford Sales South eighty-eight (88) degrees thirteen (13) minutes thirty-five (35) seconds West, a distance of eighteen and thirty-eight one-hundredths (18.38) feet to an existing iron

pin; thence along a 33 foot right-of-way around a curve to the left through a central angle of sixty-six (66) degrees thirty-six (36) minutes forty-seven (47) seconds an arc distance of sixty and seventy-four one-hundredths (60.74) feet a chord distance of North fifty-five (55) degrees forty-nine (49) minutes thirty-nine (39) seconds West, a distance of fifty-seven and seven one-hundredths (57.07) feet to an iron pin; thence along same, around a curve to the left through a central angle of seventy (70) degrees five (05) minutes fifty-eight (58) seconds an arc distance of sixty-one and sixteen one-hundredths (61.16) feet a chord distance of South fifty-four (54) degrees eighteen (18) minutes fifty-eight (58) seconds West, a distance of fifty-seven and forty-two one-hundredths (57.42) feet to an existing iron pin; thence along same, North eighty-nine (89) degrees fifty-six (56) minutes fifty (50) seconds West, a distance of twenty-two and thirty-two one-hundredths (22.32) feet to an existing iron pin and the point of beginning.

Containing 7.386 acres, more or less, as shown on the Retracement of Survey for Paul and Jennifer Neely-Aurandt as prepared by George A. Cree, Registered Surveyor, of 2417 Skyline Drive, Fallentimber, Pennsylvania, 16639.

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

BEING the same premises conveyed to Paul Aurandt and Jennifer Neely-Aurandt from Federal Home Loan Mortgage Corporation by deed dated August 16, 2000, said deed being recorded at Clearfield County as Instrument Number 200012128.

The address of the Defendants is P.O. Box 126, Houtzdale, Pennsylvania, 16651.


JOSEPH COLAVECCHI, ESQUIRE
Attorney for Plaintiffs

11/7/01

DATE

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

RAYMOND &
DOROTHY PECK
D.B. 461 PG. 343

RAYMOND &
DOROTHY PECK
D.B. 461 PG. 343

EX.

IP

L 61.16'

R 50.00'

L 60.74'

R 50.00'

EXIST

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N 02°25'24" W

275.36'

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S 89°53'49" E

206.61'

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N 02°25'45" W

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N 53°52'53" E

286.91'

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293.61'

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N 04°37'30" E

409.97'

EXIST

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NOTE

ROAD

SHOWN AS 10'

VIDE

EARTH

ROAD

ON

PREVIOUS

SURVEY

BY

NICHOLAS

STROKEY

DATED

AUGUST 17, 1993

PAUL & JENNIFER

AURANDT

7.386 AC.+/-

RAYMOND &
DOROTHY PECK
D.B. 461 PG. 343

JOHN E. &
GENEVIEVE GALLAGHER

INSTRUMENT NO. 199918068

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256.98'

W 87.33'00" W

25.00'

EXIST

IP

ENCROACHMENT

OF FILL DIRT

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N 53°52'53" E

286.91'

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20' VINE SLATE

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328.88'

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N 04°37'30" E

409.97'

EXIST

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL ACTION

SUMMONS

PAUL AURANDT & JENNIFER NEELY-AURANDT
his wife

Plaintiff(s)

Vs.

No: 2000-1378-CD

JOHN E. GALLAGHER and GENEVIEVE
GALLAGHER, his wife

Defendant(s)

To: JOHN E. GALLAGHER & GENEVIEVE GALLAGHER
Defendant(s)

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s), has/have commenced a Civil Action against you.

Date: NOVEMBER 7, 2000

William A. Shaw
Prothonotary

Issuing Attorney:
JOSEPH COLAVECCHI, ESQ
COLAVECCHI, RYAN AND COLAVECCHI
221 EAST MARKET STREET
CLEARFIELD, PA 16830

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER NEELY-AURANDT, husband and wife,	)	CIVIL DIVISION
Plaintiffs	)	No. 2000-1378-CD
v.	)	Praecipe for Entry of Appearance
JOHN E. GALLAGHER and GENEVIEVE M. GALLAGHER,	)	Filed on behalf of Defendants
Defendants	)	Counsel of record for this party
	)	Lee G. Nollau
	)	I.D. #24732
	)	NOLLAU & YOUNG
	)	2153 East College Avenue
	)	State College, PA 16801
	)	(814) 235-1110

FILED

NOV 27 2000

William A. Shaw
Prothonotary

#2

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband and)
wife,)
Plaintiffs)
v.) No. 2000-1378-CD
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Enter the appearance of Lee G. Nollau as attorney of record
for Defendants, JOHN E. GALLAGHER and GENEVIEVE M. GALLAGHER.

Lee G. Nollau
Lee G. Nollau
I.D. #24732
NOLLAU & YOUNG
2153 East College Avenue
State College, PA 16801
(814) 235-1110
Attorney for Defendants

VERIFICATION OF SERVICE

Subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities, I verify that a true and correct copy of the foregoing Praeclipe for Entry of Appearance was served by placing same in the United States mail at State College, Pennsylvania, first-class postage prepaid on November 22, 2000, addressed as follows:

Joseph Colavecchi, Esquire
Colavecchi, Ryan and Colavecchi
221 East Market Street
Clearfield, PA 16830

Lee G. Nollau
Lee G. Nollau

FILED

NOV 27 2000
M 13/6/00
William A. Shaw
Prothonotary

cc

cc

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER) CIVIL DIVISION
NEELY-AURANDT, husband and)
wife,) No. 2000-1378-CD
Plaintiffs)
v.) Praeclipe for Rule to File
Defendants) Complaint
JOHN E. GALLAGHER and) Filed on behalf of Defendants
GENEVIEVE M. GALLAGHER,)
Defendants) Counsel of record for this party
)
) Lee G. Nollau
) I.D. #24732
) NOLLAU & YOUNG
) 2153 East College Avenue
) State College, PA 16801
) (814) 235-1110

FILED

NOV 27 2000

William A. Shaw
Prothonotary

13

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband and)
wife,)
Plaintiffs)
v.)
No. 2000-1378-CD
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

PRAECIPE FOR RULE TO FILE COMPLAINT

TO THE PROTHONOTARY:

Issue a Rule on Plaintiffs to file a Complaint within twenty (20) days from service thereof or suffer entry of judgment of non pros.

Date: November 22, 2000

Lee G. Nollau
Lee G. Nollau
I.D. #24732
NOLLAU & YOUNG
2153 East College Avenue
State College, PA 16801
(814) 235-1110
Attorney for Defendants

RULE TO FILE COMPLAINT

TO: Paul Aurandt and Jennifer Neely-Aurandt
c/o Joseph Colavecchi, Esquire
Colavecchi, Ryan and Colavecchi
221 East Market Street
Clearfield, PA 16830

You are hereby ruled to file a written Complaint in the above-captioned action within twenty (20) days from service hereof or suffer entry of judgment of non pros.

Date: 11/27/00

William B. Burch

Prothonotary

VERIFICATION OF SERVICE

Subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities, I verify that a true and correct copy of the foregoing Praeclipe for Rule to File Complaint and proposed Rule to File Complaint were served by placing same in the United States mail at State College, Pennsylvania, first-class postage prepaid on November 22, 2000, addressed as follows:

Joseph Colavecchi, Esquire
Colavecchi, Ryan and Colavecchi
221 East Market Street
Clearfield, PA 16830

Lee G. Nollau
Lee G. Nollau

FILED

NOV 27 2000 2^{CC}

W²illiam R. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION
No. 00 - 1378 - CD

PAUL AURANDT and JENNIFER
NEELY-AURANDT, his wife,
Plaintiffs

vs.

JOHN E. GALLAGHER and
GENEVIEVE GALLAGHER, his wife,
Defendants

COMPLAINT IN EJECTMENT

NOTICE TO DEFENDANTS:

YOU are hereby notified that
you are required to file an
Answer to the within Complaint
within twenty (20) days after
service upon you or judgment may
be entered against you.

John Gallagher
JOSEPH COLAVECCHI, ESQUIRE
ATTORNEY FOR PLAINTIFFS

COLAVECCHI
RYAN & COLAVECCHI
ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

FILED

NOV 3 0 2000
WILLIAM A. SHAW
Prothonotary

Scatty Colavecchi
Colavecchi

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER
NEELY-AURANDT, his wife,
Plaintiffs

vs.

JOHN E. GALLAGHER and
GENEVIEVE GALLAGHER, his
wife,
Defendants

CIVIL DIVISION

No. 00 - 1378 - CD

COMPLAINT IN EJECTMENT

Filed on behalf of:

Plaintiffs, PAUL AURANDT and
JENNIFER NEELY-AURANDT

Counsel of Record For
Said Party:

JOSEPH COLAVECCHI, ESQUIRE
PA I.D. 06810

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

NOV 30 2000

William A. Shaw
Prothonotary

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

PAUL AURANDT and JENNIFER :
NEELY-AURANDT, his wife, :
Plaintiffs :
:
vs. : No. 00 - 1378 - CD
:
JOHN E. GALLAGHER and :
GENEVIEVE GALLAGHER, his wife, :
Defendants :

N O T I C E

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 Complaint or for any other claim or relief requested by the Plaintiffs. 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.

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
Second and Market Streets
Clearfield, PA 16830

Phone 814/765-2641 Ex. 5982

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

PAUL AURANDT and JENNIFER :
NEELY-AURANDT, his wife, :
Plaintiffs :
:
vs. : No. 00 - 1378 - CD
:
JOHN E. GALLAGHER and :
GENEVIEVE GALLAGHER, his wife, :
Defendants :
:

COMPLAINT IN EJECTMENT

1. Plaintiffs are Paul Aurandt and Jennifer Neely-Aurandt, his wife who reside at R.R. 1, Box 743, Houtzdale, Pennsylvania, 16651.

2. Defendants are John E. Gallagher and Genevieve Gallagher, his wife, having a mailing address of P.O. Box 126, Houtzdale, Pennsylvania, 16651.

3. Plaintiffs are the owners of a property situated in Woodward Township, Clearfield County, Pennsylvania, bounded and described as follows:

ALL that certain piece or parcel of land situate in the Township of Woodward, County of Clearfield and State of Pennsylvania, bounded and described as follows:

BEGINNING at an existing iron pin located on the eastern side of an existing 33 foot right of way, said pin being the northwest corner of the property herein described; thence along the

line of Raymond and Dorothy Peck, North two (2) degrees twenty-five (25) minutes twenty-four (24) seconds West, a distance of two hundred seventy-five and thirty-six one-hundredths (275.36) feet to an existing iron pin; thence along the line of land of Leonard L. and Margaret Sternesky, South eighty-nine (89) degrees fifty-three (53) minutes forty-nine (49) seconds East, a distance of two hundred six and sixty-one one-hundredths (206.61) feet to an existing iron pin; thence along same, North four (04) degrees thirty-seven (37) minutes thirty (30) seconds East, a distance of four hundred nine and ninety-seven (409.97) feet to an existing iron pin; thence along same, South eighty-seven (87) degrees thirty-three (33) minutes zero (00) seconds West, a distance of two hundred fifty-six and ninety-eight one-hundredths (256.98) feet to an existing iron pin; thence along the line of land of Raymond and Dorothy Peck, North two (02) degrees twenty-five (25) minutes forty-five (45) seconds West, a distance of eighty-seven and eighty-four one-hundredths (87.84) feet to an existing iron pin; thence North fifty-three (53) degrees fifty-two (52) minutes fifty-three (53) seconds East, a distance of two hundred eighty-six and ninety-one one-hundredths (286.91) feet to an existing iron pin; thence North fifty-three (53) degrees fifty-two (52) minutes fifty-three (53) seconds East, a distance of six and seventy one-hundredths (6.70) feet; thence North seventy-nine (79) degrees

nineteen (19) minutes thirty-seven (37) seconds East, a distance of thirty-two and fifty-three one-hundredths (32.53) feet to an existing iron pin; thence along the line of land of Timothy and Trudy Kokoskie North seventy-nine (79) degrees nineteen (19) minutes thirty-seven (37) seconds East, a distance of two hundred ninety-six and thirty-five one-hundredths (296.35) feet to an existing iron pin; thence along the line of land of David K. Dahlgren South one (1) degree thirty-three (33) minutes two (2) seconds East, a distance of five hundred fifty-nine and seventy-five one-hundredths (559.75) feet to an existing iron pin; thence along the line of land of Edmond M. and Joanne M. George South eighty-eight (88) degrees fifteen (15) minutes twenty-two (22) seconds West a distance of two hundred nine and ninety-eight one-hundredths (209.98) feet to an existing iron pin; thence along same, South one (1) degree thirty-two (32) minutes seven (7) seconds East, a distance of four hundred and five one-hundredths (400.05) feet to an existing iron pin; thence along same, South eighty-eight (88) degrees sixteen (16) minutes fifty (50) seconds West, a distance of two hundred nine and ninety-four one-hundredths (209.94) feet to a Railroad Spike; thence along same, South one (1) degree twenty-four (24) minutes zero (00) seconds East, a distance of twenty and one one-hundredth (20.01) feet to an existing iron

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

pin; thence along the line of land of Jacob George Ford Sales South eighty-eight (88) degrees thirteen (13) minutes thirty-five (35) seconds West, a distance of eighteen and thirty-eight one-hundredths (18.38) feet to an existing iron pin; thence along a 33 foot right-of-way around a curve to the left through a central angle of sixty-six (66) degrees thirty-six (36) minutes forty-seven (47) seconds an arc distance of sixty and seventy-four one-hundredths (60.74) feet a chord distance of North fifty-five (55) degrees forty-nine (49) minutes thirty-nine (39) seconds West, a distance of fifty-seven and seven one-hundredths (57.07) feet to an iron pin; thence along same, around a curve to the left through a central angle of seventy (70) degrees five (05) minutes fifty-eight (58) seconds an arc distance of sixty-one and sixteen one-hundredths (61.16) feet a chord distance of South fifty-four (54) degrees eighteen (18) minutes fifty-eight (58) seconds West, a distance of fifty-seven and forty-two one-hundredths (57.42) feet to an existing iron pin; thence along same, North eighty-nine (89) degrees fifty-six (56) minutes fifty (50) seconds West, a distance of twenty-two and thirty-two one-hundredths (22.32) feet to an existing iron pin and the point of beginning.

Containing 7.386 acres, more or less, as shown on the Retracement of Survey for Paul and Jennifer Neely-Aurandt as

prepared by George A. Cree, Registered Surveyor, of 2417 Skyline Drive, Fallentimber, Pennsylvania, 16639.

A copy of the survey prepared by George A. Cree, Registered Surveyor, is attached to this Complaint marked Exhibit "A".

5. The above described property was conveyed to Plaintiffs by deed dated August 16, 2000 from Federal Home Loan Mortgage Corporation, said deed being recorded at Clearfield in Clearfield County as Instrument Number 200012128.

COUNT I - EJECTMENT

6. Paragraphs 1 through and including 5 are incorporated herein by reference thereto.

7. Defendants have arbitrarily, maliciously, and without justification, on or about September, 2000, dug a ten (10) foot wide new dozed road across the Northeast portion of Plaintiffs' property and in the process have destroyed a number of trees, having completely spoiled the land, and moved the earth and vegetation in doing so.

8. The result of Defendants' unjustified and unauthorized trespass on Plaintiffs' property is shown on the Cree survey map and described as "10 foot wide new dozed road".

9. Since September, 2000, Defendants have exercised and continue to exercise exclusive possession and control of that portion of Plaintiffs' property where Defendants have dug a "10 foot wide new dozed road".

10. Despite Plaintiffs repeated requests, Defendants have failed and refuse to restore the property to its former condition and have refused to pay for the damages to said property.

WHEREFORE, Plaintiffs request that this Court enter judgment in favor of Plaintiffs and against Defendants for possession of the "10 foot wide new dozed road", and to enter an Order directing Defendants to restore this road to its former condition and to pay damages for the removal of all trees, including triple damages as required under 42 P.S. 8311.

COUNT II - TRESPASS

11. Paragraphs 1 through and including 10 are incorporated herein by reference as though hereinafter set forth at length.

12. Defendants have a right of way across Plaintiffs' property from the Eastern portion of Plaintiffs' property, going West along a 10 foot wide access road until it enters Defendants' property on the Southeast corner of Defendants' land.

13. Defendants have taken it upon themselves to widen the 10 foot access road to a width of approximately 30 feet.

14. These actions by the Defendants have been done maliciously and without legal justification by making the unauthorized widening of the 10 foot wide right of way into a 30 foot wide right of way. This has been done without any consent from the Plaintiffs.

15. Despite Plaintiffs' repeated requests, Defendants have refused to stop widening the right of way and to stop destroying Plaintiffs property.

16. As a result of the actions by Defendants, they have destroyed a portion of Plaintiffs' property to Plaintiffs' damage in an amount to be determined.

17. Defendants received title to their property by deed dated October 11, 1999 from Leonard Sternesky, et ux, whereby 2.1428 acres were conveyed to John and Genevieve Gallagher, said deed being recorded as Instrument Number 199918068. Said deed expressly reserved the right to use the private roadway which borders on the Eastern side of Defendants' property which leads through Plaintiffs' property to a dirt road ten (10) feet wide, leading to Township Road T-650. A copy of the deed is attached hereto and marked Exhibit "B".

18. Earlier, Leonard C. Sternesky and Margaret Sternesky by deed dated November 10, 1995 had conveyed to Kelvin Harbottle and Pamela K. Harbottle, his wife, 7.3994 acres in Woodward Township. This deed expressly reserved to Sternesky the right to use a ten (10) foot wide private right-of-way which leads through Plaintiffs' property to a dirt road leading to Township Road T-650. Also attached to the deed is a survey having been prepared by Nicholas Shirokey which outlines the private roadway as being ten (10) feet wide. A copy of the deed is attached hereto marked Exhibit "C".

19. The property conveyed to Harbottle is the same land that was ultimately conveyed to Plaintiffs since the Harbottle property was executed upon by Keystone Financial Mortgage Corporation who then conveyed it to Federal Home Loan Mortgage Corporation who conveyed it to Plaintiffs by deed dated August 16, 2000, recorded as Instrument Number 200012128. A copy of this deed is attached hereto marked Exhibit "D".

20. A deed was executed by Plaintiffs to themselves being dated November 6, 2000, recorded as Instrument Number 200016584 which contains the survey of the property for Paul and Jennifer Aurandt. A copy of the deed is attached hereto marked Exhibit "E".

21. As a result of the actions by Defendants as set out above, Defendants have deprived Plaintiffs of the use and enjoyment of their property to Plaintiffs' damage in amount to be determined.

WHEREFORE, Plaintiffs request that the Court;

- a. Enter judgment in favor of Plaintiffs and against Defendants for possession of the part of the right of way which was taken by Defendants; and
- b. Enter an Order directing Defendants to restore the right of way to 10 feet and to restore and repair any damages to Plaintiffs' property.

COUNT III - DRAINAGE OF SEPTIC TANK ONTO
PLAINTIFFS' PROPERTY

22. Paragraphs 1 through and including 21 are incorporated herein by reference thereto.
23. Defendants have installed a septic tank on their land and have set up the drain fields so that it drains directly onto Plaintiffs' land causing damages to them.
24. Plaintiffs have set up this septic tank with the drainage field in a malicious and unauthorized manner causing the drainage from the septic tank to come onto Plaintiffs' property.
25. The installation of this septic tank and the drainage field coming onto Plaintiffs' property has deprived Plaintiffs of the use and enjoyment of their property to Plaintiffs' damage in an amount to be determined.

WHEREFORE, Plaintiffs request that the Court enter judgment in favor of Plaintiffs and against Defendants for money damages in an amount in excess of Twenty Thousand (\$20,000) Dollars.

COUNT IV - PUNITIVE DAMAGES

26. Paragraphs 1 through and including 25 are incorporated herein by reference thereto.

27. As set out above, Defendants acted maliciously and are guilty of wanton disregard of the rights of the Plaintiffs. For this reason, Plaintiffs should receive exemplary and punitive damages against Defendants.

28. As set out above, the acts complained of were wilfully, unlawfully, violently, and maliciously done by Defendants by reason of which Plaintiffs are entitled to exemplary or punitive damages.

29. As set out above, Defendants did the things alleged wilfully and knowingly and in defiance of Plaintiffs' repeated protests and notices. Defendants' conduct was oppressive and malicious and for the purpose of damaging Plaintiffs. Plaintiffs are therefore entitled to exemplary or punitive damages.

30. In doing the things alleged above, Defendants acted maliciously and were guilty of a wanton disregard of the rights and feelings of Plaintiffs. Accordingly, Plaintiffs demand exemplary or punitive damages against Defendants.

31. As set out above, the trespass of Defendants was made wilfully and wantonly with a gross indifference toward and disregard of Plaintiffs' rights. Plaintiffs are entitled to punitive or exemplary damages.

WHEREFORE, Plaintiffs ask that exemplary or punitive damages be awarded to them against Defendants in an amount in excess of Twenty Thousand (\$20,000) Dollars, said amount to be determined by the jury and/or the court.

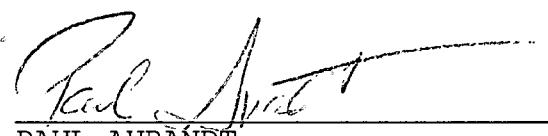
Respectfully Submitted:



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Plaintiffs

VERIFICATION

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



PAUL AURANDT



JENNIFER NEELY-AURANDT

This Deed,

MADE the 11th day of October

in the year nineteen hundred and ninety-nine (1999).

BETWEEN LEONARD L. STERNESKY and MARGARET STERNESKY, his wife, of 1758 North Drive, East Meadow, NY 11554, Grantors and Parties of the First Part,

A
N
D

JOHN E. GALLAGHER and GENEVIEVE M. GALLAGHER, his wife, of P.O. Box 126, Houtzdale, PA 16651, as Tenants by the Entireties, Grantees and Parties of the Second Part.

WITNESSETH, That in consideration of
Twelve Thousand and 00/100 (\$12,000.00) * * * * * * * * * 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 piece or parcel of ground situate in the Township of Woodward, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin located on line of, now or formerly, Raymond and Dorothy Peck. Said point is North two degrees, twenty-six minutes, fifty-five seconds West (N 2° 26' 55" W) two hundred seventy-five and forty-five hundredths feet (275.45) from the Southeast corner of, now or formerly, Raymond and Dorothy Peck; thence along land of, now or formerly, Raymond and Dorothy Peck, North two degrees, twenty-six minutes, fifty-five seconds West (N 2° 26' 55" W), three hundred ninety-seven and sixty hundredths feet (397.60) to an iron pin; thence along lands of Leonard C. and Margaret Sternesky, North eighty-seven degrees thirty-three minutes, five seconds East (N 87° 33' 05" E) two hundred fifty-seven feet (257.0) to an iron pin located on the West side of a private road; thence along said road, South four degrees, thirty-seven minutes, thirty seconds West (S 4° 37' 30" W) four hundred ten feet (410.0) to an iron pin; thence still along land of Leonard C. and Margaret Sternesky, North eighty-nine degrees, fifty-two minutes, thirty seconds West (N 89° 52' 30" W), two hundred six and seventy-two hundredths feet (206.72) to an iron pin and place of beginning.

Together with the right to use the private roadway which borders on the Eastern side of said property which leads through the property of the Grantor to a dirt road leading to Township Road T-650. Grantee shall have the right to use said road for any purpose and shall have the right to maintain the road together with the Grantor and to use said road in both directions from said property.

CONTAINING 2.1428 acres and being the same premises that vested in Leonard L. Sternesky and Margaret Sternesky by deed dated August 2, 1994 and recorded in Clearfield County Deeds and Records Book 1630, page 502.

EXCEPTING AND RESERVING all exceptions and reservations as are contained in prior deeds in the chain of title.

Exhibit

"B"

KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY
Pennsylvania

INSTRUMENT NUMBER
199918068

RECORDED ON
Nov 01, 1999
1:11:25 PM

RECORDING FEES - \$13.00

RECORDER

COUNTY IMPROVEMENT \$1.00

FUND

RECORDER \$1.00

IMPROVEMENT FUND

STATE TRANSFER \$120.00

TAX

STATE MRT TAX \$0.50

MOSHANNO VALLEY \$120.00

SCHOOLS

TOTAL \$255.50

G. Kasubick

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1986", I/we know and understand that 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 subsidence by a private contract with the owners of the property. I/we further certify that this certification is in a color contrasting with that in the deed and is printed in twelve point type preceded by the word "notice" printed in two point type.

Witness:

John E. Gallagher
John E. Gallagher
Genevieve M. Gallagher

This 30th day of

October, 1999.

THIS DOCUMENT MAY NOT CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT IN, AND THE OWNER OR OWNER'S ALL OF SUCH COAL AND, IN THAT AND ANY HOUSE, BUILDING OR NOTICE DOES NOT ENLARGE, RE-CREATED, TRANSFERRED, EXCEPT pursuant to Act No. 255, approved Septem-

CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT IN, AND THE OWNER OR OWNER'S ALL OF SUCH COAL AND, IN THAT AND ANY HOUSE, BUILDING OR NOTICE DOES NOT ENLARGE, RE-CREATED, TRANSFERRED, EXCEPT pursuant to Act No. 255, as amended.)

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

IN WITNESS WHEREOF the aforesaid parties have hereunto set their hands and seals, the day and year first above-written.

Sealed and delivered in the pre .

Leonard Sternesky (SEAL)
Leonard L. Sternesky
 Margaret Sternesky (SEAL)
Margaret Sternesky

CERTIFICATE OF RESIDENCE

I hereby certify, that the property herein is as follows:
P.O. Box 1166
Houtzdale, PA 16642
Girard Karchick, Attorney for Plaintiff

STATE OF NE.
~~Commonwealth of Penn.~~

County of Nassau

On this, the 15th day of
the undersigned officer, person.
Sternesky, his wife,
known to me (or satisfactorily
instrument, and acknowledged
contained.

IN WITNESS WHEREOF,

are unto set my hand and official seal.

Carmela Stanga

CARMELA STANGA
Nursing Practic, State of New York
My Commission No. 0718612023
Qualified in Nassau County
Commission Expires August 17, 2023

55

19 . before me

County of

County of
On this, the day of
the undersigned officer, person
known to me (or satisfactorily
instrument, and acknowledged
contained

IN WITNESS WHEREOF,

hereunto set my hand and

291

.....

My Commission Expires

State of

County of

On this, the 19 day of
the undersigned officer, person
known to me (or satisfactorily
instrument, and acknowledged to
contained.

IN WITNESS WHEREOF

SS:

the person whose name subscribed to the within
executed the same for the purpose therein

hereunto set my hand and

seal.

My Commission Expires

State of

County of

On this, the 19 day of
the undersigned officer, person
known to me (or satisfactorily
instrument, and acknowledged to
contained.

IN WITNESS WHEREOF

SS:

the person whose name subscribed to the within
executed the same for the purpose therein

hereunto set my hand and

seal.

My Commission Expires

Deed

WARRANTY DEED - Published and Sold by
John H. Schenck, Williamsport, Pa.

LEONARD L. STERNESKY, ET UX.

TO

Dated October 11, 1919
For Premises located in
Woodward Township,
Clearfield County, PA.
Consideration \$12,000.00
Recorded
Entered for Record in the Recorder's
Office of Clearfield County, PA. day of Tax \$
County, the 19 day of Tax \$
Fees, \$
Recorder

LEHMAN & KASUBICK

ATTORNEYS AT LAW
200 N. FRONT STREET
PHILADELPHIA, PA 19106
(215) 342-1550
(215) 342-7600

Commonwealth of

Pennsylvania

SS:

County of

RECORDED in

Book No.

or Recording of Deeds, etc., in and for said County, in Deed

, Page

IN WITNESS my

Official Seal this day of

, 19

Recorder of Deeds

COUNTY PARCEL NO. _____

THIS DEED

MADE THIS 10th day of November, in the year
nineteen hundred and ninety-five. -

BETWEEN LEONARD C. STERNESKY and MARGARET STERNESKY of
1758 North Drive, East Meadow, New York, 11554, GRANTORS AND
PARTIES OF THE FIRST PART,

A N D

KELVIN HARBOTTLE and PAMELA K. HARBOTTLE, Husband and Wife, as
Tenants by the Entireties, of P. O. Box 173, Rutherford,
Pennsylvania, GRANTEES AND PARTIES OF THE SECOND PART.

WITNESSETH That in consideration of EIGHTY THOUSAND
(\$80,000.00) 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 piece or parcel of land situated in the Township
of Woodward, Clearfield County and State of Pennsylvania, bounded
and described as follows:

BEGINNING at an iron pin located on the North side of a newly
dedicated Township Road. Said point is also the Southeast corner
of, now or formerly, Raymond and Dorothy Peck; thence along lands
of, now or formerly, Raymond and Dorothy Peck North two degrees,
twenty-six minutes, fifty-five seconds West (N 2° 26' 55" W) two
hundred seventy-five and forty-five hundredths feet (275.45) to an
iron pin and also the Southwest corner of, now or formerly, Chester
E. and Helen M. Sternesky; thence along lands of, now or formerly,
Chester E. and Helen M. Sternesky, South eighty-nine degrees,
fifty-two minutes, thirty seconds East (S 89° 52' 30" E), two
hundred six and seventy-two hundredths feet (206.72) to an iron pin
located on the West side of a private road; thence along said road,
North four degrees, thirty-seven minutes, thirty seconds East (N 4°
37' 30" E), four hundred ten feet (410.0) to an iron pin; thence
still along land of, now or formerly, Chester E. and Helen M.
Sternesky, South eighty-seven degrees, thirty-three minutes, five
seconds West (S 87° 33' 05" W), two hundred fifty-seven feet
(257.0) to an iron pin on line of, now or formerly, Raymond and
Dorothy Peck; thence along lands of Raymond and Dorothy Peck, North
two degrees, twenty-six minutes, fifty-five seconds West (N 2° 26'
55" W), eighty-seven and eighty-seven hundredths feet (87.87) to an
iron pin; thence North fifty-three degrees, fifty-three minutes,
fifty seconds East (N 53° 53' 50" E), two hundred ninety-three and

sixty-nine hundredths feet (293.69) to an iron pin on the South line of Pennington Street; thence along the end of said Street and land of, now or formerly, Lawrence L. and Carolyn M. Kokoskie, North seventy-nine degrees, nineteen minutes, thirty-five seconds hundredths feet (328.59) to an iron pin on land of, now or formerly, Dahlgren Estate; thence along land of, now or formerly, Dahlgren Estate, South one degree, thirty-four minutes East (S 1° 34' E) five hundred fifty-nine and fifty-three hundredths feet (559.53) to an iron pin and the Northeast corner of, now or formerly, Edmond George; thence along land of, now or formerly, Edmond George, South eighty-eight degrees, fourteen minutes West (S 88° 14' W), two hundred ten feet (210.0) to an iron pin; thence still along land of same, South one degree, thirty-four minutes East (S 1° 34' E), four hundred feet (400.0) to an iron pin; thence still along land of same, South eighty-eight degrees, fourteen minutes West (S 88° 14' W), two hundred ten feet (210.0) to an iron pin; thence still along land of same, South one degree, thirty-four minutes East (S 1° 34' E), twenty feet (20.0) to an iron pin; thence along land of, now or formerly, Jacob George Ford Sales, South eighty-eight degrees, fourteen minutes West (S 88° 14' W), eighteen and thirty-eight hundredths feet (18.38) to a point on a fifty foot radius of a cul-de-sac; thence along chord, North fifty-five degrees, fifty minutes, forty-five seconds West (N 55° 50' 45" W) fifty-seven and eight hundredths feet (57.08) with an arc length of sixty-three and fourteen hundredths feet (63.14); thence still along chord, South fifty-four degrees, eighteen minutes, fifteen seconds West (S 54° 18' 15" W), fifty-seven and forty-two hundredths feet (57.42) with an arc length of sixty-three and seventy-eight hundredths feet (63.78) to an iron pin; thence along Township Road, South eighty-nine degrees, fifty-nine minutes, thirty-five seconds West (S 89° 59' 35" W), twenty-two and thirty-six hundredths feet (22.36) to an iron pin and place of beginning.
CONTATNING 7.3994 acres.

GRANTORS reserve the right to use the private right-of-way which leads through the property herein being conveyed to a dirt road leading to Township Road T-650.

BEING the same premises granted and conveyed unto the Grantors herein by deed of Leon Naspasia dated March 1, 1990, and entered for record in the office of the Recorder of Deeds of Clearfield County, Pennsylvania, in Deed Book Volume 1333, Page 522.

MOSHANNON VALLEY SCHOOL DISTRICT

1% REALTY TRANSFER TAX

DEPARTMENT OF REVENUE

AMOUNT \$ 800.00
PAID 11-16-95 KAREN L. STARCK

Date Agent

0.00

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:

Peggy Swanson

This 10th day of November, 1995

Ronald G. Graham, Esq.
Agent for
Kelvin Harbottle and
Pamela K. Harbottle

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.

Leonard C. Sternsky
Leonard C. Sternsky
Margaret Sternsky (SE41)
Margaret Sternsky

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CETIFICATE OF RESIDENCE

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

P. O. Box 173
Houndsdale, Pa., 16651

Ronald E. Archer
Attorney or Agent

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF

On this, the 10th day of November, 1995, before me, the
undersigned officer, personally appeared Leonard C. Sternesky and
Margaret Sternesky known to me 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 notarial
seal.

Ronald E. Archer

Notarial Seal
Ronald E. Archer, Notary Public
Houndsdale Boro, Clearfield County
My Commission Expires March 23, 1997



COMMONWEALTH OF PENNSYLVANIA

COUNTY OF

RECORDED in the Office for Recording of Deeds, etc. in and for
said County, in Deeds & Records Book No. Page.

WITNESS my hand and official seal this day of , 19 .

Recorder of Deeds

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

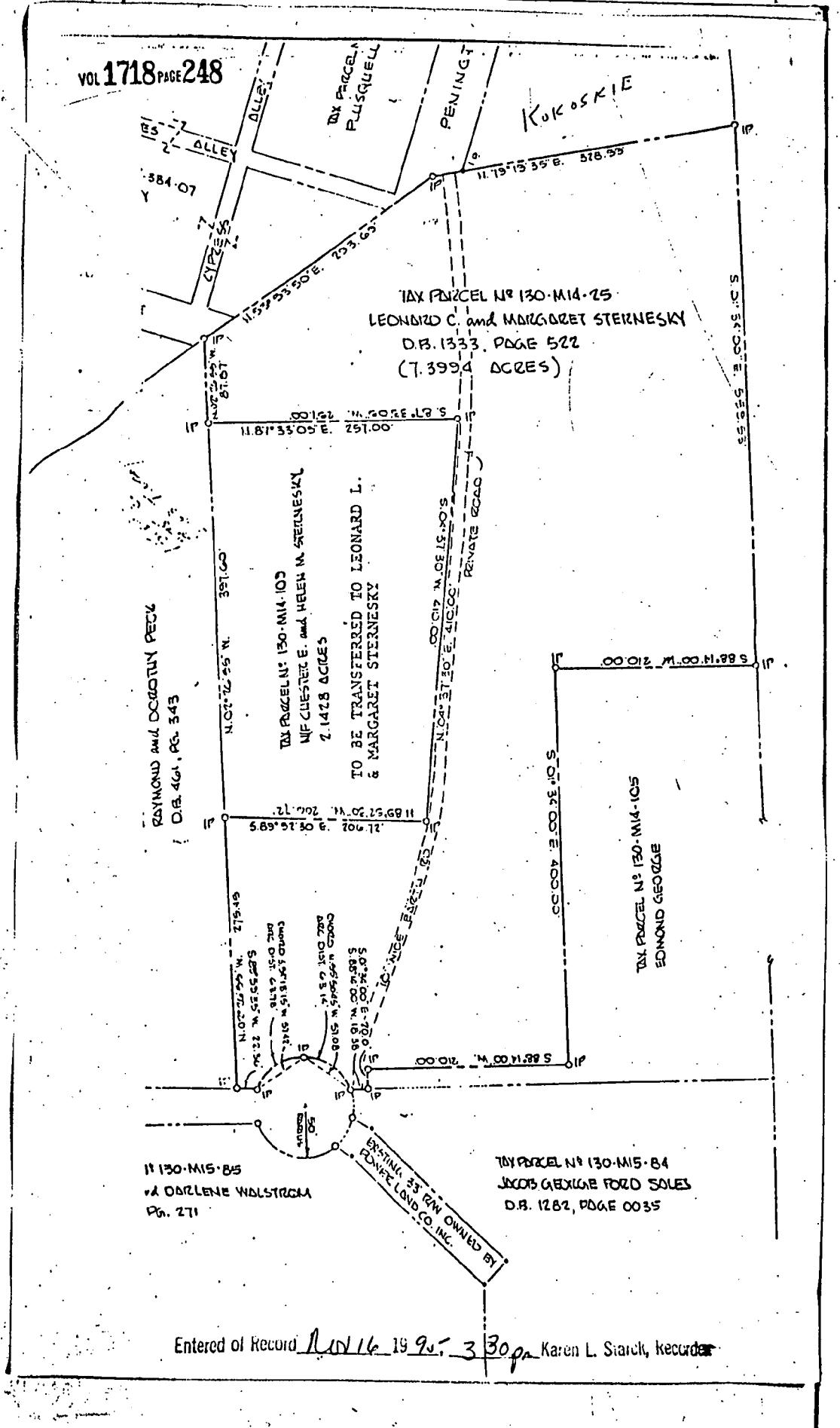


Karen L. Stark

Karen L. Stark
Recorder of Deeds

CLEARFIELD COUNTY
ENTERED OF RECORD
TIME 3:30pm 11-16-95
BY *Persons*
FEES *17.50*
Karen L. Stark, Recorder

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THIS INDENTURE

Made this

16th day of August, 2000

Between

Federal Home Loan Mortgage Corporation

(hereinafter called the "Grantor"), of the one part,

And

Paul Aurandt and Jennifer Neely-Aurandt

(hereinafter called the "Grantee"), of the other part,

Witnesseth, presents does grant, bargain and sell, alien, enfeoff, release and confirm unto the said Grantee, its successors and assigns That the said Grantor for and in consideration of the sum of Forty Six Thousand Nine Hundred DOLLARS (\$46,900.00) lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery, hereof, the receipt whereof of hereby acknowledged, has granted, bargained and sold, aliened, enfeoffed, released and confirmed, and by these presents does grant, bargain and sell, alien, enfeoff, release and confirm unto the said Grantee, its successors and assigns,

The Property Described in the Legal Description and Recital attached hereto as Exhibit A.

Together with all and singular the Buildings, Improvements, Ways, Streets, Alleys, Passages, Waters, Watercourses, Rights, Liberties, Privileges, Hereditaments and Appurtenances, whatsoever thereunto belonging, or in any wise appertaining, and the Reversions and Remainders, Rents, Issues and Profits thereof, and all the Estate, Right, Title, Interest, Property, Claim and Demand whatsoever of the said Grantor, as well in law as in equity, or otherwise howsoever, of, in, and to the same and every part thereof.

Exhibit

"D"

To have and to hold the said lot or piece of ground described with the messuage or tenement thereon erected, Hereditaments and Premises hereby granted, or mentioned and intended so to be, with the Appurtenances, unto the said Grantee, its Successors and Assigns, to and for the only proper use and behoof of the said Grantor, its Successors and Assigns forever.

And the said Grantor, for its Successors and Assigns does by these presents, covenant, grant and agree, to and with the said Grantee, its Successors and Assigns, that it the said Grantee, its Successors and Assigns all and singular the Hereditaments and Premises herein above described and granted, or mentioned and intended so to be, with the Appurtenances, unto the said Grantee, its Successors and Assigns, against the said Grantor, its Successors and Assigns and against all every Person or Persons whomever lawfully claiming or to claim and the same or any part thereof, by, from or under it, the said Grantor or any of them, shall and will **WARRANT** **SPECIALLY** the property hereby conveyed and forever **DEFEND**.

In Witness Whereof the said Grantor has caused its corporate seal to be hereunto affixed this day of , 2000

Sealed and Delivered

Federal Home Loan Mortgage Corporation

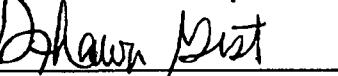
IN THE PRESENCE OF:



Witness

BY: 

ASSISTANT TREASURER

Attest: 

Assistant Secretary

KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY
Pennsylvania

INSTRUMENT NUMBER
200012128

RECORDED ON

AUG 18, 2000
2:46:06 PM

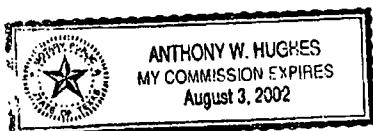
RECORDING FEES -	\$15.00
RECORDER	\$1.00
COUNTY IMPROVEMENT FUND	\$1.00
RECORDER IMPROVEMENT FUND	\$1.00
STATE TRANSFER TAX	\$469.00
STATE WRIT TAX	\$0.50
MOSHANNOON VALLEY SCHOOLS	\$469.00
TOTAL	\$955.50

Starck

State of *TX*
County of *Dallas*

On this, the 16 day of *Aug 2002*, before me, a Notary Public for the State of *TX*, the undersigned Officer, personally appeared *Adria Brennan* who acknowledged himself/herself to be the ASSISTANT TREASURER of Federal Home Loan Mortgage Corporation, and that he/she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as

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



Anthony W. Hughes
Notary Public

DEED

Federal Home Loan Mortgage Corporation

TO

Paul Aurandt and Jennifer Neely-Aurandt

Premises: **T-650 Don Street**
Houtzdale, PA 16651

The address of the above Grantee is: *T-650 Don Street*
Houtzdale, PA 16651

Jodie C. Smith
On behalf of the Grantee

EXHIBIT "A"

ALL that certain piece or parcel of land situated in the Township of Woodward, Clearfield County and State of Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin located on the North side of newly dedicated Township Road, Said point is also the Southeast corner of, now or formerly, Raymond and Dorothy Peck; thence along lands of, now or formerly, Raymond and Dorothy Peck North two degrees, twenty-six minutes, fifty-five seconds West (N 2degrees 26 minutes 55 seconds W) two hundred seventy-five and forty-five hundredths feet (275.45) to an iron pin and also the Southwest corner of, now or formerly, Chester E. and Helen M. Sternesky; thence along lands of, now or formerly, Chester E. and Helen M. Sternesky, South eighty-nine degrees, fifty-two minutes, thirty seconds East (S 89 degrees 52 minutes 30 seconds E), two hundred six and seventy-two hundredths feet (206.72) to an iron pin located on the West side of a private road; thence along said road, North four degrees, thirty-seven minutes, thirty seconds East (N 4 degrees 37 minutes 30 seconds), four hundred ten feet (410.0) to an iron pin; thence still along land of now or formerly, Chester E. and Helen M. Sternesky, South eighty-seven degrees, thirty-three minutes, five seconds West (S 87 degrees 33 minutes 05 seconds W), two hundred fifty-seven feet, (257.0) to an iron pin on line of, now or formerly, Raymond and Dorothy Peck; thence along lands of Raymond and Dorothy Peck, North two degrees, twenty-six minutes, fifty-five seconds West (N 2 degrees 26 minutes 55 seconds W), eighty-seven and eighty-seven hundredths feet (87.87) to an iron pin; thence North fifty-three degrees, fifty-three minutes, fifty seconds East (N 53 degrees 53 minutes 50 seconds E), two hundred ninety-three and sixty-nine hundredths feet (293.69) to an iron pin on the South line of Pennington Street; thence along the end of said Street and land of, now or formerly, Lawrence L. and Carolyn M. Kokoskie, North seventy-nine degrees, nineteen minutes, thirty-five seconds East (N 79 degrees 19 minutes 35 seconds E) three hundred twenty-eight and fifty-nine hundredths feet (328.59) to an iron pin and land of, now or formerly, Dahlgren Estate; thence along land of, now or formerly, Dahlgren Estate, South one degree, thirty-four minutes East (S 1 degree 34 minutes E) five hundred fifty-nine and fifty-three hundredths feet, (559.53) to an iron pin and the Northeast corner of, now or formerly, Edmond George; thence along land of, now or formerly, Edmond George, South eighty-eight degrees, fourteen minutes West (S 88 minutes 14 seconds W), two hundred ten feet (210.0) to an iron pin; thence still along land of same, South one degree, thirty-four minutes East (S 1 degree 34 minutes E), four hundred feet (400.0) to an iron pin; thence still along land of same; South eighty-eight degrees, fourteen minutes West (S 88 degrees 14 minutes W), two hundred ten feet (210.0) to an iron pin; thence still along land of same, South one degree, thirty-four minutes East (S 1 degree 34 minutes E), twenty feet (20.0) to an iron pin; thence along land of, now or formerly, Jacob George Ford Sales, South eighty-eight degrees, fourteen minutes West (S 88 degrees 14 minutes W), eighteen and thirty-eight hundredths feet (18.38) to a point on a fifty foot radius of a cul-de-sac; thence along chord, North fifty-five degrees, fifty minutes, forty-five seconds West (N 55 degrees 50 minutes 45 second W) fifty-seven and eight hundredths feet (57.08) with an arc length of sixty-three and fourteen hundredths feet (63.14); thence still along chord, South fifty-four degrees, eighteen minutes, fifteen seconds West (S 54

degrees 18 minutes 15 seconds W) fifty-seven and forty-two hundredths feet (57.42) with an arc length of sixty-three and seventy-eight hundredths feet (63.78) to an iron pin; thence along Township Road, South eighty-nine degrees, fifty-nine minutes, thirty-five seconds West (S 89 degrees 59 minutes 35 seconds W), twenty-two and thirty-six hundredths feet (22.36) to an iron pin and place of BEGINNING.

GRANTORS reserve the right to use the private right-of-way which leads through the property herein being conveyed to a dirt road leading to Township Road T-650.

Tax Parcel #130-M1-000-25.

BEING the same premises title to which became vested in Federal Home Loan Mortgage Corporation by deed of Keystone Financial Mortgage Corp. dated February 02, 2000 and recorded February 24, 2000 in Clearfield County Instrument #200002391.



County Parcel No. _____

This Deed,

MADE the 6 day of March,
in the year two thousand (2000)

BETWEEN PAUL AURANDT and JENNIFER NEELY-AURANDT of T650 Don Street, Houtzdale, Pennsylvania, 16651, parties of the first part, hereinafter referred to as Grantors,

A

N

D

PAUL AURANDT and JENNIFER NEELY-AURANDT, Husband and Wife, of R.R. 1, Box 743, Houtzdale, Pennsylvania, 16651, parties of the second part, hereinafter referred to as Grantees.

Exhibit

"E"

WITNESSETH, That in consideration of One (\$1.00)----- Dollars,
----- in hand paid, the receipt whereof is hereby acknowledged, the said grantors do hereby grant
and convey to the said grantees, as Tenants by the Entireties,

ALL that certain piece or parcel of land situate in the Township of Woodward, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at an existing iron pin located on the eastern side of an existing 33 foot right of way, said pin being the northwest corner of the property herein described; thence along the line of land of Raymond and Dorothy Peck, North two (2) degrees twenty-five (25) minutes twenty-four (24) seconds West, a distance of two hundred seventy-five and thirty-six one-hundredths (275.36) feet to an existing iron pin; thence along the line of land of Leonard L. and Margaret Sternesky, South eighty-nine (89) degrees fifty-three (53) minutes forty-nine (49) seconds East, a distance of two hundred six and sixty-one one-hundredths (206.61) feet to an existing iron pin; thence along same, North four (04) degrees thirty-seven (37) minutes thirty (30) seconds East, a distance of four hundred nine and ninety-seven (409.97) feet to an existing iron pin; thence along same, South eighty-seven (87) degrees thirty-three (33) minutes zero (00) seconds West, a distance of two hundred fifty-six and ninety-eight one-hundredths (256.98) feet to an existing iron pin; thence along the line of land of Raymond and Dorothy Peck, North two (02) degrees twenty-five (25) minutes forty-five (45) seconds West, a distance of eighty-seven and eighty-four one-hundredths (87.84) feet to an existing iron pin; thence North fifty-three (53) degrees fifty-two (52) minutes fifty-three (53) seconds East, a distance of two hundred eighty-six and ninety-one one-hundredths (286.91) feet to an existing iron pin; thence North fifty-three (53) degrees fifty-two (52) minutes fifty-three (53) seconds East, a distance of six and seventy one-hundredths (6.70) feet; thence North seventy-nine (79) degrees nineteen (19) minutes thirty-seven (37) seconds East, a distance of thirty-two and fifty-three one-hundredths (32.53) feet

to an existing iron pin; thence along the line of land of Timothy and Trudy Kokoskie North seventy-nine (79) degrees nineteen (19) minutes thirty-seven (37) seconds East, a distance of two hundred ninety-six and thirty-five one-hundredths (296.35) feet to an existing iron pin; thence along the line of land of David K. Dahlgren South one (1) degree thirty-three (33) minutes two (2) seconds East, a distance of five hundred fifty-nine and seventy-five one-hundredths (559.75) feet to an existing iron pin; thence along the line of land of Edmond M. and Joanne M. George South eighty-eight (88) degrees fifteen (15) minutes twenty-two (22) seconds West a distance of two hundred nine and ninety-eight one-hundredths (209.98) feet to an existing iron pin; thence along same, South one (1) degree thirty-two (32) minutes seven (7) seconds East, a distance of four hundred and five one-hundredths (400.05) feet to an existing iron pin; thence along same, South eighty-eight (88) degrees sixteen (16) minutes fifty (50) seconds West, a distance of two hundred nine and ninety-four one-hundredths (209.94) feet to a Railroad Spike; thence along same, South one (1) degree twenty-four (24) minutes zero (00) seconds East, a distance of twenty and one one-hundredth (20.01) feet to an existing iron pin; thence along the line of land of Jacob George Ford Sales South eighty-eight (88) degrees thirteen (13) minutes thirty-five (35) seconds West, a distance of eighteen and thirty-eight one-hundredths (18.38) feet to an existing iron pin; thence along a 33 foot right-of-way around a curve to the left through a central angle of sixty-six (66) degrees thirty-six (36) minutes forty-seven (47) seconds an arc distance of sixty and seventy-four one-hundredths (60.74) feet a chord distance of North fifty-five (55) degrees forty-nine (49) minutes thirty-nine (39) seconds West, a distance of fifty-

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

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.)

seven and seven one-hundredths (57.07) feet to an iron pin; thence along same, around a curve to the left through a central angle of seventy (70) degrees five (05) minutes fifty-eight (58) seconds an arc distance of sixty-one and sixteen one-hundredths (61.16) feet a chord distance of South fifty-four (54) degrees eighteen (18) minutes fifty-eight (58) seconds West, a distance of fifty-seven and forty-two one-hundredths (57.42) feet to an existing iron pin; thence along same, North eighty-nine (89) degrees fifty-six (56) minutes fifty (50) seconds West, a distance of twenty-two and thirty-two one-hundredths (22.32) feet to an existing iron pin and the point of beginning.

Containing 7.386 acres, more or less, as shown on the Retracement of Survey for Paul and Jennifer Neely-Aurandt as prepared by George A. Cree, Registered Surveyor, of 2417 Skyline Drive, Fallentimber, Pennsylvania, 16639. A copy of said survey being attached to this deed.

BEING the same premises conveyed to Paul Aurandt and Jennifer Neely-Aurandt from Federal Home Loan Mortgage Corporation by deed dated August 16, 2000, said deed being recorded at Clearfield County as Instrument Number 200012128.

The purpose of this deed is in order to have a record of the property lines as ascertained through the survey by George A. Cree.

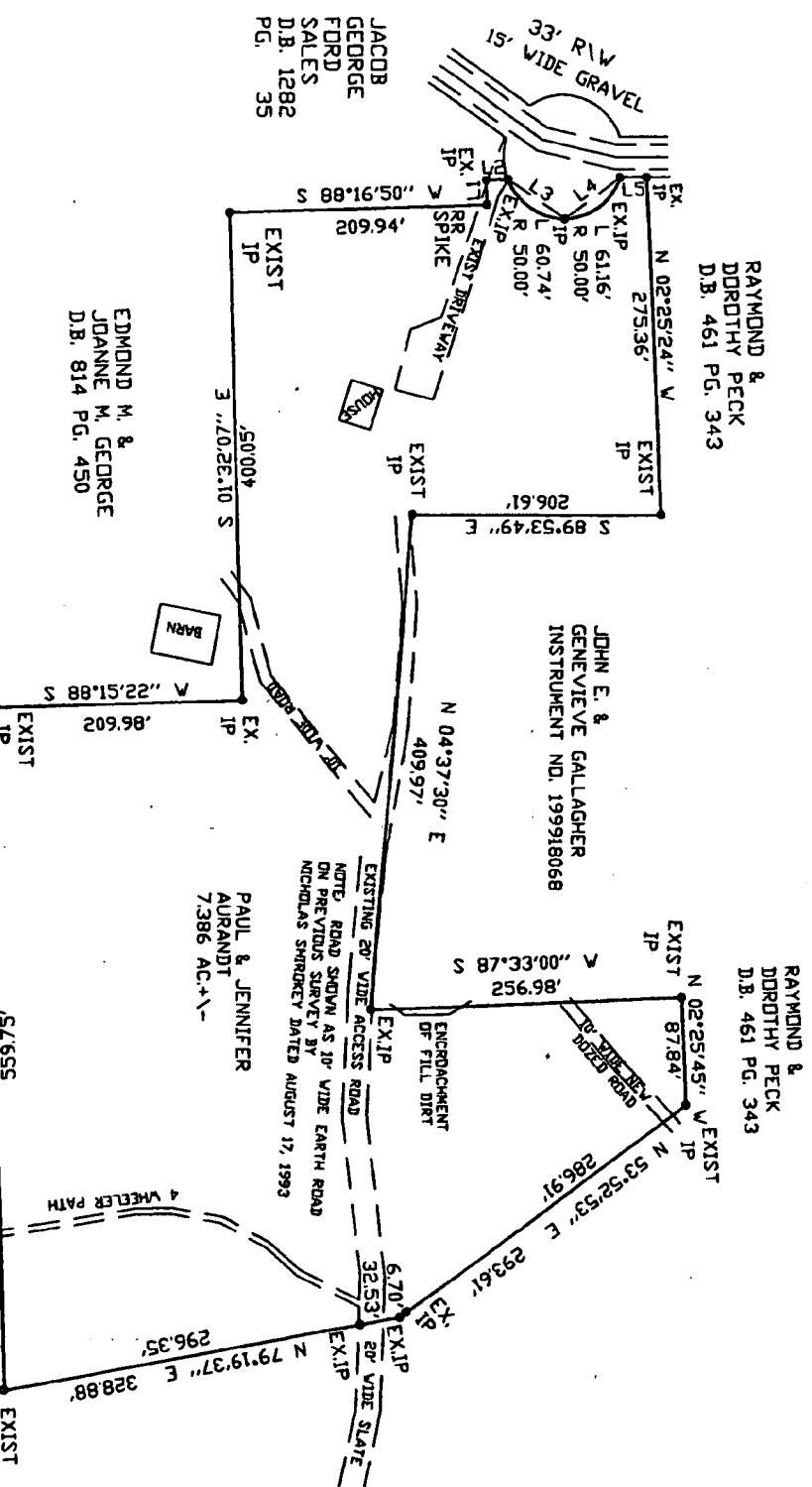
THIS IS A TAX EXEMPT TRANSACTION BETWEEN HUSBAND AND WIFE
AND HUSBAND AND WIFE

REGISTER AND RECORDER
CLEARFIELD COUNTY, PA

INVOICE #	39402	MEI
202-RECEIPT		
-- CHARGES --		
001 DEED		\$19.50
Instrument Number - 200016594		
Recorded on - Nov 07, 2000 10:13:17 AM		
Tru - WOODWARD TOWNSHIP		
Grantor - AURANDT, PAUL		
Grantee - AURANDT, PAUL		
Consideration - \$1.00		
\$0.00		
Tax Basis -		
Fee Detail:		
COUNTY RECORDING FEE	\$13.00	
IMPROVEMENT FEE - COUNTY	\$1.00	
IMPROVEMENT FEE - RECORDER	\$1.00	
PER PAGE FEE	\$4.00	
STATE WRIT FEE	\$0.50	
TOTAL CHARGES		\$19.50
-- PAYMENTS --		
CHECK: 3238		\$19.50
TOTAL PAYMENTS		\$19.50
AMOUNT DUE PAYMENT ON INVOICE		\$19.50 (\$19.50)
BALANCE DUE		\$0.00
Customer ID: COL COLAVECCHI & RYAN		
221 E. MARKET STREET		
PO BOX 131		
CLEARFIELD, PA 16830		
THANK YOU KAREN L. STARCK REGISTER & RECORDER COUNTY #17		
11/07/2000 10:13:13 AM		

NUMBER	DIRECTION	DISTANCE
L1	S 01°24'00" E.	20.01'
L2	S 88°13'35" W	18.38'
L3	N 55°49'39" W	57.07'
L4	S 54°18'58" W	57.42'
L5	N 89°56'50" W	22.32'

EDMOND M. &
JOANNE M. GEORGE
D.B. 814 PG. 450



Date	Revised	Job No.
9/25/00	11/06/00	BD9700

AND the said grantors will SPECIALLY
hereby conveyed.

WARRANT ~~AND FOR EVER EXEMPT~~ the property

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

.....
.....
.....
.....
.....
.....
.....
.....

}

PAUL AURANDT

Jennifer Neely-Aurandt

JENNIFER NEELY-AURANDT

[Seal]

[Seal]

[Seal]

[Seal]

[Seal]

CERTIFICATE OF RESIDENCE

I hereby certify, that the precise residence of the grantees herein is as follows:
R.R. 1, Box 743, Houtzdale, PA 16651

.....
.....
JOSEPH COLAVECCHI, ESQUIRE

Attorney or Agent for Grantee

Commonwealth of Pennsylvania

County of Clearfield

} ss.

On this, the 6 day of March, 2000, before me

the undersigned officer, personally appeared PAUL AURANDT and JENNIFER NEELY-AURANT, his wife, 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

seal.

My Commission Expires

NOTARIAL SEAL
JOSEPH M. COLAVECCHI, Notary Public
Clearfield Boro, Clearfield County, PA
My Commission Expires, June 2, 2004

State of } ss.
County of

On this, the day of before me
the undersigned officer, personally appeared
known to me (or satisfactorily proven) to be the person whose name subscribed to the within
instrument, and acknowledged that executed the same for the purpose therein
contained.

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

My Commission Expires

Commonwealth of Pennsylvania } ss.
County of ... Clearfield

RECORDED in the Office for Recording of Deeds, etc., in and for the said
County, in Deed Book No. , Page
WITNESS my hand and official seal this day of , 2000

Recorder of Deeds

Deed

WARRANTY DEED
The Plankenhorn Co., Williamsport, Pa.

PAUL AURANDT and JENNIFER NEELY-
AURANDT, -and-

PAUL AURANDT and JENNIFER NEELY-
AURANT, husband and wife,
Grantees

Dated
For .7.386 acres situated in
Woodward Township, Clearfield,
County, Pennsylvania
Consideration \$1.00
Recorded
Entered for Record in the Recorder's
Office of Clearfield,
County, the day of Tax. \$
2000 XXXX } Fees, \$
Recorder

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10379

AURANDT, PAUL & JENNIFER NEELY-AURANDT

00-1378-CD

VS.
GALLAGHER, JOHN E. & GENEVIEVE

PRAECIPE FOR WRIT OF SUMMONS IN EJECTMENT & SUMMONS

SHERIFF RETURNS

NOW NOVEMEBER 13, 2000 AT 11:50 AM EST SERVED THE WITHIN PRAECIPE FOR WRIT OF SUMMONS IN EJECTMENT & SUMMONS ON JOHN E. GALLAGHER, DEFENDANT AT SHERIFF'S OFFICE, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JOHN E. GALLAGHER A TRUE AND ATTESTED COPY OF THE ORIGINAL PRAECIPE FOR WRIT OF SUMMONS IN EJECTMENT & SUMMONS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: HAWKINS

NOW NOVEMBER 13, 2000 AT 1:50 PM EST SERVED THE WITHIN PRAECIPE FOR WRIT OF SUMMONS IN EJECTMENT & SUMMONS ON GENEVIEVE GALLAGHER, DEFENDANT AT RESIDENCE, PO BOX 126, HOUTZDALE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO GENEVIEVE GALLAGHER A TRUE AND ATTESTED COPY OF THE ORIGINAL PRAECIPE FOR WRIT OF SUMMONS IN EJECTMENT & SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: NEVLING

Return Costs

Cost	Description
44.05	SHFF. HAWKINS PAID BY: ATTY
20.00	SURCHARGE PD. BY: ATTORNEY

FILED

DEC 13 2000

11:04

William A. Shaw
Prothonotary

EKZ

Sworn to Before Me This

13th Day Of December 2000

Chester A. Hawkins

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

So Answers,

*Chester A. Hawkins
by Marilynn Harris*
Chester A. Hawkins
Sheriff

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER NEELY-AURANDT, husband and wife,	)	CIVIL DIVISION
Plaintiffs	)	No. 2000-1378-CD
v.	)	ANSWER, NEW MATTER AND COUNTERCLAIM
JOHN E. GALLAGHER and GENEVIEVE M. GALLAGHER, Defendants	)	Filed on behalf of Defendants
	)	Counsel of record for this party
	)	Lee G. Nollau
	)	I.D. #24732
	)	NOLLAU & YOUNG
	)	2153 East College Avenue
	)	State College, PA 16801
	)	(814) 235-1110

FILED

JAN 18 2001

William A. Shaw
Prothonotary

#16

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband and)
wife,)
Plaintiffs)
v.) No. 2000-1378-CD
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

NOTICE

TO: Paul Aurandt and Jennifer Neely-Aurandt
c/o Joseph Colavecchi, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 231
Clearfield, PA 16830

You are hereby notified to file a written response to the enclosed New Matter within twenty (20) days from service hereof or a judgment may be entered against you.

Lee G. Nollau

Lee G. Nollau
I.D. #24732
NOLLAU & YOUNG
2153 East College Avenue
State College, PA 16801
(814) 235-1110
Attorney for Defendants

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband and)
wife,)
Plaintiffs)
v.) No. 2000-1378-CD
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

NOTICE

TO: Paul Aurandt and Jennifer Neely-Aurandt
c/o Joseph Colavecchi, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 231
Clearfield, PA 16830

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 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 Meholic, Court Administrator
Office of the Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641, Ext. 5982

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband and)
wife,)
Plaintiffs)
v.) No. 00-1035-CD
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

ANSWER

NOW COME Defendants named above, JOHN E. GALLAGHER and GENEVIEVE M. GALLAGHER, by and through their attorney, Lee G. Nollau, in answer to the Complaint of Plaintiffs named above whereof the following is a statement:

1. Admitted.
2. Admitted.
3. Admitted in part and denied in part. It is admitted that a copy of a survey prepared by George A. Cree is attached to the Complaint marked Exhibit "A." After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 3.

[4. The Complaint contains no Paragraph 4.]

5. Denied. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5.

COUNT I

6. The averments of Paragraphs 1 though 5, supra, are incorporated herein by reference as though set forth in full.

7. Admitted in part and denied in part. It is admitted that Defendants have entered upon rights-of-way over property owned by Plaintiffs. To the extent that the remaining allegations of Paragraph 7 constitute allegations of fact, it is specifically denied that Defendants acted arbitrarily, maliciously or without justification, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 7. To the extent that the allegations of Paragraph 7 constitute conclusions of law, no response is required.

8. Denied. To the extent that the allegations of Paragraph 8 constitute allegations of fact, it is specifically denied that Defendants acted without justification or authorization, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 8. To the extent that the allegations of Paragraph 8 constitute conclusions of law, no response is required.

9. Denied. It is specifically denied that Defendants have exercised exclusive possession or control of any portion of Plaintiffs' property, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form

a belief as to the truth of the remaining allegations of Paragraph 9.

10. Denied. It is specifically denied that Plaintiffs made repeated requests of Defendants to restore the property or to pay damages, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 10.

WHEREFORE, Defendants request entry of judgment in favor of Defendants and against Plaintiffs with costs of suit imposed.

COUNT II

11. The averments of Paragraphs 1 though 10, supra, are incorporated herein by reference as though set forth in full.

12. Admitted in part and denied in part. It is admitted that Defendants have a right-of-way across Plaintiffs' property. It is specifically denied that that right-of-way is limited to entry to the Southeast corner of Defendants' land from the Eastern portion of Plaintiffs' property. To the contrary, Defendants have a right-of-way through Plaintiffs' property which allows entry to Defendants' land both from the Eastern portion of Plaintiffs' property and from the Western portion of Plaintiffs' property. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 12.

13. Admitted in part and denied in part. It is admitted that Defendants have maintained that portion of the right-of-way across the Eastern portion of Plaintiffs' property to the Southeast corner of Defendants' land, which consists an unpaved surface, by leveling the surface of the right-of-way. It is specifically denied that Defendants widened the right-of-way beyond the bounds of Defendants' right, title and interest therein, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 13.

14. Denied. To the extent that the allegations of Paragraph 14 constitute allegations of fact, it is specifically denied that Defendants acted maliciously and without legal justification by maintaining that portion of the right-of-way across the Eastern portion of Plaintiffs' property to the Southeast corner of Defendants' land, which consists an unpaved surface, by leveling the surface of the right-of-way, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 14. To the extent that the allegations of Paragraph 14 constitute conclusions of law, no response is required.

15. Denied. It is specifically denied that Defendants have destroyed Plaintiffs' property, and, after reasonable investigation, Defendants are without knowledge or information

sufficient to form a belief as to the truth of the remaining allegations of Paragraph 15.

16. Denied. It is specifically denied that Defendants have destroyed Plaintiffs' property, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 16.

17. Admitted.

18. Admitted in part and denied in part. It is admitted that a deed dated November 10, 1995, from Leonard C. Sternesky and Margaret Sternesky to Kelvin Harbottle and Pamela K. Harbottle to which is attached a survey prepared by Nicholas Shirokey is attached to the Complaint marked Exhibit "C." The remaining allegations of Paragraph 18 are denied in that the deed speaks for itself.

19. Admitted in part and denied in part. It is admitted that a deed dated August 16, 2000, from Federal Home Loan Mortgage Corporation to Plaintiffs is attached to the Complaint marked Exhibit "D." The remaining allegations of Paragraph 19 are denied in that the deed speaks for itself, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 19.

20. Admitted in part and denied in part. It is admitted that a deed dated November 6, 2000, from Plaintiffs to Plaintiffs is

attached to the Complaint marked Exhibit "E." The remaining allegations of Paragraph 20 are denied in that the deed speaks for itself.

21. Denied. To the extent that the allegations of Paragraph 21 constitute allegations of fact, it is specifically denied that Defendants have deprived Plaintiffs of the use and enjoyment of their property, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 21. To the extent that the allegations of Paragraph 21 constitute conclusions of law, no response is required.

WHEREFORE, Defendants request entry of judgment in favor of Defendants and against Plaintiffs with costs of suit imposed.

COUNT III

22. The averments of Paragraphs 1 though 21, supra, are incorporated herein by reference as though set forth in full.

23. Admitted in part and denied in part. It is admitted that Defendants have installed a septic system on their land. To the extent that the remaining allegations of Paragraph 23 constitute allegations of fact, after reasonable investigation Defendants are without knowledge or information sufficient to form a belief as to the truth thereof. To the extent that the allegations of Paragraph 23 constitute conclusions of law, no response is required.

24. Denied. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 24.

25. Denied. To the extent that the allegations of Paragraph 25 constitute allegations of fact, after reasonable investigation Defendants are without knowledge or information sufficient to form a belief as to the truth thereof. To the extent that the allegations of Paragraph 25 constitute conclusions of law, no response is required.

WHEREFORE, Defendants request entry of judgment in favor of Defendants and against Plaintiffs with costs of suit imposed.

COUNT IV

26. The averments of Paragraphs 1 though 25, supra, are incorporated herein by reference as though set forth in full.

27. Denied. To the extent that the allegations of Paragraph 27 constitute allegations of fact, it is specifically denied that Defendants acted maliciously or in disregard of the rights of Plaintiffs, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 27. To the extent that the allegations of Paragraph 27 constitute conclusions of law, no response is required.

28. Denied. To the extent that the allegations of Paragraph 28 constitute allegations of fact, it is specifically denied that

Defendants acted unlawfully, violently or maliciously, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 28. To the extent that the allegations of Paragraph 28 constitute conclusions of law, no response is required.

29. Denied. To the extent that the allegations of Paragraph 29 constitute allegations of fact, it is specifically denied that Defendants acted oppressively, maliciously or for the purpose of damaging Plaintiffs, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 29. To the extent that the allegations of Paragraph 29 constitute conclusions of law, no response is required.

30. Denied. To the extent that the allegations of Paragraph 30 constitute allegations of fact, it is specifically denied that Defendants acted maliciously or in disregard of the rights of Plaintiffs, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 30. To the extent that the allegations of Paragraph 30 constitute conclusions of law, no response is required.

31. Denied. To the extent that the allegations of Paragraph 31 constitute allegations of fact, it is specifically denied that Defendants acted with gross indifference or in disregard of the

rights of Plaintiffs, and, after reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 31. To the extent that the allegations of Paragraph 31 constitute conclusions of law, no response is required.

WHEREFORE, Defendants request entry of judgment in favor of Defendants and against Plaintiffs with costs of suit imposed.

NEW MATTER

In further answer and defense, Defendants aver New Matter as follows:

32. The averments of Paragraphs 1 though 31, supra, are incorporated herein by reference as though set forth in full.

33. Defendants believe and therefore aver that Defendants have the right to cross Plaintiffs' property over the "new dozed road."

34. As set forth in the deed conveying to Defendants their property, a copy of which is attached to the Complaint marked Exhibit "B," Defendants have the right to use the existing right-of-way "through the property of [Plaintiffs]...in both directions from [Defendants'] property."

35. As set forth in the deed conveying to Defendants their property, a copy of which is attached to the Complaint marked Exhibit "B," Defendants have the right to use the existing right-of-way "for any purpose."

36. As set forth in the deed conveying to Defendants their property, a copy of which is attached to the Complaint marked Exhibit "B," Defendants have the right to maintain the existing right-of-way.

37. Defendants believe and therefore aver that the septic system on Defendants' property does not drain onto the property of Plaintiffs.

WHEREFORE, Defendants request entry of judgment in favor of Defendants and against Plaintiffs with costs of suit imposed.

COUNTERCLAIM

In further and answer and defense, Defendants aver a cause of action against Plaintiffs as follows:

38. The averments of Paragraphs 1 though 37, supra, are incorporated herein by reference as though set forth in full.

39. Plaintiffs have denied Defendants the use and enjoyment of the existing right-of-way in that:

a. Plaintiffs have closed the existing right-of-way to the West of Defendants' property;

b. Plaintiffs have posted signs along the existing right-of-way and on Defendants' property to limit Defendants' access thereto and use and enjoyment thereof;

c. Plaintiffs have dug trenches in and along the existing right-of-way, causing it to be in a hazardous and physically offensive condition;

d. Plaintiff, Paul Aurandt, has threatened Defendants with bodily injury as a result of Defendants' attempts to use and maintain the existing right-of-way;

e. Plaintiff, Paul Aurandt, has harassed Defendants, including without limitation by specification by engaging in violent and tumultuous behavior, using vile and obscene language and otherwise engaging in a course of conduct which serves no legitimate purpose, as a result of Defendants' attempts to use and maintain the existing right-of-way; and

f. Plaintiffs have otherwise denied Defendants the use and enjoyment of the existing right-of-way.

40. Defendants are entitled to the use and enjoyment of the existing right-of-way.

41. Plaintiffs' actions constitute a violations of Defendants' right, title and interest in the existing right-of-way.

WHEREFORE, Defendants request that this Honorable Court enter a Decree:

a. declaring and adjudging that Defendants are entitled to the quiet and peaceful use and enjoyment of the right-of-way through the property of Plaintiffs, as described more fully in the deed attached to the Complaint marked Exhibit "B" and incorporated herein by reference as though set forth in full,

b. directing Plaintiffs to open the Western portion of the right-of-way,

c. permanently enjoining Plaintiffs from denying Defendants

the use and enjoyment of the right-of-way,

d. imposing costs of suit upon Plaintiffs, and

e. granting such other and further relief as the Court deems just and appropriate.

Lee G. Nollau

Lee G. Nollau

VERIFICATION

Subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities I, Lee G. Nollau, verify that I am attorney of record for Defendants named above, JOHN E. GALLAGHER and GENEVIEVE M. GALLAGHER, that Defendants are outside the jurisdiction of this Honorable Court and the Verification of Defendants cannot be obtained within the time allowed for filing the foregoing Answer, New Matter and Counterclaim, that Defendants have provided to me sufficient information to allow my verification of the averments of fact set forth in the foregoing Answer, New Matter and Counterclaim and that the averments of fact set forth in the foregoing Answer, New Matter and Counterclaim are true and correct upon my personal knowledge or information and belief.

Lee G. Nollau
Lee G. Nollau

VERIFICATION OF SERVICE

Subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities, I verify that a true and correct copy of the foregoing Answer and New Matter was served by delivery to the individual named below or by placing same in the United States mail at State College, Pennsylvania, first-class postage prepaid on January 18, 2001, addressed as follows:

Joseph Colavecchi, Esquire
Colavecchi, Ryan and Colavecchi
221 East Market Street
Clearfield, PA 16830

Lee G. Nollau
Lee G. Nollau

FILED
JAN 10 1988
William A. Shaw
Prothonotary
SAC

2/24/88
ceas

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION
No. 00-1378-CD

PAUL AURANDT and JENNIFER
NEELY-AURANDT, his wife,
Plaintiffs

vs.

JOHN E. GALLAGHER and
GENEVIEVE GALLAGHER, his wife,
Defendants

REPLY TO NEW MATTER AND
ANSWER TO COUNTERCLAIM

RYAN & COLAVECCHI
ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

FILED

JAN 24 2001
01/10/01 15:45pm
William A. Shaw
Prothonotary

2 CERT TO ATT

CKS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER
NEELY-AURANDT, his wife,
Plaintiffs

vs.

JOHN E. GALLAGHER and
GENEVIEVE GALLAGHER, his
wife,

Defendants

CIVIL DIVISION

No. 00 - 1378 - CD

REPLY TO NEW MATTER AND
ANSWER TO COUNTERCLAIM

Filed on behalf of:

Plaintiffs, PAUL AURANDT and
JENNIFER NEELY-AURANDT

Counsel of Record For
Said Party:

JOSEPH COLAVECCHI, ESQUIRE
PA I.D. 06810

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

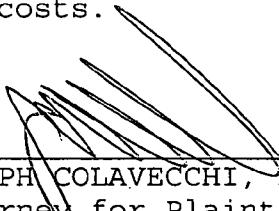
LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED

JAN 24 2001

William A. Shaw
Prothonotary

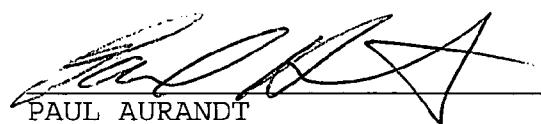
WHEREFORE, Plaintiffs ask that the Counterclaim of the Defendants be dismissed and that judgment be entered in favor of Plaintiffs, together with interest and costs.


JOSEPH COLAVECCHI, ESQUIRE
Attorney for Plaintiffs

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

VERIFICATION

We verify that the statements made in this Reply to New Matter and Answer to Counterclaim are true and correct. We understand that false statements herein are made subject to the penalties of 18 Pa. C.S. 4904, relating to unsworn falsification to authorities.



PAUL AURANDT



JENNIFER NEELY-AURANDT

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER
NEELY-AURANDT, husband and
wife,
Plaintiffs) CIVIL DIVISION
v.) No. 2000-1378-CD
) VERIFICATION OF SERVICE OF
) NOTICE OF DEPOSITION
) BY ORAL EXAMINATION OF
) PAUL AURANDT
)
JOHN E. GALLAGHER and) Filed on behalf of Defendants
GENEVIEVE M. GALLAGHER,) Counsel of record for this party
Defendants)
) Lee G. Nollau
) I.D. #24732
) NOLLAU & YOUNG
) 2153 East College Avenue
) State College, PA 16801
) (814) 235-1110

FILED

MAY 18 2001

M1313NOC

William A. Shaw
Prothonotary



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

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband and)
wife,)
Plaintiffs)
) No. 2000-1378-CD
v.)
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

VERIFICATION OF SERVICE OF NOTICE OF DEPOSITION
BY ORAL EXAMINATION OF PAUL AURANDT

Subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities, I verify that a true and correct copy of the Notice of Deposition by Oral Examination of Paul Aurandt was served by placing same in the United States mail at State College, Pennsylvania, first-class postage prepaid on May 17, 2001, addressed as follows:

Joseph Colavecchi, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P. O. Box 131
Clearfield, PA 16830

Lee G. Nollau

Lee G. Nollau
I.D. #24732
NOLLAU & YOUNG
2153 East College Avenue
State College, PA 16801
(814) 235-1110
Attorney for Defendants

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER
NEELY-AURANDT, husband and
wife,) CIVIL DIVISION
Plaintiffs) No. 2000-1378-CD
v.) VERIFICATION OF SERVICE OF
Defendants) NOTICE OF DEPOSITION
) BY ORAL EXAMINATION OF
) JENNIFER NEELY-AURANDT
)
JOHN E. GALLAGHER and) Filed on behalf of Defendants
GENEVIEVE M. GALLAGHER,)
Defendants) Counsel of record for this party
)
) Lee G. Nollau
) I.D. #24732
) NOLLAU & YOUNG
) 2153 East College Avenue
) State College, PA 16801
) (814) 235-1110

FILED

MAY 18 2001
M13:Blndcc
William A. Shaw
Prothonotary

49

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

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband and)
wife,)
Plaintiffs)
) No. 2000-1378-CD
v.)
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

VERIFICATION OF SERVICE OF NOTICE OF DEPOSITION
BY ORAL EXAMINATION OF JENNIFER NEELY-AURANDT

Subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities, I verify that a true and correct copy of the Notice of Deposition by Oral Examination of Jennifer Neely-Aurandt was served by placing same in the United States mail at State College, Pennsylvania, first-class postage prepaid on May 17, 2001, addressed as follows:

Joseph Colavecchi, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P. O. Box 131
Clearfield, PA 16830

Lee G. Nollau
Lee G. Nollau
I.D. #24732
NOLLAU & YOUNG
2153 East College Avenue
State College, PA 16801
(814) 235-1110
Attorney for Defendants

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL TRIAL LISTING

CERTIFICATE OF READINESS

TO THE PROTHONOTARY

CASE NUMBER	TYPE	TRIAL REQUESTED	DATE PRESENTED
			ESTIMATED TRIAL TIME
00-1378-CD		() Jury (X) Non-Jury	
Date Complaint		() Arbitration	2 Days
Filed: 11/30/00			

PLAINTIFF (S)

PAUL AURANDT and JENNIFER NEELY-AURANDT, his wife ()

DEFENDANT (S)

JOHN E. GALLAGHER and GENEVIEVE GALLAGHER, his wife ()

Check Block if
a Minor is a
Party to the
Case

ADDITIONAL DEFENDANT (S)

()

JURY DEMAND FILED BY:

DATE JURY DEMAND FILED:

AMOUNT AT ISSUE	CONSOLIDATION	DATE CONSOLIDATION ORDERED
more than \$	() yes () no	

more than

\$ () yes () no

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel.

FILED
AUG 13 2001

William A. Shaw
Prothonotary

JOSEPH COLAVECCHI, ESQUIRE

FOR THE PLAINTIFF	TELEPHONE NUMBER
JOSEPH COLAVECCHI, ESQUIRE	814/765-1566
FOR THE DEFENDANT	TELEPHONE NUMBER
LEE G. NOLLAU, ESQUIRE	814/235-1110
FOR ADDITIONAL DEFENDANT	TELEPHONE NUMBER

#10

FILED NO
cc

AUG 13 2001

copy to
CA

William A. Show
Prothonotary

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband)
and wife,)
Plaintiffs)
v.) No. 00-1378-CD
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

VERIFICATION OF SERVICE OF DEFENDANTS' PRE-TRIAL MEMORANDUM

Subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities, I verify that true and correct copies of Defendants' Pre-Trial Memorandum were served on January 2, 2002, by delivery to the individuals named below or by placing same in the United States mail at State College, Pennsylvania, first-class postage prepaid, addressed as follows:

The Honorable John K. Reilly, Jr.,
President Judge
Judge's Chambers
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

FILED

JAN 02 2002

Joseph Colavecchi, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 231
Clearfield, PA 16830

5 William A. Shaw
Prothonotary

Lee G. Nollau

Lee G. Nollau
I.D. No. 24732
NOLLAU & YOUNG
2153 East College Avenue
State College, PA 16801
(814) 235-1110
Attorney for Defendants

113

FILED

10/20/02
JAN 02 2002

NO
CC

William A. Shaw
Prothonotary

Heff

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

PAUL AURANDT and JENNIFER
NEELY-AURANDT, his wife

-vs-

No. 00-1378-CD

JOHN E. GALLAGHER and
GENEVIEVE GALLAGHER, his wife

ORDER

NOW, this 9th day of January, 2002, following pre-trial conference into the above-captioned matter, upon agreement of the parties, it is the ORDER of this Court that Defendants shall have the full right to use the 10 foot right-of-way presently located across Plaintiffs' property in accordance with the deed in the chain of title, and further that Plaintiffs shall be and are hereby directed to not interfere with the use thereof or to disrupt in any manner Plaintiffs' property immediately abutting said right-of-way to the extent that a sufficient width shall be available for the use of emergency vehicles. Hearing on Plaintiffs' Complaint for damages shall be scheduled at the convenience of the parties.

By the Court,

President Judge

FILED

JAN 09 2002

William A. Shaw
Prothonotary
CENT MTL CONFERENCE
ATTN NOLLAN

REB
#14

FILED
JAN 09 2002
William A. Shaw
Prothonotary

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

PAUL AURANDT and JENNIFER :
AURANDT, his wife :
vs. : No. 00-1378-CD
: :
JOHN E. GALLAGHER and :
GENEVIEVE GALLAGHER, his wife :
: :

ORDER

AND NOW, this 20th day of January, 2002, it is the ORDER of
the Court that Civil Non-Jury Trial in the above matter is hereby scheduled for one
(1) day on Monday, April 8, 2002 at 9:00 A.M. and one-half (1/2) day on Tuesday,
April 9, 2002 at 9:00 A.M. in Courtroom No. 1, Clearfield County Courthouse,
Clearfield, PA.

BY THE COURT:

JOHN K. REILLY, JR.
President Judge

FILED

JAN 28 2002

013:30 1/2002
William A. Shaw
Prothonotary

ICathy Colaretti
SJD

#15

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12100

AURANDT, PAUL & JENNIFER NEELY-AURANDT

00-1378-CD

VS.
GALLAGHER, JOHN E. & GENEVIEVE

SUBPOENA TO ATTEND & TESTIFY

SHERIFF RETURNS

NOW FEBRUARY 15, 2002, BOB KOLAR, SHERIFF OF CAMBRIA COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUBPOENA TO ATTEND & TESTIFY ON CLARK C. CREE, DEFENDANT.

NOW FEBRUARY 21, 2002 SERVED THE WITHIN SUBPOENA TO ATTEND & TESTIFY ON CLARK C. CREE, DEFENDANT BY DEPUTIZING THE SHERIFF OF CAMBRIA COUNTY. THE RETURN OF SHERIFF KOLAR IS HERETO ATTACHED AND MADE A PART OF THIS RETURN.

NOW FEBRUARY 15, 2002, LARRY FIELD, SHERIFF OF BLAIR COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUBPOENA TO ATTEND & TESTIFY ON TERRY VENTRE AND TED VENTRE, DEFENDANTS.

NOW MARCH 7, 2002 SERVED THE WITHIN SUBPOENA TO ATTEND & TESTIFY ON TED VENTRE, DEFENDANT BY DEPUTIZING THE SHERIFF OF BLAIR COUNTY. THE RETURN OF SHERIFF FIELD IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED SHARYN VENTRE, WIFE.

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12100

AURANDT, PAUL & JENNIFER NEELY-AURANDT

00-1378-CD

VS.

GALLAGHER, JOHN E. & GENEVIEVE

SUBPOENA TO ATTEND & TESTIFY

SHERIFF RETURNS

NOW MARCH 7, 2002 SERVED THE WITHIN SUBPOENA TO ATTEND & TESTIFY
ON TERRY VENTRE, DEFENDANT BY DEPUTIZING THE SHERIFF OF BLAIR COUNTY.
THE RETURN OF SHERIFF FIELD IS HERETO ATTACHED AND MADE A PART OF THIS
RETURN STATING THAT HE SERVED SHARYN VENTRE, SISTER IN LAW.

Return Costs

Cost	Description
49.00	SHFF. HAWKINS PAID BY: ATTY.
30.00	SHFF. FIELD PAID BY: ATTY.
41.70	SHFF. KOLAR PAID BY: ATTY.

FILED

MAR 20 2002

0850

William A. Shaw
Prothonotary

Sworn to Before Me This

20th Day Of March 2002

William A. Shaw

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,

Chester A. Hawkins
by Marky Harris
Chester A. Hawkins
Sheriff

CASE # PLAINTIFF
90049-02 AURANDT, PAUL & JENNIFER
DATE 2/21/02

DEFENDANT
GALLAGHER, JOHN & 00-1378

1210

AT 14:25 HRS. SERVED THE SUBPOENA TO ATTEND AND TESTIFY
UPON CLARK C. CREE BY HANDING A TRUE AND ATTESTED COPY
THEREOF TO HIM PERSONALLY AT 2417 SKYLINE DR. FALLENTIMBER,
PA. 16639 AND MAKING CONTENTS THEREOF KNOWN TO HIM. MY
COSTS PAID BY ATTORNEY FOR PLAINTIFF.

SHERIFF COSTS 38.70

PRO 3.00

TOTAL COSTS 41.70

SO ANSWERS,

Bob Kolar

BOB KOLAR, SHERIFF

SWORN AND SUBSCRIBED TO BEFORE ME THIS 26TH DAY OF FEB. 02.

PROTHOANTARY

Patty Burkett

C A M B R I A C O U N T Y
S H E R I F F

2/25/02

JOSEPH COLAVECCHI
PO BOX 131

CLEARFIELD

PA 16830-0000

BOB KOLAR, SHERIFF
CAMBRIA COUNTY
PENNSYLVANIA

STATEMENT

BOB KOLAR, SHERIFF SHERIFF, CAMBRIA COUNTY, PA	| CIVIL REC & DOCKETING & R	9.00
	| CIVIL SERVICE	9.00
	| GENERAL MILEAGE	20.70
	| PROTHONOTARY NOTARY	3.00
	| REFUND ON DOCKET	58.30
AURANDT, PAUL & JENNIFER 90049-02		
SUBPOENA - AURANDT VS. GALLAGHER		
AURANDT, PAUL & JENNIFER		

V S
GALLAGHER, JOHN & 00-1378

JOSEPH COLAVECCHI
PO BOX 131

CLEARFIELD, PA 16830

| TOTAL COSTS.....	100.00
| TOTAL RECEIPTS.....	100.00

DATE RECEIVED

DATE PROCESSED

SHERIFF'S DEPARTMENT

BLAIR COUNTY, PENNSYLVANIA
COURTHOUSE, HOLLIDAYSBURG, PA. 16648

2-2

SHERIFF SERVICE PROCESS RECEIPT, and AFFIDAVIT OF RETURN

INSTRUCTIONS:

Print legibly, insuring readability of all copies.

Do not detach any copies. BCSD ENV. #

1. PLAINTIFF / S /	2. COURT NUMBER
Paul & Jennifer Furandt	00-1378-CO
3. DEFENDANT / S /	4. TYPE OF WRIT OR COMPLAINT
John E & Genevieve Gallagher	Subpoena

SERVE { 5. NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVICE OR DESCRIPTION OF PROPERTY TO BE LEVIED, ATTACHED OR SOLD.

AT { 6. ADDRESS (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code)

Ted Ventre
DC Ventre & Sons 315 First Avenue DuBois PA

7. INDICATE UNUSUAL SERVICE: PERSONAL PERSON IN CHARGE DEPUTIZE CERT. MAIL REGISTERED MAIL POSTED OTHER

NOW, _____, I, SHERIFF OF BLAIR COUNTY, PA., do hereby depose the Sheriff of County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff.

SHERIFF OF BLAIR COUNTY

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:

NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN — Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriffs' sale thereof.

9. SIGNATURE of ATTORNEY or other ORIGINATOR requesting service on behalf of:	10. TELEPHONE NUMBER	11. DATE
<input type="checkbox"/> PLAINTIFF		
<input type="checkbox"/> DEFENDANT		

SPACE BELOW FOR USE OF SHERIFF ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt of the writ or complaint as indicated above. { SIGNATURE of Authorized BCSD Deputy or Clerk and Title | 13. Date Received | 14. Expiration/Hearing date

Bonnie Schreiber 7-20-02 3-10-02

15. I hereby CERTIFY and RETURN that I have personally served, have served person in charge, have legal evidence of service as shown in "Remarks" (on reverse) have posted the above described property with the writ or complaint described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below by handing/or Posting a TRUE and ATTESTED COPY thereof.

16. I hereby certify and return a NOT FOUND because I am unable to locate the individual, company, corporation, etc., named above. (See remarks below)

17. Name and title of individual served Sharlyn Ventre, wife

18. A person of suitable age and discretion then residing in the defendant's usual place of abode. Read Order

19. Address of where served (complete only if different than shown above) (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code)

3-7-02 1007

20. Date of Service

21. Time

22. ATTEMPTS	Date	Miles	Dep. Int.									
--------------	------	-------	-----------	------	-------	-----------	------	-------	-----------	------	-------	-----------

23. Advance Costs	24	25.	26.	27. Total Costs	28. COST DUE OR REFUND
-------------------	----	-----	-----	-----------------	------------------------

30. REMARKS

SO ANSWER.

AFFIRMED and subscribed to before me this

12th

By (Sheriff/Dep. Sheriff) (Please Print or Type)

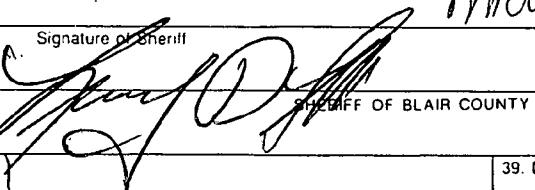
M.W.

Date

3-7-02

day of March, 2002

Carol Green, Notary Seal
NOTARY PUBLIC Grieco, Notary Public
Freedom Twp., Blair County
My Commission Expires Feb. 3, 2003

Signature of Sheriff 
SHERIFF OF BLAIR COUNTY

MY COMMISSION EXPIRES

I ACKNOWLEDGE RECEIVING THIS SHERIFF'S RETURN, SIGNATURE AND AFFIRMATION AS A SUFFICIENT SUBSTITUTION FOR NOTARIES OF AUTHORIZED ISSUING AUTHORITY AND TITLE.

39. Date Received

SHERIFF'S RETURN OF SERVICE

(1) The within _____ upon _____, the within named defendant by mailing to _____ by _____ mail, return receipt requested, postage prepaid _____ on the _____, a true and attested copy thereof at _____

The return receipt signed by _____ defendant on the _____ is hereto attached and made part of this return.

(2) Outside the Commonwealth, pursuant to Pa. R.C.P. 405 (c) (1) (2), by mailing a true and attested copy thereof at _____

in the following manner.

(a) To the defendant by () registered () certified mail, return receipt requested, postage prepaid, addressee only on the _____, said receipt being returned NOT signed by defendant, but with a notation by the Postal Authorities that defendant refused to accept the same. The returned receipt and envelope is attached hereto and made part of this return.

And thereafter:

(b) To the defendant by ordinary mail addressed to defendant at same address, with the return address of the Sheriff appearing thereon, on the _____

I further certify that after fifteen (15) days from the mailing date, I have not received said envelope back from the Postal Authorities. A certificate of mailing is hereto attached as a proof of mailing.

(3) By publication in a daily publication of general circulation in the County of Blair, Commonwealth of Pennsylvania, _____ time(s) with publication appearing _____

The affidavit from said publication is hereto attached.

(4) By mailing to _____ by _____ mail, return receipt requested, postage prepaid, on the _____, a true and attested copy thereof at _____

The _____ returned by the Postal Authorities marked _____ is hereto attached.

(5) Other _____

SHERIFF'S RETURN OF SERVICE

(1) The within _____ upon _____ the within named defendant by mailing to _____ by _____ mail, return receipt requested, postage prepaid _____ a true and attested copy thereof at _____

The return receipt signed by _____ defendant on the _____ is hereto attached and made part of this return.

(2) Outside the Commonwealth, pursuant to Pa. R.C.P. 405 (c) (1) (2), by mailing a true and attested copy thereof at _____ in the following manner.

(a) To the defendant by () registered () certified mail, return receipt requested, postage prepaid, addressee only on the _____ said receipt being returned NOT signed by defendant, but with a notation by the Postal Authorities that defendant refused to accept the same. The returned receipt and envelope is attached hereto and made part of this return.

And thereafter:

(b) To the defendant by ordinary mail addressed to defendant at same address, with the return address of the Sheriff appearing thereon, on the _____

I further certify that after fifteen (15) days from the mailing date, I have not received said envelope back from the Postal Authorities. A certificate of mailing is hereto attached as a proof of mailing.

(3) By publication in a daily publication of general circulation in the County of Blair Commonwealth of Pennsylvania, _____ time (s) with publication appearing _____

The affidavit from said publication is hereto attached.

(4) By mailing to _____ by _____ mail, return receipt requested, postage prepaid, on the _____ a true and attested copy thereof at _____

The _____ returned by the Postal Authorities marked _____

is hereto attached.

(5) Other _____

RECEIPT FOR PAYMENT
=====

Blair County Pennsylvania

Receipt Date 02/20/2002
Receipt Time 13:50:39

Blair County Courthouse
423 Allegheny Street

Receipt No. 103015

PAUL & JENNIFER AURANDT (VS) JOHN & GENEVIEVE GALLAGHER

Case Number 2002-60329 T
Service Info 001
Remarks DEPUTIZED BY CLEARFIELD COUNTY

Total Check... + 150.00
Total Cash.... + .00
Cash Out..... - .00
Receipt total. = 150.00

Check No. 5172

----- Distribution Of Payment -----

Transaction Description	Payment Amount	
ADVANCE PAYMENT	150.00	COLAVECCHI, JOSEPH
	<hr/>	
	150.00	

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

PAUL AURANDT and JENNIFER NEELY-AURANDT, :
his wife, :
Plaintiffs :
vs. :
No. 00-1378-CD
JOHN E. GALLAGHER and GENEVIEVE GALLAGHER, :
his wife, :
Defendants :

SUBPOENA TO ATTEND AND TESTIFY

TO: TERRY VENTRE
D.C. Ventre & Sons, Inc.
315 First Avenue
Duncansville, PA 16635

1. You are ordered by the court to come to the Clearfield County Courthouse
Courtroom Number 1
(Specify courtroom or other place)

at Clearfield, Clearfield County, Pennsylvania, on April 8, 2002

at 9:00 o'clock, A. M., to testify on behalf of

Paul Aurandt and Jennifer Neely-Aurandt, Plaintiffs

in the above case, and to remain until excused.

2. And bring with you the following: documents, evaluations, and pictures
concerning damage to property situated in Woodward Township, Clearfield County, PA

If you fail to attend or to produce the documents or things required
by this subpoena, you may be subject to the sanctions authorized by Rule
234.5 of the Pennsylvania Rules of Civil Procedure, including but not
limited to costs, attorney fees and imprisonment.

ISSUED BY A PARTY/COUNSEL IN COMPLIANCE WITH PA.R.C.P. No. 234.2(a)

NAME: JOSEPH COLAVECCHI, ESQUIRE

ADDRESS: 221 East Market Street
Clearfield, PA 16830

TELEPHONE: 814/765-1566

SUPREME COURT ID # 06810

BY THE COURT:


Prothonotary/Clerk, Civil Division

DATE: 4/8/02

Seal of the Court

Deputy

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena
is issuable, including hearings in connection with depositions and before
arbitrators, masters, commissioners, etc. in compliance with Pa.R.C.P.
No. 234.1. If a subpoena for production of documents, records or things
is desired, complete paragraph 2.

TURN OF SERVICE:

the _____ day of
_____, 19 ____.

served _____ (name of person served)
th the foregoing subpoena by:
Describe method of service)

verify that the statements in
his return of service are true
and correct. I understand that
false statements herein are made
subject to the penalties of 18
U.C.S.A. § 4904 relating to
sworn falsification to auth-
orities.

ATE: _____

(signature)

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

PAUL AURANDT and JENNIFER NEELY-AURANDT, :
his wife, Plaintiffs :
vs. :
:

JOHN E. GALLAGHER and GENEVIEVE GALLAGHER, :
his wife, Defendants :
:

No. 00-1378-CD

SUBPOENA TO ATTEND AND TESTIFY

TO: TED VENTRE
D.C. Ventre & Sons, Inc.
315 First Avenue
Duncansville, PA 16635

1. You are ordered by the court to come to the Clearfield County Courthouse,
Courtroom Number 1

(Specify courtroom or other place)

at Clearfield, Clearfield County, Pennsylvania, on April 8, 2002

at 9:00 o'clock, A. M., to testify on behalf of

Paul Aurandt and Jennifer Neely-Aurandt, Plaintiffs

in the above case, and to remain until excused.

2. And bring with you the following: documents, evaluations, and pictures
concerning damage to property situated in Woodward Township, Clearfield County, PA

If you fail to attend or to produce the documents or things required
by this subpoena, you may be subject to the sanctions authorized by Rule
234.5 of the Pennsylvania Rules of Civil Procedure, including but not
limited to costs, attorney fees and imprisonment.

ISSUED BY A PARTY/COUNSEL IN COMPLIANCE WITH PA.R.C.P. NO. 234.2(a)

NAME: JOSEPH COLAVECCHI, ESQUIRE

ADDRESS: 221 East Market Street
Clearfield, PA 16830

TELEPHONE: 814/765-1566

SUPREME COURT ID # 06810

BY THE COURT:



Prothonotary/Clerk, Civil Division

DATE: 2802

Seal of the Court

Deputy

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena
is issuable, including hearings in connection with depositions and before
arbitrators, masters, commissioners, etc. in compliance with Pa.R.C.P.
No. 234.1. If a subpoena for production of documents, records or things
is desired, complete paragraph 2.

RETURN OF SERVICE:

on the _____ day of
_____, 19 ____.

served (name of person served)
with the foregoing subpoena by:
Describe method of service)

verify that the statements in
his return of service are true
and correct. I understand that
false statements herein are made
subject to the penalties of 18
a.C.S.A. § 4904 relating to
nsworn falsification to auth-
rities.

ATE: _____

(Signature)

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

PAUL AURANDT and JENNIFER NEELY-AURANDT,
his wife,

Plaintiffs

vs.

JOHN E. GALLAGHER and GENEVIEVE GALLAGHER,
his wife,

Defendants

No. 00-1378-CD

SUBPOENA TO ATTEND AND TESTIFY

TO: CLARK C. CREE, P.L.S.

Registered Surveyor

2417 Skyline Drive

Fallentimber, PA 16639

1. You are ordered by the court to come to the Clearfield County Courthouse

Courtroom Number 1

(Specify courtroom or other place)

at Clearfield, Clearfield County, Pennsylvania, on April 8, 2002

at 9:00 o'clock, A.M., to testify on behalf of

Paul Aurandt and Jennifer Neely-Aurandt, Plaintiffs

in the above case, and to remain until excused.

2. And bring with you the following: survey maps and documents concerning
property situated in Woodward Township, Clearfield County, Pennsylvania

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

ISSUED BY A PARTY/COUNSEL IN COMPLIANCE WITH PA.R.C.P. No. 234.2(a)

NAME: JOSEPH COLAVECCHI, ESQUIRE

ADDRESS: 221 East Market Street

Clearfield, PA 16830

TELEPHONE: 814/765-1566

SUPREME COURT ID # 06810

BY THE COURT
Willithan

Prothonotary/Clerk, Civil Division

DATE: 2802

Seal of the Court

Deputy

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena is issuable, including hearings in connection with depositions and before arbitrators, masters, commissioners, etc. in compliance with Pa.R.C.P. No. 234.1. If a subpoena for production of documents, records or things is desired, complete paragraph 2.

RETURN OF SERVICE:

on the _____ day of
_____, 19 _____.
_____,
_____,

served (name of person served)
with the foregoing subpoena by:
Describe method of service)

verify that the statements in
his return of service are true
and correct. I understand that
false statements herein are made
subject to the penalties of 18
a.C.S.A. § 4904 relating to
nsworn falsification to auth-
rities.

DATE: _____

(Signature)

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER) CIVIL DIVISION
NEELY-AURANDT, husband)
and wife,) No. 00-1378-CD
Plaintiffs)
v.) MOTION FOR CONTINUANCE
JOHN E. GALLAGHER and) Filed on behalf of Defendants
GENEVIEVE M. GALLAGHER,)
Defendants) Counsel of record for this party
)
) Lee G. Nollau
) I.D. No. 24732
) NOLLAU & YOUNG
) 2153 East College Avenue
) State College, PA 16801
) (814) 235-1110

FILED

APR 01 2002

William A. Shaw
Prothonotary

#17

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband)
and wife,)
Plaintiffs)
v.) No. 00-1378-CD
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

RULE

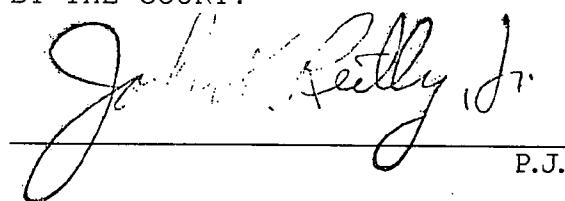
AND NOW, this 2nd day of April, 2002, upon
consideration of the within Motion for Continuance and on motion of
Lee G. Nollau, attorney of record for Defendants, John E. Gallagher
and Genevieve M. Gallagher, Plaintiffs are hereby ruled to show
cause, if any there be, why the relief requested should not be
granted.

Rule returnable on the 4th day of June, 2002,
at 8:30 A.m. in Courtroom No. 1 of the Clearfield
County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

FILED

APR 02 2002
02481 Copy Cr
William A. Shaw CJA
Prothonotary


P.J.

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband)
and wife,)
Plaintiffs)
) No. 00-1378-CD
v.)
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

MOTION FOR CONINUANCE

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

NOW COME Defendants, JOHN E. GALLAGHER and GENEVIEVE M. GALLAGHER, by and through their attorney, Lee G. Nollau, pursuant to Pennsylvania Rule of Civil Procedure 216, upon a request to continue trial in the above-captioned action and in support thereof avers as follows:

1. Movants are Defendants named above, JOHN E. GALLAGHER and GENEVIEVE M. GALLAGHER.
2. Trial in the above-captioned action has been scheduled before this Honorable Court sitting without a jury on April 8 and 9, 2002.
3. Defendant, John E. Gallagher, was recently hospitalized on an emergency basis and underwent surgery, from which he has not fully recuperated.
4. Defendants request that trial be continued until Defendant, John E. Gallagher, has recovered sufficiently to attend

and participate in the proceedings, a period which Defendants anticipate to be approximately one month.

5. There have been no continuances previously requested or granted in the above-captioned action.

6. Pennsylvania Rule of Civil Procedure 216(A)(2) provides that illness of a party is grounds for a continuance.

WHEREFORE, Defendants pray that this Honorable Court enter an Order continuing trial in the above-captioned action.

Respectfully submitted,

Lee G. Nollau
Lee G. Nollau

VERIFICATION OF SERVICE

Subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities, I verify that a true and correct copies of the foregoing Motion for Continuance was served on March 29, 2002, by placing same in the United States mail at State College, Pennsylvania, first-class postage prepaid, addressed as follows:

Joseph Colavecchi, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 231
Clearfield, PA 16830

Lee G. Nollau
Lee G. Nollau

Lap over margin

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

CIVIL DIVISION

No. 00 - 1378 - CD

PAUL AURANDT and JENNIFER NEELY-
AURANDT, husband and wife, Plaintiffs

vs.

JOHN E. GALLAGHER and GENEVIEVE
M. GALLAGHER,
Defendants

ANSWER TO MOTION
FOR CONTINUANCE

FILED

04/03/02
APR 03 2002
ECC
FPP

William A. Shaw
Prothonotary

RYAN & COLAVECCHI

ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER
NEELY-AURANDT, husband and
wife,

Plaintiffs

Vs.

JOHN E. GALLAGHER and
GENEVIEVE M. GALLAGHER,

Defendants

CIVIL DIVISION

No. 00 - 1378 - CD

ANSWER TO MOTION FOR
CONTINUANCE

Filed on Behalf of:

Plaintiffs, PAUL AURANDT and
JENNIFER NEELY-AURANDT

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

APR 03 2002

William A. Shaw
Prothonotary

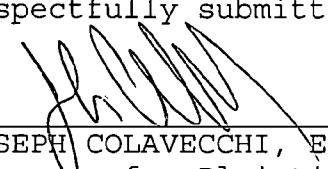
LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

18

furnished stating that such illness will probably be of sufficient duration to prevent the person from participating in the trial.

WHEREFORE, Plaintiffs ask that this Motion be dismissed and that the trial be held as scheduled.

Respectfully submitted,


JOSEPH COLAVECCHI, ESQUIRE
Attorney for Plaintiffs

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

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

PAUL AURANDT AND JENNIFER :
NEELY-AURANDT, HIS WIFE :
VS : NO. 00-1378-CD
JOHN E. GALLAGHER AND :
GENEVIEVE GALLAGHER, HIS WIFE :

O R D E R

NOW, this 8th day of April, 2002, following nonjury trial in the above-captioned matter, it is the Order of this Court that Plaintiff have no more than Twenty (20) Days from date hereof to submit brief on the matter of the unlisted witness as well as any other issues counsel may want to raise with regards to the facts and the law bearing on this case. Defendant shall have no more than Ten (10) Days thereafter in which to respond in kind.

BY THE COURT,
President Judge

FILED

APR 08 2002

William A. Shaw
Prothonotary

#19

FILED

APR 08 2002

013:55 P.M.
William A. Shaw
Prothonotary *Em*

2 cc to Atty Colavecchi
3 cc to Atty Nollau



FILED

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

APR 30 2002

PAUL AURANDT and JENNIFER
NEELY-AURANDT, husband and wife

William A. Shaw
Prothonotary

-VS-

No. 00-1378-CD

JOHN E. GALLAGHER and
GENEVIEVE M. GALLAGHER

OPINION AND ORDER

Paul and Jennifer Aurandt, Plaintiffs, and John and Genevieve Gallagher, Defendants, parties above named, each own adjoining tracts of land located in Woodward Township, Clearfield County, Pennsylvania. The Defendants Gallagher obtained their premises by deed dated October 11, 1999, from Leonard and Margaret Sternesky. This deed from Sternesky to Gallagher contained the following grant of easement:

[T]he right to use the private roadway which borders on the Eastern side of [Gallaghers'] property which leads through the property of the Grantor to a dirt road leading to Township Road T-650. [Gallaghers] shall have the right to use said road for any purpose and shall have the right to maintain the road together with the Grantor and to use said road in both directions from [Gallaghers'] property.

Plaintiffs Aurandt obtained their premises by deed of Federal Home Loan corporation dated August 16, 2000, and this Court notes that Plaintiff's premises had previously been owned by the Sterneskys.

Difficulties arose between the parties and on November 30, 2000, Plaintiffs filed a Complaint in Ejectment seeking in Count I thereof to eject Defendants from possession or use of what has been described in the Complaint as a "10 foot wide new dozed road" and requesting an Order directing Defendants to restore the road to its former condition and to pay damages for the removal of trees, including triple damages under 42 P.S. 8311.

420

Count II is entitled TRESPASS which acknowledges Defendants' right of way across Plaintiffs' property as set forth above but declaring it as a 10 foot wide access road. It alleges that Defendants have widened this road to a width of approximately 30 feet without proper permission or authority, and Plaintiffs seek judgment for possession of any part of the right of way unlawfully taken by Defendants and directing Defendants to restore the right of way to 10 feet.

Count III has been withdrawn and Count IV seeks punitive damages in excess of \$20,000.

A hearing in this matter was held April 8, 2002, and a view of the premises was had on the same date. Thereafter, briefs were filed by both parties.

Initially the Court notes that Defendants, in their case in chief, called one Charles Kanuff to testify on their behalf. Counsel for Plaintiffs objected on the basis that they had no prior notice of Mr. Kanuff's being called to testify and that under Clearfield County Rules of Civil Procedure 212.4(e)(f) his testimony should be stricken. Following examination of said rules of Court and finding that Defendants did not apply to this Court setting forth reasons why said witness was not listed in their pre-trial statement, this Court is convinced that the testimony of said Charles Kanuff must be stricken.

With regards to Count I of Plaintiff's Complaint seeking to eject Defendants from the "new dozed road" across the Northeast portion of Plaintiffs' property, and for damages allegedly caused thereto by Defendants, it is the finding of this court that Defendants have no legal authority to in any manner utilize this portion of Plaintiffs' premises and does herein grant Plaintiffs' claim to permanently eject the Defendants from any use whatsoever of said "new dozed road."

However, the testimony adduced at trial and the Court's view of this portion of Plaintiffs' premises do not lead to the conclusion that any damage was caused by any prior use of said premises by the Defendants. Indeed, the area itself can hardly be called a road as it is almost indistinguishable from the surrounding premises of the Plaintiffs, and this Court will therefore award no damages to Plaintiffs for this "new dozed road."

With regards to Count II of Plaintiffs' Complaint alleging that Defendants widened the access road as set forth in the easement granted in Defendants' deed above, this Court finds first that the granting of the easement in the prior deeds in the chain of title do not restrict it to a width of 10 feet. The only document identifying the easement as 10 feet wide is a survey by Nicholas Shirokey dated August 17, 1993, which, of course, in and of itself is not legally binding on either of the parties to this law suit. This being the case, it cannot be held that the Defendants' widening of the road, if indeed such occurred, exceeded the rights granted under the easement. Further a view of the premises indicated that if any damage occurred to Plaintiffs' property as a result thereof, it was at best negligible. The testimony presented by Plaintiffs through T. L. Ventry as to damages allegedly sustained is totally discarded by this Court and this Court will therefore award no money damages for any of the above.

This Court therefore is left with the determination of the exact width of the roadway granted to Plaintiff in the easement set forth in their deed from Sterneskys. The grant itself is silent as to the width and in such situations, the law presumes the width to be such that is reasonable under the circumstances. No testimony or evidence was presented to address what might be reasonable here and this Court suggests to the parties, but does not require them to agree, that a reasonable width would be that which would permit cars traveling in opposite directions to safely pass on the easement granted as an access to Defendants' premises.

Plaintiffs' final claim for punitive damages is dismissed in accordance with the foregoing.

In their brief, Defendants claim the right to extend the easement across Plaintiffs' property in both directions from Defendants' premises. While this Court is of the opinion that the claim has not been properly plead, nevertheless, the easement granted in the prior deeds in the chain of title clearly restricts the use of the roadway bordering the Eastern side of Gallaghers' premises to a dirt road leading to Township Road TR-650. This clearly limits the easement to access to the North of Defendants' premises.

WHEREFORE, the Court enters the following:

ORDER

NOW, this 30th day of April, 2002, following hearing, view and briefs into the above-captioned action in ejectment, it is the ORDER of this Court that partial judgment shall be entered in favor of the Plaintiffs and partial judgment in favor of the Defendants in accordance with the foregoing Opinion.

By the Court,

President Judge

FILED

01101371
APR 30 2002

William A. Shaw
Prothonotary

1 CC Atty Colavoceli
1 CC Atty Nollan
1 CC Atty D. Mikesell
GAS

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER) CIVIL DIVISION
NEELY-AURANDT, husband)
and wife,) No. 00-1378-CD
Plaintiffs)
v.) MOTION FOR POST-TRIAL RELIEF
JOHN E. GALLAGHER and) Filed on behalf of Defendants
GENEVIEVE M. GALLAGHER,)
Defendants) Counsel of record for this party
)
) Lee G. Nollau
) I.D. No. 24732
) NOLLAU & YOUNG
) 2153 East College Avenue
) State College, PA 16801
) (814) 235-1110

FILED

MAY 09 2002

William A. Shaw
Prothonotary

221

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

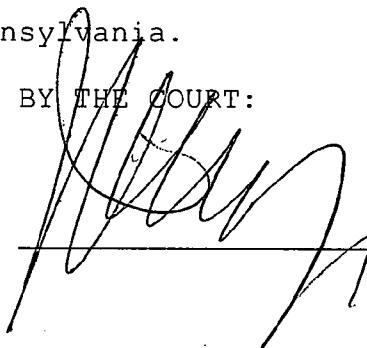
PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband)
and wife,)
Plaintiffs)
v.) No. 00-1378-CD
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

RULE

AND NOW, this 13th day of May, 2000, upon
consideration of the within Motion for Post-Trial Relief and on
motion of Lee G. Nollau, attorney of record for Defendants, John E.
Gallagher and Genevieve M. Gallagher, Plaintiffs are hereby ruled
to show cause, if any there be, why the relief requested should not
be granted.

Rule returnable on the 21st day of June, 2002,
at 2:00 9.m. in Courtroom No. 1 of the Clearfield
County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:



P.J.

FILED

MAY 13 2002

o/9:00 AM
William A. Shaw
Prothonotary
2 cents to copy

#21

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband)
and wife,)
Plaintiffs)
v.) No. 00-1378-CD
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

MOTION FOR POST-TRIAL RELIEF

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

NOW COME Defendants, JOHN E. GALLAGHER and GENEVIEVE M. GALLAGHER, by and through their attorney, Lee G. Nollau, pursuant to Pennsylvania Rule of Civil Procedure 227.1, upon a motion for post-trial relief and in support thereof avers as follows:

1. Movants are Defendants named above, John E. Gallagher and Genevieve M. Gallagher.

2. Trial in the above-captioned action was held before this Honorable Court sitting without a jury on April 8, 2002.

3. By Opinion and Order dated April 30, 2002, and filed on that date, this Honorable Court entered judgment in favor of Plaintiffs as to a portion Defendants' Counterclaim by limiting the easement to access to the North of Defendants' premises, and entered judgment in favor of Defendants as to Plaintiffs' Complaint.

4. Entry of judgment in favor of Plaintiffs by limiting the

easement to access to the North of Defendants' premises is contrary to the evidence and to the weight of the evidence in that:

- a. the deeds in the chains of title for Defendants' property and for Plaintiffs' property state expressly that Defendants are entitled to an easement "through" Plaintiffs' property. See Complaint, Exhibit "B," deed from Leonard L. Sternesky and Margaret Sternesky to John E. Gallagher and Genevieve M. Gallagher dated October 11, 1999, and Exhibit "D", deed from Federal Home Loan Mortgage Corporation to Paul Aurandt and Jennifer Neely-Aurandt dated August 16, 2000 ("Plaintiffs' deed");
- b. the deeds in the chains of title for Defendants' property and for Plaintiffs' property state expressly that Defendants are entitled to an easement "in both directions from [Defendants'] property." See Complaint, Exhibit "B," deed from Leonard L. Sternesky and Margaret Sternesky to John E. Gallagher and Genevieve M. Gallagher, his wife, dated October 11, 1999;
- c. the survey prepared by Nicholas Shirokey dated August 17, 1993, Plaintiffs' Exhibit No. 59, establishes the easement runs through Plaintiffs' property, from the North boundary to the South boundary, in both directions from Defendants' property; and
- d. the description set forth in Plaintiffs' deed of "the private right-of-way which leads through the property

VERIFICATION OF SERVICE

Subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities, I verify that a true and correct copy of the foregoing Motion for Post-Trial Relief was served on May 8, 2002, by placing same in the United States mail at State College, Pennsylvania, first-class postage prepaid, addressed as follows:

Joseph Colavecchi, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 231
Clearfield, PA 16830

Lee G. Nollau
Lee G. Nollau

FILED

No. cc

MAY 12 2002

MAY 09 2002

cc
att

William A. Shaw
Prothonotary

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IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION
No. 00 - 1378 - CD

PAUL AURANDT and JENNIFER
NEELY-AURANDT, HIS WIFE,
Plaintiffs

vs.

JOHN E. GALLAGHER and
GENEVIEVE GALLAGHER, his wife,
Defendants

ANSWER OF PLAINTIFFS TO
DEFENDANTS' MOTION FOR
POST-TRIAL BRIEF

FILED

May 15 2002

3cc

Atty Colavecchi

William A. Shaw
Prothonotary

COLAVECCHI
RYAN & COLAVECCHI
ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER
NEELY-AURANDT, his wife,
Plaintiffs

vs.

JOHN E. GALLAGHER and
GENEVIEVE GALLAGHER, his
wife,

Defendants

CIVIL DIVISION

No. 00 - 1378 - CD

ANSWER OF PLAINTIFFS TO
DEFENDANTS' MOTION FOR
POST-TRIAL RELIEF

Filed on behalf of:

Plaintiffs, PAUL AURANDT and
JENNIFER NEELY-AURANDT

Counsel of Record For
Said Party:

JOSEPH COLAVECCHI, ESQUIRE
PA I.D. 06810

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

MAY 15 2002

William A. Shaw
Prothonotary

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

120

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

PAUL AURANDT and JENNIFER NEELY-	:	
AURANDT, his wife,	:	
	Plaintiffs	:
		:
vs.	:	No. 00 - 1378 -CD
	:	
JOHN E. GALLAGHER and GENEVIEVE	:	
GALLAGHER, his wife,	:	
	Defendants	:

ANSWER OF PLAINTIFFS TO DEFENDANTS'
MOTION FOR POST-TRIAL RELIEF

Paul Aurandt and Jennifer Neely-Aurandt, his wife, file their Answer to Defendants' Motion for Post-Trial Relief and respectfully aver as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Denied.

a. On the contrary, the use of this right-of-way over the period of years since it has been granted has clearly stopped right at the property now owned by Gallagher. The only use that has been made of this right-of-way since the grant of it, is going North to leave the property and South to return to the property.

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

b. A view of the land or right-of-way clearly shows that it ends at the Gallagher property and has not been used beyond the Gallagher property.

The description of the easement does not say anything about North or South, but indicates that it is intended to go back and forth to use the right-of-way.

WHEREFORE, Plaintiffs request that the Motion be dismissed and that the Order dated April 30, 2002 be reaffirmed.

Respectfully submitted:



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Plaintiffs

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

COLAVECCHI RYAN & COLAVECCHI

ATTORNEYS AT LAW

221 EAST MARKET STREET

(ACROSS FROM COURTHOUSE)

P. O. BOX 131

CLEARFIELD, PA 16830

814-765-1566

CERTIFIED TRUE AND CORRECT COPY

Joseph Colavecchi

ATTORNEY FOR PLAINTIFFS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER
NEELY-AURANDT, his wife,
Plaintiffs

CIVIL DIVISION

No. 00 - 1378 - CD

vs.

JOHN E. GALLAGHER and
GENEVIEVE GALLAGHER, his
wife,

Defendants

ANSWER OF PLAINTIFFS TO
DEFENDANTS' MOTION FOR
POST-TRIAL RELIEF

Filed on behalf of:

Plaintiffs, PAUL AURANDT and
JENNIFER NEELY-AURANDT

Counsel of Record For
Said Party:

JOSEPH COLAVECCHI, ESQUIRE
PA I.D. 06810

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

MAY 10 2002
m/147/noc
William A. Shaw
Proprietor

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

MAY 15 2002

Attest:

William A. Shaw
Prothonotary

#22

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

PAUL AURANDT and JENNIFER NEELY- :
AURANDT, his wife, :
Plaintiffs :
vs. : No. 00 - 1378 -CD
JOHN E. GALLAGHER and GENEVIEVE :
GALLAGHER, his wife, :
Defendants :
vs.

ANSWER OF PLAINTIFFS TO DEFENDANTS
MOTION FOR POST-TRIAL RELIEF

Paul Aurandt and Jennifer Neely-Aurandt, his wife, file their Answer to Defendants' Motion for Post-Trial Relief and respectfully aver as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Denied.

a. On the contrary, the use of this right-of-way over the period of years since it has been granted has clearly stopped right at the property now owned by Gallagher. The only use that has been made of this right-of-way since the grant of it, is going North to leave the property and South to return to the property.

b. A view of the land or right-of-way clearly shows that it ends at the Gallagher property and has not been used beyond the Gallagher property.

The description of the easement does not say anything about North or South, but indicates that it is intended to go back and forth to use the right-of-way.

WHEREFORE, Plaintiffs request that the Motion be dismissed and that the Order dated April 30, 2002 be reaffirmed.

Respectfully submitted:



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Plaintiffs

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

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

PAUL AURANDT and JENNIFER NEELY-	:	
AURANDT, his wife,	:	
Plaintiffs	:	
vs.	:	No. 00 - 1378 -CD
JOHN E. GALLAGHER and GENEVIEVE	:	
GALLAGHER, his wife,	:	
Defendants	:	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 15, 2002, a true and correct copy of an Answer of Plaintiffs to Defendants' Motion for Post-Trial Releif, in the above matter was served on the following by depositing said copy in the United States Mail, first class, postage prepaid and addressed as follows:

Lee G. Nollau, Esquire
Nollau & Young
2153 East College Avenue
State College, PA 16801

DATE: May 10, 2005

BY:

JOSPEH COLAVECCHI, ESQUIRE
221 East Market Street
P.O. Box 131
Clearfield, PA 16830
814/765-1566

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED

MAY 10 2002

William A. Shaw Pretheoretic

13

24

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION
No. 00 - 1378 - CD

PAUL AURANDT and JENNIFER
NEELY-AURANDT, his wife,
Plaintiffs

vs.

JOHN E. GALLAGHER and
GENEVIEVE GALLAGHER, his wife,
Defendants

MOTION FOR POST-TRIAL RELIEF

FILED

MAY 20 2002

05/20/02 cc atty Colavecchi
William A. Shaw
Prothonotary

COLAVECCHI
RYAN & COLAVECCHI
ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER
NEELY-AURANDT, his wife,
Plaintiffs

vs.

JOHN E. GALLAGHER and
GENEVIEVE GALLAGHER, his
wife,

Defendants

CIVIL DIVISION

No. 00 - 1378 - CD

MOTION FOR POST-TRIAL RELIEF

Filed on behalf of:

Plaintiffs, PAUL AURANDT and
JENNIFER NEELY-AURANDT

Counsel of Record For
Said Party:

JOSEPH COLAVECCHI, ESQUIRE
PA I.D. 06810

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

MAY 20 2002

William A. Shaw
Prothonotary

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

25

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

PAUL AURANDT and JENNIFER NEELY- :
AURANDT, his wife, :
Plaintiffs :
vs. : No. 00 - 1378 -CD
: :
JOHN E. GALLAGHER and GENEVIEVE :
GALLAGHER, his wife, :
Defendants :

**MOTION FOR POST-TRIAL RELIEF
FILED ON BEHALF OF PLAINTIFFS**

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

NOW COMES, Plaintiffs, Paul Aurandt and Jennifer Neely-Aurandt, who, through their Attorney, Joseph Colavecchi, Esquire, pursuant to Pennsylvania Rule of Civil Procedure 227.1, file their Motion for Post-Trial Relief and in support thereof, aver as follows:

1. Movants are Plaintiffs above-named, Paul Aurandt and Jennifer Neely-Aurandt, his wife.
2. Trial in the above-captioned action was held before this Honorable Court sitting without a jury on April 8, 2002.

3. By Opinion and Order dated April 30, 2002 and filed on that date, this Honorable Court entered Judgment in favor of Defendants refusing to award damages to Plaintiffs for damage to their property and further failed to rule that the right-of-way going North and South to Defendants' property was limited to being ten (10) feet wide as requested by Plaintiffs.

4. The refusal of the Court to award damages to Plaintiffs is contrary to the evidence and to the weight of evidence in that:

a. Plaintiffs produced an expert witness who testified as to the damages caused to Plaintiffs' property.

b. No expert witness was produced by Defendants as to the amount of damages caused by the trespass of Defendants over Plaintiffs' property.

c. Defendants admit that they went across Plaintiffs' property, although Plaintiffs allege that they received permission from Defendants.

d. The Court failed to take into consideration that when he visited the scene of Plaintiffs and Defendants properties, that the damages had been incurred in September, 2000 which is almost two years ago and the damages are not as apparent as they were at that time.

e. The damages were illustrated in a number of pictures produced and testified to by Plaintiffs.

f. To refuse any award of damages to Plaintiffs requires that the Court ignore the testimony of the expert witness which went into the record unopposed and the pictures of the damages.

5. The decision by the Court to limit the width of the right-of-way is contrary to the evidence and the weight of the evidence in that:

a. The chain of title for the property owned by John E. Gallagher and Genevieve M. Gallagher has been entered of record in this case and is as follows:

1. By deed dated June 16, 1954, Minnie A. Davis conveyed to John E. Sternesky and Raymond J. Sternesky 19.21 acres.

2. By deed dated August 27, 1956, John Sternesky, et al, conveyed to Catherine R. Sternesky 19.21 acres.

3. By deed dated November 12, 1975, Catherine R. Sternesky conveyed to Chester and Helen Sternesky what is described therein as containing two (2) acres of land and includes the following: "Together with the right to use the private roadway which borders on the eastern side of said property which leads to the property of the grantor to a dirt road leading to Township Road T-650. Grantee shall have the right to use said road for any purpose and shall have the right to maintain the road, together with the Grantor and to use said road in both directions from said property."

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P.O. BOX 131
CLEARFIELD, PA

4. By deed dated August 2, 1994, Chester E. Sternesky, et ux, conveyed to Leonard L. Sternesky and Margaret Sternesky a parcel of land which is described as having been surveyed by Nicholas Shirokey on August 17, 1993 with a new description and states as follows:

"The above described property having been surveyed by Nicholas Shirokey on August 17, 1993, and is now described as follows:

BEGINNING at an iron pin located on the line of, now or formerly, Raymond and Dorothy Peck. Said point is North 2 degrees 26 minutes 55 seconds West, 275.45 feet from the Southeast corner of, now or formerly, Raymond and Dorothy Peck; thence along land of, now or formerly, Raymond and Dorothy Peck, North 2 degrees 26 minutes 55 seconds West, 297.60 feet to an iron pin; thence along lands of Leonard C. and Margaret Sternesky North 87 degrees 33 minutes 5 seconds East, 257 feet to an iron pin located on the West side of a private road; thence along said road, South 4 degrees 37 minutes 30 seconds West, 410 feet to an iron pin; thence still along land of Leonard C. and Margaret Sternesky, North 89 degrees 52 minutes 30 seconds West, 206.72 feet to an iron pin and the place of beginning.

Containing 2.1428 acres and being the same premises that were conveyed to the Grantors herein by deed dated November 12, 1975 and recorded in Clearfield County Deed Book 710, Page 145, and being shown on the survey map of Nicholas Shirokey."

5. By deed dated October 11, 1999, Leonard Sternesky, et ux, conveyed to John E. and Genevieve Gallagher, 2.1428 acres.

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

6. The chain of title to the Gallagher property includes the map prepared by Nicholas Shirokey which shows a private road and describes it as "ten foot wide earth road". This indicates the intent of the original Grantors to convey only a ten (10) foot wide right-of-way since they clearly refer to the Nicholas Shirokey survey.

WHEREFORE, Plaintiffs ask that the Court enter an Order directing damages in the amount of Seven Thousand Four Hundred Four (\$7404) Dollars, plus interest, for the trespass on their property and an Order limiting the width of the right-of-way to ten (10) feet as shown on the Nicholas Shirokey survey.

In all other respects, the original Order shall remain the same.

Respectfully submitted:



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Plaintiffs

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

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

PAUL AURANDT, al

vs.

: No. 00-1378-CD

JOHN E. GALLAGHER, al

ORDER

AND NOW, this 23rd day of May, 2002, upon consideration of Plaintiffs' Motion for Post-Trial Relief, a Rule is hereby issued on Defendant to appear and show cause why the Motion should not be granted. Rule Returnable the 21 day of June, 2002, at 2:00 PM. M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

JOHN K. REILLY, JR.
President Judge

FILED

MAY 23 2002

William A. Shaw
Prothonotary

#26

FILED

200

MAP/2/33-61

MAY 23 2002

Att'y Colavocochi

William A. Shaw
Prothonotary

EAS

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FILED

JUL 26 2002
m/a/S/noe
William A. Shaw
Prothonotary

REB

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband)
and wife,)
Plaintiffs)
v.) No. 00-1378-CD
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

VERIFICATION OF SERVICE

Subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities, I verify that true and correct copies of Defendants' Post-Trial Motions Brief were served on July 25, 2002, by placing same in the United States mail at State College, Pennsylvania, first-class postage prepaid, addressed as follows:

The Honorable John K. Reilly, Jr.,
President Judge
Judge's Chambers
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Joseph Colavecchi, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 231
Clearfield, PA 16830

Lee G. Nollau
Lee G. Nollau

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

PAUL AURANDT and JENNIFER
NEELY-AURANDT, husband and wife :
: :
-VS- : No. 00-1378-CD
: :
JOHN E. GALLAGHER and
GENEVIEVE M. GALLAGHER : :

OPINION AND ORDER

By Opinion and Order dated April 30, 2002, this Court granted Partial Summary Judgment in favor of each party in the above-captioned Action in Ejectment. Post-Trial Motions were filed on behalf of both parties and following argument and briefs, this Court enters the following:

ORDER

NOW, this 22nd day of May, 2003, upon consideration of Post-Trial Motions filed on behalf of each party above-named to the Opinion and Order of this Court dated April 30, 2002, it is the ORDER of this Court that said Post-Trial Motions shall be and are hereby dismissed.

By the Court,

President Judge

FILED

MAY 22 2003

William A. Shaw
Prothonotary

28

FILED

ICC Atty J. Colavecchia

0137261 ICC Atty Nollan

MAY 22 2003

ICC D. M. Russell

William A. Shaw

*SA
RJS*

Prothonotary

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband)
and wife,)
Plaintiffs)
v.) No. 00-1378-CD
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

NOTICE OF APPEAL

Notice is hereby given that John E. Gallagher and Genevieve M. Gallagher, Defendants above named, hereby appeal to the Superior Court of Pennsylvania from the Order entered in this matter on the 22nd day of May, 2003. This Order has been entered in the docket as evidenced by the attached copy of the docket entry.

Lee G. Nollau

Lee G. Nollau
I.D. No. 24732
NOLLAU & YOUNG
2153 East College Avenue
State College, PA 16801
(814) 235-1110
Attorney for Defendants

FILED

JUN 20 2003

William A. Shaw
Prothonotary/Clerk of Courts

1 cent to Superior Clerk #4832-
1 cent to Atty \$60.00

#29

Date: 06/06/2003
Time: 12:48 PM

Page 1 of 2

Jefferson County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2000-01378-CD

Current Judge: John K. Reilly Jr.

Paul Aurandt, Jennifer Neely-Aurandt vs. John Gallagher, Genevieve Gallagher

Civil Other

Date	Judge	
11/07/2000	Filing: Praeclipe for Writ of Summons in Ejectment Paid by: Colavecchi, Joseph (attorney for Neely-Aurandt, Jennifer) Receipt number: 0051056 Dated: 11/07/2000 Amount: \$80.00 (Check) Three Certified Copies to Attorney Wrts to Sheriff	No Judge
11/27/2000	Praeclipe for Entry of Appearance, filed by s/Lee G. Nollau, Esq. NO CC	No Judge
	Praeclipe for Rule to File Complaint, filed by s/Lee G. Nollau, Esq. NO CC	No Judge
11/30/2000	Complaint in Ejectment, filed by s/Joseph Colavecchi, Esq. 3 cc to atty Colavecchi	No Judge
12/13/2000	Sheriff Costs, Praeclipe for Writ of Summons in Ejectment & Summons, upon Defendants, So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
01/18/2001	Answer, New Matter and Counterclaim. Filed by s/Lee G. Nollau, Esq. Verification, s/Lee G. Nollau, Esq. Cert of Service	No Judge
01/24/2001	Reply to New Matter and Answer to Counterclaim. Filed by s/Joseph Colavecchi, Esq. Verification, s/Paul Aurandt and Jennifer Neely-Aurandt. 2 cc to atty	No Judge
05/18/2001	Verification of Service of Notice of Deposition by oral examination of Paul Aurandt. filed by s/Lee G. Nollau, Esq. no cc	No Judge
	Verification of Service of Notice of Deposition by oral examination of Jennifer Neely-Aurandt. filed by s/Lee G. Nollau, Esq. No cc	No Judge
08/13/2001	Certificate of Readiness. Filed by s/Joseph Colavecchi, Esq. no cc Copy to CA	No Judge
12/21/2001	Transcript of Deposition of John Gallagher, June 5, 2001. Filed no cc	John K. Reilly Jr.
	Transcript of Deposition of Genevieve Gallagher, June 5, 2001. Filed no cc	John K. Reilly Jr.
01/02/2002	Verification of Service of Defendants' Pre-Trial Memorandum upon parties of interest. Filed by s/Lee G. Nollau, Esq. no cc	John K. Reilly Jr.
01/09/2002	ORDER, NOW, this 9th day of Jan. 2002, re: Pre-Trial Conference. by the Court, s/JKR,JR.,P.J. cc Atty Colavecchi,Nollau	John K. Reilly Jr.
01/28/2002	ORDER, AND NOW, this 28th day of Jan. 2002, re: Non-Jury Trial scheduled for Apr. 8, 2002 at 9:00 a.m. and 1/2 day Apr. 9, 2002, at 9:00 a.m. by the Court, s/JKR,JR.,P.J. 1cc Atty Nollau, Colavecchi	John K. Reilly Jr.
02/08/2002	Filing: Subpoena Paid by: Colavecchi, Joseph (attorney for Aurandt, Paul) Receipt number: 1838001 Dated: 02/08/2002 Amount: \$9.00 (Check)	John K. Reilly Jr.
03/20/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	John K. Reilly Jr.
04/01/2002	Motion for Continuance. Filed by s/Lee G. Nollau, Esq. Verification s/Lee G. Nollau, Esq. no cc	John K. Reilly Jr.
04/02/2002	RULE, AND NOW, this 2nd day of April, 2002, re: Issued upon Plaintiffs, returnable the 4th day of June, 2002, at 8:30 a.m. by the Court, s/JKR,JR.,P.J. copy to CA	John K. Reilly Jr.
04/03/2002	Answer to Motion for Continuance. Filed by s/Joseph Colavecchi, Esq. no cc	John K. Reilly Jr.
04/04/2002	Filing: Subpoena Paid by: Nollau, Lee G. (attorney for Gallagher, John) Receipt number: 1840566 Dated: 04/04/2002 Amount: \$3.00 (Cash)	John K. Reilly Jr.
04/08/2002	ORDER, NOW, this 8th day of April, 2002, re: Plaintiff to have no more than John K. Reilly Jr. 20 days from date hereof to submit brief, Defendant shall have no more than 10 days thereafter which to respond in kind. by the Court, s/JKR,JR.,P.J. 2 cc to Atty Colavecchi, Nollau	John K. Reilly Jr.

Date: 06/06/2003

Time: 12:48 PM

Page 2 of 2

Jefferson County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2000-01378-CD

Current Judge: John K. Reilly Jr.

Paul Aurandt, Jennifer Neely-Aurandt vs. John Gallagher, Genevieve Gallagher

Civil Other

Date	Judge	
04/30/2002	OPINION AND ORDER, NOW, this 30th day of April, 2002, Partial Judgment shall be entered in favor of the Plaintiffs and Partial Judgment in favor of the Defendants in accordance with the foregoing Opinion. by the Court, s/JKR,JR.,P.J. 1 cc Atty Colavecchi, Nollau, and D. Mikesell	John K. Reilly Jr.
05/09/2002	Motion For Post-Trial Relief. filed by s/Lee G. Nollau, Esq. Verification s/Lee G. Nollau no cc	John K. Reilly Jr.
05/13/2002	RULE, AND NOW, this 13th day of May, 2002, issued upon Plaintiffs, returnable on the 21st day of June, 2002, at 2:00 p.m. by the Court, s/JKR,JR.,P.J. 2 cc to atty	John K. Reilly Jr.
05/15/2002	Answer of Plaintiffs To Defendants' Motion For Post-Trial Relief. Filed by s/Joseph Colavecchi, Esq. 3 cc Atty Colavecchi	John K. Reilly Jr.
05/16/2002	Answer of Plaintiffs To Defendants' Motion For Post-Trial Relief. Filed by s/Joseph Colavecchi, Esq. no cc Certificate of Service, Answers of Plaintiffs to Defendants' Motion for Post-Trial Relief upon Lee G. Nollau, Esq. Filed by s/Joseph Colavecchi, Esq. no cc	John K. Reilly Jr.
05/20/2002	Motion For Post-Trial Relief Filed on Behalf of Plaintiffs. Filed by s/Joseph Colavecchi, Esq. 3 cc Atty Colavecchi	John K. Reilly Jr.
05/23/2002	ORDER, AND NOW, this 23rd day of May, 2002, Rule issued upon DEFENDANT. Rule Returnable the 21st day of June, 2002, at 2:00 p.m. by the Court, s/JKR,JR.,P.J. 2 cc Atty Colavecchi	John K. Reilly Jr.
07/26/2002	Verification of Service of Post-Trial Motions Brief upon The Honorable John K. Reilly, Jr., President Judge and Joseph Colavecchi, Esquire Filed by s/Lee G. Nollau, Esquire no cc	John K. Reilly Jr.
05/22/2003	OPINION AND ORDER, NOW, this 22nd day of May, 2003, re: Post-Trial Motions shall be and are hereby DISMISSED. by the Court, s/FJA,JR.,P.J. 1 cc Atty J. Colavecchi, Atty Nollau, and Mikesell	John K. Reilly Jr.

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

JUN 06 2003

Attest.

William E. Hudson
Prothonotary/
Clerk of Courts

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband)
and wife,)
Plaintiffs)
) No. 00-1378-CD
v.)
)
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

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.

Lee G. Nollau
Lee G. Nollau
Attorney for Defendants

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:

Joseph Colavecchi, Esquire (814) 765-1566
Colavecchi, Ryan & Colavecchi
221 East Market Street
P. O. Box 131
Clearfield, PA 16830
(Counsel for Plaintiffs)

The Honorable John K. Reilly, Jr. (814) 765-2641
Judge's Chambers
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Clearfield County Court Reporter (814) 765-2641
Office of the Court Reporter
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

David S. Meholic, Court Administrator (814) 765-2641
Office of the Court Administrator
230 E. Market Street
Clearfield, PA 16830

Dated: June 20, 2003

Lee G. Nollau
Lee G. Nollau
Attorney for Appellants

4:45 P.M.

Appeal Docket Sheet

Docket Number: 1215 WDA 2003

Page 1 of 4

July 1, 2003

Superior Court of Pennsylvania

COPY



Paul Aurandt, and Jennefer Neely-Aurandt,
husband and wife.

v.

John E. Gallagher and Genevieve M. Gallagher, Appellants

00-1378-CJ

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: July 1, 2003

Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType: Ejection

Consolidated Docket Nos.:

Related Docket Nos.:

SCHEDULED EVENT

Next Event Type: Docketing Statement Received

Next Event Due Date: July 15, 2003

Next Event Type: Original Record Received

Next Event Due Date: July 30, 2003

FILED

JUL 07 2003

William A. Shaw
Prothonotary

Appeal Docket Sheet**Docket Number:** 1215 WDA 2003**Superior Court of Pennsylvania****Page 2 of 4****July 1, 2003****COUNSEL INFORMATION**

Appellant Gallagher, John E
Pro Se: Appoint Counsel Status:

IFP Status: No

Appellant Attorney Information:

Attorney: Nollau, Lee Gordon
 Bar No.: 24732 Law Firm: Nollau & Young
 Address: Nollau & Young
 2153 E College Avenue
 State College, PA 16801

Phone No.: (814)235-1110 Fax No.: (814)235-1114

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellant Gallagher, Genevieve M.
Pro Se: Appoint Counsel Status:

IFP Status: No

Appellant Attorney Information:

Attorney: Nollau, Lee Gordon
 Bar No.: 24732 Law Firm: Nollau & Young
 Address: Nollau & Young
 2153 E College Avenue
 State College, PA 16801

Phone No.: (814)235-1110 Fax No.: (814)235-1114

Receive Mail: No

E-Mail Address:

Receive E-Mail: No

Appellee Aurandt, Paul
Pro Se: Appoint Counsel Status:

IFP Status: No

Appellee Attorney Information:

Attorney: Colavecchi, Joseph
 Bar No.: 06810 Law Firm: Colavecchi, Ryan & Colavecchi
 Address: Colavecchi Ryan et al
 221 E Market St PO Box 131
 Clearfield, PA 16830-0131

Phone No.: (814)765-1566 Fax No.: (814)765-4570

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee Aurandt, Jennifer Neely
Pro Se: Appoint Counsel Status:

IFP Status: No

7/1/2003

Appeal Docket Sheet

Docket Number: 1215 WDA 2003

Page 3 of 4

July 1, 2003

Superior Court of Pennsylvania



Appellee Attorney Information:

Attorney: Colavecchi, Joseph
 Bar No.: 06810 Law Firm: Colavecchi, Ryan & Colavecchi
 Address: Colavecchi Ryan et al
 221 E Market St PO Box 131
 Clearfield, PA 16830-0131
 Phone No.: (814)765-1566 Fax No.: (814)765-4570
 Receive Mail: No
 E-Mail Address:
 Receive E-Mail: No

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
6/20/03	Notice of Appeal	60.00	60.00	2003SPRWD000855

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas
 County: Clearfield Division: Civil
 Date of OrderAppealed From: May 22, 2003 Judicial District: 46
 Date Documents Received: July 1, 2003 Date Notice of Appeal Filed: June 20, 2003
 Order Type: Order Entered OTN:
 Judge: Reilly, Jr., John K. Lower Court Docket No.: No. 00-1378-CD
 President Judge

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
July 1, 2003	Notice of Appeal Filed	Appellant	Gallagher, John E
July 1, 2003	Docketing Statement Exited (Civil)		Western District Filing Office

4:43 P.M.

Appeal Docket Sheet

Docket Number: 1215 WDA 2003

Superior Court of Pennsylvania

Page 4 of 4

July 1, 2003





The Superior Court of Pennsylvania
Office of the Prothonotary

600 GRANT BUILDING
330 GRANT STREET
PITTSBURGH, PENNSYLVANIA 15219

DAVID A. SZEWCAK, ESQUIRE
PROTHONOTARY

(412) 565-7592

FAX: (412) 565-7711

ELEANOR R. VALECKO
DEPUTY PROTHONOTARY

WEBSITE: www.superior.court.state.pa.us

December 23, 2003

Lee Gordon Nollau, Esquire
2153 E. College Avenue
State College, PA 16801

In Re: PAUL AURANDT, ET UX. -v- JOHN E. GALLAGHER, etc.
No. 1215 W.D.A. 2003

Dear Mr. Nollau:

The Court has entered the following Order on the Application For Reconsideration, filed by appellant in reference to the above-captioned matter:

"ORDER OF COURT"

Upon consideration of appellant's John E. Gallagher and Genevieve M. Gallagher's December 19, 2003 "application for reconsideration." The application is **GRANTED** and the instant appeal is **REINSTATED**. The original record is due in this court forty (40) days from the date of this order.

December 23, 2003

PER CURIAM"

A certified copy of this Order will be exited to the lower court.

Very truly yours,

Eleanor R. Valecko

DEPUTY PROTHONOTARY

ERV/tdt

Cc: Joseph Colavecchi, Esquire
Honorable John K. Reilly, Jr.,

FILED
COPIED
DEC 31 2003
William A. Shaw
Prothonotary/Clerk of Courts

#32

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

PAUL AURANDT and JENNIFER :
NEELY-AURANDT, husband and :
wife :

-VS-

No. 00-1378-CD

JOHN E. GALLAGHER and
GENEVIEVE M. GALLAGHER :

FILED

FEB 04 2004

William A. Shaw
Prothonotary/Clerk of Courts

SUPPLEMENTAL OPINION

Following trial without jury in the above captioned complaint in ejectment and Defendants' counterclaim thereto, this Court, by Opinion and Order dated April 30, 2002, entered partial judgments in favor of Plaintiffs and in favor of Defendants.

Both parties filed post-trial motions objecting to this Court's decision, and by Order dated May 22, 2003, post-trial motions of each of the parties were dismissed. Both parties have now appealed from this Court's dismissal of their post-trial motions.

Plaintiffs, in their post-trial motion, allege that this Court erred by disregarding their expert's testimony with regards to the damages to their real estate they allege they sustained as a result of Defendants' actions.

#33

This Court held in favor of the Defendants on this issue for the following reasons: First, in its view of the premises, this Court found no apparent damage to the areas that Plaintiffs allege Defendants caused injury. The premises appeared undisturbed by any activities of the Defendants. The Court placed little or no credibility in Defendants' expert witness, Teddy Ventre, for the following reasons: First, this Court was of the opinion that his qualifications were suspect in that he testified that he was an underground utility contractor, which, in this Court's opinion, bore little or no relationship to the matters into which he gave an opinion (N.T. 100). Further, Ventre testified that he was related to the wife Plaintiff, and this Court was of the opinion that this biased his testimony (N.T. 105). For these reasons, this Court was unable to find by the fair weight or preponderance of the evidence Plaintiffs had sustained their burden in proving any damage whatsoever to their property caused by the Defendants and failed to establish any credible evidence or testimony as to their monetary loss.

Defendants, in their post-trial motion, allege that this Court erred in finding that the right of way granted to them in their deed extends only to the north and not to the south of their property through other premises owned by Plaintiffs. The easement granted, as set forth in

this Court's Opinion and Order of April 30, 2002, reads as follows:

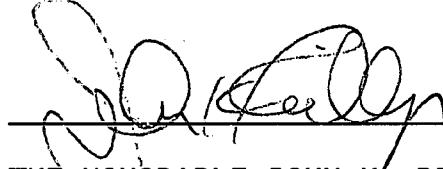
[T]he right to use the private roadway which borders on the Eastern side of [Gallaghers'] property which leads through the property of the Grantor to a dirt road leading to Township Road T-650. [Gallaghers] shall have the right to use said road for any purpose and shall have the right to maintain the road together with the Grantor and to use said road in both directions from [Gallaghers'] property.

The Court first notes that the record of the trial of this matter is extremely vague as to the location of Township Road 650 and entirely silent as to the location of the dirt road leading to it, as set forth in the above grant of easement. The only references to Township Road 650 are contained in the direct examination of Mr. Clark Cree, Plaintiffs' professional land surveyor, who testified that T-650 is not located on his map, which was admitted as Plaintiffs' Exhibit No. 57, but is off the map to the west (N.T. 13). He further testified that T-650 would run parallel with the top of the map and parallel to the existing right of way (N.T. 13-14). Without exactly locating T-650 or the dirt road referred to in the grant of easement on Plaintiffs' Exhibit 57, it is impossible for this Court to determine where the dirt road and T-650, as referred to in the grant of easement, are actually located. Moreover, in this Court's view of the premises and in accordance with Plaintiffs' Exhibit 57, it appeared that

the access road granted in the above easement ended at the southern boundary of Defendants' premises, and while there is a slight path continuing on beyond that, it certainly did not appear available to use by motor vehicle.

In light of the above, this Court was unable to find by the fair weight or preponderance of the evidence that Defendants had met their burden of proving the continuation of the granted easement beyond the southern boundary of their premises. This Court chose to interpret the grant as permitting the Defendants to use the road as they obviously have been in both directions to the north of their property, that is, to proceed in and out on the access road as it now exists from their property in a northerly direction.

BY THE COURT,



THE HONORABLE JOHN K. REILLY, JR.
Senior Judge, Specially Presiding

Monday, February 2, 2004

FILED cc Atty J. Colavecchi

FEB 04 2004 2 CC Atty Nollan

07 11:55 AM
William A. Shaw Copy D. M. Kesell
Prothonotary/Clerk of Courts

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

PAUL AURANDT AND JENNIFER : IN THE SUPERIOR COURT OF
NEELY-AURANDT, HUSBAND AND : PENNSYLVANIA
WIFE, :
Appellees :
v. :
JOHN E. GALLAGHER AND GENEVIEVE :
M. GALLAGHER, :
Appellants : No. 1215 WDA 2003

Appeal from the Order entered May 22, 2003
In the Court of Common Pleas of Clearfield County
Civil Division at No. 00-1378-CD

FILED ^{NO} _{CC}
JAN 12 2005
AM 1:57 PM

William A. Shaw
Prothonotary/Clerk of Courts

BEFORE: JOYCE, BENDER and BOWES, JJ.

MEMORANDUM:

FILED: NOVEMBER 30, 2004

Appellants, John E. Gallagher and Genevieve M. Gallagher, appeal from the May 22, 2003 order¹ dismissing their post-trial motion. For the reasons set forth below, we affirm. The relevant facts and procedural history are as follows.

Appellants own property located in Woodward Township, Clearfield County, Pennsylvania and it is bordered on three sides by Appellees', John E. Gallagher and Genevieve M. Gallagher's, property. Appellants acquired their

¹ Upon our review of the trial court docket, we find that judgment was not entered subsequent to the order denying the post-trial motions. "An appeal to this Court can only lie from judgments entered subsequent to the trial court's disposition of post-verdict motions, not from the order denying post-trial motions." *Fanning v. Davne*, 795 A.2d 388, 392 (Pa. Super. 2002), *citing Johnston the Florist, Inc. v. TEDCO Constr. Corp.*, 657 A.2d 511, 514 (1995); Pa.R.A.P. 301 (a), (c), and (d). However, in the interests of judicial economy, we will consider the appeal as being properly before this Court. **See id.**

property by deed dated October 11, 1999. Incorporated within Appellants' deed is the following grant of easement through Appellees' property:

Together with the right to use the private roadway which borders on the Eastern side of said property which leads through the property of the Grantor to a dirt road leading to Township Road T-650. Grantee shall have the right to use said road for any purpose and shall have the right to maintain the road together with the Grantor and to use said road in both directions from said property.

Complaint, Exhibit B, Certified Record at 4.

Appellees acquired their property by deed dated August 16, 2000.

Included within their deed is the following:

Grantors reserve the right to use the private right-of-way which leads through the property herein being conveyed to a dirt road leading to Township Road T-650.

Complaint, Exhibit D, Certified Record at 4.

On November 6, 2000, Appellees recorded a deed transferring title to themselves. According to this deed, its purpose was to record property lines as ascertained through a survey of their property by George A. Cree. Complaint, Exhibit E, Certified Record at 4. A copy of the survey map was filed contemporaneously.²

On November 7, 2000, Appellees instituted suit and subsequently filed a Complaint in Ejectment alleging, among other things, that Appellants dug an unauthorized 10 foot wide dozed road across the northeast portion of Appellees' property and improperly widened an existing 10 foot access

² On June 11, 2001, the Cree survey was later revised to change the direction of the north signal.

road/right of way. On January 18, 2001, Appellants filed their Answer, New Matter and Counterclaim. Within their Counterclaim, Appellants alleged they were denied use and enjoyment of the easement.

Following a non-jury trial and view of the premises, the trial court entered partial judgment in favor of Appellants and partial judgment in favor of Appellees. Significantly, the trial court denied relief on Appellants' counterclaim. Trial Court Opinion and Order, 4/30/02, at 4. Both parties filed post-trial motions³ which were later dismissed by the trial court.

Appellants filed a timely notice of appeal and raise the following issue for review:

Whether the easement granted to [Appellants] is limited to an easement in one direction from [Appellants'] property, across a portion, but not the length, of [Appellees'] property, notwithstanding that the deeds in the chains of title for [Appellants'] property and for [Appellees'] property state expressly that [Appellants] are entitled to an easement "through" [Appellees'] property and "in both directions from [Appellants'] property," that surveys of the properties show that the easement runs through [Appellees'] property in both directions from [Appellants'] property, and that the description set forth in [Appellees'] deed of "the private right-of-way which leads through the property herein being conveyed to a dirt road leading to Township Road T-650" describes an easement running through [Appellees'] property, from the north boundary to the south boundary, in both directions from [Appellants'] property?

³ In their Motion for Post-Trial Relief, Appellants requested that the trial court vacate a portion of the April 30, 2002 order concerning their counterclaim and enter judgment in their favor.

Brief for Appellant at 5. In essence, Appellants' issue involves the trial court's interpretation of the easement and whether it extends across a portion of or the entire length of Appellees' property.⁴

Our standard of review when considering whether a directed verdict or JNOV was appropriate is as follows:

In reviewing a trial court's decision whether or not to grant judgment in favor of one of the parties, we must consider the evidence, together with all favorable inferences drawn therefrom, in a light most favorable to the verdict winner. Our standard of review when considering motions for a directed verdict and judgment notwithstanding the verdict are identical. We will reverse a trial court's grant or denial of a judgment notwithstanding the verdict only when we find an abuse of discretion or an error of law that controlled the outcome of the case. Further, the standard of review for an appellate court is the same as that for a trial court.

There are two bases upon which a judgment N.O.V. can be entered; one, the movant is entitled to judgment as a matter of law and/or two, the evidence is such that no two reasonable minds could disagree that the outcome should have been rendered in favor of the movant. With the first, the court reviews the record and concludes that, even with all factual inferences decided adverse to the movant, the law nonetheless requires a verdict in his favor. Whereas with the second, the court reviews the evidentiary record and concludes that the evidence was such that a verdict for the movant was beyond peradventure.

Janis v. Amp, Inc., 856 A.2d 140, 143-144 (Pa. Super. 2004); ***quoting***
Capital Care Corp. v. Hunt, 847 A.2d 75, 81-82 (Pa. Super. 2004) ***citing***
Goldberg v. Isdaner, 780 A.2d 654, 659-660 (Pa. Super. 2001).

⁴ By letter dated March 25, 2004, Appellees advised this Court that it would not be filing a responsive brief.

Furthermore,

Our appellate role in cases arising from non-jury trial verdicts is to determine whether the findings of the trial court are supported by competent evidence and whether the trial court committed error in any application of the law. The findings of fact of the trial judge must be given the same weight and effect on appeal as the verdict of a jury. We consider the evidence in a light most favorable to the verdict winner. We will reverse the trial court only if its findings of fact are not supported by competent evidence in the record or its findings are premised on an error of law.

Amerikoh Mining Co., Inc. v. Peoples Natural Gas Co., 2004 Pa. Lexis 3391, at *6 (Pa. Super. October 5, 2004) (internal citations omitted). Because the issue herein involves the interpretation of an easement, our scope of review is plenary. *Id.*

Instantly, Appellants aver that the easement granted to them runs across the entire length of Appellees' property (i.e., north and south of Appellants' property) and, in effect, extends beyond the southern boundary of Appellants' property. Appellants Brief at 15. In support of their claim, Appellants refer to deed descriptions in each respective parties' chain of title, two property surveys, and an unrelated deed between parties not of record. Upon review, we find Appellants' argument meritless.

When reviewing an express easement, the language of the agreement, unless ambiguous, controls. The terms of the instrument conveying the interest are interpreted by applying general principles of contract law. Clear contractual terms that are capable of one reasonable interpretation must be given effect without reference to matters outside the contract.

Where a term is ambiguous and susceptible of more than one reasonable interpretation, however, the court is free to receive extrinsic, *i.e.*, parol evidence, to resolve the ambiguity. A contract will be found ambiguous: if, and only if, it is reasonably or fairly susceptible of different constructions and is capable of being understood in more senses than one and is obscure in meaning through indefiniteness of expression or has a double meaning. A contract is not ambiguous if the court can determine its meaning without any guide other than a knowledge of the simple facts on which, from the nature of the language in general, its meaning depends; and a contract is not rendered ambiguous by the mere fact that the parties do not agree on the proper construction. Ambiguity within a contract may be latent or patent. A patent ambiguity appears on the face of the contract and is a result of defective or obscure language. Although Pennsylvania law provides that parol evidence may not be introduced unless the language of the written agreement is ambiguous on its face, extrinsic facts and circumstances may be proved to show that language apparently clear and unambiguous on its face is, in fact, latently ambiguous.

Baney v. Eoute, 784 A.2d 132, 136 (Pa. Super. 2001) (internal citations omitted).

Appellants argue that the deeds in both parties' chain of title establish "unequivocally" that the easement runs through the entire length of Appellees' property.⁵ Brief for Appellant at 17. Additionally, Appellants aver that two separate property surveys performed individually by Clark Cree and

⁵ Specifically, Appellants focus on the words "through" and "in both directions" found in the easement language.

Nicholas Shirokey⁶ show that the easement runs over the entire length of Appellees' property. ***Id.*** Upon our independent review of these documents, however, we disagree. As the trial court aptly noted, the evidence failed to show the exact location of Township Road T-650 and the dirt road in relation to the easement, thereby precluding the court from finding that the easement extended beyond the southern boundary of Appellants' property. Supplemental Opinion, 2/2/04, at 4. Furthermore, the trial court personally viewed the property and found that the access road granted in the easement ended at the southern boundary of Appellants' property. Accordingly, we conclude that the trial court's findings were supported by competent evidence when it stated the following:

In light of the above, this Court was unable to find by the fair weight or preponderance of the evidence that [Appellants] had met their burden of proving the continuation of the granted easement beyond the southern boundary of their premises. This Court chose to interpret the grant as permitting the [Appellants] to use the road as they obviously have been in both directions to the north of their property, that is, to proceed in and out on the access road as it now exists from their property in a northerly direction.

Id.

Appellants attempt to clarify the location of the dirt road and Township Road T-650 by including an unrelated deed in their reproduced record. This unrelated deed was not made a part of the certified record and, therefore,

⁶ The Cree and Shirokey surveys were introduced at trial and admitted into evidence as Exhibits 57 and 59, respectively.

will not be considered on review. **See Bennyhoff v. Pappert**, 790 A.2d 313, 318 (Pa Super. 2001) (an appellate court cannot consider anything which is not part of the certified record).

Based upon the foregoing, we find that the trial court committed no error of law when it denied Appellants' post-trial motion. Accordingly, we deny Appellants' request for relief.

Order Affirmed. Jurisdiction relinquished.

Judgment Entered:

Eleanor R. Valecko
Deputy Prothonotary

DATE: NOVEMBER 30, 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

JAN 12 2005

The Superior Court of Pennsylvania
Sitting at Pittsburgh

1015 Grant Building
Pittsburgh, Pennsylvania
15219

CERTIFICATE OF CONTENTS OF REMANDED RECORD
AND NOTICE OF REMAND
under
PENNSYLVANIA RULES OF APPELLATE PROCEDURE 2571 AND 2572

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, THREE TRANSCRIPTS, TWO YELLOW ENVELOPE OF EXHIBITS
ALONG WITH SUPERIOR COURT OPINION.**

As remanded from said court in the following matter:

**Paul Aurandt, etc. -v- John E. Gallagher, etc.
No. 1215 W.D.A. 2003**

**In the Court of Common Pleas, Clearfield County
Civil Division, at No. 00-1378-CD**

In compliance with Pennsylvania Rules of Appellate Procedure 2571.

The date of which the record is remanded is **January 10, 2005**.

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: January 12, 2005

William A. Shaw

(Signature & Title)

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

FILED

JAN 12 2005

William A. Shaw
Prothonotary/Clerk of Courts

Current Judge: John K. Reilly Jr.

Paul Aurandt, Jennifer Neely-Aurandt vs. John Gallagher, Genevieve Gallagher

Civil Other

Date	Judge
11/07/2000	Filing: Praeclipe for Writ of Summons in Ejectment Paid by: Colavecchi, Joseph (attorney for Neely-Aurandt, Jennifer) Receipt number: 0051056 No Judge ① Dated: 11/07/2000 Amount: \$80.00 (Check) Three Certified Copies to Attorney Writs to Sheriff 8
11/27/2000	② Praeclipe for Entry of Appearance, filed by s/Lee G. Nollau, Esq. NO CC 3 No Judge ③ Praeclipe for Rule to File Complaint, filed by s/Lee G. Nollau, Esq. NO CC 3 No Judge
11/30/2000	④ Complaint in Ejectment, filed by s/Joseph Colavecchi, Esq. 3 cc to atty. Colavecchi 30 No Judge
12/13/2000	⑤ Sheriff Costs, Praeclipe for Writ of Summons in Ejectment & Summons, upon Defendants, So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Judge
01/18/2001	⑥ Answer, New Matter and Counterclaim. Filed by s/Lee G. Nollau, Esq. Verification, s/Lee G. Nollau, Esq. Cert of Service 11 No Judge
01/24/2001	⑦ Reply to New Matter and Answer to Counterclaim. Filed by s/Joseph Colavecchi, Esq. Verification, s/Paul Aurandt and Jennifer Neely-Aurandt. 5 No Judge 2 cc to atty
05/18/2001	⑧ Verification of Service of Notice of Deposition by oral examination of Paul Aurandt. filed by s/Lee G. Nollau, Esq. no cc 2 No Judge Verification of Service of Notice of Deposition by oral examination of Jennifer Neely-Aurandt. filed by s/Lee G. Nollau, Esq. No cc 2 No Judge
08/13/2001	⑨ Certificate of Readiness. Filed by s/Joseph Colavecchi, Esq. no cc Copy to CA No Judge
12/21/2001	⑩ Transcript of Deposition of John Gallagher, June 5, 2001. Filed no cc 5/1 John K. Reilly Jr. Transcript of Deposition of Genevieve Gallagher, June 5, 2001. Filed no cc 5/1 John K. Reilly Jr. ⑪ cc
01/02/2002	⑫ Verification of Service of Defendants' Pre-Trial Memorandum upon parties of interest. Filed by s/Lee G. Nollau, Esq. no cc John K. Reilly Jr.
01/09/2002	⑬ ORDER, NOW, this 9th day of Jan. 2002, re: Pre-Trial Conference. by the Court, s/JKR,JR.,P.J. cc Atty Colavecchi,Nollau John K. Reilly Jr.
01/28/2002	⑭ ORDER, AND NOW, this 28th day of Jan. 2002, re: Non-Jury Trial scheduled for Apr. 8, 2002 at 9:00 a.m. and 1/2 day Apr. 9, 2002, at 9:00 a.m. by the Court, s/JKR,JR.,P.J. 1cc Atty Nollau, Colavecchi John K. Reilly Jr.
02/08/2002	⑮ Filing: Subpoena Paid by: Colavecchi, Joseph (attorney for Aurandt, Paul) Receipt number: 1838001 Dated: 02/08/2002 Amount: \$9.00 (Check) John K. Reilly Jr.
03/20/2002	⑯ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm 10 John K. Reilly Jr.
04/01/2002	⑰ Motion for Continuance. Filed by s/Lee G. Nollau, Esq. Verification s/Lee G. Nollau, Esq. no cc John K. Reilly Jr.
04/02/2002	⑱ RULE, AND NOW, this 2nd day of April, 2002, re: Issued upon Plaintiffs, returnable the 4th day of June, 2002, at 8:30 a.m. by the Court, s/JKR,JR.,P.J. copy to CA 5 John K. Reilly Jr.
04/03/2002	⑲ Answer to Motion for Continuance. Filed by s/Joseph Colavecchi, Esq. 3 no cc John K. Reilly Jr.
04/04/2002	⑳ Filing: Subpoena Paid by: Nollau, Lee G. (attorney for Gallagher, John) Receipt number: 1840566 Dated: 04/04/2002 Amount: \$3.00 (Cash) X John K. Reilly Jr.
04/08/2002	⑳ ORDER, NOW, this 8th day of April, 2002, re: Plaintiff to have no more than John K. Reilly Jr. 20 days from date hereof to submit brief, Defendant shall have no more than 10 days thereafter which to respond in kind. by the Court, s/JKR,JR.,P.J. 2 cc to Atty Colavecchi, Nollau 1

Date: 06/11/2003

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 09:24 AM

ROA Report

Page 2 of 2

Case: 2000-01378-CD

Current Judge: John K. Reilly Jr.

Paul Aurandt, Jennifer Neely-Aurandt vs. John Gallagher, Genevieve Gallagher

Civil Other

Date	Judge
04/30/2002 ②0	OPINION AND ORDER, NOW, this 30th day of April, 2002, Partial Judgment shall be entered in favor of the Plaintiffs and Partial Judgment in favor of the Defendants in accordance with the foregoing Opinion. by the Court, s/JKR,JR.,P.J. 1 cc Atty Colavecchi, Nollau, and D. Mikesell
05/09/2002 ②1	Motion For Post-Trial Relief. filed by s/Lee G. Nollau, Esq. Verification s/Lee G. Nollau . no cc
05/13/2002	RULE, AND NOW, this 13th day of May, 2002, issued upon Plaintiffs, returnable on the 21st day of June, 2002, at 2:00 p.m. by the Court, s/JKR,JR.,P.J. 2 cc to atty
05/15/2002 ②2	Answer of Plaintiffs To Defendants' Motion For Post-Trial Relief. Filed by s/Joseph Colavecchi, Esq. 3 cc Atty Colavecchi
05/16/2002 ②3	Answer of Plaintiffs To Defendants' Motion For Post-Trial Relief. Filed by s/Joseph Colavecchi, Esq. no cc
	Certificate of Service, Answers of Plaintiffs to Defendants' Motion for Post-Trial Relief upon Lee G. Nollau, Esq. Filed by s/Joseph Colavecchi, Esq. no cc
05/20/2002 ②4	Motion For Post-Trial Relief Filed on Behalf of Plaintiffs. Filed by s/Joseph Colavecchi, Esq. 3 cc Atty Colavecchi
05/23/2002 ②5	ORDER, AND NOW, this 23rd day of May, 2002, Rule issued upon DEFENDANT. Rule Returnable the 21st day of June, 2002, at 2:00 p.m. by the Court, s/JKR,JR.,P.J. 2 cc Atty Colavecchi
07/26/2002 ②6	Verification of Service of Post-Trial Motions Brief upon The Honorable John K. Reilly, Jr., President Judge and Joseph Colavecchi, Esquire Filed by s/Lee G. Nollau, Esquire no cc
05/22/2003 ②7	OPINION AND ORDER, NOW, this 22nd day of May, 2003, re: Post-Trial Motions shall be and are hereby DISMISSED. by the Court, s/FJA,JR.,P.J. 1 cc Atty J. Colavecchi, Atty Nollau, and Mikesell

UP

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAUL AURANDT and JENNIFER) CIVIL DIVISION
NEELY-AURANDT, husband and)
wife,) No. 2000-1378-CD
Plaintiffs)
) MOTION FOR LEAVE TO
) WITHDRAW
v.)
)
JOHN E. GALLAGHER and) Filed on behalf of Defendants
GENEVIEVE M. GALLAGHER,)
Defendants) Counsel of record for this party
)
) LeDon Young
) I.D. No. 30644
) NOLLAU & YOUNG
) 2153 East College Avenue
) State College, PA 16801
) (814) 235-1110

FILED 4CC
MAY 5 2006
MAR 22 2006
A. Young
GK
William A. Shaw
Prothonotary/Clerk of Courts

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

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband and)
wife,)
Plaintiffs)
v.) No. 2000-1378-CD
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

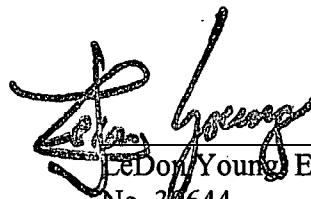
MOTION FOR LEAVE TO WITHDRAW

NOW COMES LeDon Young, Esquire, Nollau & Young Law firm partner of the late counsel of record for Defendant in the above-captioned action, upon a motion for leave to withdraw as counsel of record and in support thereof avers as follows:

1. Movant, LeDon Young was the law firm partner of the late Lee G. Nollau, Esquire, who was counsel of record for Defendant in the above-captioned action.
2. John E. Gallagher died on May 21, 2004. Genevieve M. Gallagher is his surviving spouse.
2. Lee G. Nollau died on December 7, 2004.
3. Movant wrote to the Defendant Genevieve M. Gallagher following the death of Lee G. Nollau and informed her that she would have to retain other counsel for representation in her case.
5. Movant has offered to deliver to Defendant Genevieve M. Gallagher all papers and property to which Defendant is entitled.
6. Neither Movant nor the law firm has no fee paid in advance that has not been earned.

7. Joseph Colavecchi, Esquire, attorney for Plaintiffs Paul and Jennifer Aurandt, does not object.

WHEREFORE, Movant prays this Honorable Court to issue an Order granting to Nollau and Young, leave to withdraw as counsel of record for Defendant in the above-captioned action.



LeeDon Young, Esquire
No. 30644
NOLLAU & YOUNG
2153 East College Avenue
State College, PA 16801
(814) 235-1110
Movant

VERIFICATION OF SERVICE

Subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities, I verify that true and correct copies of the Motion for Leave to Withdraw were served on March 20, 2006, by placing same in the United States mail at State College, Pennsylvania, first-class postage prepaid, addressed as follows:

Joseph Colavecchi, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 231
Clearfield, PA 16830

Mrs. John E. Gallagher
P.O. Box 126
Houtzdale, PA 16651


LeDon Young

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

PAUL AURANDT and JENNIFER
NEELY-AURANDT, husband and wife,

vs. : No. 00-1378-CD

JOHN E. GALLAGHER and
GENEVIEVE M. GALLAHER,

NOW, this 23rd day of March, 2006, upon consideration of the attached Motion of Counsel for Leave to Withdraw, a Rule is hereby issued upon the parties to Show Cause why the Petition should not be granted. Rule Returnable the 24th day of April, 2006, for filing written response.

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 PETITION OR 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
230 East Market Street, Suite 228
Clearfield, PA 16830
(814) 765-2641, Ext. 1300 or 1301

FILED *4cc*
01/01/06 *BoY* *Amy Young*
MAR 24 2006 *GW*

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT:


President Judge

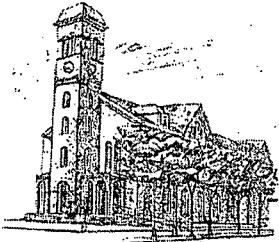
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MAR 24 2006

William A. Shaw
Prothonotary/Clerk of Courts

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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

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

DATE: 3/24/06

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 ACTION - LAW

PAUL AURANDT and JENNIFER)
NEELY-AURANDT, husband and)
wife,)
Plaintiffs)
v.) No. 2000-1378-CD
JOHN E. GALLAGHER and)
GENEVIEVE M. GALLAGHER,)
Defendants)

VERIFICATION OF SERVICE

Subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities, I verify that true and correct copies of the Motion of Counsel for Leave to Withdraw were served by placing same in the United States mail at State College, Pennsylvania, first-class postage prepaid on April 6, 2006, addressed as follows:

Joseph Colavecchi, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 2131
Clearfield, PA 16830

Mrs. John E. Gallagher
P.O. Box 126
Houtzdale, PA 16651

Robert W. Gallagher
P.O. Box 85
Brisbin, PA 16620



LeDon Young
I.D. No. 30644
NOLLAU & YOUNG
2153 East College Avenue
State College, PA 16801
(814) 235-1110

Attorney for Petitioner

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3/11/2006 NO CC
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APR 07 2006

William A. Shaw
Prothonotary/Clerk of Courts