

J0-1532-CD
MANUFACTURERS AND TRADERS TRUST COMPANY et al -vs- WILLIAM B.
KINDERMAN et al

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased

Plaintiff

vs

WILLIAM B. KINDERMAN,
ROBERTA A. KINDERMAN and
CLARENCE C. DAISHER
Defendants

No. 00-1532-CD

TYPE OF CASE:
Equity

TYPE OF PLEADING:
Complaint

FILED ON BEHALF OF:
Plaintiff

COUNSEL FOR THIS PARTY:
Peter F. Smith, Esquire
Supreme Court I.D. #34291
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

FILED

DEC 08 2000

William A. Shaw
Prothonotary

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

MANUFACTURERS and TRADERS
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM,
Deceased

Plaintiff

vs

WILLIAM B. KINDERMAN,
ROBERTA A. KINDERMAN and
CLARENCE C. DAISHER

Defendants

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed 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 other rights important to you.

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

Clearfield County Court Administrator
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
(814) 765-2641 ext. 5982

d, PA 16830
2641 ext. 5982

Peter F. Smith
Attorney for Plaintiff

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

MANUFACTURERS and TRADERS	:	
TRUST COMPANY, TRUSTEE UNDER :		
THE WILL OF JAMES B. GRAHAM,	:	
Deceased	:	
Plaintiff	:	No. 00- -CD
vs	:	
WILLIAM B. KINDERMAN,	:	
ROBERTA A. KINDERMAN and	:	
CLARENCE C. DAISHER	:	
Defendants	:	

COMPLAINT

COMES NOW, Manufacturers and Traders Trust Company, as Trustee under the Will of James B. Graham, deceased, by its Attorney Peter F. Smith, which states in support of this Complaint:

1. The name of the Plaintiff, is Manufacturers and Traders Trust Company, as Trustee under the Will of James B. Graham, deceased. The Plaintiff's principle office at 101 West Third Street, Williamsport, Pennsylvania, 17701, and shall hereinafter be referred to as the "GRAHAM ESTATE."

2. The names of the first Defendants are William B. Kinderman and Roberta A. Kinderman, who are believed to be husband and wife, and who reside at RD 2, Rockton, Pennsylvania, 15856, and who shall hereinafter be referred to as the "KINDERMANS."

3. The third Defendant is Clarence C. Daisher, who resides at Box 243, Luthersburg, Pennsylvania, 15848, who shall hereinafter be referred to as "MR. DAISHER."

4. The GRAHAM ESTATE owns a wooded parcel in Penn Township, Clearfield County, Pennsylvania, which is identified by Clearfield County Tax Map Number 125-E9-14 and to which the Plaintiff's decedent took title by deed in Clearfield County Deed Book 360, Page 448.

5. The KINDERMANS own a property which adjoins the property of the GRAHAM ESTATE described in the preceding paragraph. The KINDERMAN property is in Bloom Township, and they took title to it by deed recorded at Clearfield County Instrument Number 199921180.

6. The KINDERMANS, MR. DAISHER and/or others acting through them or on their behalf crossed the boundary line separating the KINDERMAN property from the GRAHAM ESTATE property and cut timber on the GRAHAM ESTATE property. Those individuals then took and sold the timber and kept the proceeds from said sales.

7. Neither the KINDERMANS, MR. DAISHER nor any others acting through them or on their behalf had or have a lease or other permission from the GRAHAM ESTATE to enter the GRAHAM ESTATE's property and cut timber.

8. The Defendants' entry on the GRAHAM ESTATE property and taking of timber from it constitute a trespass under Pennsylvania Law which makes them liable to the GRAHAM ESTATE for monetary damages, and a civil action has been filed against the Defendants simultaneous with this equity complaint in order to obtain damages.

9. The GRAHAM ESTATE attaches to this Complaint and incorporates in it by reference a true and correct survey map prepared by David L. Thorp, P.L.S., which depicts the boundary between the KINDERMAN property and the GRAHAM ESTATE property. This map also has shaded the approximate area from which the Defendants took timber.

10. The GRAHAM ESTATE did not discover this trespass until early November 1999.

11. At the time of the initial discovery, the GRAHAM ESTATE believed that this trespass was an isolated incident. However, subsequent visits to the PREMISES indicate that the Defendants' trespass has been ongoing.

12. On or about June 21, 2000, Robert L. Kester, who is an agent for the GRAHAM ESTATE, contacted the Defendants.

13. Mr. Kester advised the Defendants that they were trespassing upon the GRAHAM ESTATE property and directed them to withdraw from the property, to cease entering it and taking timber from it and to compensate the GRAHAM ESTATE for all timber taken.

14. The Defendants disregarded Mr. Kester's directions. They have continued to cut and take away timber from the GRAHAM ESTATE property and they have refused to compensate the GRAHAM ESTATE for timber so taken.

15. The GRAHAM ESTATE will suffer immediate and irreparable harm if an injunction is not granted for the following reasons:

A. The GRAHAM ESTATE does not desire to harvest the timber on this property at this time;

B. If allowed to grow, the timber on this property will increase in value and market conditions for timber will also change;

C. Defendants have caused stream erosion and sedimentation by illegal stream crossings with equipment and dropping logs and tops in streams on the PREMISES;

D. Defendants damaged younger trees left standing by dropping cut trees on them;

E. Defendants created hazardous conditions by leaving dead falls of cut trees and branches hanging in existing trees;

F. Defendants failed to perform any clean-up whatsoever which left the property in an unsightly condition and creates a future fire hazard;

G. Defendants did not reseed skid trails; and,

H. Defendants did not block skid trails or their access into the property which leaves it open for additional trespass.

/

Defendants are causing irreparable and ongoing harm which cannot be fully compensated with monetary damages.

16. The GRAHAM ESTATE has no adequate remedy of law to address the past and impending trespasses to its property. This property, the streams or runs crossing it and the timber growing on it are real estate and are unique.

17. The Defendants will not suffer any injury if the requested preliminary injunction is issued because the status quo between the parties will be restored to where it was before Defendants' wrongful conduct. This dispute will be resolved in due course by the Court, and Defendants will thereafter be free to cut timber on their side of the boundaries in question.

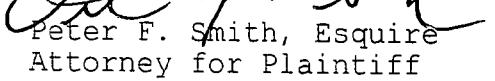
17. The GRAHAM ESTATE is likely to succeed on the merits of its claim because it has had a full and proper survey performed by qualified experts. The Defendants on the contrary have no clear notion of where the boundaries actually are.

WHEREFORE, the Petitioner-GRAHAM ESTATE requests that this Court:

- A. Issue a Rule to Show Cause why a preliminary injunction should not be granted against the Defendants: William B. Kinderman, Roberta A. Kinderman, Clarence C. Daisher; and
- B. After hearing, issue a Preliminary Injunction Order in the form attached to this provision.

Respectfully submitted,

Dated: 11-21-00



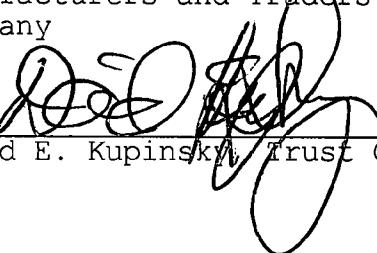
Peter F. Smith, Esquire
Attorney for Plaintiff

AFFIDAVIT

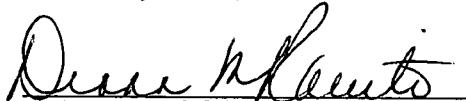
STATE OF PENNSYLVANIA :
COUNTY OF LYCOMING :SS

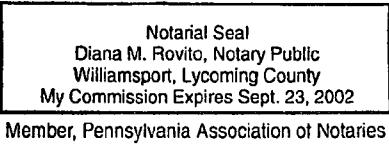
David E. Kupinsky, being duly sworn according to law, depose and say that he is the Trust Officer of Manufacturers and Traders Trust Company and the information contained in the foregoing Complaint is true, correct and complete to the best of his information, knowledge and belief.

James B. Graham Trust
Manufacturers and Traders Trust
Company

By: 
David E. Kupinsky, Trust Officer

SWORN TO AND SUBSCRIBED
before me this 7th
day of November, 2000.


Notary Public



Member, Pennsylvania Association of Notaries

FILED

REC'D DEC 08 2000
2:55 P.M. Cott Smith
William A. Shaw
Prothonotary
DO \$80.00.
3cc Cott Smith

PETER F. SMITH
ATTORNEY
30 SOUTH SECOND STREET
P.O. BOX 130
CLEARFIELD, PA. 16830

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased : No. 00-532 -CD

Plaintiff :
vs : TYPE OF CASE:
WILLIAM B. KINDEMAN, :
ROBERTA A. KINDEMAN and :
CLARENCE C. DAISHER :
Defendants :
Motion for Preliminary
Injunction

FILED ON BEHALF OF:
Plaintiff

COUNSEL FOR THIS PARTY:
Peter F. Smith, Esquire
Supreme Court I.D. #34291
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

FILED

DEC 08 2000

William A. Shaw
Prothonotary

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased :
Plaintiff : No. 00- -CD
vs :
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN and :
CLARENCE C. DAISHER :
Defendants :

RULE

Now this 11th day of December, 2000, upon
consideration of the attached Motion, a Rule is hereby issued upon
Defendants to Show Cause why the Motion should not
be granted. Rule Returnable the 26th day of December,
2000, for filing written response and hearing. *at 9:00 AM*

NOTICE

A MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO
DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING MOTION BY
ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING
IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER
SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO
THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED
AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF
REQUESTED BY THE PLAINTIFF. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

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

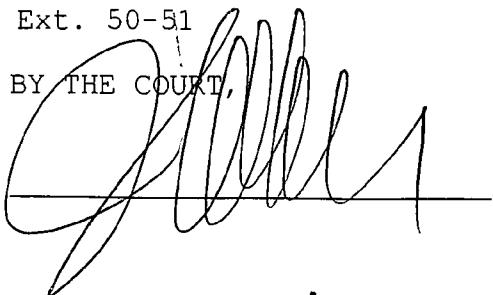
COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Street
Clearfield, PA 16830
(814) 765-2641, Ext. 50-51

FILED

DEC 11 2000

William A. Shaw
Prothonotary

BY THE COURT,



FILED

DFC 11 2000
12/39/2000
William A. Shaw
Prothonotary
5 months

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

MANUFACTURERS and TRADERS	:	
TRUST COMPANY, TRUSTEE UNDER	:	
THE WILL OF JAMES B. GRAHAM,	:	
Deceased	:	
Plaintiff	:	No. 00- -CD
vs	:	
WILLIAM B. KINDERMAN,	:	
ROBERTA A. KINDERMAN and	:	
CLARENCE C. DAISHER	:	
Defendants	:	

MOTION FOR PRELIMINARY INJUNCTION

COMES NOW, Peter F. Smith, Attorney for Plaintiff in the above captioned matter, who moves this Honorable Court to enter a Preliminary Injunction against the Defendants and those acting under them or on their behalf as more particularly set-forth in the Complaint filed in this matter which is incorporated herein by reference.

Respectfully submitted



Peter F. Smith, Esquire
Attorney for Plaintiff

Dated: 11-21-00

FILED

DEC 08 2000
Q/300/3C < C.H.Y
William A. Shaw
Prothonotary

Smith

PETER F. SMITH
ATTORNEY
30 SOUTH SECOND STREET
P.O. BOX 130
CLEARFIELD, PA. 16830

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased :
Plaintiff : No. 00-1532 -CD
vs :
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN and :
CLARENCE C. DAISHER :
Defendants :

RULE

Now this 3 day of January, 2001, upon consideration of the attached Motion, a Rule is hereby issued upon Defendants to Show Cause why the Motion should not be granted.

Rule Returnable the 23rd day of January, 2001, for filing written response and hearing, at 2:30 P.m.

NOTICE

A MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING MOTION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

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

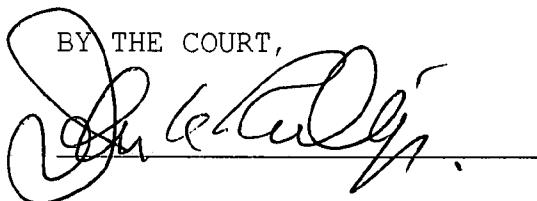
COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Street
Clearfield, PA 16830
(814) 765-2641, Ext. 50-51

FILED

JAN 03 2001

William A. Shaw
Prothonotary

BY THE COURT,



FILED

JAN 03 2001
OB 4213 cc Atty Smith
William A. Shaw
Prothonotary

E. H. G.

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10489

MANUFACTURERS and TRADERS TRUST COMPANY

00-1532-CD

VS.

KINDERMAN, WILLIAM B., ROBERT A. and CLARENCE C. DAISHER

COMPLAINT IN EQUITY and MOTION FOR PRELIMINARY INJUNCTION, RULE

SHERIFF RETURNS

NOW JANUARY 4, 2001 AT 4:45 PM EST SERVED THE WITHIN COMPLAINT IN EQUITY AND MOTION FOR PRELIMINARY INJUNCTION, RULE ON WILLIAM B. KINDERMAN, DEFENDANT AT RESIDENCE, RD# 2 (DRAUCKER BOTTOM RD.), ROCKTON, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING WILLIAM B. KINDERMAN A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN EQUITY AND MOTION FOR PRELIMINARY INJUNCTION, RULE AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: SNYDER

NOW JANUARY 4, 2001 AT 4:45 PM EST SERVED THE WITHIN COMPLAINT IN EQUITY AND MOTION FOR PRELIMINARY INJUNCTION, RULE ON ROBERTA A. KINDERMAN, DEFENDANT AT RESIDENCE, RD# 2,(DRAUCKER BOTTOM RD.), ROCKTON, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING WILLIAM KINDERMAN, HUSBAND A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN EQUITY AND MOTION FOR PRELIMINARY INJUNCTION, RULE AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: SNYDER

NOW JANUARY 4, 2001 AT 7:40 PM EST SERVED THE WITHIN COMPLAINT IN EQUITY AND MOTION FOR PRELIMINARY INJUNCTION, RULE ON CLARENCE C. DAISHER, DEFENDANT AT RESIDENCE, BOX 243, LUTHERSBURG, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING RHONDA GREENAWAY, GIRL FRIEND A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN EQUITY AND MOTION FOR PRELIMINARY INJUNCTION, RULE AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: SNYDER

Return Costs

Cost	Description
43.86	SHFF.HAWKINS PDBY: KEYSTONE FINANCI
30.00	SUCHARGE PD BY: KEYSTONE FINANCIAL

FILED

JAN 15 2001

01955

**William A. Shaw
Prothonotary**



In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10489

MANUFACTURERS and TRADERS TRUST COMPANY

00-1532-CD

VS.

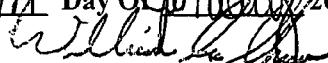
KINDERMAN, WILLIAM B., ROBERT A. and CLARENCE C. DAISHER

COMPLAINT IN EQUITY and MOTION FOR PRELIMINARY INJUNCTION, RULE

SHERIFF RETURNS

Sworn to Before Me This

15th Day Of July 2000



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

So Answers,


by Marly Hays

Chester A. Hawkins
Sheriff

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

MANUFACTURERS AND TRADERS TRUST : NO. 00-1532-CD
COMPANY, TRUSTEE UNDER THE :
WILL OF JAMES B. GRAHAM, : Type of Case: Civil
Deceased, :
Plaintiff : Type of Pleading:
V. : Praeclipe for Entry of
: Appearance
: Filed on Behalf of:
WILLIAM B. KINDERMAN, ROBERTA : William B. Kinderman and
A. KINDERMAN and CLARENCE C. : Roberta A. Kinderman,
DAISHER, : Defendants
Defendants :
: Counsel of Record for This
: Party:
: F. Cortez Bell, III, Esq.
: I.D. #30183
: BELL, SILBERBLATT & WOOD
: 318 East Locust Street
: P. O. Box 670
: Clearfield, PA 16830
: Telephone: (814) 765-5537
:
:
:

FILED

JAN 19 2001
o/p:ss/w
William A. Shaw
Prothonotary

3 copy to ATTY

E
G

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased, :
Plaintiff :
vs. : No. 00-1532-CD
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN and :
CLARENCE C. DAISHER, :
Defendants:

PRAECLPCE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance in the above-captioned matter on behalf of the Defendants, William B. Kinderman and Roberta A. Kinderman.

Respectfully submitted,
BELL, SILBERBLATT & WOOD
By,

F. Cortez Bell, III, Esquire
318 East Locust Street
P. O. Box 670
Clearfield, PA 16830
Telephone: (814) 765-5537

Dated: 1-19-2001

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased, :
Plaintiff :
: vs. : No. 00-1532-CD
: :
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN and :
CLARENCE C. DAISHER, :
Defendants:

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the
Praecipe for Entry of Appearance upon the following person by
mailing such copy regular mail, postage prepaid to:

Mr. Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

F C B III
F. Cortez Bell, III, Esquire
Attorney for Defendants William
B. Kinderman and Roberta A.
Kinderman

DATED: 1-19-2001

Prothonotary
William A. Shaw

JAN 19 2001

FILED

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
No. 00-1532-CD

MANUFACTURERS AND TRADERS TRUST
COMPANY, TRUSTEE UNDER THE WILL
OF JAMES B. GRAHAM, Deceased,
Plaintiff

vs.

WILLIAM B. KINDELMAN, ROBERTA A.
KINDELMAN and CLARENCE C. DAISHER
Defendants

PRAECIPE FOR ENTRY
OF APPEARANCE

BELL, SILBERBLATT & WOOD
ATTORNEYS AT LAW
318 EAST LOCUST STREET
P. O. BOX 670
CLEARFIELD, PA. 16830

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM :
DECEASED :

-vs-

No. 00-1532-CD

FILED

JAN 23 2001

WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN and :
CLARENCE C. DAISHER :

PRELIMINARY INJUNCTION

William A. Shaw
Prothonotary

NOW, this 23rd day of January, 2001, upon consideration of Plaintiff's Petition and Motion for Preliminary Injunctive Relief, upon agreement of the parties:

1. That the Plaintiff will suffer irreparable harm if the request and relief is not granted;
2. That the Plaintiff does not have an adequate remedy at law;
3. That greater injury will be inflicted upon the Plaintiff by denial of relief than would be inflicted upon Defendants the grant of such relief; and
4. That Plaintiff is likely to prevail on the merits. It is:

ORDERED, ADJUDGED AND DEGREED, that the Defendants, William B. Kinderman, Roberta A. Kinderman and Clarence C. Daisher or those acting through them or on their behalf, are forthwith:

1. Enjoined from trespassing upon the real estate of the Plaintiff situate in Bloom Township, Clearfield County, Pennsylvania, and identified by Clearfield County Tax Map Number 125-E9-14 and 104-E9-3.
2. Enjoined from cutting timber within 25 yards of the boundary line between the Plaintiff's property and the Defendants Kinderman's property as marked on the land by David J. Thorp of Curry & Associates and as more particularly

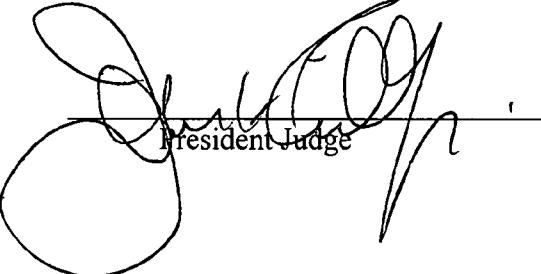
described on Exhibit A of the Complaint.

3. Enjoined from other trespasses or entries upon the Plaintiff's real estate.

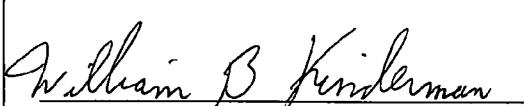
This Order shall remain in full force and effect until such time as modified or vacated by this Court.

This Order is conditioned upon Plaintiff filing an approved Bond in the amount of \$5,000.00.

By the Court,



President Judge

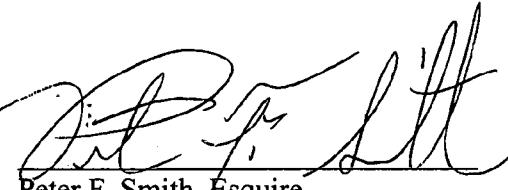


William B. Kinderman

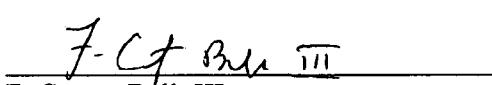
For the Plaintiff:



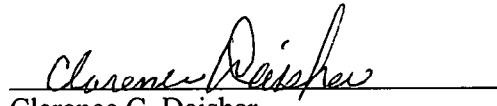
Roberta A. Kinderman



Peter F. Smith, Esquire



F. Cortez Bell, III



Clarence C. Daisher

FILED

JAN 23 2001

0101515cc atty
William A. Shaw
Prothonotary
E. Smith
cc

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased : No. 00-1532 -CD
Plaintiff :
vs :
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN and :
CLARENCE C. DAISHER :
Defendants :

FILED

JAN 23 2001

William A. Shaw
Prothonotary

INJUNCTION BOND

KNOW ALL MEN BY THESE PRESENTS, that Manufacturers and Traders Trust Company, Trustee under the Will of James B. Graham, Deceased, Plaintiff is held and firmly bound unto the Commonwealth of Pennsylvania in the sum of \$3,000.00 to be paid to the Commonwealth of Pennsylvania; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents.

SEALED with our seals.

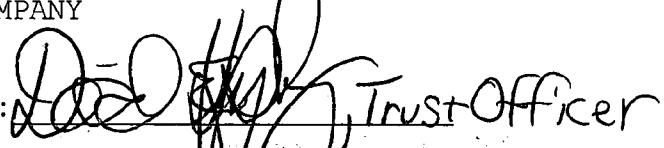
Dated the 7th day of November, 2000.

WHEREAS, the Plaintiff filed a Complaint in Equity in the Court of Common Pleas for Clearfield County to Docket No. 00-1532 -EQU against WILLIAM B. KINDERMAN, ROBERTA A. KINDERMAN and CLARENCE C. DAISHER, Defendants, praying inter alia, for an Injunction to restrain the said Defendant as therein particularly set forth, which said injunction was duly granted by the said Court on the entering of the security in the above-mentioned sum:

NOW, THE CONDITION OF THIS OBLIGATION IS SUCH, THAT if the Injunction is dissolved because improperly granted, or for failure to hold a hearing, the Plaintiff shall pay to any person injured all damages sustained by reason of granting the Injunction and all legally taxable costs and fees, then this obligation to be void, otherwise it is to remain in full force and virtue.

MANUFACTURERS and TRADERS TRUST COMPANY

By:


David E. Kupinsky, Esq.

M&T Investment Group

JAN 23 2001
OAKLAND
WILLIAM A. GRIFFIN
WILLIAM A. GRIFFIN

PETER F. SMITH
ATTORNEY
30 SOUTH SECOND STREET
P.O. BOX 130
CLEARFIELD, PA. 16830

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, : No. 00-1532-CD
Deceased :
Plaintiff :
vs : TYPE OF CASE:
WILLIAM B. KINDERMAN, : Equity
ROBERTA A. KINDERMAN, :
CLARENCE C. DAISHER and :
JOSEPH R. CHAMBERLIN :
Defendants :
FILED ON BEHALF OF:
Plaintiff :
COUNSEL FOR THIS PARTY:
Peter F. Smith, Esquire
Supreme Court I.D. #34291
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

FILED

FER 05 2001

William A. Shaw
Prothonotary

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Clearfield County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

Clearfield County Court Administrator
Clearfield County Courthouse
Corner of Market and Second Streets
Clearfield, PA 16830
(814) 765-2641, ext. 5982

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased :
Plaintiff : No. 00-1352-CD
: :
vs : :
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN, :
CLARENCE C. DAISHER and :
JOSEPH R. CHAMBERLIN, :
Defendants : :

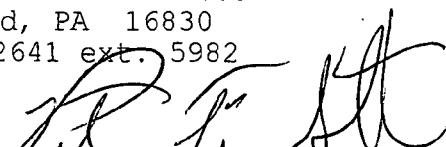
NOTICE TO DEFEND

TO: William B. Kinderman
Roberta A. Kinderman
Clarence C. Daisher
Joseph R. Chamberlin

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 other rights important to you.

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

Clearfield County Court Administrator
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
(814) 765-2641 ext. 5982



Peter F. Smith
Attorney for Plaintiff

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

MANUFACTURERS and TRADERS	:
TRUST COMPANY, TRUSTEE UNDER	:
THE WILL OF JAMES B. GRAHAM,	:
Deceased	:
Plaintiff	:
	No. 00-1352-CD
vs	:
	:
WILLIAM B. KINDERMAN,	:
ROBERTA A. KINDERMAN,	:
CLARENCE C. DAISHER and	:
JOSEPH R. CHAMBERLIN,	:
Defendants	:

COMPLAINT

COMES NOW, Manufacturers and Traders Trust Company, as Trustee under the Will of James B. Graham, deceased, by its Attorney Peter F. Smith, which states in support of this Complaint:

1. The name of the Plaintiff, is Manufacturers and Traders Trust Company, as Trustee under the Will of James B. Graham, deceased. The Plaintiff's principle office at 101 West Third Street, Williamsport, Pennsylvania, 17701, and shall hereinafter be referred to as the "GRAHAM ESTATE."

2. The names of the first Defendants are William B. Kinderman and Roberta A. Kinderman, who are believed to be husband and wife, and who reside at RD 2, Rockton, Pennsylvania, 15856, and who shall hereinafter be referred to as the "KINDELMANS."

3. The third Defendant is Clarence C. Daisher, who resides at Box 243, Luthersburg, Pennsylvania, 15848, who shall hereinafter be referred to as "MR. DAISHER."

4. The name of the fourth defendant is Joseph R. Chamberlin who is said to reside at RR 1, Box 294A-12, Keystone Road, Brockport, Elk County, Pennsylvania, 15823.

5. The GRAHAM ESTATE owns a wooded parcel in Penn Township, Clearfield County, Pennsylvania, which is identified by Clearfield County Tax Map Number 125-E9-14 and to which the Plaintiff's decedent took title by deed in Clearfield County Deed Book 360, Page 448.

6. The KINDERMANS own a property which adjoins the property of the GRAHAM ESTATE described in the preceding paragraph. The KINDERMAN property is in Bloom Township, and they took title to it by deed recorded at Clearfield County Instrument Number 199921180.

7. The KINDERMANS, MR. DAISHER, MR. CHAMBERLIN and/or others acting through them or on their behalf crossed the boundary line separating the KINDERMAN property from the GRAHAM ESTATE property and cut timber on the GRAHAM ESTATE property. Those individuals then took and sold the timber and kept the proceeds from said sales.

8. Neither the KINDERMANS, MR. DAISHER, MR. CHAMBERLIN nor any others acting through them or on their behalf had or have a lease or other permission from the GRAHAM ESTATE to enter the GRAHAM ESTATE's property and cut timber.

9. The Defendants' entry on the GRAHAM ESTATE property and taking of timber from it constitute a trespass under Pennsylvania Law which makes them liable to the GRAHAM ESTATE for monetary

damages, and a civil action has been filed against the Defendants simultaneous with this equity complaint in order to obtain damages.

10. The GRAHAM ESTATE attaches to this Complaint and incorporates in it by reference a true and correct survey map prepared by David L. Thorp, P.L.S., which depicts the boundary between the KINDERMAN property and the GRAHAM ESTATE property. This map also has shaded the approximate area from which the Defendants took timber.

11. The GRAHAM ESTATE did not discover this trespass until early November 1999.

12. At the time of the initial discovery, the GRAHAM ESTATE believed that this trespass was an isolated incident. However, subsequent visits to the PREMISES indicate that the Defendants' trespass has been ongoing.

13. On or about June 21, 2000, Robert L. Kester, who is an agent for the GRAHAM ESTATE, contacted the Defendants.

14. Mr. Kester advised the Defendants that they were trespassing upon the GRAHAM ESTATE property and directed them to withdraw from the property, to cease entering it and taking timber from it and to compensate the GRAHAM ESTATE for all timber taken.

15. The Defendants disregarded Mr. Kester's directions. They have continued to cut and take away timber from the GRAHAM ESTATE property and they have refused to compensate the GRAHAM ESTATE for timber so taken.

16. The GRAHAM ESTATE will suffer immediate and irreparable harm if an injunction is not granted for the following reasons:

- A. The GRAHAM ESTATE does not desire to harvest the timber on this property at this time;
- B. If allowed to grow, the timber on this property will increase in value and market conditions for timber will also change;
- C. Defendants have caused stream erosion and sedimentation by illegal stream crossings with equipment and dropping logs and tops in streams on the PREMISES;
- D. Defendants damaged younger trees left standing by dropping cut trees on them;
- E. Defendants created hazardous conditions by leaving dead falls of cut trees and branches hanging in existing trees;
- F. Defendants failed to perform any clean-up whatsoever which left the property in an unsightly condition and creates a future fire hazard;
- G. Defendants did not reseed skid trails; and,
- H. Defendants did not block skid trails or their access into the property which leaves it open for additional trespass.

Defendants are causing irreparable and ongoing harm which cannot be fully compensated with monetary damages.

17. The GRAHAM ESTATE has no adequate remedy of law to address the past and impending trespasses to its property. This property, the streams or runs crossing it and the timber growing on it are real estate and are unique.

18. The Defendants will not suffer any injury if the requested preliminary injunction is issued because the status quo between the parties will be restored to where it was before Defendants' wrongful conduct. This dispute will be resolved in due

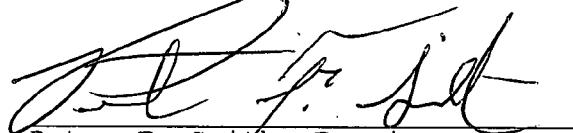
course by the Court, and Defendants will thereafter be free to cut timber on their side of the boundaries in question.

19. The GRAHAM ESTATE is likely to succeed on the merits of its claim because it has had a full and proper survey performed by qualified experts. The Defendants on the contrary have no clear notion of where the boundaries actually are.

WHEREFORE, the Petitioner-GRAHAM ESTATE requests that this Court:

- A. Issue a Rule to Show Cause why a preliminary injunction should not be granted against the Defendants: William B. Kinderman, Roberta A. Kinderman, Clarence C. Daisher, Joseph R. Chamberlin; and
- B. After hearing, issue a Preliminary Injunction Order in the form attached to this provision.

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Plaintiff

Dated: 2/13/01

JAMES B. GRAHAM, HEIRS

DB 360/448

TIMBER ENCROACHMENT
APPROXIMATELY 2 ACRES

BLOOM TOWNSHIP
PENN TOWNSHIP

TIMBER ROAD

TIMBER ENCROACHMENT
APPROXIMATELY 19 ACRES

JAMES B. GRAHAM, HEIRS

DB 360/448

RUN 7731

WILLIAM B. KINDERMAN
AND
ROBERTA A. KINDERMAN
INSTRUMENT #199921180

N 49.18' 49.18'
N 82° 45' 27" W
1/2" IPF WITNESSED
N 09° 12' 38" E
605.43'
S 83° 48' 43" E
353.70'
1/2" IPF BENT
1/2" IPF WITNESSED
EXISTING BLAZED LINE WITH BLUE RIBBON
EXISTING ORANGE BLAZED LINE

C. THOMAS WOODEL
INSTRUMENT #200001893



LEGEND

- — — PROPERTY LINE
- — — LIMIT OF TIMBER ENCROACHMENT
- — — REFERENCE LINE
- — — TOWNSHIP BOUNDARY
- — — IPF
- — — IRON PIPE FOUND
- DB 123/456 DEED BOOK 123 PAGE 456

JAMES B. GRAHAM, HEIRS
CURWENSVILLE, PENNSYLVANIA
MAP SHOWING TIMBER ENCROACHMENT
BLOOM AND PENN TOWNSHIP'S
CLEARFIELD COUNTY

0' 200' 400' 600'

SEPTEMBER 1, 2000

FIELD BOOK 70 PAGE 57

TAX MAP #125-E9-14

FILE NO. 7105B

REVISED: JANUARY 23, 2001



DAVID J. THORP, PLS

NO. SU-37822-E

CURRY & ASSOCIATES

207 SOUTH THIRD STREET

(814) 765-2226

CLEARFIELD, PENNSYLVANIA

SCALE: 1 INCH = 200 FEET

David J. Thorp

AFFIDAVIT

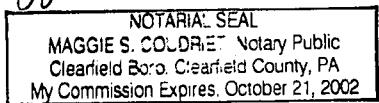
STATE OF PENNSYLVANIA :
:SS
COUNTY OF CLEARFIELD :

Robert L. Kester, being duly sworn according to law, depose and say that he is the Personal Representative for the James B. Graham Estate and the information contained in the foregoing Amended Complaint is true, correct and complete to the best of his information, knowledge and belief.

Robert L. Kester
Robert L. Kester

SWORN TO AND SUBSCRIBED
before me this 5th day
of February, 2001.

Maggie S. Colderet
Notary Public



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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM :
DECEASED :

-vs- : No. 00-1532-CD

WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN and :
CLARENCE C. DAISHER :

PRELIMINARY INJUNCTION

NOW, this 23rd day of January, 2001, upon consideration of Plaintiff's Petition and Motion for Preliminary Injunctive Relief, upon agreement of the parties:

1. That the Plaintiff will suffer irreparable harm if the request and relief is not granted;
2. That the Plaintiff does not have an adequate remedy at law;
3. That greater injury will be inflicted upon the Plaintiff by denial of relief than would be inflicted upon Defendants the grant of such relief; and
4. That Plaintiff is likely to prevail on the merits. It is:

ORDERED, ADJUDGED AND DEGREED, that the Defendants, William B. Kinderman, Roberta A. Kinderman and Clarence C. Daisher or those acting through them or on their behalf, are forthwith:

1. Enjoined from trespassing upon the real estate of the Plaintiff situate in Bloom Township, Clearfield County, Pennsylvania, and identified by Clearfield County Tax Map Number 125-E9-14 and 104-E9-3.
2. Enjoined from cutting timber within 25 yards of the boundary line between the Plaintiff's property and the Defendants Kinderman's property as marked on the land by David J. Thorp of Curry & Associates and as more particularly

described on Exhibit A of the Complaint.

3. Enjoined from other trespasses or entries upon the Plaintiff's real estate.

This Order shall remain in full force and effect until such time as modified or vacated by this Court.

This Order is conditioned upon Plaintiff filing an approved Bond in the amount of \$5,000.00.

BY THE COURT:

/s/JOHN K. REILLY, JR.

PRESIDENT JUDGE

William B. Kinderman
William B. Kinderman

For the Plaintiff:

Roberta A. Kinderman

Roberta A. Kinderman


Peter F. Smith, Esquire

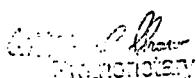
F. Cortez Bell, III

F. Cortez Bell, III

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

JAN 23 2001

Clarence C. Daisher
Clarence C. Daisher


Clarence C. Daisher
Notary Public

FILED

FER 05 2001
6/2/01
William A. Straw
Prothonotary
Peter F. Smith
E.P.S.

PETER F. SMITH
ATTORNEY
30 SOUTH SECOND STREET
P.O. BOX 130
CLEARFIELD, PA. 16830

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased : 1532
Plaintiff : No. 00-1352-CD
vs :
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN, :
CLARENCE C. DAISHER and :
JOSEPH R. CHAMBERLIN, :
Defendants :

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for Plaintiff in the above captioned matter, hereby certify that I sent by U.S. First Class Mail, a certified copy of Plaintiff's **AMENDED COMPLAINT** on the defendants or their respective counsel on February 5, 2001, at the following addresses:

F. Cortez Bell, III, Esquire
Attorney for Mr. & Mrs. Kinderman
318 East Locust Street
Clearfield, PA 16830

Clarence C. Daisher
Box 243
Luthersburg, PA 15848

Joseph R. Chamberlin
RR 1, Box 294A-12
Keystone Road
Brockport, PA 15823

Date: February 6, 2001


Peter F. Smith, Esquire
Attorney for Plaintiff

FILED

FEB 07 2001

William A. Shaw
Prothonotary

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased, :
Plaintiff : No. 2000-1532-CD
vs. : Type of Case: CIVIL
: Type of Pleading:
WILLIAM B. KINDERMAN, : PRAECIPE TO ENTER APPEARANCE
ROBERTA A. KINDERMAN, :
CLARENCE C. DAISHER and : Filed on Behalf of:
JOSEPH R. CHAMBERLIN, : DEFENDANT, CLARENCE C. DAISHER
Defendants : Counsel of Record for Defendant:
: Mark S. Weaver, Esq.
: PA Supreme Court No. 63044
: P.O. Box 170
: 211 ½ East Locust Street
: Clearfield, PA 16830
: (814) 768-9696

FILED

FEB 27 2001

William A. Shaw
Prothonotary

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased, :
Plaintiff :
vs. : No. 2000-1532-CD
:
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN, :
CLARENCE C. DAISHER, and :
JOSEPH R. CHAMBERLIN, :
Defendants :
:

PRAECIPE

To: William A. Shaw, Prothonotary

Dear Mr. Shaw:

Please enter my appearance on behalf of the Defendant, CLARENCE C. DAISHER, in the
above-captioned action.

Respectfully submitted

Dated: 2-26-01



Mark S. Weaver
PA Supreme Court ID #63044
211 ½ East Locust Street
P.O. Box 170
Clearfield, PA 16830
(814) 768-9696

FILED

FEB 23 2001
CIRCUIT COURT
William A. Shaw
Prothonotary

MARK S. WEAVER
ATTORNEY AT LAW
211½ EAST LOCUST STREET
P.O. BOX 170
CLEARFIELD, PA 16830

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, : No. 2000-1532-CD
Deceased, :
Plaintiff : Type of Case: CIVIL
vs. :
Type of Pleading:
ACCEPTANCE OF SERVICE
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN, :
CLARENCE C. DAISHER and : Filed on Behalf of:
JOSEPH R. CHAMBERLIN, : DEFENDANT, CLARENCE C. DAISHER
Defendants : Counsel of Record for Defendant:
Mark S. Weaver, Esq.
PA Supreme Court No. 63044
P.O. Box 170
211 ½ East Locust Street
Clearfield, PA 16830
(814) 768-9696

FILED

FEB 27 2001

William A. Shaw
Prothonotary

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

MANUFACTURES and TRADERS TRUST :	:
COMPANY, TRUSTEE UNDER THE :	:
WILL OF JAMES B. GRAHAM, :	:
Deceased :	:
Plaintiff :	No. 00-1351-CD
vs :	:
WILLIAM B. KINDERMAN, :	:
ROBERTA A. KINDERMAN, :	:
CLARENCE C. DAISHER and :	:
JOSEPH R. CHAMBERLIN, :	:
Defendants :	:

ACCEPTANCE OF SERVICE

I accept service of the certified copy of the Amended Complaint in the above reference case on behalf of Defendant, Clarence C. Daisher.



Mark S. Weaver, Esquire
Attorney for Clarence C. Daisher

Dated: 2-26-01

FILED

CC 27 2001

William A. Shaw
Prothonotary

MARK S. WEAVER
ATTORNEY AT LAW
211½ EAST LOCUST STREET
P.O. BOX 170
CLEARFIELD, PA 16830

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased, :
Plaintiff :
vs. : No. 2000-1532-CD
WILLIAM B. KINDERMAN, : Type of Case: CIVIL
ROBERTA A. KINDERMAN, :
CLARENCE C. DAISHER, and : Type of Pleading:
JOSEPH R. CHAMBERLIN, : ANSWER TO PLAINTIFF'S AMENDED
Defendants : COMPLAINT TOGETHER WITH NEW
: MATTER ON BEHALF DEFENDANT,
: CLARENCE C. DAISHER
: Filed on Behalf of:
: DEFENDANT, CLARENCE C. DAISHER
: Counsel of Record for
: DEFENDANT, CLARENCE C. DAISHER
: Mark S. Weaver, Esq.
: PA Supreme Court No. 63044
: P.O. Box 170
: 211 ½ East Locust Street
: Clearfield, PA 16830
: (814) 768-9696

FILED

FEB 27 2001

William A. Shaw
Prothonotary

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

MANUFACTURERS and TRADERS	:
TRUST COMPANY, TRUSTEE UNDER	:
THE WILL OF JAMES B. GRAHAM,	:
Deceased,	:
Plaintiff	:
	No. 2000-1532-CD
vs.	:
	:
WILLIAM B. KINDERMAN,	:
ROBERTA A. KINDERMAN,	:
CLARENCE C. DAISHER, and	:
JOSEPH R. CHAMBERLIN,	:
Defendants	:

NOTICE TO PLEAD

To: Manufacturers and Traders Trust Company
William B. Kinderman and Roberta A. Kinderman
Joseph R. Chamberlin

You are hereby notified to file a written response to the enclosed Answer To Plaintiff's Amended Complaint Together With New Matter within twenty (20) days from service hereof or a judgment may be entered against you.



Mark S. Weaver, Esquire
Attorney for Defendant, Clarence C. Daisher
211 ½ East Locust Street
P.O. Box 170
Clearfield, PA 16830
(814) 768-9696

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased, :
Plaintiff :
vs. :
No. 2000-1532-CD

WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN, :
CLARENCE C. DAISHER, and :
JOSEPH R. CHAMBERLIN, :
Defendants :

ANSWER TO PLAINTIFFS AMENDED COMPLAINT
TOGETHER WITH NEW MATTER ON BEHALF
OF DEFENDANT, CLARENCE C. DAISHER

AND NOW, comes the Defendant, Clarence C. Daisher, who, by and through his attorney, Mark S. Weaver, Esquire, files the following Answer To Plaintiff's Amended Complaint Together With New Matter and in support thereof avers as follows:

1. Admitted.
2. Admitted.
3. Admitted in part, denied in part. It is admitted that Clarence C. Daisher has been named as a third Defendant in the above matter. It is denied, however, that his current residence is Box 243, Luthersburg, Pennsylvania 15848. By way of further answer, the above address is the

residence for Defendant Daisher's mother. Defendant Daisher's address is R.R. 1, Box 74A, Grampian, Pennsylvania 16838.

4. Admitted.

5. Admitted.

6. Admitted.

7. Denied. It is specifically denied that Defendant Daisher or anyone acting on behalf of or through Defendant Daisher crossed the boundary line separating the Kinderman and Graham Estate properties and cut and sold timber and kept the proceeds from said sales and strict proof of the same is hereby demanded at trial.

8. Admitted in part, denied in part. It is admitted that Defendant Daisher does not have a lease or any other form of permission from the Graham Estate to enter the Graham Estate's property to cut timber. It is denied, however, that Defendant Daisher, or anyone acting on his behalf, entered the Graham Estate property and cut and sold timber therefrom and strict proof of the same is hereby demanded at trial.

9. This averment sets forth a conclusion of law which does not require a response. To the extent a response is required, it is specifically denied that Defendant Daisher entered the Graham Estate property and cut and sold timber therefrom at any time and it is further denied that Defendant Daisher committed trespass under Pennsylvania law and strict proof of the same is hereby demanded at trial.

10. Admitted in part, denied in part. It is admitted that a survey is attached to Plaintiff's Complaint which purports to demonstrate the boundary line between the Kinderman and Graham

Estate properties. It is denied, however, that Defendant Daisher took timber from the shaded area on the survey map to the extent the shaded area represents the Graham Estate property and strict proof of the same is hereby demanded at trial.

11. After reasonable investigation, Defendant Daisher is without sufficient knowledge or information to form a belief as to the truth of Plaintiff's averment and strict proof of the same is hereby demanded at trial.

12. Admitted.

13. Admitted in part, denied in part. It is admitted that Mr. Kester confronted the Defendant Daisher about trespassing on the Graham Estate property and cutting timber on the same. It is further admitted that Mr. Kester requested Defendant Daisher to withdraw from the Graham Estate property and to compensate the Graham Estate property for timber cut. It is denied, however, that Defendant Daisher was trespassing at any time on the Graham Estate property, particularly at the time Mr. Kester confronted him in June 2000.

14. Admitted in part, denied in part. It is admitted that Defendant Daisher has refused to compensate the Graham Estate for any timber which he allegedly took from the Graham Estate property. It is denied, however, that Defendant Daisher ever trespassed upon the Graham Estate property or took timber therefrom. It is further denied that Defendant Daisher disregarded Mr. Kester's direction to discontinue the cutting of timber of the Graham Estate property and strict proof of the same is hereby demanded at trial.

15. Denied. It is specifically denied that Defendant Daisher cut timber from the Graham Estate property and/or the fair market value of timber allegedly taken by Defendant Daisher is \$30,000.00 and strict proof of the same is hereby demanded at trial.

16. Denied. It is specifically denied that Defendant Daisher or those acting under or through him caused additional damage to the premises due to logging in an improper and unworkmanlike manner and strict proof of the same is hereby demanded at trial. By way of further answer, Defendant Daisher denies that he ever trespassed upon the Graham Estate property and that he ever took timber therefrom.

17. A. Denied. It is specifically denied that Defendant Daisher caused stream erosion and sedimentation by illegal stream crossings with equipment and dropping logs and tops in streams on the premises and strict proof thereof is hereby demanded at trial;

B. Denied. It is specifically denied that Defendant Daisher damaged younger trees left standing by dropping cut trees on them and strict proof thereof is hereby demanded at trial;

C. Denied. It is specifically denied that Defendant Daisher created hazardous conditions by leaving dead falls of cut trees and branches hanging in existing trees and strict proof thereof is hereby demanded at trial;

D. Denied. It is specifically denied that Defendant Daisher failed to perform any clean-up which would result in a future fire hazard and unsightly condition and strict proof of the same thereof is hereby demanded at trial;

E. Denied. It is specifically denied that Defendant Daisher failed to reseed skid trails on the Graham Estate property and strict proof of the same is hereby demanded at trial; and

F. Denied. It is specifically denied that Defendant Daisher failed to block skid trails and access to the Graham Estate property and strict proof of the same is hereby demanded at trial.

18. After reasonable investigation, Defendant Daisher is without sufficient information, knowledge or information to form a belief as to the truth of Plaintiff's averment and strict proof of the same is hereby demanded at trial.

WHEREFORE, Defendant Daisher respectfully requests this Honorable Court to enter judgment in his favor against the Plaintiff with costs assessed against the Plaintiff.

NEW MATTER

19. Defendant Daisher realleges and incorporates paragraphs 1-17 of the Answer and by this reference makes the same a part hereof.

20. Defendant Daisher was hired on or about May 19, 2000 by the Defendant Kinderman to log the 149 acre Kinderman property for a period of one year. A true and correct copy of Defendant Daisher's timber lease agreement with Defendant Kinderman is attached hereto as Exhibit "A".

21. Prior to the execution of the timber lease agreement, Defendant Daisher had never visited the Kinderman property nor did he visit or know about the Graham Estate property.

22. Defendant Daisher was advised of the opportunity to log the Kinderman property by Joseph R. Chamberlin.

23. Mr. Chamberlin had previously logged the Kinderman property for the year period of November 1998 through November 1999.

24. Prior to Defendant Daisher entering his timber lease agreement with Defendant Kinderman, Defendant Daisher walked the Kinderman property and advised Defendant Kinderman of a large area which had been cut and which appeared to be over the Kinderman property line on the western side of the property.

25. Based upon statements made to him by Joseph R. Chamberlin, Defendant Daisher believes Joseph R. Chamberlin cut and removed the timber on the western boundary of the Kinderman property which is also the area believed to be identified by Plaintiff where the trespass occurred on the Graham Estate property.

WHEREFORE, Defendant Daisher respectfully requests that the Complaint filed against him by Plaintiff be dismissed with costs assessed against Plaintiff.

Respectfully submitted,

Date: 2-26-01



Mark S. Weaver, Esquire
Attorney for Defendant,
Clarence C. Daisher

Timber Lease Agreement

THIS AGREEMENT made and entered into this May day of 19 ¹⁹, A.D. ~~19~~ ²⁰ ~~2000~~
between William B. Kinderman and Clarence C. Daisher
Party of the First Part and William B. Kinderman Clarence C. Daisher
Party of the Second Part.

Witnesseth, that the said party of the first part, for and in consideration of the sum of
50% Clarence C. Daisher 50%

Do by these presents grant, bargain and sell to the said Clarence C. Daisher

all the timber of whatever kind being upon all that certain tract of land owned or controlled by said party of the first part as recorded and described in deed book number 16 page 3 in and for the county of Clearfield at Grampian Pennsylvania.

The said timber to be cut and removed at the expense of the said Clarence C. Daisher, who with his employees, workmen and equipment is to have free ingress and egress into and over any portion of said land for such purposes, and also the like liberty to cut, saw and convert all or so many of said trees as he may think proper into marketable products upon the premises, and for these purposes to have the right to make roads necessary for the purposes of taking off the said premises.

It is understood and agreed, however, by and between the parties hereto that the said

Clarence C. Daisher shall have a period of 1 years from this date in which to cut and remove the said timber, and at the expiration of said time he may remove all his improvements from said premises.

It is understood by and between the parties hereto that the provisions of this contract are extended to the heirs, executors, administrators and assigns of the parties hereto.

IT IS FURTHER UNDERSTOOD that the Party of the second part assumes full financial liability for any injuries for himself and his workmen arising from the logging operation being conducted on this property for the duration of this lease.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day of year aforesaid.

signed William B. Kinderman
signed Clarence C. Daisher
Witnessed Rhonda R. Greenaway

VERIFICATION

I, the undersigned, hereby verify that the statements set forth in the foregoing Answer and New Matter are true to the best of my information, knowledge and belief. This statement is made subject to the penalties of 18 Pa C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: 2-26-01

Clarence C. Daisher
Clarence C. Daisher

FILED

FEB 27 2001

3/1/01 5cc with
William A. Shaw
Prothonotary
to Weaver
SBS

MARK S. WEAVER
ATTORNEY AT LAW
211½ EAST LOCUST STREET
P.O. BOX 170
CLEARFIELD, PA 16830

CA

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

MANUFACTURERS AND TRADERS TRUST : NO. 00-1532-CD
COMPANY, TRUSTEE UNDER THE :
WILL OF JAMES B. GRAHAM, : Type of Case: Equity
Deceased, :
Plaintiff : Type of Pleading:
V. : Preliminary Objections to
: Plaintiff's Complaint
: Filed on Behalf of:
WILLIAM B. KINDERMAN, ROBERTA : William B. Kinderman and
A. KINDERMAN and CLARENCE C. : Roberta A. Kinderman,
DAISHER, : Defendants
Defendants :
: Counsel of Record for This
: Party:
: F. Cortez Bell, III, Esq.
: I.D. #30183
: BELL, SILBERBLATT & WOOD
: 318 East Locust Street
: P. O. Box 670
: Clearfield, PA 16830
: Telephone: (814) 765-5537
:
:

FILED

JAN 22 2001

William A. Shaw
Prothonotary

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased, :
Plaintiff :
:
vs. : No. 00-1532-CD
:
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN and :
CLARENCE C. DAISHER, :
Defendants:

PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT

NOW comes the Defendants, William B. Kinderman and Roberta A. Kinderman, by and through their attorney, F. Cortez Bell, III, Esquire, who, pursuant to the Pennsylvania Rules of Civil Procedure, Rule 1028, set forth the Defendants' Preliminary Objections to the Plaintiff's Complaint and aver as follows:

1. That a Complaint in Equity was filed to the above captioned term and number by the Plaintiff on or about December 8, 2000.

2. That said Complaint was incorporated within a Motion for Preliminary Injunction and served upon the Defendants, William B. Kinderman and Roberta A. Kinderman, on or about January 8, 2001.

3. That the Defendants pursuant to the Pennsylvania Rules of Civil Procedure, Rule 1028 and Rule 1509 respectfully set forth the following Preliminary Objections:

MOTION FOR MORE SPECIFIC PLEADING

4. The averments of Paragraphs 1 through 3 set forth within this Preliminary Objection to Plaintiff's Complaint would be incorporated herein by reference as if the same were set forth in full at length.

5. That Paragraph 9 of the Plaintiff's Complaint specifically indicates that attached to the Complaint and incorporated therein by reference was a true and correct copy of a survey map prepared by David L. Thorp, P.L.S. depicting the boundary line between the property of the Plaintiffs and the property of the Defendants. The Paragraph continues to indicate that the map has been shaded to show the approximate area from which it is alleged that the Defendants improperly removed timber.

6. That following a complete review of the Plaintiff's Complaint served upon the Defendants there is no such map or survey attached thereto such that the Defendants could be fully and completely informed as to the establishment of the line between the Plaintiff's and the Defendant's property as well as such that the Defendants could be advised as to that area or those areas in which the Plaintiffs allege that the Defendants improperly removed timber from property of the Plaintiffs.

7. That the Wherefore clause of the Plaintiff's Complaint indicates that following hearing as to a Preliminary Injunction the Plaintiffs wish the Court to enter a Preliminary Injunction Order in the form attached to their Complaint.

8. That a complete and thorough review of the Plaintiff's Complaint filed in this matter evidences that there is no attached Preliminary Injunction Order such that the Defendants would be advised specifically as to what specific Order the Plaintiffs wish the Court to issue by way of Preliminary Injunction.

9. That without a complete copy of the survey establishing the property line between the properties and well as indicating where, if at all, timber was removed from the property of the Plaintiffs as well as without a complete copy of the Order which the Plaintiffs seek to have issued by the Court, the Defendants are not in a position to fully and completely respond to the Complaint which has been filed.

10. That the Defendants would respectfully that the Plaintiffs either file an Amended Complaint within twenty (20) days from the service of a copy of these Preliminary Objections containing the missing items not found within their original Complaint and/or that the Court issue an Order directing that an Amended Complaint be filed.

NON JOINDER OF A NECESSARY PARTY

11. Paragraphs 1 through 10 of the Preliminary Objections to Plaintiff's Complaint set forth above would be incorporated herein by reference as if the same were set forth in full at length.

12. That the Plaintiff's Complaint is filed against the Defendants William B. Kinderman, Roberta A. Kinderman and Clarence C. Daisher.

13. That the Defendants William B. Kinderman and Roberta A. Kinderman are the property owners of property which adjoins property owned or under the control of the Plaintiff.

14. That Clarence C. Daisher is currently engaged in timbering operations on the Kinderman property pursuant to a Timber Lease Agreement dated May 19, 2000.

15. That the Plaintiff's Complaint avers that timber was taken or is believed to have been taken as early as early November of 1999.

16. That in early 1999, the Defendant, Clarence Daisher, was not under lease or removing timber from the property to the knowledge of the Defendants Kinderman.

17. That the Kinderman's previously had a Lumber and Timber Agreement executed November 24, 1998 for a period of one (1) year with Joseph R. Chamberlin of RR #1, Box 294A-12, Keystone Road, Brockport, Pennsylvania, 15823.

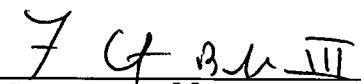
18. That if any timber was removed prior to or around early November of 1999, said Joseph R. Chamberlin would be a necessary and appropriate party to be included within the Plaintiff's Complaint as well as within the Plaintiff's Complaint in Equity seeking a Preliminary Injunction.

19. That the Defendants would respectfully request that your Honorable Court direct that the Plaintiff's amend their

original Complaint to include Joseph R. Chamberlin as a Defendant such that any and all parties associated with regard to this matter have an opportunity to present their positions to your Honorable Court as well as such that at the time the Court issues any Orders in this matter, including a Preliminary Injunction Order, that all the necessary parties have had the opportunity of notice and a right to be heard thereon.

WHEREFORE, it is respectfully requested that your Honorable Court grant the Preliminary Objections of the Defendants, William B. Kinderman and Roberta A. Kinderman, and that the Plaintiff be directed to file an Amended Complaint within twenty (20) days from the date of the Court Order.

Respectfully submitted,
BELL, SILBERBLATT & WOOD
By,


F. Cortez Bell, III, Esquire
Attorney for Defendants William
B. Kinderman and Roberta A.
Kinderman

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased, :
Plaintiff :
:
vs. : No. 00-1532-CD
:
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN and :
CLARENCE C. DAISHER, :
Defendants:

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the
Praecipe for Entry of Appearance upon the following person by
mailing such copy regular mail, postage prepaid to:

Mr. Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

F. C. Bell III
F. Cortez Bell, III, Esquire
Attorney for Defendants William
B. Kinderman and Roberta A.
Kinderman

DATED: 1-22-2001

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
No. 00-1532-CD

MANUFACTURERS AND TRADERS TRUST
COMPANY, TRUSTEE UNDER THE WILL
OF JAMES B. GRAHAM, Deceased,
Plaintiff

vs.

WILLIAM B. KINDERMAN, ROBERTA A.
KINDERMAN and CLARENCE C. DAISHER
Defendants

PRELIMINARY OBJECTIONS TO
PLAINTIFF'S COMPLAINT

1/24/01
3 Cents to
William A. Shaw
Prothonotary
JAN 22 2001

FILE

BELL, SILBERBLATT & WOOD
ATTORNEYS AT LAW
318 EAST LOCUST STREET
P. O. BOX 670
CLEARFIELD, PA. 16830

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, : No. 2000-1532-CD
Deceased, :
Plaintiff : Type of Case: CIVIL
vs. :
Type of Pleading:
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN, :
CLARENCE C. DAISHER and :
JOSEPH R. CHAMBERLIN, :
Defendants : Filed on Behalf of:
Counsel of Record for Defendant:
Mark S. Weaver, Esq.
PA Supreme Court No. 63044
P.O. Box 170
211 ½ East Locust Street
Clearfield, PA 16830
(814) 768-9696

FILED

MAR 01 2001

William A. Shaw
Prothonotary

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

MANUFACTURERS and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased, :
Plaintiff :
vs. : No. 2000-1532-CD
:
WILLIAM B. KINDERMAN, :
ROBERTA A. KINDERMAN, :
CLARENCE C. DAISHER, and :
JOSEPH R. CHAMBERLIN, :
Defendants :
:

CERTIFICATE OF SERVICE

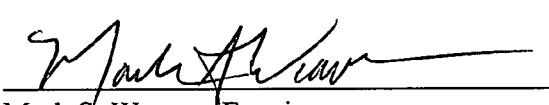
I hereby certify that a true and correct copy of the Defendant Clarence C. Daisher's Answer To Plaintiff's Amended Complaint and New Matter filed on February 27, 2001 was served on the following individuals by United States First Class Mail on February 27, 2001 at the addresses as follows:

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

F. Cortez Bell, III, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

Joseph R. Chamberlin
R.R. 1, Box 294A-12
Keystone Road
Brockport, PA 15823

Dated: 2-27-01



Mark S. Weaver, Esquire
Attorney for Defendant Clarence C. Daisher
Pa Atty. ID #63044
211 ½ East Locust Street
P.O. Box 170
Clearfield, PA 16830
(814) 768-9696

FILED

MAR 01 2001
O/C 35/100
William A. Shaw
Prothonotary
EAS

MARK S. WEAVER
ATTORNEY AT LAW
21 1/2 EAST LOCUST STREET
P.O. BOX 1170
CLEARFIELD, PA 16830

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

MANUFACTURER and TRADERS :
TRUST COMPANY, TRUSTEE UNDER :
THE WILL OF JAMES B. GRAHAM, :
Deceased, :
Plaintiff :
: No. 2000-1532-CD
vs. :
Type of Case: CIVIL
: Type of Pleading:
WILLIAM B. KINDERMAN, : ANSWER TO DEFENDANT JOSEPH R.
ROBERTA A. KINDERMAN, : CHAMBERLAIN'S NEW MATTER AND
CLARENCE C. DAISHER, and : NEW MATTER PURSUANT TO
JOSEPH R. CHAMBERLIN, : PA.R.C.P. 2252(d) TOGETHER WITH
Defendants : THE DEFENDANT CLARENCE C.
: DAISHER'S NEW MATTER PURSUANT
: TO PA.R.C.P. 2252(d)
: Filed on Behalf of:
: DEFENDANT, CLARENCE C. DAISHER
: Counsel of Record for
: DEFENDANT, CLARENCE C. DAISHER
: Mark S. Weaver, Esq.
: PA Supreme Court No. 63044
: P.O. Box 170
: 211 ½ East Locust Street
: Clearfield, PA 16830
: (814) 768-9696

FILED
APR 30 2001
William A. Shaw,
Prothonotary

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

MANUFACTURERS and TRADERS	:
TRUST COMPANY, TRUSTEE UNDER	:
THE WILL OF JAMES B. GRAHAM,	:
Deceased,	:
Plaintiff	:
	No. 2000-1532-CD
vs.	:
	:
WILLIAM B. KINDERMAN,	:
ROBERTA A. KINDERMAN,	:
CLARENCE C. DAISHER, and	:
JOSEPH R. CHAMBERLIN,	:
Defendants	:

ANSWER

COMES NOW the Defendant CLARENCE C. DAISHER, by and through his attorney, Mark S. Weaver, Esquire, who files the following answer to the Defendant Joseph R. Chamberlin's New Matter and New Matter Pursuant to Pa.R.C.P. 2252(d) as follows:

17. No response is required.
18. Admitted in part; denied in part. It is admitted that Defendant Daisher was hired on May 19, 2000, to log the Kinderman property. It is denied, however, that Defendant Chamberlin ceased any and all logging activities in the area prior to November of 1999 and strict proof of the same is hereby demanded at trial.
19. Denied. It is specifically denied that Defendant Daisher was found in the process of cutting and removing timber from the Graham Estate property by Plaintiff and strict proof of the same is demanded at trial.

20. Denied. It is specifically denied that Defendant Daisher, individually, by his agents, servants or others acting at his request, was responsible for any and all logging activity on the Graham Estate property and strict proof of the same is demanded at trial.

21. Denied as a conclusion of law.

22. After reasonable investigation, Defendant Daisher is without sufficient information or knowledge to form a belief as to the truth of Defendant Chamberlin's averment, and strict proof of the same is demanded at trial.

23. Denied as a conclusion of law.

WHEREFORE, Defendant, Clarence C. Daisher requests judgment in his favor and against the Plaintiff.

DEFENDANT CHAMBERLIN'S NEW MATTER PURSUANT TO PA.R.C.P. 2252(d)

24. Denied. It is specifically denied that Defendant Daisher is liable to Defendant Chamberlin for a cross-claim for contribution and/or indemnification pursuant to Pa.R.C.P. 2252(d), and strict proof of the same is demanded at trial.

25. Denied. It is specifically denied that the Plaintiff has suffered damages as a result of any actions of the Defendant Daisher and strict proof of the same is demanded at trial.

26. Denied. It is specifically denied that Defendant Daisher is liable by way of contribution and/or indemnification to the Defendant Chamberlin for any damages which the Defendant Chamberlin is held liable to Plaintiff for by way of the allegations raised in Plaintiff's Complaint and strict proof of the same is hereby demanded at trial.

WHEREFORE, Defendant Clarence C. Daisher respectfully requests that the cross-claim filed against him by the Defendant Joseph R. Chamberlin be dismissed.

DEFENDANT DAISHER'S NEW MATTER PURSUANT TO PA. R.C.P. 2252(d)

27. The preceding paragraphs are incorporated herein by reference as though set forth in full.

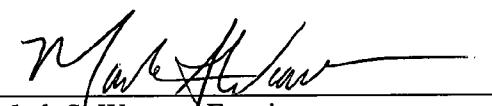
28. If the Plaintiff suffered damages, said damages were caused by the Defendant, Joseph R. Chamberlin, as more particularly set forth in the allegations of Plaintiff's Amended Complaint.

29. If, as a result of the matters complained of in Plaintiff's Amended Complaint, Defendant, Clarence C. Daisher is held liable to Plaintiff for all or part of such damages, the Defendant Joseph R. Chamberlin should, by way of contribution and/or indemnification, be liable to the Defendant, Clarence C. Daisher, for all such damages that Defendant Daisher may be required to pay the Plaintiff since the Defendant Joseph R. Chamberlin , or parties acting under his control or direction, is specifically responsible for the timber which was unlawfully taken from the Graham Estate property as alleged in Plaintiff's Amended Complaint and as set forth in the Defendant Daisher's New Matter previously filed in response to the Plaintiff's Amended Complaint.

WHEREFORE, Defendant Clarence C. Daisher, respectfully requests this Honorable Court to enter judgment over and against the Defendant Joseph R. Chamberlin by way of indemnification and/or contribution for any amount which is recovered by Plaintiff against Defendant Clarence C. Daisher.

Respectfully submitted,

Date: 4-30-01



Mark S. Weaver, Esquire
Attorney for Defendant Clarence C. Daisher

VERIFICATION

I, the undersigned counsel for the Defendant Clarence C. Daisher, hereby verify that the statements set forth in the foregoing Answer To The Defendant Chamberlin's New Matter, New Matter Pursuant to Pa. R.C.P. 2252(d) and New Matter Pursuant to 2252(d) are true, correct and complete based upon the information provided to me by the Defendant Clarence C. Daisher who is currently unavailable to sign this verification. This statement is made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: 4-30-01



Mark S. Weaver, Esquire
Attorney For Defendant Clarence C. Daisher

48C
011-23481 Mark Weaver
Mark S. Weaver
Professional Lawyer

MARK S. WEAVER
ATTORNEY AT LAW
211½ EAST LOCUST STREET
P.O. BOX 170
CLEARFIELD, PA 16830



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

December 23, 2002

MEMO – PRO SE LITIGANTS

Re: 2003 WINTER CIVIL TRIAL LIST

Enclosed you will find a copy of the Civil Non-Jury Trial Lists for Judge Reilly for the upcoming WINTER Term. Civil Call will be held on THURSDAY, JANUARY 2, 2003, at 10:00 A.M. in Court Room No. 1. All litigants who have a case on the list must be present at the Call.

Pre-Trial Conferences will be held on Wednesday, Thursday and Friday, January 15, 16 and 17, 2003 for Judge Reilly.

Pursuant to Local Rule 212.4e, your Pre-Trial Statement must be submitted one week prior to the date of the Pre-Trial Conference and should be mailed or delivered to the undersigned with copy to opposing counsel. For your convenience, a Pre-Trial Memorandum Instruction Form is also enclosed.

The next term of Civil Court will be the 2003 SPRING Term. This list will close on Friday, March 14, 2003; Civil Call on Tuesday, April 1, 2003; Pre-Trial Conferences April 9, 10 and 11, 2003; and Jury Selection April 25, 2003 for any cases slated before Judge Reilly and April 29, 2003 for those cases to be tried before Judge Ammerman.

If you have any questions regarding the Call, please contact the undersigned.

Respectfully yours,

A handwritten signature in black ink, appearing to read "David S. Meholick".

David S. Meholick
Court Administrator

Enclosures (2)

HONORABLE JOHN K. REILLY, JR.

CLEARFIELD COUNTY NON-JURY TRIAL LIST – WINTER 2003

CALL JANUARY 2, 2003 AT 10:00 A.M.

No. 00-1531-CD	#1	3/19/02*
MANUFACTURERS AND TRADERS TRUST, TRUSTEE UNDER THE WILL OF JAMES B. GRAHAM		Peter F. Smith, Esquire
vs.		
WILLIAM B. KINDERMAN, ROBERTA A. KINDERMAN, CLARENCE C. DAISHER and JOSEPH R. CHAMBERLIN		F. Cortez Bell, III, Esquire
		Pro Se
		John D. Gibson, Esquire
<hr/>		
No. 01-1926-CD	#2	9/26/02*
CAROLE KEPHART, a/k/a CAROLE L. KEPHART		R. Denning Gearhart, Esquire
vs.		
ROBERT J. DEMKO and VIRGINA M. DEMKO, husband and wife and HIRAM CAMPBELL		James A. Naddeo, Esquire
		Pro Se
<hr/>		
No. 00-238-CD	#3	11/7/02*
BRIAN S. SEKULA		Benjamin S. Blakley, Esquire
vs.		
THOMAS M. SEKULA		David C. Mason, Esquire
<hr/>		
No. 02-652-CD	#4	12/12/02*
NORMAN L. SCHAFFER		Kimberly M. Kubista, Esquire
vs.		
LORETTA C. SNYDER		Robert M. Hanak, Esquire

*Date Placed on Trial List

No. 01-963-CD

#5

12/12/02*

ANGELO J. FERARACCIO and
JEANNE M. FERRARACCIO
vs.
STEVEN M. PETRINI, and/or
Any Person or Entity Whatsoever
Claiming Title in and to the herein
Described Premises

Richard A. Ireland, Esquire
Peter F. Smith, Esquire

*Date Placed on Trial List

**FORM OF PRE-TRIAL MEMORANDUM
FOR CLEARFIELD COUNTY**

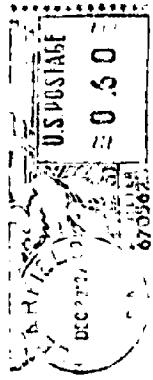
The Court will expect the following in the nature of a Pre-Trial Memorandum* one week prior to the date of the Pre-Trial Conference.

1. A brief factual statement of the claim or defense. (This shall include all material facts to be proven by competent evidence.)
2. A list of all exhibits to be offered in evidence.
 - (a). A copy of all reports containing findings or conclusions of any physician who has treated, examined or has been consulted in connection with the injuries complained of, and whom a party expects to call as a witness at the trial of the case.
 - (b). A copy of all reports containing the substance of the facts, findings, opinions and a summary of the grounds or reasons for each opinion of any expert whom a party expects to call as a witness at trial.
3. Names and addresses of all witnesses expected to be called. Said witnesses shall be classified as liability, medical or damage witnesses.
4. A statement of the legal theory upon which the right of recovery or defense is predicted, which shall include citation of the authorities relied upon.
5. A brief description of the damages claimed and the basis therefor. There should be included a brief statement of:
 - (a). The principal injury or injuries sustained.
 - (b). Hospitalization and convalescence.
 - (c). Present disability.
 - (d). A summary of the special monetary damages.
(Include a detailed statement of loss of earnings to date and a detailed statement as to loss of future impairment of earning capacity, total medical expenses, property damages, and miscellaneous expenses.)
6. Any extraordinary evidentiary problems shall be set forth and briefed together with authorities.
7. A list of stipulations which the opposition reasonably can be expected to agree to for the purpose of avoiding the necessity of proof of matters as to which there is no basic dispute.
8. All special Points for Charge which the party wishes the court to charge on, together with authority therefor.
9. Estimated time for trial.

Counsel must be prepared to fix specific dates for trial at the Pre-Trial Conference.

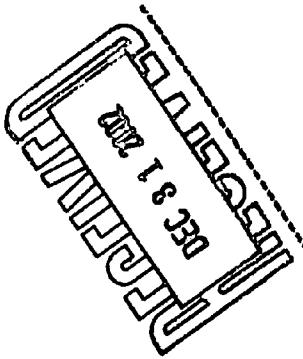
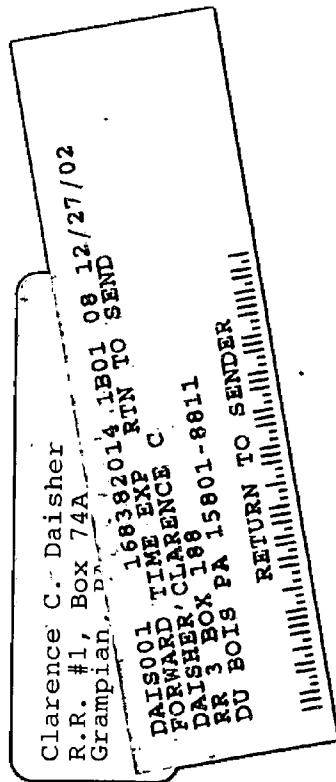
***PLEASE NOTE: The original Pre-Trial Memorandum should be sent directly to the
COURT ADMINISTRATOR'S OFFICE, with copies forwarded to opposing counsel.**

Office of Court Administrator
230 East Market Street
Suite 228
Clearfield, PA 16830



00-1532-CD

RECEIVED
12/3/02





OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

 COPY

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

Notice of Proposed Termination of Court Case

November 10, 2005

FILED

NOV 10 2005

⑥
William A. Shaw
Prothonotary/Clerk of Courts

RE: 00-1532-CD

Manufacturers and Traders Trust Company, Trustee under the will of James B. Graham, Deceased
Vs.

William B. Kinderman, Roberta A. Kinderman, Clarence C. Daisher, Joseph R. Chamberlin

Dear Plaintiff/Defendant:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary** of Clearfield County, 230 East Market Street, Clearfield, Pennsylvania 16830. The Statement of Intention to Proceed must be filed on or before January 17, 2005.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

A handwritten signature in black ink that reads "David S. Meholick".

David S. Meholick
Court Administrator



**OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA**

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

Notice of Proposed Termination of Court Case

November 10, 2005

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David S. Meholic
Court Administrator



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FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA**

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David S. Meholick
Court Administrator

00-1532-C

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

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PROTHONOTARY
and CLERK of COURTS
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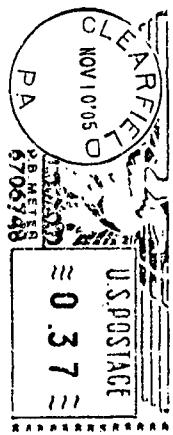
FILED
NOV 16 2005
William A. Shaw
Prothonotary/Clerk of Courts

Joseph R. Chamberlin
R. R. 1 Box 294A
12 Keystone
Brockport, P

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ATTEMPTED NOT KNOWN
NO SUCH NUMBER/ STREET
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

RTS
RETURN TO SENDER





**OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA**

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David S. Meholick
Court Administrator

In the Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division

In Re: Inactive Case Dismissal

06-01-MD

I, William A. Shaw, hereby certify that notice of termination for the following inactive cases was published in the Clearfield County Legal Journal January 27, 2006, per Rule 230.2:

96-0188-CD	00-0793-CD	00-1532-CD
96-1586-CD	00-0799-CD	01-0146-CD
98-1317-CD	00-0822-CD	01-0237-CD
00-0046-CD	00-0823-CD	01-1030-CD
00-0143-CD	00-0992-CD	01-1869-CD
00-0203-CD	00-1019-CD	02-0373-CD
00-0533-CD	00-1061-CD	02-0374-CD
00-0543-CD	00-1062-CD	02-1300-CD
00-0567-CD	00-1078-CD	02-1308-CD
00-0629-CD	00-1085-CD	02-1610-CD
00-0732-CD	00-1220-CD	03-0091-CD
00-0756-CD	00-1264-CD	03-0138-CD
00-0760-CD	00-1321-CD	03-0172-CD
00-0768-CD	00-1372-CD	03-1148-CD
00-0782-CD	00-1386-CD	03-1176-CD
00-0791-CD	00-1492-CD	


William A. Shaw, Prothonotary

FILED
MAY 04 2006
William A. Shaw
Prothonotary/Clerk of Courts

In the Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division

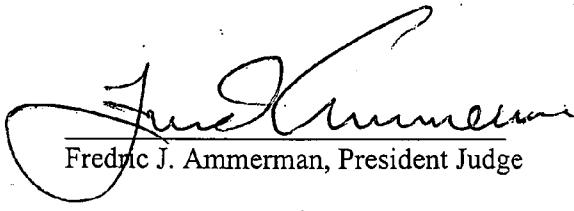
In Re: Inactive Case Dismissal

06-01-MD

NOW, this 3rd day of May, 2006, the Court hereby directs the Prothonotary to terminate the following cases for inactivity, per Rule 230.2:

96-0188-CD	00-0793-CD	00-1532-CD
96-1586-CD	00-0799-CD	01-0146-CD
98-1317-CD	00-0822-CD	01-0237-CD
00-0046-CD	00-0823-CD	01-1030-CD
00-0143-CD	00-0992-CD	01-1869-CD
00-0203-CD	00-1019-CD	02-0373-CD
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00-0567-CD	00-1078-CD	02-1308-CD
00-0629-CD	00-1085-CD	02-1610-CD
00-0732-CD	00-1220-CD	03-0091-CD
00-0756-CD	00-1264-CD	03-0138-CD
00-0760-CD	00-1321-CD	03-0172-CD
00-0768-CD	00-1372-CD	03-1148-CD
00-0782-CD	00-1386-CD	03-1176-CD
00-0791-CD	00-1492-CD	

BY THE COURT:


Fredric J. Ammerman, President Judge

FILED
MAY 04 2006
William A. Shaw
Prothonotary/Clerk of Courts
1cc CIA
1cc mbs
Ford, Ireland, Rudella